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The privatisation of international security: The regulatory framework for Private Maritime Security Companies, using operations off Somalia, 2005-13, as a case study

Chapsos, Ioannis

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By

Ioannis Chapsos

Doctorate of Philosophy

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Abstract

This thesis examines the expansion of private maritime security provision, its regulation and implications for national and global security. The main research question addressed is: How are private maritime security companies (PMSCs) regulated in the context of the contemporary trend towards international security privatisation? However, further questions stem from this: Is the complex framework of the PMSCs' business model adequately regulated? To what extent could the existing practices and regulatory framework affect international security in governance and policy, strategic, social and commercial terms?

Qualitative research methods were used, strongly supported by empirical data collection – available due to extensive professional experience and personal engagement of the author with the private maritime security industry. Using a case study of PMSCs' operations off Somalia from 2005-2013, and a plethora of selected data from primary sources and semi-structured interviews, the paper argues that there is need for more effective regulation of PMSCs and the establishment of international standards.

Following an analysis of the current conceptual framework of private security, focussing particularly on maritime security, in the context of contemporary academic literature and professional practice, the paper provides a detailed theoretical justification for the selection of the methodology used. After broadening and deepening the analysis of the privatisation of security ashore, the concerns raised are then transferred to the maritime domain. The situation becomes even more complicated in the high seas due to inconsistencies between flag states' regulations, the unregulated vastness of the oceans and the reluctance of any international body (such as the IMO) to undertake the essential task of regulating PMSCs. Building on this, an analytical framework that enables the integration of maritime security and contemporary piracy into the contemporary paradigm of global security is developed. An historical overview of piracy then demonstrates that modern piracy is an ancient

phenomenon with contemporary local characteristics. The maritime crime's causal factors remain more or less the same throughout human history and, the paper argues, PMSCs serve as a short term response to address the symptoms rather than the root causes. Given that PMSCs have so far been used primarily as measures against Somali piracy, activities in this specific region provide an appropriate case study. The development of a typology of piracy offers a deeper understanding of the regional distinctiveness of the phenomenon, which is essential to acquiring a holistic picture of the operational environment in which PMSCs are deployed.

The above considerations are used as a basis for analysing the complexities of the PMSCs' business model, in legal, operational and ethical terms. The questionable practices involved in these are not fully regulated by national states. Hence, their contract and deployment raise ethical, legal and operational concerns. In the penultimate chapter, these are further assessed in terms of the extent to which the existing regulatory framework and PMSCs' practices affect international security in governance and policy, strategic, social and commercial terms. The research indicates that states are increasingly outsourcing the monopoly they have exercised in security provision - a trend that has also expanded the private sector's activities and business at sea. However, the lack of international laws and the consequent unstandardized plethora of flag states' regulations has meant that the burgeoning private security services are dependent on the global market to regulate themselves. States' reluctance and/or inability to regulate these companies has allowed controversial practices to persist and the lack of an international body responsible for their regulation and vetting on a worldwide basis has inevitable consequences in terms of global security.

The overall outcome of this thesis is an elucidation of the potential implications of the privatisation of maritime security - both positive and negative. Most significantly, it suggests this could present a significant threat to international security in the near future.

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Dedication

I would like to dedicate this thesis to all those who believed in me
and they still do.

Especially it is dedicated to my mother, Anna, who left this world
too soon,
my partner in life, Poppy, for her love and valuable support on a
daily basis with her heart and soul,
and my sons, Stelios and Vagelis, for their love and trust.

Acknowledgements

I would like to acknowledge the assistance and guidance provided by my Director of Studies, Professor Alan Hunter. Without him this research would have still been at a very early stage, if not possible at all.

I would also like to acknowledge and thank the International Association of Maritime Security Professionals (IAMSP) for sponsoring my PhD studies. Without the Association's financial, ethical and professional support, I would not have had the means to materialise this lifelong vision and journey.

Table of Abbreviations and Acronyms

AMAP	Arctic Monitoring and Assessment Program
ANSI	American National Standards Institute
BMP	Best Management Practices
BSIA	British Security Industry Association
CEO	Chief Executive Officer
CEP	Convoy Escort Program
CISF	Central Industrial Security Force
CSO	Company Security Officer
CTF	Combined Task Force
DCAF	Centre for the Democratic Control of Armed Forces
ESDP	European Common Security and Defence Policy
EU	European Union
EUC	End User Certificate
HRA	High Risk Area
IAMSP	International Association of Maritime Security Professionals
ICC	International Chamber of Commerce
ICoC	International Code of Conduct for Private Security Providers
ICS	International Chamber of Shipping
ICT	Information Communication and Technology
IGOs	International Intergovernmental Organisations
IHOs	International Humanitarian Organisations
IMO	International Maritime Organisation
IPS	International Political Sociology
ISO	(International Organization for Standardization
IUU	Illegal, unreported and unregulated
MCs	Multinational Corporations
MSB	Multinational Security Business Group
MSC	Maritime Security Committee
NATO	North Atlantic Treaty Organization

NGOs	Non-Governmental Organisations
NSI	National Security Inspectorate
OECD	Organization for Economic Co-operation and Development
PAS	Publicly Available Specification
PCASP	Privately Contracted Armed Security Personnel
PFSO	Port Facility Security Officer
PMC(s)	Private Military Company(ies)
PMSC(s)	Private Maritime Security Company(ies)
PMSRG	Private Military and Security Research Group
PSC(s)	Private Security Company(ies)
RHIB(s)	Ruggedized Inflatable Hull Boat(s)
RUF	Rules for the Use of Force
RUSI	Royal United Services Institute
SAMI	Security Association for the Maritime Industry
SCEG	Security in Complex Environments Group
SN	Serial Number
SSO	Ship Security Officer
UAE	United Arab Emirates
UK	United Kingdom
UN	United Nations
UNCLOS	United Nations Convention on the Law of the Sea
UNDP	UN Development Programme
UNODC	United Nations Office on Drugs and Crime
UNSC	United Nations Security Council
USA	United States of America
VPD(s)	Vessel Protection Detachment(s)
WFP	World Food Programme
WTO	World Trade Organization

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Chapter One: Introduction

In December 2008, the European Union (EU) launched its first ever joint Maritime Operation[1] within the European Common Security and Defence Policy (ESDP). Hereafter, "Operation Atalanta" was the EU's counter-piracy operation off the coast of Somalia in accordance with the relevant United Nations Security Council resolution and "as a response to the rising levels of piracy and armed robbery off the Horn of Africa in the Western Indian Ocean" (EEAS 2012). The first operational commander of the joint Naval Force was a Greek Commodore, which added a mythic parameter to the whole operation. This was reinforced by the fact that, at this time, the Secretary General of the International Maritime Organisation (IMO) was also Greek.[2]

Serving at that time as Commander in the Hellenic Navy, I was assigned as Lecturer at the Hellenic Supreme Joint War College; that day I announced with pride at the plenary – which consisted of 200 students/senior officers from the three branches (Army, Navy and Air Force) of the Hellenic Armed Forces - that our frigate would carry our flag in the Indian Ocean and she would contribute to the international effort to combat piracy off the coast of Somalia.

I was already thoroughly involved in studying and researching maritime security as a response to contemporary security challenges and had actively participated in international conferences and publications relevant to this specific domain. As a result, in June 2011, I was selected and kindly invited to become the First Chairman of the International Association of Maritime Security Professionals (IAMSP). Given the broader perspective, professional experience and active engagement that this post could offer my study and research, I accepted the voluntary and honourable post with great pleasure and enthusiasm.

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[1] See EU NAVFOR Somalia, available from http://eunavfor.eu/mission/
[2] As stated by the IMO, 'Mr Efthimios E. Mitropoulos was elected Secretary-General of the Organization by the ninetieth session of the IMO Council on 18 June 2003 for an initial four-year period beginning 1 January, 2004. On 9 November 2006 at the ninety-seventh session of the IMO Council, Mr Mitropoulos' mandate was renewed for a further four years until 31 December 2011.' Available from http://www.imo.org/blast/mainframe.asp?topic_id=85

Less than one year later, in March 2012, the Hellenic Government officially announced the withdrawal of the frigate from the EU naval force deployed in the piracy high risk area (HRA). Furthermore, given that the severe economic situation of my country was already having a serious impact, it was clear that the re-deployment of any Hellenic asset in the region was very unlikely to be authorised. In my naval hat, this could have been a surprising and disappointing decision; beyond my embarrassment as an officer, Hellas is traditionally a maritime nation and the sea is inseparable from its local culture, history, society and its existence per se.

At an international level, this was clearly a drawback for my country's profile and prestige in terms of its applied naval diplomacy and its contribution to international security and global trade by its participation in securing the openness of sea lanes and the 'freedom of the seas'.

During more than sixteen years seagoing service, I had participated in numerous operations, ranging from the war in former Yugoslavia and the traditional naval tasks of safeguarding national territorial waters to regional maritime territorial disputes and crises with Turkey which escalated up to the level of conflict. I also performed non-traditional tasks, such as search and rescue operations for irregular migrants and humans trafficked by sea, suppression of smuggling using high speed boats, humanitarian operations such as the evacuation of civilians from the Chinese embassy during the collapse of the Albanian regime. Hence, I could not overlook the operational dimension of the Navy's withdrawal and denial of adaptation to the contemporary security environment. In the present case, this entailed international cooperation in anti-piracy operations, use of force, international legitimisation and mandate, ethical/social approval for the protection of national interests and the protection of seafarers and shipping (both national and foreign) on a worldwide basis - all within the framework of strict and specific rules of engagement.

Yet, switching to my IAMSP chairman's hat, this withdrawal was a confirmation of my previous research findings and my knowledge of private maritime security companies (PMSCs) and their services. So,

instead of disappointing, the answer was quite profound. In the context of the global trend towards privatisation of security, my country had adopted the cost-effective practice of offering an alternative form of security provision to the vast Hellenic-owned merchant fleet. This was intended to enable shipping companies to address their security needs by contracting PMSCs (which comprised a flourishing business sector in the depressed Hellenic economy) and so pay for their own security.

In the same period, the economic crisis in Hellas was escalating. Military personnel were severely affected by salary reductions and the scheduled cost-saving measures from the government for the near future led many colleagues to exercise their right to resignation and look for better financial conditions and rewards in other professions. My colleagues from the 'Navy Seals'[3] had a particular advantage: their service in the Special Forces gave them bonus pension arrangements. Moreover, their training was an ideal background for a new job search and career in the rapidly growing industry of private maritime security. One of my retired colleagues was already contracted by a PMSC to provide training in armed or unarmed security for teams deployed on board merchant vessels during their transit through high risk areas in the Indian Ocean. He also frequently acted as a sub-contractor in such transits since the financial gains were far greater than his salary in the Navy and he was familiar with the level of risk due to his previous service. On an everyday basis, he ran a cafeteria in Thessaloniki and every time he returned from a transit we discussed his experiences in detail. He even proposed that I undertake transit deployments myself, although I had had nothing to do with 'Special Forces' training, nor a similar background. However, speaking on condition of anonymity, he highlighted the ease with which a person could be employed by a PMSC due to the huge demand; he suggested that although, as a senior officer of the Navy, I would have an advantage compared to other subcontractors who had never been on board a ship before, they would still be considered employable.[4] Of course, the overall adventure and the promise of a remarkable reward were not enough to

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[3] The term refers to Navies' Special Forces teams, trained among others for boarding, irregular warfare at sea and contemporary maritime security operations in general.
[4] This chance conversation was purely anecdotal and is not one of the semi-structured interviews listed in the bibliography.

tempt me to undertake a single transit through a high risk area, where at that time piracy was thriving and successful hijackings were perhaps at their all-time highs. And, possibly even more importantly, at that time no international standards specifically relating to PMSCs had been established. (Both currently available standards were developed and published in December 2012/ January 2013). This constitutes clear evidence that all the PMSCs established around the world had been operating without any international regulatory framework in place for many years (at least since 2003). This lack of regulation and established professional standards was confirmed at the highest possible level, when the Chair of the UN Security Council Committee for Somalia and Eritrea, H.S. Puri, addressed the President of the UN Security Council in early July 2012, stressing that:

> The unmonitored and largely unregulated activities of private maritime security companies off the coast of Somalia, offering armed protection to ships and crews traversing the high-risk area, may represent a potential new channel for the flow of arms and ammunition into Somalia and the region [...] Private maritime security companies are currently holding approximately 7,000 weapons in circulation, which are either owned or leased [...] The absence of control and inspection of armed activities inevitably creates opportunities for illegality and abuse, and increases the risk that the maritime security industry will be exploited by unscrupulous and criminal actors, eventually coming to represent a threat to regional peace and security, rather than part of the solution' (UNSC 2012:24).

Another group of four colleagues resigned from the Navy Seals. They, then, decided to found their own PMSC in Athens and to register it in Cyprus to avoid the increase in taxes enforced in Hellas due to the economic situation. In light of my experience both as a researcher and IAMSP chairman, they asked me to provide consultancy services for the development of their profile in the global market; including recruitment, weapons procurement and organisation of the company's structure. My interaction with them in terms of consulting remained limited due to my occupation in the Supreme Joint War College, as already explained. However, their offer provided me with the opportunity to gain a comprehensive insight into the internal functionality and culture of PMSCs

at the company's level, supplementing my academic research and the chairmanship experience at the international association's level.

Through this, I identified the main themes and research questions of this thesis. In particular, the following significant issues triggered my research interests: the extremely limited academic research, the overlooked maritime domain, the foreseen metamorphosis of international security, the participation of non-state actors in force projection and the outsourcing of security provision to the private sector.

At the outset of this project, I based my understanding of the issues involved on the framework developed in my preliminary research. This ensured that all the evidence, which stemmed both from official documents such as the UNSC (2012) resolution and empirical data from my personal interaction with PMSCs, contributed to the genesis of my main research question: How are private maritime security companies regulated in the context of the international security privatisation trend? This main question raised even more research questions: What is the contemporary conceptual framework of private security, and particularly maritime security, in the context of contemporary academic literature and professional practice? What constitutes an appropriate analytical framework of maritime security's integration into the contemporary paradigm of global security? Is the complex framework of the PMSCs' business model regulated (in legal, operational and ethical terms)? And perhaps most significantly: To what extent could the existing regulatory framework and PMSCs' practices affect international security in governance and policy, strategic, social and commercial terms?

To address the above research questions, this thesis used the following qualitative research methods: document analysis, a case study and semi-structured interviews, all strongly supported by empirical data collection. This latter was available due to the author's extensive professional experience and personal engagement with the private maritime security industry. Through these methods the subject was researched in depth and established the evidence necessary to support the initial findings that there is a substantial need for more effective regulation of PMSCs and the

institution of international standards. It is worth noting that the qualitative research of this domain in general, and of the 'air-tight' maritime security industry in particular, both in Hellas and the UK, would have been impossible for an outsider. This partially explains the reason for the relatively limited existing literature and research undertaken in this specific field. In fact, I was denied an official interview by colleagues I had known for many years and served with in the Hellenic Navy. The reason given was that they did not want to reveal the hints and secrets of the sector, although they knew that it was for academic purposes, anonymous and, perhaps more importantly, that I already knew most of those hints and secrets already, due to my IAMSP experience.

The following section provides an outline of the thesis and a brief summary of the next chapters. These are the outcome of the research undertaken, including restricted and confidential discussions with interviewees and difficult/conditional access to primary sources.

1.1 Outline of the Thesis

The focus of this research was the privatisation of maritime security and its implications for international security. My intention was neither to advocate that PMSCs are a panacea for addressing security challenges nor to condemn their existence, contracts, deployment and use as an anathema to the international community. It would have been a unrealistic attempt and futile effort anyway since the global industry already counts 708 *registered* private security companies (PSCs) in the International Code of Conduct for Private Security Providers[5] (ICoC) (as of September 2013). Instead, I used the case study of the operations of PMSC's off Somalia from 2005 – 2013 to research into PMSCs and their role as protagonists in contemporary maritime security. The aim of my research was to conduct an analytical investigation into the regulation of private maritime security companies in the context of the contemporary trend towards increased international security privatisation. Contingent on this is an understanding of the extent to which this privatisation trend

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[5] See http://www.icoc-psp.org/ [accessed 21 September 2013]

affects international security in general and maritime security in particular. Through this, my secondary aim was to further the academic debate relating to the conceptualisation of security privatisation.

To achieve this, and address all the research questions, the following objectives were set out:

- To analyse the existing conceptual framework of private security, particularly maritime security, in the context of contemporary academic literature and professional practice.
- To develop an analytical framework for the integration of maritime security and contemporary piracy in particular, into the contemporary paradigm of global security.
- To analyse the complex framework of the PMSCs' business model, in legal, operational and ethical terms.
- To assess the extent to which the existing regulatory framework and PMSCs' practices affect international security in governance and policy, strategic, social and commercial terms.

To this end, Chapter Two provides a literature review, examining various contemporary theories and approaches that reflect the theoretical framework of international security. Although these theories and approaches differentiate themselves from other schools of thought and the major debates are still on-going, their synthesis and various combinations in part reflect the context of privatisation of maritime security in the international security environment. The state has a key role in all of these, although several approaches acknowledge the increasing influence and participation of non-state actors in international security. However, none conceptualise the private sector as a security provider that replaces the state, even partially. Thus, no existing theoretical approach analyses and sets the privatisation of maritime security trend in perspective. The existing literature is relatively limited, especially that focusing on the maritime domain. Therefore, the contribution of my research to the existing literature could be characterised as original, as well as contributing towards filling the

identified gap in research on privatisation of security in the maritime domain. Furthermore, in this chapter, the conceptual framework of privatisation of maritime security was established, hence providing a basis for the investigation of the PMSCs' regulatory framework - and the fulfilment of the first objective of the thesis.

Chapter Three includes the methodology, planning and details about the strategy used in the research, methods of data collection from both primary and secondary sources, the analysis method used and finally the limitations that the research encountered.

The first part of the chapter sets out the research aims and objectives, based on the research questions given above, and the methodology used to meet these. The selected qualitative research strategy is described, including semi-structured interviews as the primary data collection method used. All the participants requested to retain their anonymity, both as individuals and companies, and they were assured that this would be respected in all ways. Robust empirical data collection provided support for the evidence provided by these interviews stemming from my personal experience from activities, personal contacts and networks, and perhaps most significantly, my chairmanship (and currently Vice Presidency) at the IAMSP. This facilitated the commentary, data analysis and evaluation as well as providing a valuable source of information, professional insight and familiarisation with international practices in the security provision industry. However, much of the information gathered had to be treated as confidential for commercial reasons.

For these and similar reasons, I focused my research mostly on Hellenic and British PMSCs. My nationality and residency, Hellenic and British, respectively, definitely played a vital role in this choice, as well as in the selection of interviewees and completion of the research. But another crucial point – and perhaps little known - is that UK and Hellenic PMSCs together count approximately seventy per cent of PMSCs registered worldwide. Thus, this provides a sufficient sample and allows generalizable conclusions to be drawn.

An analysis of the post-Cold War era trend towards the privatisation of security is provided in Chapter Four, aiming at further broadening and deepening the findings of the literature review, as well as transferring the land based conceptual framework to the maritime domain. The broad debates stemming from the use of such entities in functions hitherto perceived as exclusively the states' obligations and jurisdictions are explored in this context. Similarly, the dilemmas emerging from the states' ability to regulate them within the free market's environment are stressed respectively. The debate broadens even further due to the development of the trend in the maritime domain. This involves the major issues associated with the different legislations of flag, port and coastal states. Their self-regulation within the industry, their credibility and use of force all highlight the characteristics of private maritime security. Finally, an inductive analysis of the causal factors and consequences of this trend is provided, which is explored and analysed in greater depth in the final chapter of my thesis.

Chapter Five introduces the analytical framework of 'maritime security', thus addressing the aims of the second objective. To this end, it provides definitions adopted by the major actors in the international community, as well as indicating the identified contemporary threats challenging maritime security at the global level. Despite the broad spectrum of maritime security challenges, the attention of the international community is focused on modern piracy due to the direct implications for economic, energy and food security, and the cost in human life. Therefore, in this chapter, an historical overview of the phenomenon is used so as to put piracy at sea into the maritime security perspective and framework. It demonstrates both the ancient character of the maritime crime as well the diachronic character of the causal factors of its genesis, sustainability and suppression, and the responses to these.

Subsequently, Chapter Six is dedicated to the detailed research and presentation of contemporary maritime piracy. Since the vast majority of PMSCs' contracts and deployment are focused on providing security against this crime in the Horn of Africa, this region was selected as a case study to aid the analysis of their regulatory framework. After providing the

definitions of piracy and armed robbery at sea – adopted from the international community and indicating the conventions in force – its root causes and causal factors are analysed. Specifically researching the case study of Somalia, these causes and factors reflect the continuity of the history and the perpetuation of the phenomenon in the Horn of Africa. Finally, the chapter provides an overall assessment of the international response to contemporary Somali piracy, both at the state and commercial sector's levels. This evaluation contributes to the development of an analytical framework for the integration of both maritime security and contemporary piracy into the contemporary paradigm of global security.

Chapter Seven focuses on the fulfilment of the next identified objective: to analyse the complex framework of the PMSCs' business model, in legal, operational and ethical terms. It provides an in-depth analysis of the main actors' regulatory framework and applied practices. Whilst challenging the states' monopoly in terms of maritime security provision, these private maritime service providers emerged as the most popular and effectively applied anti-piracy measure and were broadly recognised as such. This chapter gives a detailed description of the methods and practices used regarding their recruitment, evaluation and training procedures, their international certification and regulation process in force, their controversial approaches in buying, hiring and safekeeping weapons and, even more importantly, in using them for projecting force. Finally, the chapter provides an analysis of the significant issues relating to their regulation at international level. This includes the use and carrying of weapons on board commercial vessels and the debateable process of assessing their quality and performance within the free market - which actually controls the whole provision of private security by default due to the reluctance of the states to actively control the outsourcing. These are examined in parallel with the ethical concerns stemming from their deployment.

Chapter Eight uses the previous chapter's findings to assess the extent to which the existing regulatory framework and PMSCs' practices affect international security in governance and policy, strategic, social and

commercial terms; and so contributes to the fulfilment of the final objective. It discusses the implications of the privatisation of security in the maritime domain, following the analogous paradigm of the land-based practice. The blurred distinction between state and private security becomes obvious and even murkier through the deployment of 'private navies', the deployment of military detachments for protecting commercial ships, the foundation of private intelligence companies, while the indicative case study of Greece demonstrates that the state relies increasingly on private initiatives for ensuring the maritime security provision. The nexus between economics and security is confirmed in the contemporary environment as critical for developing the relationship between state and private security, as well as the fragmentation of states' monopoly in terms of security provision. Furthermore, the implications in international security are discussed in a broader framework. In this respect, political, social (including career/employment issues), financial, legal, military and strategic perspectives and aspects are all potentially affected to a lesser or greater extent, while of course technology advancements create more concerns and implications for the international security arena.

Finally, Chapter Nine reiterates the main points that emerge from this research, evaluating the achievement of the research aims and objectives, as well as acknowledging some of the limitations related to this particular piece of research. Additionally to the major outcomes of this research, this chapter also details recommendations for mechanisms and requirements for the international community to establish and have in place, in order to regulate effectively the already flourishing industry, so as to avoid losing control at the international level in terms of use of force and security provision.

Chapter Two: Literature Review

2.1 Introduction

The concept of security has undergone a noticeable metamorphosis throughout recent years. Traditionally, security has been seen as "the field where states threaten each other, challenge each other's sovereignty, try to impose their will on each other, defend their independence" (Waever 1995:50). In terms of realist strategic studies, the concept of security is predicated on a definition of the state as, "the referent object, the use of force as the central concern, external threats as the primary ones, the politics of security as engagement with radical dangers" (Buzan and Hansen 2009:21).

During the Cold War era, threats were mainly associated with military capabilities and arose primarily from states in the international system with aggressive intentions of dominating other states. Consequently, the study of international security was synonymous with military strategy and statecraft. National security was the military's field of responsibility; major threats came from rival states through interstate warfare, and sometimes from intrastate civil war (Hart 2011:3).

Power was understood as "the sum of military, economic, technological, diplomatic, and other capabilities at the disposal of the state" (Cavelty 2008:5). The unequal and changing distribution of capabilities defined the relative power of states, which in turn determined the balance of power between them and so influenced their behaviour within the international system. These evident parameters of threat gave "a sense of certainty through calculability" (Cavelty 2008:5). Threats were known and measurable, and responses to them took place through the development of security policies by political actors who objectively assessed the increase of a threat or risk in order to take action (Walt 1991).

The disintegration of the Soviet Union and the effects of globalisation undermined the clarity of purpose and coherence of these traditional understandings of security and brought a variety of 'new', often non-military, threats onto the security agendas of many states. However, the

label 'new' is not fully justified because many of the new threats, such as ethnic conflicts, social or economic inequalities, terrorism and piracy, already existed. Nevertheless, current threats are distinguishable from those associated with the Cold War by the element of uncertainty inherent in them: "uncertainty as to 'when, who, how, why, and where', which is unprecedented" (Cavelty 2008:5). This uncertainty derives from the fact that the main threats on the new agenda are generated by non-state actors who possess and use non-military or asymmetric means. This makes it very difficult to determine their capabilities and link these to their intentions.

A characteristic body of literature began to develop after 1945 with a particular focus on the concept of security, which at this time was examined from a critical and widening perspective. This opened the way for a broader study of the concept of security after the Cold War. This literature has the characteristic distinction that,

> it took security rather than defence or war as its key concept, a conceptual shift which opened up the study of a broader set of political issues, including the importance of societal cohesion and the relationship between military and non-military threats and vulnerabilities (Buzan and Hansen 2009:1).

The current chapter examines contemporary security theories and approaches that reflect the theoretical framework of international security. Their review presents a variety of theoretical approaches to security, simultaneously highlighting the limited nature of existing literature concerned with the conceptualisation of maritime security within their sphere. Equally, despite the existence (albeit limited) of the literature and research dedicated to the phenomenon of private security provision ashore, the contemporary trend towards privatisation of maritime security is overlooked to a great extent.

Finally, through the in-depth research of the debates between academics and various relevant schools of thought, this chapter highlights the notion that the synthesis of these security paradigms can only partially reflect

the contemporary security environment. The reason for this is that the theoretical approaches analysing and setting the privatisation of security trend in perspective are relatively limited. Thus, the contribution of this research to the existing literature could be characterised as original and as attempting to fill this identified gap.

2.2 International Security Theories and Approaches

2.2.1 Realism

The roots of realism can be found back in ancient Greece, when Thucydides (460-395 B.C.), in his epic book *The Peloponnesian War,*[6] attempted to interpret the city-states' behaviour in the 'international system', their competition for dominance the causes of war and the nature of power. Realism has a central place in the debates within international relations theories and, until the 20th century, it was to a great extent the dominant concept of international security.

Definitely, throughout the centuries, it became a broad family of theories and arguments rather than a single, well-defined one. However, there are key elements shared by most of these theoretical approaches as described in this section.

Realists emphasise that the international system is anarchic, in terms of lack of a central international authority, capable of enforcing agreements and preventing the use of force. In this system, states are the protagonists and key actors and their interactions are characterised by competition and war. Hence, power is the defining feature of their relations. Since they have to rely on their own capabilities to survive, those who achieve greater levels of power (including wealth, population, technology, etc.) can build more powerful military forces and prevail in the international anarchic system. These are also the criteria used for assessing each other, and which overlook the variations that exist within the states, such as regime type, leadership, ideology. In this framework they are perceived as unitary actors, and their strategic interactions do

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[6] Thucydides, *The History of the Peloponnesian War* (Loeb Classical Library, 1989)

not stem from leaders, governing institutions, interest groups or populations, but from states per se, as a whole, an inclusive entity. Furthermore, they are considered to be rational actors - acting in a predictable way and making decisions focused on the achievement and promotion of their national interests. In making these strategic decisions, they take into consideration other states' capabilities, policies and reactions, hence sustaining the competitive nature of the international system (Glaser 2010:16-17). Realism focuses on high politics – war, peace, the military and national security – as the central concerns of a state, that is, the 'sovereign political entity'. This is substantiated by the facts that the state answers to no higher political authority and that only the state engages in war or peace. These core political values ensure a state's continuing existence. This adherence to high politics tends to differentiate realism from other theories of international relations. Non-state actors are frequently acknowledged by realists but these issues take precedence over lower politics, such as trade. Since they assume the state to be principal actor, realists work with the most authoritative, therefore, the most relevant units of analysis within this framework (Viotti 1997).

In the 1970s, the 'update' for traditional realist thought emerged in contemporary international relations. In this context, the term neorealism emerged as defined mostly through the work of Kenneth Waltz, *Theory of International Politics* (1979) (Elman 2007:15,Lamy 2008:124). Waltz attempted to give more scientific validity to the existing classical realist theory through the formulation of 'law-like statements' about international relations (Waltz 2000). In order to achieve this, he excluded from his approach some of the concerns found in the classical realist writings of Morgenthau, including the moral dilemmas of foreign policy and the ethics of statecraft. For example, Morgenthau argues that states' pursuit of power is rooted in human nature, which is characterised by an essential and universal lust for power, as an end in itself that knows no limits. However, he cites that state greed can also reflect a wide range of other sources, such as a state's desire to increase its wealth and prosperity, and/or to spread its political ideology or religion (Glaser 2010:29).

Instead, Waltz focused on the 'structure' of the international system emphasizing its importance and the role it plays as the primary determinant of state behaviour (Waltz 2000). He also examined the consequences of structure for international relations (Jackson and Sørensen 2007:45). Neorealism also portrays the international system as a "brutal arena where states look for opportunities to take advantage of each other, and therefore have little reason to trust each other" (Mearsheimer 1995:9).

The main difference between Waltz's defensive realism and Mearsheimer's offensive realism is the amount of power states feel they need, in order to guarantee their survival. For Waltz, power is a useful means to the end, which is security. Thus, states should try to accumulate only 'an appropriate amount of it' and, instead of becoming power maximisers, they should be security maximisers. As he asserts, "power maximization often proves to be dysfunctional because it triggers a counter-balancing coalition of states" (2008:98-99).

In more recent studies, the terms offensive and defensive realism are also used when the current versions of realism or neorealism are discussed, particularly in the area of security studies (Jervis 1999:11-20, Lamy 2008:126, Elman 2007).

Advocates of a broader perspective of security criticise the realist theory as adopting, in Nissenbaum (2005:65) words, "an overly narrow view of national security, focusing on protection of physical borders and strategic assets against military attacks by foreign states". These commentators claim that security means a lot more than just confronting military threats within national borders.

2.2.2 Liberalism

The liberalist approach can be traced back to the Enlightenment and is associated with the philosophers John Locke and Emmanuel Kant. It reached a high point in international politics under the leadership of Woodrow Wilson after the end of the First World War and it blossomed after the end of the Cold War, following the dissolution of the East-West

conflict (Morgan 2010:35). Much of the pluralist or liberal perspective centres on the importance of non-state actors, such as political organizations and multinational corporations, that may be independent of the state in their own right. Other actors, such as terrorist groups, must also be considered, as they attempt to formulate or influence foreign policy (Viotti 1997). The pluralist image offers greater complexity than the relatively simple image of states as unitary actors interacting with one another (Viotti and Kauppi 1999:6).

Neoliberalism is the second most influential approach, after realism, that focuses on the role international institutions play in the distribution of wealth and power in the world and in international politics (Powell 1994:313). Contemporary international relations are influenced by four varieties of liberalism: commercial, republican, sociological, and liberal institutionalism (Baldwin 1993:4, Lamy 2008:131). These can be differentiated as follows.

Commercial liberalism claims that states can achieve peace and prosperity through free trade since it links states together, making them economically interdependent to the extent that none would risk jeopardising such beneficial relationship through conflict. Republican liberalism asserts the idea that because liberal democracies share common values, they will not go to war against each other. Sociological liberalism focuses on the power of people, including intra-state organisations and groups, sharing similar ideas with groups in other states. It elaborates the idea that peaceful cooperation can be achieved through the spread of common views and values. Finally, liberal institutionalism is based on the fact that, through a liberalist approach, international institutions can promote cooperation amongst states (Baldwin 1993:4, Jackson and Sørensen 2007:43-44).

Neoliberalism, and especially its brand of neoliberal institutionalism, presents for many scholars "the most convincing challenge" to neorealist thinking. It has its roots in the theoretical work of the 1950s and 1960s, which was later functionally integrated with the literature of the 1970s

and 1980s in more complex interdependence and transnational studies (Lamy 2008:133).

Neoliberalism claims that the high degree of interdependence in today's world motivates states to cooperate. In order to secure this cooperation and reap its fruits successfully, states often set up international institutions to overcome a plethora of collective-action problems, many of which are based on transaction costs (Martin 2007).

The establishment of institutions is understood to promote cooperation across international boundaries, through the provision of information and the reduction of costs. Institutions are either formal international organizations such as the World Trade Organization (WTO) or European Union (EU) or Organization for Economic Co-operation and Development (OECD). They may also be the product of less formal sets of agreements, also called regimes, which "deal with common activities or issues, such as agreements about shipping, aviation, communication or the environment" (Jackson and Sørensen 2007:44).

Neoliberals, like neorealists, assume that states are rational actors that seek to maximize absolute gains through cooperation. Moreover, they assume that rational behaviour leads states to appreciate cooperative behaviour. However, they also claim that "states are less concerned with gains or advantages achieved by other states in cooperative arrangements" (Lamy 2008:132). The greatest impediment to successful cooperation is the fear of cheating, or the actual cheating, as well as, non-compliance with the agreed rules. To overcome the constraining effects of anarchy, states transfer their loyalty to international institutions that "are capable of developing sufficient political resources to enable them to engage in supranational enforcement" (Sanders 1996:443).

Last but not least, after analysing neoliberalism through the lens of ideology, policy and governmentality, Larner (2000:12) argues that the most influential post-structuralist theorisation of neoliberalism is that associated with governmentality. The literature relating to this makes a useful distinction between government and governance, arguing that, while neoliberalism may mean less government, it does not follow that

there is less governance. On one hand, neo-liberalism problematizes the state and is concerned to specify its limits through the invocation of individual choice. However, on the other hand, it involves forms of governance that encourage both institutions and individuals to conform to the norms of the market. To capture and highlight this point, Larner uses the term "market governance".

Neoliberals believe that states with common interests try to maximize their absolute gains. This means that "each side focuses on maximizing its own profit, and cares little about how much the other side gains or losses in the deal" (Mearsheimer 1995:12). They focus their approach on political economy and the political environment and on issues related to human security, human rights and the good life; that is, on what is generally called the low politics arena (Lamy 2008:134, Jervis 1999:45). The neoliberal argument does not directly address the question of whether institutions can create peace, but rather they focus on the goal of expanding cooperation in cases where state interests are not fundamentally opposed.

2.2.3 Constructivism

Constructivism has become an increasingly prominent theoretical approach to international relations since its emergence in this field in the 1980s. Drawing on a combination of sociological approaches and critical theory, constructivists argue that the world is constituted socially through intersubjective interaction; that agents and structures are mutually constituted; and that ideational factors such as norms, identity and ideas generally are central to the constitution and dynamics of world politics. Thus, it is less a theory of international relations or security, than a broader social theory which informs how we might approach the study of security.

Arguably, the central shared assumption of constructivist approaches to security is that security is a social construction. Constructivists in general avoid universal and abstract analytical definitions of security, but the form this commitment takes is different for different scholars. At its most obvious, Ted Hopf (1998) points to the impossibility of making universal

or abstract claims about the source of threat in world politics; rather state political leaders designate other states as 'friend' or 'enemy' – and approach them as such – on the basis of conceptions of identity. Acknowledging the relevance of identity to security in constructivist approaches leads to a more fundamental shared assumption. Moreover, non-material or ideational factors in general are central to the construction and practices of security in world politics. Aside from identity, the most prominent ideational dimension of world politics addressed by constructivists is the role of norms. Norms may be defined as shared expectations about appropriate or legitimate behaviour by actors with a particular identity. Most commonly, this notion is applied to dominant ideas about what constitutes appropriate behaviour for the key members of international society, that is, the states (McDonald 2008:59-62).

For *conventional constructivists,* the central concern in outlining the relationship between security and identity is to point to how national identity (and associated historical experience or cultural context) helps determine the nature of a state's interests and therefore the way it will 'act' in global politics. Hence, identity is something to be discovered or unearthed through analysis. This view is consistent with a commitment to a positivist epistemology: the belief that analysts can potentially hold a mirror to a world 'out there'. Within this framework, identities are defined as relatively stable or sedimented, enabling the analyst to explore 'why' states act the way they do in ways that suggest a causal relationship between identity and interests. The work of Peter Katzenstein (1996) and Alexander Wendt (1999) is emblematic of this approach: both have suggested the possibility of working within the epistemological and methodological frameworks of traditional international relations theory, and both ultimately position constructivism as an ideational supplement to materialist approaches within the discipline.

For *critical constructivists*, the central concern in exploring the relationship between security and identity is to outline how narratives of national identity (and, for example, representations of history) become dominant in a particular context. These, in turn, help set the limits for legitimate or feasible political action. Here, identity is inherently unstable, contingent

and a site of constant competition. Representations of security and threat can be central in this regard, serving to define who 'we' are and who are the 'other/s', from whom 'we' need protection. The study of identity, then, becomes the study of different representations that compete with others to provide realistic accounts of who a particular group is and how that group should act. For critical constructivists, analysts attempting to define a nation-state's 'national identity' risk engaging in this power–political struggle by privileging some narratives of identity and marginalizing others. Such a position is consistent with a post-positivist epistemology, in which it becomes impossible for the analyst to stand outside the world s/he is attempting to define or describe. The concern here is less with 'why' states act the way they do than with 'how possible' questions: that is, those associated with "how meanings are produced and attached to various social subjects/objects, thus constituting particular interpretive dispositions which create certain possibilities and preclude others" (Doty 1993:298). Key theorists working in this strand of constructivism include Jutta Weldes (1996), Karin Fierke (1998) and Michael Barnett (1999).

As Dannreuther (2007:40-43) highlights, the core idea of constructivism is the rejection of an unproblematised objective external reality and the need to recognise the world as a social construction, mutually constituted through shared meanings and intersubjective understandings. One of the elements that made a constructivist approach attractive is the way that it supports a shift away from identifying the state with security, which has particularly influenced the human security and critical security approaches. That said, it is not surprising that constructivism has lent insights into a number of security issues, such as NATO's survival and enlargement, why neutral states have not yet joined it, and why human rights have become a central concern in security policies of states and international organisations (IOs) (Agius 2010:66).

2.2.4 Human Security

On June 1st 1941, when USA were on the threshold of the Second World War (WWII), Franklin D. Roosevelt addressed the Congress in an effort to abolish the States' isolationism, convince public opinion of the need to

support the European allied forces, and demonstrate the gravity of the situation and the threat to global security.[7] In his speech, still famous as the "Four freedoms speech", he identified four essential human freedoms that the world should be founded upon: the freedom of speech and of expression, the freedom of religion, the freedom of want and the freedom from fear (Roosevelt 1941: 7-8).

More than 50 years later, the 1994 UN Development Programme's (UNDP) influential report claimed that the focus on the Cold War in state security "had obscured and ignored the far more urgent security needs of the millions for whom security symbolised protection from the threat of disease, hunger, unemployment, crime, social conflict, political repression and environmental hazards" (Dannreuther 2007:1). Thus, although violent conflicts still exist, mostly within states, in parallel there exists a plethora of other non-military threats that need attention. These include issues such as "the threat of environmental degradation, economic disparities and chronic poverty, diseases such as HIV/Aids, transnational crime, and international migration"(Dannreuther 2007:1).

Hence, the concept of human security was developed from Roosevelt's "four freedoms", with a primary focus on the standards of everyday living, human dignity, freedom, equality, justice and safety from diachronic threats such as lack of food, medicine, poverty and the nefarious constraints that affect everyday life (UNDP 1994). This new concept of global security is directly interdependent with development. Although we are not as yet able to explain precisely how they interact, parameters of socioeconomic development such as inequality, low growth, unemployment and weak economic institutions increase the risks of violence (World Bank 2010:7).

It is difficult to ascertain if security provision is a paradigm that fosters development, or vice versa. But no one can deny that lack of development and insecurity goes hand in hand (Kaldor 2007:182-197). Following from this contemporary perception of security, the 'ethnic security dilemma'

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[7] The whole story and the full text of the speech are available online from the Franklin D. Roosevelt Presidential Library and Museum; see http://www.fdrlibrary.marist.edu/fourfreedoms [accessed 10 March 2014]

emerged (distinguished from the traditional interstate security dilemmas). This involves modes of physical security; such as political, economic, social, cultural and environmental security (Wolff 2006:76), the right to claim democracy, equality in terms of citizenship opportunities, just public policy, non-discrimination and fair distribution of social and economic goods (Nagel 2005:127).

2.2.5 Securitisation

Many scholars argue that there are no new challenges to contemporary security but only constructed ones, along the lines of these non-military threats, which politicians frame in order to use them as a legitimising means to justify increasing government regulation and control, especially in recent decades (Bendrath 2003, Nissenbaum 2005, Bendrath et al. 2007, Hansen and Nissenbaum 2009, Hart 2011). For successful framing, policy makers utilise the power of 'speech acts', by using political language to highlight and emphasise the need for emergency measures and actions that should be taken against the new issue, in order to eliminate the threats that emanate from it. In this way, they influence the political agenda by shifting its priorities accordingly (Waever 1995, Buzan et al. 1998, Cavelty 2008).

The 'Copenhagen School' is the main representative of the 'securitisation' theory that provides a useful framework to analyse how an issue is brought into the security agenda (Buzan et al. 1998). As expressed by advocates of this school of thought: "The process of securitisation is seen as a socially constructed, contextual *speech* act" (Cavelty 2008:8) "which constitutes a 'referent object', in this case the state, as threatened in its very existence, and therefore necessitates urgent action" (Hart 2011:1).

In other words, if a specific issue is presented in such an elaborate way by political actors who claim special rights to use any available means necessary to confront it, and this claim is accepted in the political scene, then, this issue is successfully securitised. This fact also indicates how issues "are turned into security matters not necessarily because a real existential threat exists, but because an issue is successfully presented

and established by key actors in the political arena as constituting such a threat" (Buzan et al. 1998, Cavelty 2008:8).

The Copenhagen School differs from the traditional approaches because it focuses on threats that are not necessarily military and uses referent objects other than the state. Moreover, its allegations are not about "actual threats, referent objects, and defensive manoeuvres, but about the successful portrayal of threats as security threats" (Nissenbaum 2005:66). The key element of a securitization is the urgency with which a threat is presented. If a dire threat is not confronted immediately then it will result in the destruction of the referent object. As Buzan et al. assert, "if the problem is not handled now it will be too late, and we will not exist to remedy our failure" (Buzan et al. 1998:26). These threats are crucial for the existence of a group, or a valued entity, or ideology, or a way of life. For the state, especially, a securitised threat is one that endangers national sovereignty and political independence. It is important that the threat is presented to the public, and accepted by the public, as catastrophic for the very existence of the referent object (Nissenbaum 2005:66).

According to the Copenhagen School's approach, "[t]he invocation of security has been the key to legitimizing the use of force, but more generally it has opened the way for the state to mobilize, or to take special powers, to handle existential threats" (Buzan et al. 1998:21, Hart 2011:2). In practice, these special powers mean bypassing the rules of normal governance and being treated as elements of national security that do not have to comply with the restrictions of political procedure. Similar to times of national crisis, the appearance of securitized threats brings interruptions to normal 'business-as-usual' activities, which are accepted as necessary even in liberal democracies. Such interruptions include the lessening of civil liberties, as often imposed by governments acting in the name of 'national security', an increase in government secrecy along with deviations in the normal democratic conduct, and raised expenditures for security (Nissenbaum 2005:69-70). By repeated use, 'the state of exception' becomes the rule rather than a deviation from normality (Hart 2011:4).

2.2.6 International Political Sociology (IPS)

International political sociology (IPS) is a term which emerged from the framework of post-structural approaches to security and has taken this area of study in new theoretical and empirical directions. Much of IPS research is associated with the 'Paris School' and its prominent figure, Didier Bigo. This fuses a concern with discourses of security and constructions of danger with a focus on security practices. This latter refers to issues such as the role of security professionals, the function of policing in general and the activities of private security companies, in particular. The work is mostly aligned with a sociologically-oriented approach, from which the term IPS was adopted (Peoples and Vaughan-Williams 2010:69-70). In Bigo's work, he examines the relationship between liberty and security, and argues that a new transversal field of globalised insecurity has emerged. Through this, the traditional separation between the internal and external has become even more blurred, mostly in terms of deconstruction rather than erosion of the boundaries (Bigo 2008).

In turn, this has given rise to a novel field of security relations - between security professionals, governmental and non-governmental institutions, the police, military and private companies - across an increasingly globalised terrain. This constitutes a 'semantic continuum' in which these security actors cultivate fear, unease and insecurity. Consequently, this field of insecurity opens up new possibilities in terms of the governance of populations in the West's liberal regimes. Hence, Bigo's security dilemma differentiates itself from realist thought by including in the anarchical international system, not only states, but all the actors who constitute the field of security relations. In light of this, he refers to the practices through which different actors are produced as agents of insecuritisation (Bigo 2008).

2.3 Contemporary States as Security Providers

States are the main protagonists of world politics but they are not the only ones. The global system also includes a diverse range of political actors who interact with the states, trying to influence the political scene beyond state boundaries. The proliferation of non-state actors and their growing involvement in world affairs has led some analysts in the field of International Relations to question the ability of states to control their economies and to fulfil other traditional functions, such as national security.

Jackson and Sorensen (2007:2) define the state as "a clear-cut and bordered territory, with a permanent population, under the jurisdiction of supreme government that is constitutionally independent of all foreign governments: a sovereign state". According to the United Nations (UN) Security Council,[8] a non-state actor is an "individual or entity, not acting under the lawful authority of any State" (Sial Sidhu 2006:3). Thus, the definition of 'non-state actors' includes international intergovernmental organisations (IGOs), non-governmental organisations (NGOs), multinational corporations (MNCs), international humanitarian organisations (IHOs), the scientific community, private individuals, the media and the Internet community (Bruderlein 2000:3).

In this framework, Dannreuther (2007:27) argues that the contemporary security perspective – that focuses on North-South relations rather than East-West division - increasingly removes the state from its essentially repressive and unjustified monopoly of the use of force. Instead it transfers this authority to regional and international organisations such as the UN and the EU. The concept of fragile and failed states emerged from this deconstruction of the state. This new conceptualisation relates to a longer term failure to construct legitimate and responsive states, with obvious and inevitable implications for security provision. Kaplan (1994) argued that global population growth would have a similar effect through exacerbating the effects of disease, conflict, and civil instability arising from the disruption of the natural environment. These effects, he claimed,

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[8] UNSC Resolution 1540 of April 28, 2004

are already visible in parts of West Africa, and have led to unprecedented levels of erosion of nation states and the empowerment of private armies, security firms, and international drug cartels (Kaplan 1994).

In a similar vein, Kaldor (2006) highlights the emergence of the 'New Wars', where the old forms of state-based conflict have given way to the prevalence of intra-state wars. He demonstrates how the private use of force in the form of militias, criminal organisations and private military companies undercut the state's supposed monopoly of violence.

Bellamy (1997) also stresses the multiplication of new actors at all levels in the international security arena. Beyond the traditional and the new nation states, he identifies multinational companies, drug cartels and a new generation of high-tech mercenaries among these. In relation to the latter, the availability of weapons and people trained to use them, as well as the dramatic reduction of armed forces' personnel due to the end of the Cold War and the economic situation, are factors which encouraged the multiplication of these private security entities. Inevitably, any potential security vacuum can be filled by these new actors, contracted by those who have the financial capabilities and at lower cost compared to the traditional state armed forces (Bellamy 1997:130-2).

Sorensen (2005) identifies the major characteristics in postmodern states, where big political, economic and other changes are taking place, but no one is quite sure where they are going to lead. In terms of economic changes, there is a transformation from national to globalised economies. This entails deep integration, cross-border production chains and networks organised by transnational corporations at regional and international levels (i.e. production outside home countries) and, consequently, an emerging globally integrated financial market. In terms of politics, governance is shifting from the various forms of national administration of strictly defined territorial realms, to an international, trans-governmental and transnational activity. This new form includes not only traditional governments and international organisations, but also NGOs and non-state actors. The general trend reflects a move towards multilevel governance in several interlocked and overlapping arenas, and away from

the context of national government. Finally, post-modern states are transformed in terms of nationhood. In this respect, the nation is both a community of citizens, united through their political and social situation, and through economic rights/obligations, and a community of sentiment, involving linguistic, cultural and historical identity (Sorensen 2005:86).

One of Buzan's policy conclusions from the integrative perspective is that security cannot be achieved either by individuals or by the states acting solely on their own behalf. Instead of expecting individual actors to create security (as encouraged by neoliberal approaches) or, conversely, concentrating all power and responsibility for security at the states' upper levels (such as in the totalitarian regimes), collective measures need to be implemented among the members of the system if they are to achieve security (Buzan 1991:378).

At the international level, Buzan perceives international security strategy to depend on the adjustment of relations between states, either directly or by making changes in the systemic conditions that influence the way in which states make each other feel more secure. If such an option is adopted, it needs to focus on the sources and causes of threats, aiming at reducing or eliminating them by political action. Hence, it can address the security challenges at regional and system levels squarely. Through this, it can offer the prospect of a more cost-efficient security policy/option for the majority of less powerful states, (with insufficient resources to to pursue a comprehensive security strategy on their own,) not to be dependent on great powers to achieve security (Buzan 1991:331-334).

Similarly, within the state per se, the scope and character of security is affected by many different sub-state actors. They range from the government and its various mechanisms, through the economic, political, and media organisations, to the individual citizens who form the amorphous 'public opinion'. Many of them have interests in security and involve themselves at varying levels of the security policy making process. However, many have other kinds of interests as well and these can bias their security interest in a variety of ways, especially in relation to the cross-pressures affecting government bureaucracies and business

organisations. Focusing on the latter, and industrial/commercial organisations in particular, these might be closely attached to the government depending on whether the economy leans towards central planning or towards the market. This can cause significant differences in their other concerns, particularly in relation to matters such as profit. These organisations may have an interest in security policy either in terms of their production (e.g. military equipment) or in associated external interests - such as markets, investments, transportation routes or sources of supply that they wish to see under the aegis of security policy (Buzan 1991:348-353).

This common interest between governments and companies can result in at least two effects which might influence security policy. First, the desire to maintain sufficient national capacity combined with the companies' desire to assure markets and make profits can lead to pressure either to consume more than is objectively required, or to export. Second, for government, technological advancement is seen in terms of continuously improving military equipment that will contribute to their effort to prevail in the international system, while companies wish to meet the market's demands and be given a commercial edge in sales (Buzan 1991:353-354).

2.4 Privatisation of Security and the Maritime Challenges

2.4.1 Privatisation of Security

While classical liberalism focuses on citizens' self-help and (constitutional) law in providing limitations to the coercive power of the state, neoliberalism assigns this role to the free market. It argues that the best means for preventing the abuse of state control of armed force is to establish a competition between the state and the market. The market then helps to divide coercive capabilities among multiple companies and between public and private agents and, thereby, prevents a centralisation of power that could endanger the rights and freedoms of the citizens. According to neoliberalism, the geographical fragmentation of authority facilitates the control of these actors by limiting their influence, and

promises greater responsiveness to the diverse interests of citizens who are living in different security environments. In addition, the ideal-type model of fragmented governance envisages the differentiation of security functions and their supply among multiple government agencies, and competing public and private actors. As with geographical fragmentation, neoliberalism believes that the centralisation of collective services within the state is the major danger to democratic control; financing, ownership and supply of security resources and functions are best dispersed in order to curtail the power of different actors (Krahmann 2010:36).

In the transition to the post–Cold War world, the diminished political and financial will of Western governments to intervene in conflicts at the periphery of the modern world has left a security gap for private military companies (PMCs) to fill. The inability of the UN and other international organisations to contain these conflicts inevitably compounds the problem. The spillage of intolerance and terrorism into safe societies ignites disputes that require innovative private security solutions. The reinvention of state militaries as leaner and more technological machines fosters a demand for private sector input too. PMCs have clearly been responsive to supply and demand factors. However, it is important to bear in mind that their rise equally marks a profound change in the traditional state monopoly over legitimate violence. The roots of this transformation are partly found in neoliberalism and in the emergence of new modes of public management. Neoliberalism is intrinsically linked to capitalism and democracy. Ideologically, neoliberal policies have advocated economic and social freedom over authoritarianism and oppression. Operationally, they have encouraged privatisation and market competition. Facilitated by heavy privatisation throughout the 1980s and into the 1990s, the shift of the global political economy toward neoliberalism was completed upon the demise of communism, which had dictated the opposite approach. "Privatisation" is a term that lends itself to broad usage and, as such, needs to be defined in specific fashion. The state is not privatising by selling off segments of its military infrastructure to parts of the private sector, although this practice has given birth to some defence corporations. However, we should not assume that governments are

reconstituting segments of their military or security forces into private firms, which thereafter become PMCs. Whilst these companies do typically employ former military and law enforcement personnel, it is more relevant to focus on the process whereby certain military and security-related tasks, previously state prerogatives, are being shifted onto the market and performed by legally established commercial firms, known as PMCs (Ortiz 2010:115-6).

Moreover, neoliberalism contends that competition between the state and the market encourages the cost-efficient and effective provision of security functions, and that functional specialisation can take advantage of the dispersed resources and expertise required for contemporary security policymaking. Implicit in the liberal model of fragmented governance is a belief in the heterogeneous and sometimes conflicting nature of citizens' security interests. Rather than subordinating them to the will of the general public, the liberal governance model seeks to ensure that citizens can pursue their individual interests as freely as possible. In so far as the political coordination of private security interests is necessary, this approach argues, this is best left to market forces or to voluntary cooperation among the citizens themselves. Owing to the liberal focus on individual interests and rights, the guiding norms of the governance model are the limitation of state sovereignty, individual self-government and 'marketisation'. Domestically, state sovereignty is limited by restricting the scope of the state and its intervention in the lives of its citizens. Internationally though, the governance model is more open to interventions and alternative authorities, such as international private regulatory bodies and private military companies. At the same time, the fragmented governance model prioritises citizens' right to self-determination, which is best provided for by the market. Political decisions are by definition a representation of collective interest. However, the market can respond to individual demands, hence in security terms this means the market can cater to the varying needs of private individuals, households and corporations. Security policy decision-making and implementation within governance arrangements are accordingly defined by the horizontal dispersion of authority among public and private

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providers at different levels, ranging from national armed forces to transnational military companies.

The liberal approach to governance advocates that direct state ownership of the defence industry, and command and control over the armed forces, is replaced by hands-off steering and the regulation of the private security market. Most crucially, security policies are implemented in a decentralised fashion. Typically, responsibility for the implementation of distinct policies is distributed among public and market actors and compliance with public norms is frequently self-enforced or voluntary (Krahmann 2010:37-41).

Thus, neoliberalism promotes a form of networked governance and a shift towards organising resources (often belonging to others) rather than managing people and programs. In terms of security, this results in a shift from the vertical, hierarchical and state-centred structure of security provision towards a diverse and horizontal web of agentive, expert and independent actors ,forming a kind of 'partnership' with the traditional security enforcement state entities (Abrahamsen and Williams 2011:59-61).

Dunigan (2011:21) explores the pressures that the private security industry places on the state and the consequences of such pressures, particularly with reference to democratic states' abilities to successfully and effectively fight wars of counterinsurgency. Furthermore, she provides particular insight into the modern state's relation to society and the economy through the lens of the proliferation of private military and security companies in modern democracies.

Building further on this concept, Avant (2008, 2005) argues that the increase in private security can be tied to supply and demand, as would be the case in the development of any market. In the 1990s, the supply factors came from both local (for example, the end of apartheid in South Africa) and international (that is, the end of the Cold War) phenomena that caused militaries to be downsized in the late 1980s and early 1990s. Military downsizing led to a flood of experienced personnel available for contracting. Concomitant with the increase in supply was an increase in

the demand for military skills on the private market – from Western states that had downsized their militaries, from countries seeking to upgrade and 'Westernise' their militaries as a way of demonstrating credentials for entry into Western institutions, from rulers of weak or failed states no longer propped up by superpower patrons, and from non-state actors such as private firms, INGOs and groups of citizens in the territories of weak or failed states.

The downsizing of these militaries took place in an ideological context where liberal capitalist ideas were in the ascendancy. Initially, prevailing ideas about the benefits of privatisation were associated with the powerful conservative coalitions in the USA and the UK in the 1980s. However, the collapse of the Soviet bloc, the ensuing privatisation of state-owned industries across Europe, and the endorsement of these principles by international financial institutions such as the International Monetary Fund and the World Bank led to privatisation being endorsed much more widely. The appeal of ideas related to this led people to see private alternatives as obvious and simultaneously encouraged the growth of private supply.

The end of the Cold War also had important political repercussions which influenced the 'market for force'. Just two years into what, in 1991, US President George H.W. Bush called the 'New World Order' (Bush 1991), a rash of smaller scale conflicts unleashed disorder and consequent demands for intervention. As the clamour for a Western response grew, just as Western militaries were shrinking, nascent PSCs provided a stop-gap tool for meeting greater demands with smaller forces. The Cold War's end had a different impact in the former Eastern bloc (where it led to defunct governance structures and forces, new opportunities and a sudden opening to global flows) and in the developing world (where it abruptly ended superpower patronage – revealing the enduring difficulties of these governments and their militaries – corruption, poor standards, poor management, ethnic rivalries and so on). In each instance, the potential for violence increased. Weak governments paved the way for ethnic mobilisation, transnational criminal activity, warlords, rebels and paramilitaries. The result ravaged civilians, enslaved children, destroyed

the environment, and otherwise disrupted order and violated accepted global norms. In some cases PSCs provided tools to shore up the capabilities of weak governments in the Eastern bloc and the developing world (e.g. Angola, Papua New Guinea and Sierra Leone). But it was not just states that took advantage of the market for force; transnational firms in the extractive industry, in particular, are often likely to remain in dangerous areas if that is where the resources are. Unable to rely on weak states for security and often unwilling to leave, these actors have provided another pool of demand for non-state protection that PSCs have exploited. The reason why PSCs – and not multilateral armed responses, such as those provided by the UN – have thrived is because multilateral forces have been much harder to deploy and, often because of problematic mandates, are seen as less effective.

Although it is frequently asserted that such companies exist in a legal vacuum, this claim is somewhat exaggerated. While no overarching international regulatory framework yet exists, pockets of applicable regulation can be found both in international law and international humanitarian law, and in the national legislation of certain key source states and contracting states. This patchwork quality remains unsatisfactory and has raised concerns about the legal accountability and supervision of private military and security companies, their employees, as well as those who engage their services. In terms of the situation in the US, given the assumption that outsourcing or privatising military and security functions to private contractors is already a well-entrenched dimension of US policy and practice, and that commercial firms are used extensively to support US forces and policy objectives abroad, several questions are raised: Why is there a perceived need for regulation of private security contractors; what are some current legal means of holding them to account and what obstacles have impeded the sector from being adequately regulated? (Caparini 2008:171).

In a similar vein, MacLeod highlights the lack of enforcement mechanisms which should be in place, in order to ensure the regulation, accountability and transparency of private security providers. Taking into account the transnational nature of business in our era, she argues that neither

international nor national regulation alone is sufficient to address private security companies' inappropriate behaviour. Hence, she suggests a hybrid approach for their regulation in a form of top-down/bottom-up procedures, multi-stakeholder in nature and victim-centred. Such an approach would take into account both international business and human rights initiatives and ensure the national implementation of international standards (MacLeod 2011:360-1).

Thus, both material and ideational changes have placed private security options on the agenda. The reluctance of states to take on the variety of missions that people have felt there is a need to respond to, and the poor performance of multilateral institutions, have made the private alternative appear more workable and reinforced prevailing beliefs that private means cheaper and better (Avant 2008:448-9).

2.4.2 Maritime Security

In the contemporary geopolitical environment, maritime security has emerged as one of the most significant elements of global and human security (Reveron and Mahoney-Norris 2011:129-157). Through this, it contributes to economic development from local to regional up to international levels. The sea-based trading system, developed mostly by littoral states, offers access to and distribution of energy resources, raw materials and all kind of products around the world. Hence, since almost 80% of the global trade is transported in ships' hulls, littoral states developed maritime infrastructure in order to establish these energy supply chains and links between them and the hinterland and ensure the secure flow of goods to the international markets (Sakhuja 2010:3-11).

The globally accepted definition of maritime security was provided by the Secretary General of the United Nations in his 2008 report to the General Assembly, under the title "Oceans and the law of the sea" (UN General Assembly 2008). After making clear that there is no universally accepted definition, but that different versions and meanings are attributed to the term depending on the context and the user (UN General Assembly 2008:15, par.38), he identified seven specific threats to maritime security: Piracy and armed robbery at sea; terrorist acts involving

shipping; offshore installations and other maritime interests; illicit trafficking in arms and weapons of mass destruction; illicit traffic in narcotic drugs and psychotropic substances; smuggling and trafficking of persons by sea; illegal, unreported and unregulated fishing; and intentional and unlawful damage to the marine environment (UN General Assembly 2008:17-33). The UN Secretary General also refers to the 'narrow conception' of maritime security, which is conceptualised in state-centric terms, such as threatening territorial integrity with projections of naval power and use of force by naval assets. Yet, his report, as a whole, refers to a broadened human-centric approach that calls states towards a more collective maritime security and recognises that the new evolving threats go beyond the use of force and state boundaries, reflecting the human insecurity conditions ashore.

Mugridge builds on credible evidence to suggest that in many states, maritime security lacks financial or political resources, sustainability, relevance or multi-agency coherence. The world's oceans continue to offer both non-state terrorists and transnational criminals a relatively benign environment within which to operate. With NATO predominantly focused on Afghanistan, elements of these socially malignant groups ply the world's oceans with near impunity. When such authoritative organisations as the RAND Corporation highlight the damaging impact of crime and terrorism on maritime security, it would be prudent to review international responses and re-evaluate strategy. Hence, Mugridge defines "Sea-Blindness" as a socio-political failure to acknowledge or recognise the importance of the maritime domain to both society and economies. This alien condition transcends society from politicians to the working citizen, from private industry to political bodies. The future physical and economic security of many nations depends upon the freedom to use the world's oceans and their ability to potentially influence worldwide political events by military means (Mugridge 2009:306). He finally concludes that the field of maritime security provides fertile ground for further research; particularly in terms of threat analysis of the irregular, non-state actors involved. His work anticipates that such research will inform the growing debate over international maritime susceptibility and recommend a new

approach to obviate many of the current impediments to an effective maritime security regime. Clearly, many national maritime security strategies require redirection towards international collaboration (Mugridge 2009:305-10).

Thus, the literature devoted to this specific security challenge is limited and perhaps overlooked. The *Lloyd's Handbook of Maritime Security* (Herbert-Burns et al. 2009) is one of the few academic approaches to the issue. Yet, although it provides an overview of the new maritime security environment (Section 1; pp 3-86), its focus tends to be limited to piracy and maritime terrorism, while the rest of the threats are overlooked. This can be explained by the shipping industry's perspective of the issue, which confirms to a great extent the UN Secretary General's statement regarding the use of different definitions of maritime security depending on the user.

A more comprehensive approach was adopted by Michael McNicholas (2008) who analyses and highlights the threats in the maritime domain from a security-oriented perspective. Although he addresses issues such as port security, drug smuggling, piracy and maritime terrorism, and also provides recommendations for mitigation strategies, illegal fishing and environmental issues have no place in his book. However, the book remains a remarkable effort and the basis for maritime security studies.

Thai (2009) argues that one of the fundamental questions relevant to this field is how effective maritime security can be achieved in practice, e.g. satisfying security requirements while enhancing other business objectives, such as service quality or operational efficiency. In other words, it is important to identify and comprehend the critical success factors (CSFs) for the effective management of security in maritime transport. Hence, he attempts to identify critical factors of effective maritime security and empirically evaluate them. After identifying the gap in the academic literature, he concludes that a conceptual model of effective security management in maritime transport is essential and lacking. He proposes, therefore, an effective maritime security model which consists of 13 dimensions. Among others, these entail the following:

well-structured security policy; security risk assessment; risk-based security mitigation strategies and plans; communication and consultation with stakeholders; security monitoring and review; continuous security improvement; senior management commitment and leadership; employee empowerment; employee involvement; security training, security design and process control; holistic approaches; and incident handling and response (Thai 2009:147-8, 160).

Given its strategic, political, economic and military significance, it can be readily argued that maritime security is inherently government business. However, though the responsibility lies firmly with governments and international bodies, the demand in some areas for physical protection and other aspects of security outstrip in-house resources. The main government services involved in maritime security (covering inland, territorial and international waters) are police, coastguards, customs and naval forces. Since the end of the Cold War, the trend in the West has been to reduce the size of these agencies significantly — particularly the navies. However the scale and scope of the challenges presented by a combination of terrorist activity, organised crime and piracy have meant that governments have been unable to meet the demand in some respects. Thus private security companies have developed a niche market of services for clients and governments. In most cases a private security company is able to provide a tailored security package more quickly than governments because they are less encumbered by bureaucracy (Kerr 2010:16).

However, if maritime security literature is limited, the private security dimension is even more lacking. To some extent this is justified due to the relatively new character of the phenomenon. But perhaps even more importantly, it is extremely hard for researchers to access primary sources if they are not themselves a part of the industry per se. In this framework, very few publications approach the issue of private maritime security and the response of the global market to contemporary waterborne security risks. Berube and Cullen (2012) provide a historical context for the private maritime security market and, specifically, they offer the context of private anti-piracy escorts in the two major hot spots

of modern piracy, the Malacca Strait in South East Asia and the Gulf of Aden. Furthermore, this remarkable source touches upon the private security services in the offshore oil industry. However, perhaps even more interestingly from my perspective, they highlight the response to the combination and interaction of piracy and illegal fishing, which is currently forming the expansion of the private maritime security market in the near future.

Regulatory issues are also raising great concerns both to the international community and the global market per se. Hence, any serious attempt to tackle issues relating to maritime security would have to be international in nature and involve cooperation between different national bodies. We must also recognise the distinctiveness of shipping as an international business, stressing that there is no law which would apply in the case of "a ship flying a flag of one country, carrying a cargo which is insured in another country between two different countries, crewed by a multinational crew and attacked on the high seas" (Marlow 2010:671-2).

2.4.3. Typology and conceptual framework of private security

A mercenary is defined in Article 47 to Protocol I of the Geneva Conventions (1977) as any person who:

> (a) is specially recruited locally or abroad in order to fight in an armed conflict;
>
> (b) does, in fact, take a direct part in the hostilities;
>
> (c) is motivated to take part in the hostilities essentially by the desire for private gain, and in fact, is promised, by or on behalf of a party to the conflict, material compensation substantially in excess of that promised or paid to combatants of similar ranks and functions in the armed forces of that Party;
>
> (d) is neither a national of a Party to the conflict nor a resident of territory controlled by a Party to the conflict;
>
> (e) is not a member of the armed forces of a Party to the conflict; and
>
> (f) has not been sent by a State which is not a Party to the conflict on official duty as a member of its armed forces.

The above definition for a mercenary includes a number of sometimes vague requirements that must ALL be met before an individual can be termed a mercenary. Clearly, the definition of mercenaries is quite restrictive and exclusive and it is extremely hard to find a mercenary that fits all these criteria. This is especially true since mercenaries have good reason not to wish to fit the definition – including avoiding the loss of human rights protection normally granted to combatants as well as, in some cases, risking the loss of citizenship in their home country (Brooks & Solomon 2000:1).

On the other hand, there is broad agreement that this definition does help to distinguish mercenaries from PMCs, most of which are like any other private company (Kinsey 2006:9, Lilly 2002:2, Holmqvist 2005:4). As Lilly states, PMCs "… do not take part in hostilities, are usually associated with particular armed forces, and are not solely motivated by profit because they are concerned with the maintenance of public security. If this is not the case, then legal provisions in international law banning mercenaries do seem to apply"(Lilly 2002:2). Furthermore, since the above are hardly acceptable definitions, it has been widely accepted that activities rather than the actors per se should be defined, given that it is also common for these to be merged into one another.

The spectrum of provided services and the overall model of the privatisation of security is examined and analysed in detail in Chapter Four. However, at this stage, it is important to make the distinction between different types of companies and form a basis for a consistent terminology to be used hereafter. Different authors suggest a variety of ways of distinguishing between the various types of company, as discussed below, but broadly speaking, private security companies can be distinguished according to two main categories, based on the services provided. The first refers to the private military companies (PMCs). These are legal entities and maintain corporate ties and Internet websites (Holmqvist 2005:4). As Beyani and Lilly state, they are

> registered corporate bodies with legal personalities that often provide military and security services of a different nature and for a different purpose to the activities of mercenaries. Private military companies

often employ mercenaries, but they differ in that they are often hired by governments, ostensibly to provide public security whereas, non-state armed groups, aiming to undermine the constitutional order of states, generally hire mercenaries. (Beyani and Lilly 2001:16).

Thus, PMCs are different to individual mercenaries. They are corporations. Moreover, many PMCs have roots in para-public defence industries; many employ highly qualified retired personnel from armed forces. The term, private military company, underlines the fact that PMCs are corporations similar to other corporations. Some of them operate as multinational businesses, are traded on stock markets, have headquarters in tax havens and operate professional advertising and public relations departments (Leander 2005:608).

The second category refers to private security companies (PSCs) that, although they have almost the same command structure as PMCs, provide a very different range of services. They are

> predominantly concerned with crime prevention and public order concerns: they might provide private guard services for prisons, airports, installations, and private individuals.... There are those companies whose activities are borderline and have a bias towards more sophisticated security services, including training local police, securing transport and information routes. (Beyani and Lilly 2001:18).

Mandel (2002:94) puts both kinds of companies under the umbrella of private security providers, requiring that two criteria be satisfied:

a. The ownership and control of the organisation providing the services are distinctly non-governmental.
b. The nature of the services provided focuses on the provision of coercive security, including such elements as advice, logistical support, intelligence, or direct combat troops and related equipment.

Singer (2002) identifies three types of companies; 'type one' provide implementation and command; 'type two' provide advice and training; and 'type three' provide military support. Although this service based distinction does make sense, the issue can become confused since the

same company could provide 'type one' services to one client and 'type three' to another (Avant 2005a:123). In a similar vein, Richards and Smith (2007:6) stress that the overlapping of activities make definitions elusive; still they perceive PMCs as offering traditional military services – including training and logistical support - while PSCs offer more protective services, such as traditional policing rather than soldiering roles. Brooks also differentiates between private military (PMC) and private security (PSC) companies. He defines the former as providing more active security, such as military training or offensive combat operations, generally to individual states or international organisations such as the UN, and the latter as passive security in high risk conflict environments (Brooks 2000:129).

The above definitions of mercenaries, private military and security companies, and the distinctions between them, provide a theoretical basis to build on and from which to move to the core of this research: a study of the expansion of these entities into the maritime domain and the appearance of private maritime security companies (PMSCs) as anti-piracy measures. However, there is no point in comparing PMSCs with mercenaries since they cannot be included under any of the definition clauses of these: they do not engage in armed conflicts, do not take part in hostilities between warring parties, have no links with states' armed forces and the overthrowing of foreign governments is entirely irrelevant to their list of provided services.

In its Circular 1405 (IMO 2011c:1), the IMO defines PMSCs as "[p]rivate contractors employed to provide security personnel, both armed and unarmed, on board for protection against piracy" and their armed employees as "Privately Contracted Armed Security Personnel" (PCASP). Consequently, these definitions and abbreviations (IMO 2011c:1, IMO 2012:1), are used throughout this thesis.

At this point it is interesting to notice that, as Mandel (2002:23) highlights, governments primarily choose to utilise PMC/PSCs for political ends, regardless of the financial motivations of the companies. However,

although PMCs and PSCs are mainly contracted by states, the main driver for PMSCs to mushroom largely comes from the shipping and offshore energy industry. This conceptual framework is visualised in the Venn diagram presented in Figure 1. The green and red areas represent the PSCs and PMCs respectively, and their slight overlap is due to their similar command structure and business model, while their provided services differ as analysed above.

STATE AS THE MAIN DRIVER

PRIVATE MILITARY - PMC
(Active security: Expeditionary forces, offencive combat operations, military training)

PRIVATE SECURITY- PSC
(Passive security: Protective services, policing)

PRIVATE MARITIME SECURITY - PMSC
(Shipping, Offshore Oil & Gas)

INDUSTRY AS THE MAIN DRIVER
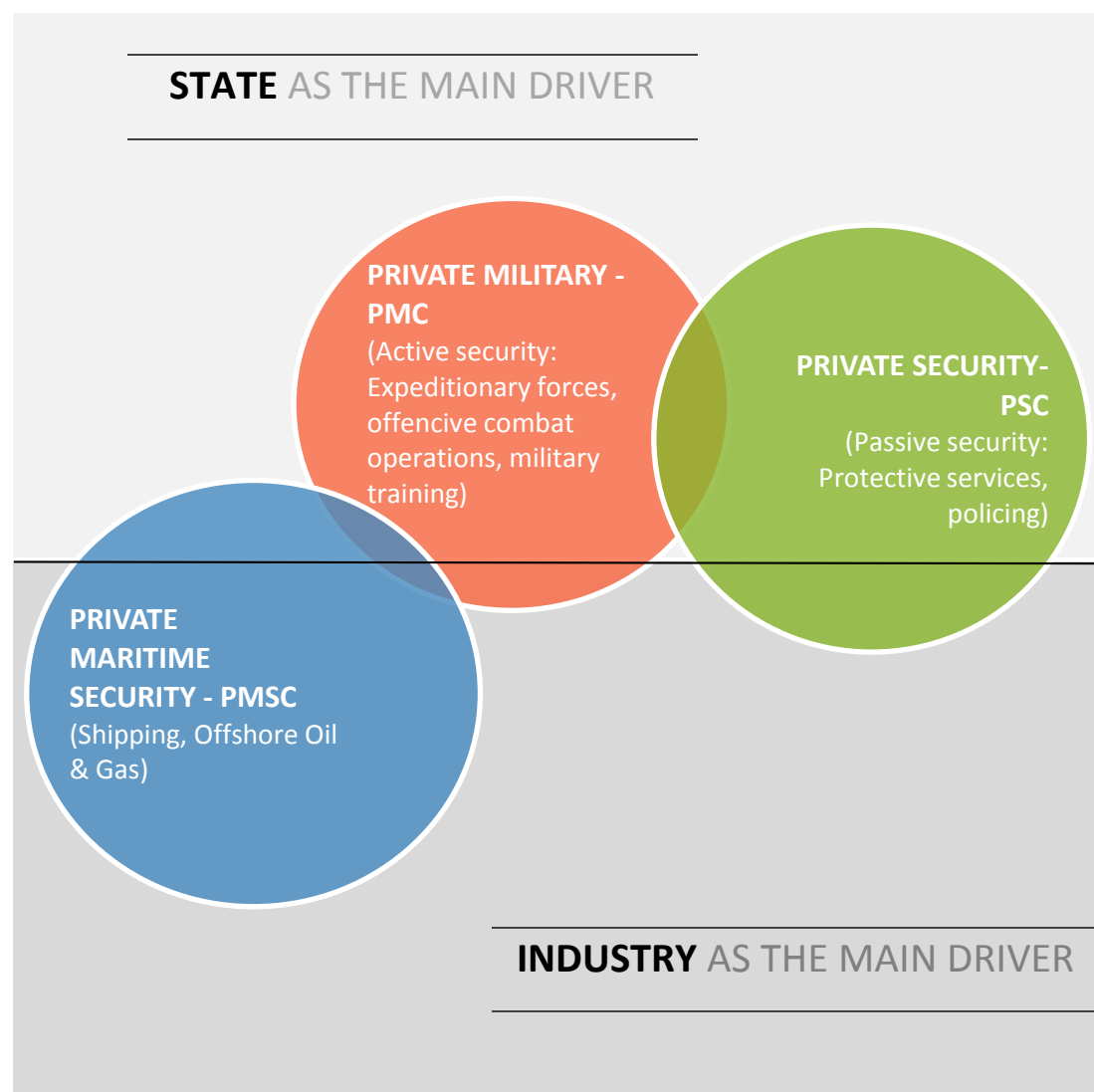
Figure 1: Privatisation of Security Conceptual Framework

The vast majority of their clients are governments; hence they mostly cover the upper area of the diagram, where states are the main driver. However, there are some cases where they are also contracted by private companies – most of which are involved with the extraction of resources

in developing countries (Interview H 2012) - and/or organisations[9] that retain facilities/headquarters in hostile environments (Vaux 2002:14). Consequently, a small part of their clientele is represented in the diagram's lower area, where industry is the main driver.

Things are quite different though for PMSCs; and their overlap with PMCs on the diagram reflects similarities only in terms of command structure and business model, including the fact that they both provide armed services. However, PMSCs do not engage in battle in the common understanding of the land-based approach nor do they conduct offensive operations, although they are entitled to use armed force for the security of the vessels or platforms they are contracted to protect. Hence, the vast majority of their clients traditionally come from industry (shipping and offshore oil and gas), so their main area of existence lies with the industry drivers.

However, some PMSCs also offer consultancy and risk assessment services to some governmental agencies (Interview F 2012) so, in the diagram, there is a small area relating to limited amount that states drive their business. The full framework of the PMSCs' environment is investigated in detail in Chapter Seven.

2.5 The Privatisation gap in Academic Literature - Mapping the Private and Maritime Security Research Actors

The above review of contemporary security approaches and paradigms leads us to several useful and indicative conclusions, directly related to the research questions. Furthermore, it presents private security and maritime security in the context of contemporary academic literature. In particular, it places professional practice and the integration of contemporary maritime security in the context of international security.

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[9] The International Committee of the Red Cross for example – which is one of the major opponents concerning the use of PSCs - is amongst the aid agencies and embassies that employed the PSC, Defence Systems Ltd., to provide security for its offices in Kinshasa, DR Congo.

The realist approach (Section 2.2.1) is to a great extent reflected in the international response to Somali piracy in the Indian Ocean at the state level. This involves a variety of issues: the rivalry between India and China for dominating the vital thoroughfares for international trade on the ocean; the tensions between Iran and the West and the former's threats concerning blocking the straits of Hormuz (which control an enormous percentage of global oil exports). In respect to these, the phenomenon of piracy off Somalia has offered a great opportunity and justification for naval presence, naval diplomacy and force projection to all states sharing these geopolitical concerns in the period under research – all traditional elements of the realist approach.

The most indicative case is perhaps the result of the re-emergence of China as a maritime power, reviving the Chinese experience of distant naval operations in the 15th century, which had subsequently fallen into abeyance. The Chinese eunuch, Admiral Zheng He, enforcing emperor's Yong-le mandate between 1405 and 1424, launched seven[10] expeditionary "voyages of friendship" in faraway lands. These were primarily intended to ensure recognition of Ming dominance and, consequently, achieve political and economic control all over the known maritime world. For each voyage, the dispatched fleet was comprised of 50-250 ships and between 27-30,000 personnel; the applied strategy and the projected force of the deployed armadas, aimed at obtaining control of vital ports and shipping lanes, led to the adoption of the term 'proto maritime colonialism' (Wade 2004:10-13, 18-19).

More recently, with the justification of combating Somali piracy, China has offered escorts to vessels participating in the World Food Programme - as analysed in detail in Chapter Six (Section 6.4). These operations clearly exploit the opportunity to operate alongside the US and Indian ships and leaving no space for competitors to cover due to potential weaknesses.

At the other end of the spectrum, international political sociology (Section 2.2.6) reflects the rise in security relations across an increasingly globalised terrain between security professionals, governmental and non-

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[10] An eighth mission in 1424 is usually overlooked

governmental institutions, the police, military and private companies. This offers an early context for the privatisation of the security trend. The starting point for this approach is that its understanding of the security dilemma differentiates itself from realist thought by including in the anarchical international system not only states, but all the actors who constitute the field of security relations.

The neoliberal approach (Section 2.2.2) actually sets the basis, principles and conceptualisation of privatisation. Inevitably, security became one of the sectors to be included in the globalised market procedures. The core research of this thesis goes into further depth on this contemporary trend. The whole of Chapter Four is dedicated to this and provides a further detailed look at the privatisation concepts and principles that neoliberalism introduced, which in turn led to the controversial issues and practice of the private security industry. Although the neoliberal model introduced the principles of privatisation in the framework of the global free market, it is generally agreed that the distinctive domain of security should be categorised and approached in a different way, separated from the practices of other businesses and commercial companies. Hence, another field that this study researches, is to what extend are states willing to maintain control and develop a regulatory framework over the private sector's security provision services. Or do they prefer to outsource this authority to the free market as well, allowing the self-regulation of this critical sector.

Similarly, constructivism (Section 2.2.3) – which supports the shift away from identifying the state with security - can offer a useful insight in the trend to privatise security, while simultaneously forming the fertile ground and theoretical basis for the concept of 'human security' to emerge.

Human security (Section 2.2.4) is perhaps the only approach that can offer a longer term solution to maritime crime-torn countries. This concept is much debated and questioned to a great extent in terms of its realistic implementation and applicability. However, it does address the issues which are among the root causes and causal factors of piracy. These include such diverse aspects as state fragility, motivation of humans to

maritime crime due to poverty, social, economic insecurity, informal economic structures and lack of law enforcement infrastructure. The case study of Somalia, which is researched in depth in this thesis (Chapter 6), is the evidence that confirms this hypothesis. It has led many policy makers and strategy planners to identify that the long term solution to the crime lies ashore and within the enhancement of human security in the Horn of Africa.

Securitisation theory (Section 2.2.5) acts as a useful tool to analyse how maritime security in general, and piracy in particular, were brought into the security agenda and successfully 'securitised'. It goes beyond traditional security matters or military threats and uses referent objects other than the state. In this context, piracy emerged as crucial threat; it was presented to the public, and accepted by the public as catastrophic for the global economy, trade, shipping and seafarers' lives. As a result, it bypassed the rules of normal governance since it brought interruptions to normal 'business-as-usual' activities, and this was accepted on a worldwide basis with international implications.

Perhaps the only common factor in all the reviewed theories and approaches is the state. No matter what exactly its role might be in the contemporary international security environment, it is identified by all approaches as the security provider, regulator, projector of violence, etc. Some of the analysed approaches or individual academic's views include or foresee the private sector as an emerging or increasingly influential actor in international security. However, none of them actually conceptualise private entities as the security providers that replace the state per se in its hitherto fundamental obligations and primary characteristic. Hence, in the chapters that follow, this study aims to analyse this concept in the contemporary paradigm of global security. By focusing on developing an analytical framework for the integration of private security in general and maritime security in particular, it seeks to introduce and explore the growing trend towards privatisation in this context.

Although, as observed above, relevant academic research is relatively limited, there have been some notable projects in this field. Firstly, the University of Denver launched the 'Private Security Monitor Project'[11] under the direction of Professor Deborah Avant. This operates in partnership with the Geneva-based Centre for the Democratic Control of Armed Forces (DCAF). This project comprises independent research dedicated to promoting knowledge of and transparency in global private military and security services. Its web portal provides an annotated guide to regulation, data and analysis of private military and security services. Through this, it provides a one-stop source for public information on the worldwide use of these services and thus has become a resource for governments, policy-makers, activists, journalists, and researchers. In the future it will be collaborating with the UN Working Group to collect national regulations from around the world, and with the 'Ved Nanda Center' for International and Comparative Law at the University of Denver, to analyse national legislation. Yet, although the maritime domain is obviously part of this valuable database, it is still underdeveloped since the primary focus of the project is on land-based companies.

In a similar vein, the European University Institute coordinated the PRIV-WAR project[12] (2008-2011), which assessed the impact of the increasing use of PMCs and PSCs in armed conflicts. The project aimed at providing recommendations to the European Union on the private companies' regulatory framework with specific focus on compliance issues in regard to international humanitarian law and human rights law. Although the seven different partners involved made a significant contribution and effort to enable the completion of this remarkable project, there is no reference to the maritime domain and consequently no PMSC's regulatory issues were examined.

Similarly, the 'Private Military and Security Research Group' (PMSRG)[13] has been launched by King's College, London. This group aims to promote the study of, and raise awareness around, privatisation in defence and

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[11] Available from http://psm.du.edu/index.html
[12] Available from http://www.eui.eu/DepartmentsAndCentres/AcademyEuropeanLaw/News/2011/04-15-PRIV-WAR.aspx
[13] Available from
http://www.kcl.ac.uk/sspp/departments/warstudies/research/groups/phdgroups/pmsrg/index.aspx

security policy and operations. It promotes a multi-disciplinary approach to the study of the field. This includes topics such as the role and activities of private military and security companies; ethics/morality, defence and security policy; humanitarian intervention; multi-level governance, security governance, international humanitarian law, civil military relations, security sector reform, privatisation in 'wider security' issues, and industrial policy. The PMSRG maintains relations with government, industry and academia and comprises a rich pool of knowledge and expertise on many aspects of security privatisation, including contemporary challenges for the private military and security industry. The PMSRG organizes the Annual Private Military and Security Conference which brings together actors from relevant government departments and the private military and security industry, as well as academia. Since 2012, the PMSRG has issued a monthly newsletter, which is designed to act as useful source of information on the subject of military and security service privatisation for academic researchers in the field.

Another relevant initiative is a web-page originally launched and run by Dr Christian Bueger (and currently academic staff in Cardiff University) under the title 'Piracy Studies',[14] who started work on piracy in 2009. It is a resource for the study of contemporary maritime piracy, publishing commentaries based on academic research on piracy around the world and the legal, military, diplomatic, development and humanitarian responses to it. Through this it aims to facilitate collaboration among researchers from different disciplinary backgrounds and to link research and policy. It also acts as a key repository of academic literature on the subject, and at the same time, it intends to make academic research on piracy available to a wider audience. To this end, the page was created as a space for sharing academic resources related to the subject and to provide the opportunity of publishing short comments in blog format. Blog entries focus on recent developments, results of academic research, and reports on events related to academic piracy studies. The web-page is indeed a very positive step forward in terms of developing and promoting research in this domain. However, as its title clearly reflects, it has limited

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[14] Available from http://piracy-studies.org/

scope within the maritime security discipline since it is focused solely on piracy and it overlooks the broad range of other maritime security challenges, are analysed in the following chapters.

Recently, several institutions have emerged which provide training and education courses for private security operators. However, since most of them are relatively new, only becoming available in 2012, there are few research outcomes available as yet.

Chapter Three: Methodology

3.1 Introduction

This chapter presents the methodology used to examine the main research themes of this thesis; namely, the analytical investigation of PMSCs' regulation in the context of the international security privatisation trend and the extent to which this trend affects international security in general and maritime security in particular. These companies are the protagonists in the broad debate regarding their services as security providers, which, arguably, have undermined the states' monopoly in the projection of authorised force. The study specifically involves in depth research and analysis of operations of private maritime security companies off Somalia between 2005 and 2013. Through an analysis of their role, recruitment, training, regulation, certification and overall practices, it uncovers the dynamics underlying their regulatory framework. It then uses this to explore the extent to which this trend towards privatisation will affect international security, especially maritime security. Through this, the paper aims to further the academic debate concerning the conceptualisation of maritime security privatisation, stemming from the employment, business structure and model of these companies. Thus, the findings offer a basis and framework for the assessment of the implications for international security as well as for future trends in the maritime security domain.

The following sections give the details of the research methodology, the applied strategy, the data collection methods from both primary and secondary sources and the analytical method used. Finally an assessment of the limitations of the study is provided.

3.2 Meeting Aims and Objectives

Despite the significant implications and threats that maritime insecurity poses to global security and development, this specific domain has received very little attention from the academic research community. Moreover, whilst the practice of contracting PMSCs has been

applied to a great extent, even less research has been published on their role as a counter-piracy response. In particular, there have been very few studies of their work as security providers for merchant vessels transiting the high risk area off Somalia.

Due to the sharp increase in maritime piracy incidents off Somalia, there has been a growing demand for armed guards on board ships. Consequently, more detailed statistics, incident reports and international action have emerged since 2005. Hence, the selected methodology, in terms of strategy, data collection from both secondary and primary sources and the research as a whole, focuses on the timeframe between 2005 and 2013.

In order to achieve the aims of the research, as defined in the introduction (Chapter One – Section 1.1), specific objectives had to be fulfilled. These were set out as follows:

- To analyse the conceptual framework of private security, and particularly maritime security, in the context of contemporary academic literature and professional practice.
- To develop an analytical framework for the integration of maritime security and contemporary piracy in particular, into the contemporary paradigm of global security.
- To analyse the complex framework of the PMSCs' business model, in legal, operational and ethical terms.
- To assess the extent to which the existing regulatory framework and PMSCs' practices affect international security in governance and policy, strategic, social and commercial terms.

In the first part of my research I analysed the concepts of privatisation of security with a specific focus on maritime security. The conceptualisation of security in general has evolved and significantly transformed over the last century. As a consequence of this the international community has experienced a shift from the 'state-centric' approach (which had prevailed until the end of the Cold War), to a 'human-centric' concept that put more emphasis on human beings per se. Human rights, social and economic

justice, effective governance, poverty and development became fundamental principles of international security. With the active participation of civil society, these replaced the traditional realist state-centric approach which referred solely to the antagonism between states in the international system, or in intra-state conflicts. However, this new approach motivated a debate among policy makers, researchers and analysts dealing with contemporary security challenges. This focussed on the 'securitisation' of all issues affecting human welfare and governance and linked them with the enhancement of global security. Yet, 'human security' and other concepts of 'non-traditional security' are already acknowledged in the research community as important contributions to broadening and deepening traditional state-centric approaches.

Hence, in this framework, my initial aim was an analytical, comprehensive and detailed analysis of the current trend of privatisation of security. In an era where the state lost the monopoly of force projection, various types of private security and military companies emerged following the rules of the free market and the neoliberal model. These companies are contracted by states, international organisations, non-governmental organisations and wealthy individuals for a variety of purposes and tasks, as demonstrated by the conceptual framework presented in Section 2.4.3. In response to this, the legal, ethical and operational concerns stemming from this practice in the maritime domain are analysed, using secondary sources from the library (and e-library) of Coventry University and the 'George C. Marshall European Center for Security Studies' knowledge portal. More specifically, I used the research databases: ProQuest, EBSCOhost Academic search, Columbia International Affairs Online (CIAO), NetLibrary. I searched mostly for academic journal articles since the existing literature is relatively limited and more extensive work is unavailable.

Additionally, I also looked for informed opinion from relevant web-sites, such as those of the United Nations and IRIN, NATO, EU etc. The database 'Private Security Monitor', established by Denver University, provided access to information concerning the use and regulation of private military

and security services throughout the world. This was researched respectively for valuable relevant information.

Maritime security is undoubtedly a significant component of global security although, as mentioned above, it has so far been overlooked, or at least under-researched, to a great extent. Therefore another objective of critical importance for this thesis was the identification and analysis of the variables that comprise 'maritime security' challenges and which can lead to various forms of insecurity. Moreover, detailing the significant implications of maritime insecurities to regional security and global development that impact both littoral and continental states is also a significant aim of this work. Hence, the in-depth analysis of maritime security which follows involves all the aspects interacting in the complex maritime environment. These are as follows:

- The legal framework established by the international law of the sea with the distinctive character of contradicting national legislation in various cases and regions. This distinctiveness of maritime law creates a complex environment between the states' sovereign rights and jurisdictions in all territorial waters, exclusive economic zones and high seas. Terms like 'port' and 'flag' states have to fulfil various obligations and different commitments, stressing simultaneously the vital need for robust governance and effective law enforcement agencies. Inevitably, broadly debatable issues emerge, such as the use of armed guards and PMSCs on board merchant vessels for their protection against pirate attacks during their transit from high risk areas (HRAs).

- The organised crime activities, such as human/narcotics/weapons trafficking that are exploiting the oceans' extensiveness in terms of distance, reach and policing for their illicit trade. The significance of port security and pre-existence of networks ashore in order to take further advantage of the 'lucrative business', demonstrates that sea-based activities are inseparable from the land-based aspects of human life and activities.

- The illegal/unreported/unregulated (IUU) fishing which, besides the obvious illicit exploitation of ocean resources, usually involves illicit trafficking acts. In some contexts, IUU fishing is also listed as one of the root causes of Somali piracy. This combination of illegal activities illustrates the interactions and interconnectedness of all the factors that consist and challenge maritime security.

- Modern piracy that flourishes in international shipping's choke points. This has tremendous effects in multiple dimensions and a huge cost is paid both in currency and human lives. The distinction between sea piracy and armed robbery at sea, as well as their classification among organised crime or terrorist activities, is also explored with a view to ascertaining the optimum response to address it.

After establishing this analytical framework and providing the theoretical background of both international and maritime security, the next objective was the analysis and evaluation of the applied counter-piracy response at the levels of international organisations, of states and of the private sector. The deployment of multinational flotillas at the former's level constitutes a short term response with significant obstacles, operational limitations and difficulties and extremely high cost for the already economically depressed international community. On the other hand the 'best management practices' (BMPs) drawn from the private sector level - including the deployment of armed guards on board vessels while transiting high risk areas – has proved to be more effective so far. However, these are currently under broad debate regarding regulation, use of force, and legal and ethical issues. Yet, both of these approaches address the symptoms and not the root causes of Somali piracy as a phenomenon rooted in land-based.

The interconnectedness of all the above mentioned dimensions needs to be stressed and to be made explicit through detailed analysis in order to identify the root causes of this complex phenomenon which stifles the global economy and security. For this purpose, a separate chapter is

dedicated to Somali piracy, as it is mainly in this context that PMSCs have been contracted against this specific maritime crime. An historical overview of the phenomenon in Somalia, starting from its genesis in the 1990s, which coincided with the outbreak of the civil war, up to 2011, provided the basis for identifying the root causes, as well as confirming the factors identified as causal for modern piracy. Furthermore, the analysis of the pirate groups' operational model and objectives contributed to assessing the PMSCs' role in counter-piracy operations in the chapters that follow. Hence, analogous secondary sources were used (such as books, related articles from academic journals), as well as proceedings from international conferences due to the relatively limited bibliography on the subject and its specialised nature. Additionally, specialised web-sites on this topic provided useful data and information, such as *Safety for Sea*, the *Maritime Security Review*, and the *Piracy Studies* web-site, as well as international, regional and NGOs' (such as the '*Oceans Beyond Piracy*') reports on related issues. These latter include the UN's various bodies and departments, NATO Shipping Alert Centre, the IMO, the International Chamber of Commerce, the Royal United Services Institute (RUSI).

Finally, in Chapter Seven, an in depth comprehensive analysis of PMSCs is presented; thereby reaching the main core of the research. This entails their recruitment criteria and procedures, the required training, vetting and re-evaluation of sub-contractors, the regulatory framework and existing international standards, the free market principles that circumscribe their regulation (which includes the use of force), certification, and the ethical concerns stemming from their activities as private companies and non-state entities. The findings of this chapter are further used as evidence in an attempt to foresee the implications of the privatisation of security in international security; as well as future trends that are likely to be imposed in the maritime domain, in political, social, financial and strategic terms. In order to achieve this objective, I used both primary and secondary sources. The assessment as to the appropriate strategy that was used in the collection and analysis of relevant data was conducted as follows.

3.3 Strategy, Methods of Data Collection and Analysis

Qualitative research can be understood as a research strategy that tends to focus on words rather than quantification in both the collection and analysis of data. Moreover, it puts emphasis on the generation rather than the testing of theories and on the ways in which individuals interpret their social world. Thus, it embodies a view of social reality as a constantly shifting emergent property of individuals' creation (Bryman 2001:20).

Furthermore, in terms of practical considerations, if a researcher is interested in a topic on which no (or virtually no) research has been done in the past, a quantitative strategy may be difficult to employ because there is little prior literature from which to draw leads and comparisons. Hence, a more exploratory stance may be preferable. Consequently, in the present context, qualitative research best serves the researcher's needs, since it is typically associated with the generation rather than the testing of theory and so with a relatively unstructured approach to the research process (Bryman 2001:24). Another important dimension with regards to the selected topic is the nature of the people to be investigated. More specifically, if the researcher needs to engage with individuals or groups involved in questionable activities that include violence, it is unlikely that a social survey would gain the confidence of the subjects involved or achieve the necessary rapport (Patrick 1973).

All the above criteria indicate the reasons and the academic justification for the researcher's decision to select this strategy and apply qualitative methods for this research. It has already been ascertained in Chapter Two (Section 2.4) that there is relatively limited literature dedicated to the privatisation of security trend and even less (Section 2.4.2) to the privatisation of maritime security. Hence, the researcher had to develop a new approach to investigate the regulation of PMSCs rather than test an existing theory. Since there is little prior literature to provide direction, and given that the specific groups (both as individuals and companies) are involved in potentially violent activities, a quantitative survey would not have enabled the necessary rapport.

Empirical research involves collecting data from the real world, as opposed to from other research activities, such as library research or theoretical writing. The term may be further restricted to first hand empirical research, where the researcher collects and analyses the data, or may be extended to include secondary research, meta-analysis or analysis of administrative data, all of which involve data that can be described as empirical (Gomm 2009:110-111).

The term, empirical, refers to phenomena or observations that are experienced or assessed by the senses – touch, sight, hearing, smell or taste - the five major methods for assessing the world about us. Thus, empiricism contrasts with other approaches that do not rely on experimental methods for the collection and analysis of data. The empirically oriented scientist 'goes into' the social world and makes observations about how people live and behave. Hence, social science research methods are widely used because of their empirical approach. Research in general seeks to answer questions using standardised procedures so as to see if the answers hold true in a variety of settings, and whether other experimenters can replicate the results. This process is the goal and business of science and research methodology and consequently it is necessary to use the appropriate tools to accomplish this mission. Researchers need to develop the habit of using an empirical approach in reading and evaluating various research reports, in order to be able to:

a. Have objective criteria for evaluation

b. Have a point of view that continually probes, assesses and criticises available material

c. Make judgements and decisions that would be most helpful on both a short and long term basis

Hence, developing an empirical perspective helps those undertaking research to be more objective and less arbitrary, as well as increasing the probability that one obtains both a useful level of understanding and a sense of satisfaction (Adams and Schvaneveldt 1985:19-20). According to

Sanders and Pinhey (1983:9-10), empirical observations are at the core of scientific knowledge. Much of the empirical data gathered by social scientists reflect fragmented pieces of a larger social phenomenon, the whole being empirically available only when all the parts are gathered together. For example, we may not be able to observe social structures as a whole, but by making observations of individuals' social situations – their jobs, incomes and backgrounds - we can empirically see the structure. Empirical data is different from knowledge based on unsubstantiated beliefs, mystical experiences and other kinds of knowledge that cannot in some way be seen by others. Hence, it allows for a systematic, organised process, by which new information is found, and theories are refined and retested. Links and connections are discovered and we begin to be able to make statements about causal relationships. These latter can then be understand as part of a conceptual framework and so allow the development of further explanations (Sanders and Pinhey 1983:13).

As already discussed in Chapter One, the present researcher utilised his professional background and broad experience in the maritime domain as a navy officer in general and within the private maritime security industry, in particular. This enabled him to strongly support his selected qualitative research strategy in a number of ways. These included: evaluating and validating the collected data; providing empirical data from his participation on professional committees,[15] especially significant for contributing to the comprehensiveness of the research; being able to comment on specific issues with confidence and from a professional perspective, without need for assumptions, risk of exaggeration or unfounded generalisations; analysing the collective data based on a deep knowledge of realities and practices in the 'real world' situation without bias in favour of or against the PMSCs.

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[15] Such as sitting on the committee of ASIS International, a professional organization for security professionals, during the development of the PSC4 standard as discussed in section 7.3.2

3.3.1 Selecting the Specific Strategy

In this section of the research, the primary intention was the in depth investigation of PMSCs anti-piracy operations' practices and regulations. The outcome indicates a conclusion stemming from the complexity of the real and everyday conditions in the targeted environment of both state and private security providers for shipping in high risk areas. Hence, the most appropriate strategy that could have been applied in order to investigate and analyse the processes and relationships within the international community, as well as the interaction and interconnectedness between state and non-state security providers, was the case study.

By using this specific strategy, I had the opportunity to utilise the motivation it offers for using qualitative research methods. Such an approach also benefits from the inclusion of a variety of types of data, such as observations, documents from official meetings and conferences, as well as informal interviews with people involved in the research field.

The case study's characteristics provide critical advantages for this specific research question. These are depth of study, avoidance of generalisation, an holistic view in terms of functioning relationships and processes, and the investigation of the subject in its natural environment (Denscombe 2007:37-38). Additionally, the fact that the research was seeking for answers in such a complex social phenomenon, with multiple stakeholders involving state and non-state actors, fosters the choice of the case study as the most appropriate strategy even more strongly (Yin 2003:2-14).

3.3.2 Choosing the Case Study

The selected case study of this research was PMSCs' counter-piracy operations off Somalia. Mostly Hellenic and UK companies were selected, but the research was not strictly limited to these. Both countries are traditional maritime nations, in terms of international shipping hubs and of shipping companies and merchant fleets. Even more importantly, they are in the top three countries in terms of registered PMSCs, counting more than 70% of the overall operational PMSCs registered in the International

Code of Conduct for Private Security Contractors (ICoC). The objective was to identify the practices/principles that they follow in terms of recruitment, equipment and weapons procurement, training and evaluation of their operators, the quality assessment of their operations and the certification of their employees respectively. Through an understanding of this, the aim was to establish and delineate the need for regulating these companies. Their deployment is a common counter-piracy practice from the shipping companies' perspective with growing demand as a market. Hence the research analysed the above factors in order to assess the legal, ethical and operational factors of their action.

The selected case study, as mentioned above, focussed on the PMSCs operating off Somalia, with a focus on the time period between 2005 and 2013. The initial intention was to conduct research into PMSCs registered in, and operating mostly from, Hellas and the UK. However, PMSCs from other geographical regions were also interviewed (e.g. from USA, Canada, UAE) in order to achieve a more holistic approach and maintain the characteristics of a reliable, workable and comprehensive thesis.

This expansion did not affect the conclusions of the whole research per se, since the findings indicated that all cases are very similar and highly related to each other. Thus, the similarities between operators with assignments/contracts in the same area of operations, of shipping companies' demands, of the rules of the same market both in terms of competition and reputation and of Flag State legislations and globalised recruitment processes all suggest that safe conclusions can be drawn from the data used.

The reason that the operations off Somalia within the defined timeframe were chosen as the case study is that the demand for their deployment was significantly - indeed incomparably – higher than elsewhere due to the extremely high frequency of piracy incidents reported and monitored in this region compared to any other place in the world. Moreover, due to the extremely violent character of piracy in the Gulf of Guinea and the prohibition of arms on board merchant vessels by the Nigerian government while in its territorial waters, there are not (yet) many PMSCs

willing to be contracted as armed escorts in West Africa. Additionally, the Nigerian government does not allow foreign PMSCs to operate in the region, unless they subcontract Nigerian nationals to deliver their services. So, for all these reasons, there was more information available concerning PMSCs actions off Somalia. The information was also easier to access as described in detail in the data collection section below.

3.3.3 Research Methods and Data Collection

The reasons and multiple advantages that make using qualitative research methods extremely useful to this research have already been discussed in this Section 3.3. Besides data collection from secondary sources such as academic writing, reports, etc. as discussed in the literature review, I also broadly used the method of documents' study and analysis. This method offers the advantage of being able to study a subject that is inaccessible; it requires little or no interaction with the pirates themselves and can also be used to explore a larger sample compared to other methods. Of equal importance is the fact that it provides high quality outcomes with relatively low cost (Bailey 1994:294-296). The limited potential access to criminal entities for study purposes (pirate groups, organised crime networks) due to security precautions means that the use of documents is extremely effective and applicable. Therefore, the study of reports and documents of key actors in the domain under research was employed as one of the main research methods. These actors include the International Maritime Organisation (IMO), the Allied Maritime Command in Northwood, London and various other law enforcement agencies and international associations, such as the Security Association for the Marine Industry (SAMI). Reports and documents from NGO's leveraged in the humanitarian sector has also been of great importance, especially since their access is not restricted or classified for any purpose.

Mass media outputs were also used in terms of exploring our particular theme, and incident reporting through these from all parties (governments, agencies, NGOs, crime perpetrators) was analysed accordingly. In order to avoid credibility and authenticity issues, all

reports and data used for further analysis were cross-checked with more than two different reporting agencies/authorities (Bryman 2001:377-379).

Semi-structured interviews with open-ended questions were used to the greatest possible extent, engaging operators and managers of PMSCs at all levels: operational, managerial and executive. The advantages of this method are well known as it is a major primary source in social research. Among the most important, in this context, are the flexibility that semi-structured interviews allow to both parties and the immediacy that stems from the direct 'in-person' contact (Bailey 1994:174, 189). Through this, this kind of interviews allows the interviewee to develop ideas and speak widely in relevance to the subjects raised by the researcher (Denscombe 2007:176). The sample that was chosen for interview was the largest that was practically possible both in terms of individuals and companies. Although representatives of a total of seventeen private security companies consented to participate in the designed interviews and to contribute as primary sources in my research – as listed anonymously and encoded in the list of interviews and primary sources - the actual sample is significantly larger. Due to the empirical contribution stemming from my engagement with numerous companies and executives within the structure and activities of the IAMSP, a lot of background knowledge and experience is used within this research, significantly raising the number of the samples used. However, due to the restrictions of the 'Non-Disclosure Agreement' regarding the members registered with IAMSP, both as individuals or companies, the exact number cannot be identified but this limitation neither affects the extracted conclusions, nor the overall research. This again illustrates the value of the strong support that my empirical knowledge contributed to the selected qualitative research strategy.

The interviewees were selected from professionals/individuals that have direct relationship with the areas under research. In particular, members of PMSCs who worked in operations thwarting piracy attacks or transiting high risk areas under this specific threat with many years' experience in the field had critical information to provide. Also, personnel that participated in armed or unarmed escorts on board merchant vessels

during their transit of high risk waters had relevant experiences to share, whether they had ever been under attack or not. The fact that they are an intrinsic part of the broad debate among international shipping and insurance companies, legal bodies, state and non-state actors, as well as the peak of the lucrative business model enacted in the 'war risk' regions, encouraged the researcher to explore their experiences. Furthermore, the inclusion of the perspective and insight of the two leading associations – SAMI and IAMSP - with regards to the PMSCs' regulatory framework provide a more comprehensive and holistic approach to this issue. Direct contact and discussion with SAMI's CEO was a valuable primary source and my personal engagement with the IAMSP for more than three years also contributed to meeting the aim of this research.

In order to study these groups in their physical environment, understand their operational and managerial structure and gain insight into their everyday working environment/premises/operational organisation, a field study was clearly the most appropriate observation method to be used (Bailey 1994:248-257). Hence, almost all Hellenic and UK PMSCs were interviewed at their premises, in person, which was extremely helpful in revealing answers to my research objectives. Fortunately, the funding for such trips to study the Hellenic PMSCs was not problematic (and for the UK companies it was much easier in economic terms). Some of the Hellenic companies though were interviewed by Skype due to timing restrictions and work load from both sides when the interview needed to be carried out. Hence the personal contact was not affected or limited, except in the cases of two interviewees, who were based in Canada and Dubai respectively. The former preferred to provide the answers to my pre-defined questions directly in printed form and signed directly on the interview schedule, while the latter, answered half of them by Skype and the rest by e-mail due to time restrictions.

All of the participants requested to remain anonymous, both as individuals and as companies. Their request has been fully respected throughout this research and they were assured of this before the interview, and accordingly accepted to provide the requested answers for my research. The same ethical practice was adopted and applied also to those who were

contacted in order to provide their professional insight on specific issues by e-mail or oral discussion. They consented to provide relevant data for my research, yet they requested and were assured of anonymity in their responses.

Finally, highlighting again the significance of the empirical contribution of my personal experience to the validity of my qualitative research, a plethora of background data and knowledge was used in completing this research, due to my position as chairman and, currently, Vice President of the IAMSP. Additionally, my personal network and contacts with former colleagues/officers from the Hellenic Navy, who had become active members of the maritime security industry after resigning from the navy, was another vital issue for data collection and personal experience. Without these two advantages, I have to confess that it would have been extremely unlikely to complete this research successfully, partially due to the limited literature on the specific subject.

3.3.4 Data Analysis

The interpretation, analysis and representation of all the collected data, (spoken, written and visual) were based upon the four principles of qualitative data analysis (Denscombe 2007:287-288):

a. Their analysis and drawn conclusions were firmly rooted in the data

b. Their explanation emerged from their careful and thorough study

c. Unwarranted preconceptions were avoided

d. An iterative process was applied

Although the researcher already had a background associated with the topic, if this influenced the objectivity of the research at all, it was to facilitate an unbiased analysis of the selected data. The knowledge gained through first-hand experience provided a comprehensive understanding of the situation and major actors that would not otherwise have been possible. Moreover, the repetitive process of comparing data by moving back and forth in a 'loop-mode' enabled the avoidance of generalisations and the development of valid conclusions. This process also enhanced the

credibility of the research, so the writing up of the findings and conclusions was supported by strong evidence and leads that emerged from the collected, interpreted and analysed data (Bryman 2001:267-269). Hence, the method provides an appropriate means to addressing the major research questions and so fulfilling the aims and objectives as set out above.

The semi-structured interviews were predesigned and primarily focused on data collection regarding the major questions and whole spectrum of PMSCs' practices. The participant's information leaflet and the detailed and precise interview schedule are attached as Appendices 1 and 2, respectively. These highlight the extent of the relevance and significance of the acquired information to the conclusions and findings of this research, as well as providing evidence of my compliance with the required ethical procedure.

The findings, and their implications for the future, were then discussed in Chapters Seven and Eight. The content of these chapters comes largely from the analysis and final synthesis of the data collected from the interviews, using the researcher's unbiased empirical experience to facilitate evaluation and validation.

3.4 Potential Limitations of the Research

Following the common practice in social research, there were concerns about potential limitations which might have emerged during the process of my research, in particular regarding my initial methodological planning. These limitations usually refer to objectivity issues in terms of communal and conceptual influences; proper samples for extracting safe conclusions and collecting reliable data; and the inability to predict whether the 'targeted' group will continue to behave in the same way in the future as when the data were collected, etc. (Shipman 1997:145-157).

In the case of the proposed research there were no objectivity issues to be challenged due to communal influences. Although the investigator is ethnically related to most of the PMSCs under research, he acted as an

external observer and researcher. He, thus, conducted the interviews without influence from emotional bonds stemming from family, tribal or communal influences; all of which might have affected the interpretation of data or the holistic approach of their analysis.

The researcher's existing background relating to the specific issues involved was, in fact, a precondition for further research, yet it did not exercise an influence to the extent of misinterpreting information due to already formed concepts or theories. Additionally, the many years of engagement in the research in the specific maritime environment provided valuable experience and a sufficient time-frame for the study. The conclusions were based neither upon predictions of potential future behaviour of the specific companies, nor on the construction of theories for their further evolution. The research was focused on the "push – pull" factors of the maritime security companies in the global market and security environment, examining the reliability of the procedures and established frameworks for their certification and quality assurance.

Nevertheless, there were still potential limitations in terms of the documents' method study: a number of governmental, law enforcement agencies' or the own companies' reports were considered confidential and accordingly access could have been denied. However, this research did not intend to get involved in details of legal issues, naming specific companies, or to access documents characterised as 'restricted'; so this potential limitation did not pose any obstacles. Simultaneously, most of the reports of various entities engaged in humanitarian, environmental and maritime issues are accessible through the internet since they are concerned to attract the public opinion's support and awareness, so this potential limitation was overcome without affecting the research. Most of the PMSCs also report practices/certification/recruitment/incidents directly in their web-sites for marketing and promotion purposes, so no confidentiality issues affected the research in this context.

Finally, the limitations that the researcher met with, in praxis, related to the commercial confidentiality of sensitive issues, such as weapons acquisition and storage, firearms training, recruitment and contractual

practices, etc. In this context, several invited interviewees declined to participate in the research. Although these potential interviewees had known the researcher personally for many years, having served together in the Hellenic Navy, and they were familiar with the researcher's, character and respect for confidentiality, they refused to contribute, since they "didn't wish to reveal hints and secrets of the profession and the way the global market works" (Reference withheld). As observed in the introduction, I was already aware of these 'hints and secrets', due to my personal experience in the field and perhaps more importantly my chairmanship in the IAMSP. Hence, their refusal demonstrates the air-tightness of the sector, the reluctance of contractors and companies to communicate and externalise their activities and practices, and the lack of transparency in many companies' affairs. It also indicates the extreme difficulty that outsiders must overcome in order to penetrate this 'closed' sector of the industry. And again, I have to highlight and stress that this explains to a great extent the lack of literature and research in the specific domain of the security environment.

Chapter Four: Privatisation of Security – Key Themes

4.1 Introduction

After declining during the 19th century, the controversial practice of contracting private security providers emerged at the end of the Cold War in a new and broader form, becoming a global trend in almost every society's daily practice, as analysed by international political sociology (see Section 2.2.6). The privatisation of security services within states, and as a part of their expeditionary military operations, inevitably expanded in the maritime domain due to increasing insecurity. This expansion was particularly due to the need for a response to the sharp increase of worldwide piracy incidents in general, especially evident from 1999 onwards, as Figure 2 below shows, and of incidents off the Horn of Africa in particular.

Figure 2: Incidents of worldwide piracy attacks, 1995-2010 (Source: Mudrić 2011:237).

This chapter builds on the analysis of the privatisation of security provided in Chapter Two (Section 2.4). It broadens and deepens the review of the existing theoretical background and provides an analysis of the overall

concept of security privatisation and the fragmentation of security provision authorities among state and non-state actors. It presents the neoliberal privatisation model and the dilemmas which emerge from the outsourcing of hitherto state monopolies. A comprehensive analysis of the established private security model ashore demonstrates the legal, operational and ethical concerns stemming from the development and deployment of private contractors. Inevitably, a very similar framework, reflecting the complexity and vulnerabilities associated with the open seas, has been expanded and transferred to the maritime domain.

4.2 Introducing Private Security

The end of the Cold War introduced a new perception of security provision since many states demonstrated the will to outsource the monopoly of force projection to the free market. The active engagement of mercenary entities in African wars and the extensive involvement of private contractors in Iraq and Afghanistan (as Table 1 clearly demonstrates) meant that the trend towards privatisation of security became the most controversial issue in contemporary international politics.

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Table 1: US Department of Defence Contractors[16] as of 2008
(Source: Ortiz 2010:146)

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[16] USCENTCOM Countries: Afghanistan, Bahrain, Egypt, Iran, Iraq, Jordan, Kazakhstan, Kuwait, Kyrgyzstan, Lebanon, Oman, Pakistan, Qatar, Saudi Arabia, Syria, Tajikistan, Turkmenistan, UAE, Uzbekistan and Yemen.

Interest in obscure companies' operations generated extensive literature and made attractive headlines for widespread journalistic coverage (For example: *Blackwater in action – The business of war* 2008, *Private Warriors* 2005, *Guns for hire (Afghanistan)* 2005, *Shadow company* 2005); as well as TV series (for example, *Total Security* 1997, *Saracen* 1989, *Hostile Environment* 2012), and Hollywood films [Detroit threat management (Jacob Hurwitz-Goodman 2012), Delta Zulu (Chris Hickey 2013), The Expendables (Patrick Hughes 2010, 2012, 2014), Blood Diamond (Edward Zwick 2006)]. It also provoked a significant amount of academic debate (Brooks 2000, Vaux 2002, Leander 2005, Bjork and Jones 2005). The prevailing debate concerns the privatisation trend per se: critics see privatised security personnel as disruptive mercenaries, addicted to violence and exploiting it for personal gain, enacting human rights violations, repression and turmoil in ruthless conflicts. On the other hand, PMCs/PSCs place themselves in the broader service provision industry, aiming at fulfilling client needs, as broadly discussed in section 2.4.3. From their clients' perspective, government officials have individually expressed the belief that PMCs/PSCs provide stability and save lives in areas where nothing else could provide solutions (Mandel 2002:3-4).

Furthermore, the consequences of this trend, as well as the privatisation of security per se, go beyond the military aspects and the conflict zones. They also penetrate the everyday activities of ordinary life, becoming omnipresent in the various operations of the commercial sector, such as manned guarding, installation security, risk analysis and surveillance, and are expanding at a phenomenal rate (Abrahamsen and Williams 2011:19).

Private security companies provide military and security services mostly to states, international organisations, INGOs, but also to global corporations, and wealthy individuals. A detailed list of the services provided, categorised according to client, and indicating their various goals, is presented in Figure 3 below.

Figure 3: PMCs' Goals & Tasks (Source: Ortiz 2010:85)

Every multi-lateral peace operation conducted by the UN since 1990 has included the presence and services of PSCs. States that have contracted military services range from highly capable states like the US to failing states like Sierra Leone. Meanwhile, global corporations and INGOs working in conflict zones or unstable territories hire PSCs to provide site security and planning. Since the 11 September terrorist attacks on the United States, the 'war on terrorism'[17] has offered even greater opportunities for the private security industry (Avant 2005:7-9).

This was not only evident in Iraq – where PSCs formed the second largest group of members of the 'coalition of the willing'; it is also manifest in the growing presence of PSCs in the new jobs that accompany the war on terrorism, such as interrogators and interpreters (see Figures 2 and 3).

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[17] The term 'War on Terror' is a broadly used term, although inaccurate since someone cannot declare war on an abstract noun! It was firstly used by US President George W. Bush on September 20th, 2001, in a televised speech, when he announced that the "war on terror begins with al-Qaeda, but it does not end there. It will not end until every terrorist group of global reach has been found, stopped, and defeated." See The White House (2001) 'Address to a Joint Session of Congress and the American People, US Capitol, Washington DC, 9:00 PM EDT'. [online] Available from http://georgewbush-whitehouse.archives.gov/news/releases/2001/09/20010920-8.html [accessed 10 March 2014].

Thus the number of private security providers rocketed during the 1990s. Private industry projections in 1997 suggested that revenues from the global international security market (military and policing services in international and domestic markets) would rise from $55.6 billion in 1990 to $202 billion in 2010 (Vines 1999:47). Estimates also suggest that the 2003 global revenue for the industry was over $100 billion. Private security companies with publicly traded stocks grew at twice the rate of the Dow Jones Industrial Average in the 1990s. Between 1994 and 2002, US-based PSCs received more than 3,000 contracts worth over $300 billion from the US Department of Defence (Cited in Avant 2005:8).

Numerous news reports of mercenary and/or private security activities were published in reference to security and military services. Some document the activities of individual soldiers of fortune. These are frequently linked to international criminal networks that profit from shady deals associated with natural resources exploitation (diamonds, oil, timber, coltan, and other minerals) or with the market for illicit drugs and sex. During the Democratic Republic of Congo civil war, the 'white legions' (composed of Serbian and other European individuals) made the press frequently and, in Chechnya, similar reports abound. Approximately two hundred such companies made the news between 1995 and 2004, as did trained militaries in more than forty-two countries during the 1990s (Avant 2005:9).

In Russia, approximately 4,000 PSCs were founded within a year after being legalised in 1992. By 1999 they had risen up to almost 7,000, listing more than 196,000 of employees authorised to carry firearms. In Bulgaria, it is estimated that more than 9% of the male workforce is currently engaged in private security activities; the Indian private security sector employs around 5.5 million people whereas the overall personnel of state armed forces and police combined counts 1.3 million people. In China, the number of private guards is expected to grow from 3 to 5 million in the next three years. In Latin America, there are more than 1.6 million registered employees, with probably a further 2 million working informally or illegally. In Africa, South Africa alone is home to the largest

private security market in the world,[18] with over 6,000 companies employing more than 375,000 officers. Nigeria and Kenya count 2,000 companies each, while in Uganda the number of private guards equals that of police officers and in other African countries private security is one of the few sectors of employment growth and expansion (Abrahamsen and Williams 2011:20-21).

4.3 The Private Security Model and Concept

The rise, growth and globalisation of private security is interrelated with several recent global developments: Firstly, the rise of neoliberalism, as discussed in detail in Sections 2.2.2 and 2.4; secondly, the contemporary international security challenges that introduced a new attitude towards 'crime and punishment' in broad terms; and, finally, the transformation of security and increasing risk projection into a commodity (Abrahamsen and Williams 2011:62-5). In a similar vein, Mandel (2002:7) identifies three related noteworthy trends: the increasing availability of military armaments to civilians at large, the rise in formally organised private security outfits and, finally, their increasing involvement in conflict environments, including war fighting, peacekeeping, humanitarian assistance, protection and intelligence gathering.

What was hitherto perceived as the security obligation and proper function of the healthy and sovereign state is now increasingly outsourced to the private sector, with security in prisons and transportation facilities (such as ports and airports) being the most indicative examples. From the security industry's perspective, the proliferation of market opportunities and the availability of high profit and long term contracts expanded the level of privatisation and of governance fragmentation. Hence, on the one hand, the use of private contractors is an attempt on the part of the states to reduce security spending budgets and fill security gaps, by relocating security provision rather than abolishing it. On the other hand, it demonstrates the states' effort to make social actors at all levels more actively engaged with their own security, in respect to the increasing

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[18] Measured as a percentage of GDP

demands of the contemporary security environment (Abrahamsen and Williams 2007:249-250).

In terms of security provision in the context of government and governance, security could in fact be regarded as a public good, which does not materially differ from other goods, such as health or education. All that mattered, in this case, would be that people should be secure, regardless of how that security is provided. Consequently, private security, like private education or health care, could be made available to anyone who was prepared to pay for it and so the whole sector might, in principle, be privatised. The alternative and traditional approach would be that security was a necessary and inalienable responsibility of the state, which could outsource its functions only under strict supervision. Of course, on the one hand, questions arise as to what extent fragile states are capable of providing this security and, on the other hand, to what extent states are capable of supervising the outsourcing (International Alert 1999:8).

Furthermore, there are many cases, especially in developing countries, where the state *per se,* instead of being the security provider, became the violence projector, resulting in a public tendency to turn to non-state solutions for their everyday protection. And given foreign governments' reluctant to intervene, the role of private companies can be perceived as that of a proxy state actor, yet without state responsibility for their actions (Bjork and Jones 2005:785). In this framework, Leander (2005:606) argues that reliance on private military and/or security companies does not enhance public security. Instead, the market for force created by increased reliance on these companies actually weakens the foundations of public security. Moreover, a market for force increases the supply of military services and the number of actors who can buy the services, and so further undermines the consolidation of public security structures. The consequence is that insecurity and violence are likely to increase even further.

However, the security privatisation trend is evident in states regardless of their development level. Even in the most powerful states, private actors

may influence policy making, although they act focused on their own interests; but in states with limited capabilities in terms of security provision the ground is ever more fertile for private companies to flourish. However, while the proliferation of non-state security actors and providers is encouraged according to the neoliberal approach, there are still many that function within the state, raising questions regarding their control, management, account, monitoring and regulation (Abrahamsen and Williams 2011:62-5). Hence, if the trend for private security companies to take on an increased role in future reconstruction and development processes continues, it is in the interest of all parties involved to have their mandates and roles regulated in a manner that is commonly accepted by the international community (Bjork and Jones 2005:785).

Many PMCs have been employed by intelligence agencies for covert operations and unaccountable foreign policy activities: the explicit political purpose of employing PMCs to further foreign policy objectives is the capacity it offers for official deniability. Some authors are in favour of PMCs in, for example, future peacekeeping operations, while others have fiercely criticised such proposals and argue that such companies should be outlawed and shut down. Activists seek to drive governments, international organisations and political bodies into enacting legislation that will secure and enforce the conduct of PMCs in line with a commonly understood human rights-based agenda. Analysts view PMCs as a new phenomenon of growing importance in international relations and on the stage of international affairs. Their approach is to explore, and comment upon, the conduct and practice of PMCs against a background of issues such as globalisation, privatisation, and interventionism. Proponents take either a pragmatic or a promotional view of the privatised military and security industry and consider how non-state commercial actors can play a legitimate and positive role in international security and development (Schreier and Caparini 2005:9-13).

The globalised private security model presents complex analytical and political challenges, since the established and developed public–private/ global–local networks could challenge the authority of the public security

agencies of a sovereign state. The development of private security companies with global reach, combined with the establishment of the above networks, will highlight the transformation of the state's role in the contemporary global governance structures. In this framework, the authority of private security can be seen as stemming from three sources.

First, its expansion has been both a product and an enabler of broader liberal processes of globalisation. Hence, private security companies' authority in all kinds of states could be seen as the necessary response to contemporary shifts in the provision of security, and of states' inability to provide adequate security. Second, these processes of privatisation have allowed PSCs to acquire the status of being legitimate authorities in these areas, possessing significant expert knowledge and technical, financial and organisational capacities specific to this field. This results in an increasing number of governments and private entities contracting private companies as the optimum means to address security issues. Third, the authority of PSCs arises from their increasing incorporation in hybrid security networks. In most cases these networks are usually connected to state authority, with the intention of enhancing it. They introduce new methods of delivering security and new powerful actors who acquire significant authority in this field, with a consequent impact on the provision of security in our daily routine, as well as on social stability and state legitimacy (Abrahamsen and Williams 2007:249-250).

This process does not necessarily mean that state authority has been either eroded or strengthened by integrating PSCs. Instead, it highlights the complexity of the new security provision structure and challenges the traditional international relations orientated approach to security, as analysed in detail in Chapter Two of the thesis (Section 2.2). Figure 4 presents a visual interpretation of this new security structure and the shift from the traditional security state centric management structure to the new contractual and managerial model.

Figure 4: Types of Security Provision (Source: Ortiz 2010:126)

Undoubtedly, there is a controversial nexus between governance, power and privatisation, since private security providers operate in parallel with the law enforcement and judiciary sectors of the state. According to this model, the private industry in the free market could be seen as a 'third sector' of security provision, stressing the shift from government to security governance, where the state is the central node of security, and operates as a potential manager of the established networks. Yet, although the interests of those who participate in the network differ, the final objective of security provision and effective governance remains the goal; and the state still retains the legal, symbolic and material capacities, critical for its achievement. This nodal model can also be transnational, especially in cases where states are reluctant to undertake specific tasks, instead assigning them to the well-established and continuously growing global security market (Abrahamsen and Williams 2011:83-7).

Avant (2005:3) added even more questions in this already complex framework, wondering if and why should we worry – or even care – about this globally expanding market. The simple answer - that private security may affect how and whether people can control violence - raises greater concerns, especially in terms of practice. How privatisation affects this control, then, is another critical question. Does the privatisation of security undermine state control of violence? Can the privatisation of

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security enhance state control of violence? Does the privatisation of security chart new ways by which violence might be collectively controlled? How does private security affect the ability to contain the use of force within political process and social norms?

4.4 Private Security Concerns

Private security advocates point out that many of the activities undertaken by foreigners, for example in Africa, depend on PMCs/PSCs. Western governments are outsourcing tasks of training, consulting, logistics and military support in general, to private firms. They rely on them to back up military operations and provide the security necessary for their physical presence.

Similarly, other outsiders rely on PMCs to compensate for the absence of effective state control over violence. Firms have to protect their installations and their personnel; aid workers need protection from racketeering, kidnapping and attacks. In contexts where public armed forces and police are either unavailable, ineffective or involved in activities against which protection is needed, private solutions are the only ones available (Spearin, 2001:30).

In the framework of this broad spectrum of private security services offered, illustrated in Figure 5, the fundamental concerns regarding private security providers remain those related to their accountability, transparency and respect for human rights.

Given their business orientation, in most cases private security firms have different interests from their employers. Besides the difficulty involved in monitoring their activities, the high cost of their services might include provision of access to natural resources. Through this it is possible that they may become more powerful than the client, turning into a threat themselves. Moreover, the use of private military/ security companies allows state actors to bypass national and international legislatures and assign controversial tasks which otherwise might have not been undertaken. In the same vein, weaker states may become more

dependent on wealthier states who are willing to pay for such services on their behalf, due to their inability to provide internal security (Frost 2008:43).

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Figure 5: The Private Security Service Spectrum (Jäger and Kümmel 2007:59,461)

Additionally, the profound difficulty of states to control contracted security providers raises even more ethical concerns. The objective of financial gain undermines both the intentions of the employing state as well as the justifications of the principles supporting the sovereign state authority. Thus, this development actively counteracts the notion of 'just war' ethics

and legitimisation. Hereof, the practice of 'marketising' security, transforms the intention of providing a collective good into 'private means and ends' (Baker 2011:106-7).

The key question, though, is how privatisation affects the way that all the dimensions of control fit together: *the political, the functional and the social*. Do the political changes introduced by privatisation engender needed capabilities governed by acceptable political processes that operate according to shared values? An argument can be raised that this is most likely when the consequential mechanisms economists pay attention to, (that is, screening and selection, monitoring, and sanctioning), work together with the mechanisms for transmitting appropriateness that sociologists pay attention to (Such as, norms, standards, education, and practices among security professionals). Thus between them creating something like a symmetrical outcome (Avant 2005:5-6).

4.4.1 Land Based Concerns

Building further on the analysis of the neoliberal model of the privatisation of security, introduced in Chapter 2 (Section 2.4), one could argue that the primary feature of the private military contractor model is the disconnection between military service and the state. While the citizen-soldier model is defined by mutual obligation and the professional soldier model by unilateral duty, the private military entrepreneur is only bound to the state by a temporary contract, which relies on a business orientation and focus and is usually project based (and will therefore expire as soon as the task is complete). The military contractor does not have any ultimate liability to defend the state with his/her life and is also generally motivated by profit. While professional soldiers ideally rank patriotism higher than financial rewards, private military contractors focus on monetary gain in their choice of employment. Neoliberalism assumes profit motivation to be a suitable means for ensuring the democratic control and accountability of private military contractors. Rather than believing that soldiers will honour abstract notions of duty towards the state and society, neoliberal thought contends that profit motivation can

be used to encourage, not only the efficiency and effectiveness of private military contractors, but also their responsiveness towards public and private demands.

Moreover, military contractors lack a distinct professional and collective identity that would ensure their compliance with professional military norms and standards. While professional soldiers are categorised in terms of rank, private military contractors are trained, hired and paid for their individual skills, and do not develop a collective group identity. Most private military contractors work under short-term contracts and for different firms. They operate through lists of potential employees who are called up if and when their skills are required, and who usually form temporary teams of different nationalities for a particular operation with little training or preparation.

Neoliberalism also contends that the associated fragmentation of influence and resources can facilitate democratic control and accountability by decreasing the size of the armed forces and mixing civilian and military occupational spheres.

Finally, a neoliberal approach favours the alienation of political and military roles within the private military contractor model. Most private military contractors neither work for nor in their home countries. Most companies are happy to recruit anybody who has the necessary expertise. As a consequence, there is a separation of the political and military roles played by the military contractor; this is an advantage in terms of democratic control and accountability since it facilitates the political neutrality of the soldier. In return, the political actions of military contractors have no influence on their employers. This ideal-type model suggests that distinct civil–military relations in Western democracies are not only a product of divergent security demands and historical developments. They have also been shaped by theoretical and ideological beliefs regarding the most suitable means of democratic control and accountability (Krahmann 2010:46-48).

In the absence of adequate legislation and regulation, or in circumstances where regulations are in place but poorly enforced, there may be no control over the type or quality of services provided by PSCs. Untrained staff with questionable backgrounds may be able to access weaponry and use force in an illegitimate way.

Beyond the basic argument concerning the privatisation of security, in particular, with reference to the weakening of states' monopoly over the use of force, the introduction of armed PSCs can provoke social differentials in security between the rich and the poor. The consequence of this is that security becomes a privilege of the wealthy. Furthermore, unlike state security providers, PSCs are not directly accountable to the electorate or a parliament but rather to a combination of, often weak, regulators, company boards and shareholders (Richards and Smith 2007:8-9).

Commissioned military personnel of national armed forces are also divided over the use of the private military and security industry. On one side are those who argue that PMCs provide the armed forces with the ability to respond across the spectrum of conflict by contracting out for required non-core or emerging capabilities. They see in PMCs an untapped potential for peace and humanitarian operations, for conducting offensive information operations, and for use in countering asymmetric threats at the lower end of conflict. On the other side are those reluctant to use PMCs, because they are structured solely for commercial profit and not bound by the codes, rules, and regulations that make a nation's armed forces unique and accountable.

Numerous studies have been conducted by military colleges investigating the potential pitfalls of giving PMCs too large a role on the battlefield. A majority of these argue that the claimed cost savings are exaggerated, and that questions of coordination, command and control, supervision, and rules of engagement have not been adequately addressed. Thus, troops could be put at risk by PMCs, and their use could result in the displacement of state legitimacy. In terms of policy, just as state armed

forces have had to develop a system for working with NGOs during recent peacekeeping and humanitarian operations, they will have to consider also how to deal with the PMCs and PSCs that they will increasingly encounter within the battle space. At the decision-making level, governments and international organisations must develop standard contracting policies, establish vetting and monitoring systems adjusted to PMCs and PSCs, and ensure accountability and legislative supervision (Schreier and Caparini 2005:9-13).

Additional issues are raised by the use of private security actors that cannot be addressed through regulation enhancement alone, as discussed above. Even if the processes for hiring companies were formalised, and if it were possible to regulate who hires them, as well as how and where firms deliver their services (i.e. with adequate vetting of personnel, human rights standards and punishment for individual abusers); significant losses would still be entailed when a private company performs services in this sensitive area of policy. These losses are most significant in terms of loss of visible authority and prestige and weakening of long-term commitment and sustainability of security and military relationships. Private security companies can only contribute to the furthering of such relationships if they are brought into such close and formal relationship with governments as to effectively make them 'quasi-governmental' bodies. This is unlikely to occur as it would compromise the private and independent character of the companies, as well as their flexibility; and hence the advantages of using the private sector would be lost (Holmqvist 2005:58).

Leander (2005:607-609) on the other hand identifies three pillars supporting the case that PMSCs would be helpful in restoring public security, specifically in African states. The first is based on the fact that they could break vicious circles of violence by working as 'force multipliers' for local forces, providing troops for outside interventions, by training locals, taking over non-military tasks, etc.. The second is that (at least some) PMCs are respectable. If this was not the case, encouraging their development and relying on them would be foolish. It is essential to

show that PMCs are not 'traditional mercenaries', hence the term 'private military companies' was launched as a new label and successfully marketed by Tim Spicer, partly for that reason. Finally the third is the insufficiency of many African forces. Leander asserts that PMCs stand out as far more professional and efficient, and even as potentially contributing to improving the behaviour of African forces, she claims, have looted, racketed and abused civilians to the point of being the key perpetrators of violence.

In more practical terms, PSCs enable governments to avoid supervision when using force, as well as parliamentary inquiries or political cost attributed to embarrassing fallouts. Potential casualties of private contractors are also far less likely attract questions and resultant political cost than casualties among national armed forces. Furthermore, by outsourcing the use of force, governments can pay for and conduct controversial operations outside of the public budgeting process without external (and internal) legitimisation requirements. Consequently, their accountability is minimal, the companies have little to fear, and the international system continues to produce dangerous outcomes without much-needed legal restraint. Even when cases of abuse reach the general public, both PMCs and PSCs can avoid legal accountability. Weak or non-existent local legal systems may be unable to prosecute offenders and the companies sometimes enjoy special impunity from national laws (Pingeot 2012:16-17).

4.4.2 The Maritime Domain

A far more controversial development has emerged due to the recent growing practice of embarking PMSCs on board ships transiting piracy high risk areas. This led the IMO Maritime Security Committee (MSC) to urge states to issue guidance on their use (IMO 2011b), selection and employment (IMO 2011a). However, the MSC circulars make it quite clear that the IMO does not endorse the use of PMSCs. Instead, they state that the carriage of such personnel and their firearms remains subject to flag state legislation and policies. Furthermore, it remains a flag state decision as to whether and under which conditions, PMSCs will be authorised;

specifically as an enhancement to other best management practices, and not as an alternative. Dr Marie Jacobsson, Alternate Head of Delegation for Sweden on behalf of the European Union to the UN, made the following statement in relation to this issue:

> The IMO and other organisations strongly discourage the carrying and use of firearms on board merchant vessels, and the EU supports this point of view. However, when the vessels do not carry firearms on board, the states must take their responsibility to patrol areas in which incidents are most likely to occur, and to act against the criminals. This is indeed a costly business and the lack of capacity and funds to tackle it needs to be examined and discussed, as does the matter of what could be done to build up capacity (EU Presidency Statement 2001).

While the international community focused on the deployment of non-lethal anti-piracy measures, pirates have become more aggressive. The use of firearms (AK-47s) and rocket-propelled grenades (RPGs) have dictated that the security teams deployed on board merchant vessels need to be armed with equivalent firepower should they be a credible and effective deterrent. This necessity was further reinforced when an unarmed security team embarked on MV BISCAGLIA failed to prevent pirates hijacking the vessel in the Gulf of Aden on 28th November 2008 (BBC 2008).

The development of the concept was first mooted by SAMI along with various shipping associations and marine insurers at the beginning of 2009 and developed further throughout that year. There was initial reticence on the part of the ship owners to accept any form of codification of armed security guards, as they believed that the navies of the world should protect their ships. However, since the collapse of the Soviet Union and in the absence of significant maritime threats, Western navies had shrunk to the extent that it was impossible to provide the number of ships required to patrol and dominate such a vast area as the Indian Ocean. But it took some time for this to be accepted by the shipping industry. There was also significant concern voiced by many in the shipping industry that if private armed security was embarked on commercial ships, there would be a repeat of the "Blackwater" incident in Iraq; and that the Master and

shipping company that contracted the guards could be held liable (Cook 2014).

In terms of the incentive to have PMSCs on board, different types of insurers have also responded with different practices (Sloan and Griffiths 2012). Hence, focusing on the maritime domain, there are many legal and logistical challenges to the use of armed guards aboard ships that have not yet been resolved (Oceans Beyond Piracy 2012). These can be summarised as follows:

      a.   Documents such as the International Code of Conduct for Private Security Providers, the Montreaux Document (both designed for land operations in times of conflict) and MSC. Circ. 1404 *suggest* protocol for private security teams. However, these have no legal status and no standardised training or certification to ensure compliance with guidelines.

      b.   Currently the regulations meant to ensure quality within the private security industry are weak, making it difficult for ship owners to discriminate between reputable and disreputable companies. Furthermore, there is no required reporting of incidents, although it is recommended in all guiding documents.

      c.   Flag State policies regarding the use of armed guards vary greatly; many policies are not even reported yet.

      d.   International navies, the International Maritime Bureau (IMB), INTERPOL etc., have a neutral or no stance toward the use of private armed security. The IMO considers the use of private armed security to be a flag state concern. There are varying stances among shipping companies, flag states and regional nations regarding their usage.

This multiplicity of attitudes is indicative of the fact that this industry is yet very new and international bodies are still developing their official policies toward its usage.

4.4.2.1 Flag, Port and Coastal State's Responsibilities

The fact that the IMO guidance places the responsibility for decisions about PMSCs employment with the flag state has both positive and

negative implications. On the positive side, it makes clear that the associated issues are ones that the governments of flag states should address, and there has been clear evidence of engagement in this respect in countries such as Germany, the UK and US. Yet, most flag states still adopt a variety of views about the carriage of PMSCs on board ships under their flag. These range from "No legal disposition allowing the existence and the use of weapons on board" as in the case of Portugal (International Chamber of Shipping 2012) to the mandatory character imposed by the USA Department of State's in July 2011. This latter states that all US-flagged vessels carry security personnel, whether armed or unarmed (Oceans Beyond Piracy 2012).

This was evident in the remarks made by Thomas Kelly, Principal Deputy Assistant Secretary, US Bureau of Political-Military Affairs, in the context of 'Combating Piracy Week' in London:

> But perhaps the ultimate security measure a ship owner can adopt is the use of armed security personnel, either provided by their government as Vessel Protection Details (VPDs) or through employing Privately Contracted Armed Security Personnel (PCASP), where Flag state rules allow. The latter are often made up of former members of various armed forces, who embark on merchant ships and guard them during transits through high risk waters. To date, not a single ship with armed security personnel aboard has been successfully hijacked. These teams have served as a game-changer in the effort to combat piracy.
>
> For our part, the U.S. government has mandated that U.S.-flagged merchant vessels transiting the high risk area conduct a risk assessment with specific consideration given to supplementing onboard security with armed personnel.
>
> When PCASP emerged on the scene a few years back, there were reservations ... From the evidence that we have seen, in most engagements, the attack ends as soon as pirates realize an armed security team is on board. Pirates often break off their boarding attempt and turn their skiffs around to wait for another less protected ship. These teams therefore have served as an effective deterrent.
>
> However, PCASP teams come in varying sizes and, to be frank, in varying degrees of quality. Their emergence as a security option has brought with it complications. Varying national legal regimes complicate the movement of these teams and their weapons from ship-to-ship or ship-to-shore. Some flag states do not have clear legal guidelines for addressing armed security personnel and are

struggling to formulate positions vis-à-vis armed security personnel at sea.

Untangling legal and policy issues related to armed security will take time … As a legal matter, authority over the use of privately contracted armed-security personnel beyond territorial sea limits (12 nautical miles from land) falls to the flag State. Once a vessel with armed personnel embarked enters territorial seas it may carry such personnel provided it is engaged in innocent passage or transit passage. If a vessel with an armed team embarked intends to enter a port, the port State may exercise authority for regulating the personnel or their arms (Kelly 2012).

The shipping industry is therefore faced with a range of flag state positions, including instances of limited supervision of the use of PMSCs, as indicated above, and the option to choose an 'Open Registry'[19]. This latter, however, does not impose an appropriate degree of regulation. Moreover, piracy related issues are only one of the many controversial issues surrounding the choice of flag practices. Although related to the movement to destabilise trade in commodities such as narcotics and arms rather than piracy, there are serious weaknesses inherent in the vessel registration system. A significant aspect of these, in the present context, is that "the rigour with which the norms and standards are implemented and enforced can vary widely between different registries". There are also many examples of the ease of re-registering ships even when the vessels were subject to UN Security Council resolutions and subject to national sanctions (Griffiths and Jenks, 2012:60).

To put the Open Registry issues in context, nearly 70% (by tonnage) of the world's merchant fleet is not registered in the country of domicile of the owner. Almost half of this Open Registry tonnage (i.e. 30 - 35%) is registered in the open registries of Panama and Liberia. Panama neither recommends nor prohibits the presence of security personnel and does not place any prohibition on the presence of weapons on board. Similarly, Liberia does not place any prohibition on the embarkation of security personnel or weapons (International Chamber of Shipping 2012).

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[19] Open registries are also known as Flags of Convenience (FOC), and they refer to ships which fly the flag of a country other than the country of ownership. See International Transport Workers' Federation (2012) 'What are Flags of Convenience' [online], available from http://www.itfglobal.org/flags-convenience/sub-page.cfm [accessed 10 March 2014]

The employment of PMSCs also raises wide-ranging issues for port and coastal states, not least for national legislation concerning the presence of firearms on merchant vessels in their territorial waters. Some states do not permit their presence at all, while others require prior notification of the weapons, ammunition and personnel embarked. The former two may also need to be sealed in a secure compartment while the ship is in waters under their jurisdiction.

The desire of port and coastal states to control the use and availability of weapons in their waters is obvious. However, such control imposes an obligation on a state that is concerned to uphold its sovereignty to provide the security necessary to reduce the risk of ships being attacked to an acceptable level. Port state restrictions on arms on board merchant vessels also affect the ability of PMSCs to embark and disembark legally with their weapons in many ports. In recognition of this problem, the Multinational Security Business Group (MSB) works with coastal states on a standard solution to the logistical challenge of "the use and movement of small arms and equipment used in the protection of merchant vessels sailing high risk waters".[20] Table 2, below, presents several flag states' stance on PMSCs, as of early 2012.

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[20] See MSB Group Ltd, http://msbgroupltd.com/about/

Table 2: Flag States' stance on PMSCs (Source: Oceans Beyond Piracy 2012:8)

Meanwhile, the challenge for PMSCs is being partly overcome in the Indian Ocean, for example, by the introduction of floating armouries (Houreld 2012). But this development in itself raises a number of issues concerning the regulation, security and operation of the vessels being used as armouries and since they are flagged under open registries there is no clear supervision of their activities.

The complex distinction between state and private security is clearly demonstrated by the use by states of the so-called Military Vessel Protection Detachments (VPDs) in vessels registered under their flags. These comprise small military teams embarked for the purpose of ship protection, under national control, and only armed if the flag state's national laws permit this. Military personnel need to be trained and regulated, and to operate under nationally approved command and control arrangements (including Rules of Engagement), rather than under industry/company derived rules regarding the use of force. A statement by the UK Minister of Defence during a session in the House of Commons

for Somali piracy is indicative of this. Although he acknowledges industry's enthusiasm for VPDs, he cautioned that resources for this are scarce:

> We have done it before. We have done it in different strategic areas. It is all a question of availability of resources. At the moment, our armed forces are very heavily committed. If a stage was reached when our armed forces were less committed, I am sure that the MoD would look at a request for providing VPDs (The Foreign Affairs Commitee 2012:20).

In addition, the rotation of such personnel (normally larger teams than used by PMSCs), combined with the number of vessels involved, will create a further, and very significant, training and manpower burden for the armed forces of the nations involved. Even if the cost of providing the teams is recovered from the hirer, most western-style armed forces are currently reducing their defence budgets and therefore have fewer personnel to draw from.

Further to the resource and availability issues, the shooting of two Indian fishermen by an Italian military team embarked on the MV Enrica Lexie in February 2012, reflects other problematic aspects of the employment of VPDs: their training and experience (Madden 2012). The incident raised a number of questions, including concerns about the prospects of other similar instances occurring where less well trained teams are embarked - especially since the use of lethal force on the open ocean can be covered up and remain unreported. There are also other challenges such as the requirement to provide medical support, which adds to the size of the team, liability issues in the event of collateral damage, and issues concerning the movement of government forces personnel and weapons from one state through the territorial waters of another. Finally, mistaken use of lethal force by a VPD, such as in the case cited above, immediately becomes a national diplomatic and legal problem; a risk that some nations will choose not to incur (Sloan and Griffiths 2012:65).

Another issue which puts VPDs under question and illustrates a potential downside to the use of PMSCs, is the risk the unethical use of armed detachments, ostensibly embarked for ship protection, as a cover for

other activities. Such was the suspicion in March, 2012, when the Russian tanker Iman arrived in the Syrian port of Tartus with what were declared to be a PMSC on board, even though there were reports that the personnel were actually part of an anti-terrorist unit (Radia 2012). This is one aspect that is unlikely to be overcome by international regulation, but such cases still do run the risk of bringing the PMSC's contribution to maritime security into disrepute.

4.4.2.2 Regulation and Training

Although the strategy of contracting armed guards has proved to be successful, the disproportionate and excessive use of force that resulted in injuring and killing fishermen mistakenly identified as pirates raised another significant concern that is also the subject of ongoing discussion. This relates to whether regulation by the industry itself or by external regulation is appropriate. There is, therefore, still a broad debate and significant gap to be filled in order to address the regulation and training of PMSCs when operating at sea. Some of these may also apply to VPDs consisting of armed forces' personnel. The International Code of Conduct for Private Security Service Providers[21] was established in order to establish industry standards with which its members should comply. Although originally designed for security companies operating on land, it has provided a baseline standard to which many PMSCs operating in the maritime domain relate. However, _it is not binding_, and carries with it no enforcement mechanism. Beyond this, a number of organisations are engaged in the task of industry representation and moving the process of training and regulation forward. The Security Association for the Maritime Industry (SAMI) is a non-governmental organisation seeking to undertake a self-established accreditation programme. This initiative has the backing of a wide range of stakeholders within the shipping industry, and their original intention was to submit it to the IMO for approval (SAMI 2012). Membership requirements only include being a signatory to ICoC and paying a fee, but the concept behind the accreditation process for PMSCs involves more, including an on-site test. However, further issues have

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[21] See ICoC, available from http://www.icoc-psp.org

delayed and brought the initiative under question, which are researched and discussed in detail in a later section.

Meanwhile, the focus of the International Association of Maritime Security Professionals (IAMSP)[22] is also geared towards establishing "standards of best practice" within the maritime security industry. The organisation has been actively involved in working and technical issues. It has also developed and made available training associated with duty of care, use of force, human rights and legal elements of the maritime industry. Additionally it has established a range of procedures for personal and corporate vetting, use of technology, etc. (both associations, SAMI and IAMSP will be discussed in further detail in section 7.3). However, establishing such standards is not necessarily an issue to be left to the industry alone, as is recognised by a number of states. This is indicated by a UK House of Commons Committee statement:

> [We] conclude that it is vital to ensure that armed guards are properly trained and deployed in sufficient numbers. We urge the Government in its response to this report quickly to bring forward proposals for a national regulatory structure (whether governmental or industry based self-regulation) that would provide a measure of quality assurance" (Foreign Affairs Committee 2011:6).

4.4.2.3 The Industry

The primary concern of the shipping industry is to be able to undertake its commercial operations at an acceptable level of risk to crews, passengers, cargoes and vessels, at an economically acceptable cost, and in a timely manner. In terms of risk and the employment of armed guards, this includes being able to hire personnel who are trained and experienced to the level necessary to conduct the task effectively; and at the same time protecting the owners, operators and master of the ship from the risk of liability arising from the PMSCs' conduct of the task.

In addition, insurers are driving certain aspects of the operational response to piracy. The insurance industry sets the premiums for ships

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[22] See IAMSP, available from http://iamsponline.org

transiting HRAs, monitors the implementation of security measures (including armed guards) and offers premium discounts for ships using armed security teams. Consequently, the maritime insurance industry is a protagonist in defining the costs associated with piracy and in the dynamics of the operational response. It is indicative that in 2011 insurance companies' revenues increased by $600 million, which accounts for six times more than the money paid for ransom to pirate groups within the same year (Singh 2013).

Many observers have voiced concern that the embarkation of PMSCs will lead pirates to adopt a more violent approach in order to gain access to the target vessels. To date, although boardings and kidnappings can certainly be violent, the feared escalation has not been observed. Indeed, the measures enacted appear to have contributed significantly to the reduction in successful attacks in the Indian Ocean at least. In the case of Somali piracy, pirates aim at ransom of hijacked crews rather than ransom or resale of the cargo. In this case, also, it may be counter-productive for them to increase the risk of injury or death of crewmembers in their attacks. Hence, the primary objective would be to deny them boarding in the first place. However, increased security in some vessels will inevitably drive the pirates to focus on others that are less secure, or more vulnerable by design. This further reinforces the situation whereby all vessels are vulnerable and subject to threat. Thus increasing the need for risk assessments and for the application of the appropriate security measures (involving BMPs and PMSCs in high risk areas), as well as to achieve a higher level of cooperation with maritime policing authorities in the relevant region (Sloan and Griffiths 2012:89).

4.4.2.4 The Use of Force

The armed pirate attacks per se, and, in particular, their adaptability in switching tactics and using longer-range weapons, raised additional concerns, stemming from the increased risks of fire, hull and environmental damage and, of course, human casualties. Picture 1 shows a typical PMSC's armed escort team in alert on board a merchant vessel, prepared to use force if attacked by pirates.

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Picture 1: Neptune Maritime Security Team stands alert during a transit through the IRTC, Gulf of Aden (King 2012:194)

Moreover, given that crew and passenger ransom is the pirates' aim, it increases also the risk specifically for cruise ships. Hence, debate about the employment of PMSCs also raises the question about whether they should be defensive (aiming at deterrence or, as a last resort, to protect the ship as for example in Picture 1) or they should adopt a more offensive role. This latter could involve conducting activities such as the wider suppression and apprehension of suspected pirates - roles which have traditionally been the responsibility of governmental forces. However, as Spearin (2010:61-2) argues, international law does not permit PMSCs to conduct offensive action against pirates. The distinction thus appears to be quite clear, and one that is generally supported by the industry. However, the introduction by Greek ship owners of a potential Convoy Escort Program (CEP) in the Indian Ocean announced for the summer of 2012 (Hellenic Shipping News 2012) raises a number of offensive-versus-defensive questions. More specifically, the rules for the

use of force issued to the crews operating the boats need to be quite explicit about the threshold at which defensive actions become offensive, and these will need to be applied scrupulously. This will be a challenge to enforce in a fast moving scenario in the usually 'crowded' maritime environment (with many vessels of various types) and the program brings with it the inherent risk of operating beyond the legally acceptable limit. In addition, another PMSC's announcement that its own escort vessels will maintain an exclusion zone around the ships being escorted (Sibun 2012), introduces a number of additional issues. This strategy is not in accordance with the legal basis on which commercial units can use force in the 'high seas' against another civilian vessel (in accordance with the 'freedom of the seas' regulation and principles). Nor is it even a legal right to enforce an exclusion zone on the high seas, and is definitely not in the provisions of the anti-collision regulations.

4.5 Causal Factors and Consequences

A common and key variable in all the above questions, arguments and debates is obviously the will and capacity of the state, mostly in terms of providing security, regulating the free market and consequently the private contractors. Yet, the situation becomes even more complicated and debateable, since non-state actors have the right, the will and the wealth to contract private security companies for their own use. This brings into question whether this form of financing of security enhances or erodes the control of violence (Avant 2005:5-6).

NATO's recent strategic concept (NATO 2010) identified the contemporary security challenges that were going to be the causal factors and driving forces for the organisation's transformation. Consequently, these would define the NATO states' orientation towards international security, in terms of collective defence, cooperative security and crisis management. According to respective official documents, the security environment, in addition to the conventional threat of traditional conflict, is challenged by numerous further threats. These comprise the proliferation of weapons of mass destruction; terrorism; trafficking in arms, narcotics and people;

cyber-attacks; and the disruption of communication, transit and transport routes with indirect implications for energy security and environmental degradation (NATO 2010, par. 7-15). In this framework, contemporary navies had to be deployed in anti-piracy operations and so prevent the disruption of vital sea-lanes. Picture 2 below shows such operations in action.

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Picture 2: US Navy in anti-piracy operations (McLay and Staffelbach 2012:52)

Even the traditional 'conventional' conflicts have been recently transformed from interstate to intrastate violence. According to Kaldor (2006), these "New Wars" are a form of organised violence in states whose political legitimacy has eroded and whose economy is in decline. Furthermore, in these cases, the genesis of criminality and corruption tends to stem from the systematic multiplication of privatised violence ascribed to organised crime networks and paramilitary groups. As such, "New Wars" can be described as the reverse process of the traditional Western perspective of state building. Also, in contrast with conventional warfare, these new forms differ in terms of their objectives and in the ways in which they are fought and funded.

The last Western intervention in Libya (BBC News 2011) (and non-intervention in Syria) demonstrated the new perception of international security. The reluctance of the states to deploy 'boots on the ground' and avoid the political cost at home from potential casualties prevails in the concept of humanitarian interventions. Navies in particular exert a continuous effort to redefine themselves as well as their missions. The

traditional confrontation between opposing fleets, lined up in formations and firing against each other has not been evident since the Second World War. The Falklands (Malvinas) War of 1982 was an arguable exception, since it was essentially a confrontation between the UK fleet and the Argentine air force, developing into an amphibious landing and naval support of a ground campaign.[23] The role of navies was reconfigured during the wars in Iraq, Afghanistan and Libya and became focused on strategic transportation, bombing specific targets with long range missiles and imposing sanctions under the UN mandate such as the sea-blockade.

Yet, all the identified international security challenges – other than war - do not have military character. Cyber security, trafficking in weapons, drugs and humans, for example, are clearly law enforcement tasks. The globalised orientation of international security and the adopted multilateral approach have re-identified military missions, since in the contemporary environment these are also assigned to countering crimes such as piracy and trafficking of weapons by sea.[24] It does not take an expert to conclude that deployment of ships costing billions of the states' defence budget, with sophisticated weapons' systems and missiles, in tasks like prevention and deterrence of pirate skiffs is by no means either cost effective or an appropriate use of the asset. And, perhaps even more significant in an era of austerity measures, the need for building, equipping and maintaining such high-tech fleets – which consume so much tax-payers' money in the process - to operate as anti-piracy task forces cannot be justified in the public opinion of any state.

4.6   Summary and Evaluation

This chapter broadens and deepens the analysis of the conceptual framework of privatisation of security, in the context of international security academic literature and professional practice. Building on the basis established in Section 2.4, it identifies the causal factors of the

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[23] The Argentine Navy was deterred from taking part by the sinking of the cruiser General Belgrano by a British nuclear-powered hunter-killer submarine (SSN), HMS Conqueror, with the loss of 323 Argentine lives
[24] See NATO Shipping Centre, Operation Active Endeavour, available from
http://www.shipping.nato.int/operations/AE/Pages/Default.aspx

trend, examines the major concerns and issues that are raised ashore and transfers them to the maritime domain.

The private security model has been broadly applied, both ashore and at sea and a mutually beneficial relationship between the state and the private sector can be identified in this. Through instituting this model, the state, on the one hand, reduces the defence expenditure budget for providing security in the globalised environment. On the other, it simultaneously minimises the political cost from potential human casualties, or even engagement in ambiguous operations in the territories of foreign sovereign states. The private sector offers jobs to former well trained military personnel, and the profitable contracts provide an attractive generation of income for the companies, and also for the state in terms of taxation.

The dividing line between state and private security is even murkier in the maritime domain than it is ashore. The private maritime security sector takes advantage of the unemployed, retired and well-trained military (or naval) personnel to develop the already booming and well-established business model, in the same way as on land. At the same time, the state gains a dual reward for the defence budget expenditures that were invested in their training: The allocation of funding required for the deployment of naval assets on the other side of the globe is minimised whilst income is generated in terms of taxation from the private sector activities. Public opinion (at a global level) may be in favour or against the deployment of PMSCs on board merchant vessels, given the numerous ethical, operational and legal concerns stemming from their applied practices. However, the shipping companies are treating their use as the sole security provision through high risk areas and as the main guarantee for the safety and security of both the seafarers and their cargo.

Finally, it needs to be said that there are definitely situations in which there is a need for specific vessels to employ PMSCs or VPDs in order to provide an additional layer of ship protection. In respect of this, although international organisations, such as the IMO, recognise this reality, they

still need to provide a firm lead on related issues such as regulation, training, and rules for the use of force. The regulations of armed security providers do not include elements that provide minimum standards with respect to these services (regardless of their status as military, paramilitary or private). Moreover, there are no supporting globally recognised regulations in place to ensure that all providers of these services are subject to comparable controls at international level. Without such regulation, and the concomitant checks and controls, the risk of sub-standard service raises debates and breeds mistrust, as well as the likelihood of the inappropriate use of force, including lethal force.

However, it should not be assumed that employing PMSCs is the standard, sole response. The level of defence that is appropriate for individual vessels can only be determined by an objective assessment of the threat, vulnerability and risks involved. In the following Chapters, the arguments outlined above, regarding the legal, operational and ethical issues surrounding the contracting and deployment of PMSCs, is researched in depth. To this end, the structure, role and *modus operandi* of these companies are analysed with a specific focus on the situation in the Horn of Africa.

Chapter Five: Maritime Security and Sea Piracy

5.1 Introduction

This chapter develops an analytical framework for the integration of maritime security, in general, and contemporary piracy, in particular, into the contemporary paradigm of global security. Building further on the framework established in Section 2.4.2 of the literature review, it focuses on an under-researched and overlooked contemporary security challenge with severe implications both at sea and on land.

Maritime insecurity is one of the multidimensional threats to global security, which directly (and indirectly) affects such essential issues relating to food, energy and economic security After defining and overviewing the spectrum of maritime security issues, the research focuses specifically on maritime piracy. An historical overview of the phenomenon throughout the ages, and around the globe, demonstrates both the ancient character of this maritime crime and the diachronic nature of the causal factors of their genesis, sustainability and suppression, and also of the response to these.

5.2 Maritime Security

There are a variety of possible definitions of maritime security, the form of which depends on the specific perspective taken. As an element of the broader concept of global security, maritime security was, and is, traditionally related to a state's military interests.

On the one hand, the vastness of the oceans provides huge ungoverned areas within the leaderless international system. These areas are outside any state's jurisdiction, the *mare liberum*, providing a large part of the common goods. These waters also provide natural barriers in terms of multipliers of defence capabilities for those in a favourable geographical position, as well as the arena in which battle fleets can be deployed without restrictions and naval power projected.

On the other hand, the littoral and coastal waters are directly related to a state's sovereignty, as well as projecting and enforcing power on other states. Hence, throughout history the oceans' role in military terms has been of great strategic importance, and their security cannot be taken for granted due to their size and the consequent 'tyranny of distance'.

Moreover, oceans magnify the states' relative power by enabling global reach, competent seaborne trade, and control of territories, people, and vital offshore resources. Obviously, these factors also boost the state's development and economic sustainability, a role critical for achieving the desired circumstance of 'freedom from want and freedom from fear'.

Inevitably, all these advantages have also generated and motivated disputes between coastal states, due to efforts to claim jurisdiction over as large a sea-area as possible. In this framework, the definition of maritime security becomes rather complicated and multi-dimensional (Klein 2011:130-133, Reveron and Mahoney-Norris 2011).

5.2.1 Defining Maritime Security

Within the broader conceptual debate on security, it is possible to identify maritime security as a specific dimension of global security. However, the existing literature of security studies does not reflect such a concept. Hence, despite its doubtless significance, maritime security has never been identified as an independent and structural sector of security studies. Conversely, the paradox is that all contemporary challenges of global security can also be applied to the maritime domain. Hence, we can discuss, for example, "maritime environmental security" and "maritime terrorism", etc. Furthermore, the existing literature tends to focus on the sea and its characteristics as a means to a variety of uses, as well as on the seaborne threats to these same applications. Without ignoring the significance of the sea in forming and developing strategic perspectives, this section is focused on the non-traditional and alternative aspects of maritime security (Rahman 2009:29).

Following the paradigm of many significant global issues lacking internationally accepted definitions, analogous efforts have been made to define maritime security. These reflect the different perspectives involved in security, such as the professional domains in which it might be used, but they simultaneously entail a greater spectrum of contemporary threats. For example, from the shipping industry aspect, maritime security could be defined as the avoidance of violence at sea which could encompass a broader reference to piracy, maritime terrorism etc., without the need to provide specific legal definitions for each crime. Moreover, from the shipping industry operators' perspective, maritime security focuses on transportation systems and the safe delivery of cargoes without violent interruptions. In this framework, Hawks defines maritime security as,

> those measures employed by owners, operators, and administrators of vessels, port facilities offshore installations, and other marine organisations or establishments to protect ships against seizure, sabotage, piracy, pilferage, annoyance or surprise (Klein 2011:8).

Before citing the various definitions of maritime security, it is quite important to draw the distinction to maritime safety. Due to linguistic obstacles,[25] the distinction between these two terms was not clear until the introduction of an IMO initiative in 1974, which coincided with the revision of the legal framework of the maritime domain (IMO 1974). According to this distinction, while maritime security refers to the protection against unlawful and deliberate acts, maritime safety is related to the prevention or minimisation of accidents that occur at sea (Klein 2011:8-9). However, the starting point and fundamental approach in the international effort to define maritime security, is set out the Secretary General's 2008 report to the General Assembly of the United Nations, under the title "Oceans and the Law of the Sea". Hereof, the 2008 UN report cites that,

> Maritime safety is principally concerned with ensuring safety of life at sea, safety of navigation, and the protection and preservation of the marine environment. The shipping industry has a predominant role in that regard ... : vessels must be safely constructed, regularly surveyed, appropriately equipped ... and adequately manned; crew

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[25] Many languages use the same word for safety and security, including French, Spanish, Greek, etc.

must be well trained; cargo must be properly stowed; and an efficient communication system must be on board (UN General Assembly 2008:44, par 161).

As discussed in Chapter Two (Section 2.4.2), in this report the Secretary General identified seven specific threats to maritime security: piracy and armed robbery at sea; terrorist acts involving shipping; offshore installations and other maritime interests; illicit trafficking in arms and weapons of mass destruction; illicit traffic in narcotic drugs and psychotropic substances; smuggling and trafficking of persons by sea; illegal, unreported and unregulated fishing; and intentional and unlawful damage to the marine environment (UN General Assembly 2008:17-33).

In September 2005, the George W. Bush administration released the US National Strategy for Maritime Security. After citing the inherent right to self-defence and the fundamental commitments of acting appropriately for protecting the US essential national interests and defending against all enemies, the strategy mandates three broad principles for fulfilling the strategic objectives:

> First, preserving the freedom of the seas is a top national priority ... Second, the United States Government must facilitate and defend commerce to ensure this uninterrupted flow of shipping ... Third, the United States Government must facilitate the movement of desirable goods and people across our borders, while screening out dangerous people and material (Bush 2004).

Within this framework, the US planned the biggest navy in the world, under the concept of the '1,000 Ship Navy'. To this end, it presented the spectrum of its missions in its 2006 document, *Naval Operations Concept.* This included the term, *Maritime Security Operations* among the other missions. These others were: a forward naval presence, crisis response, expeditionary power projection, sea control, deterrence, maritime dominance, civil-military operations, security cooperation and initiatives countering insurgency, arms proliferation and terrorism. This document stressed that:

U.S. Naval forces will partner with a diverse array of multinational, federal, state, local and private sector entities to ensure freedom of navigation, the flow of commerce, and the protection of ocean resources (USA 2006:14).

However, the 2010 edition of the *Naval Operations Concept,* dedicates a whole chapter to maritime security, providing the following definition:

Maritime security is a non-doctrinal term defined as those tasks and operations conducted to protect sovereignty and maritime resources, support free and open seaborne commerce, and to counter maritime related terrorism, weapons proliferation, transnational crime, piracy, environmental destruction, and illegal seaborne immigration (USA 2010:35).

Furthermore, this edition divides maritime security into individual and collective categories. According to the US concept, individual operations encompass a single nation-state's actions – consistent with its rights - aiming at enhancing its safety and security. Yet, unilateral action that secures a state's territorial waters is not enough for securing the 'global commons'. This requires a comprehensive effort including multilateral and *collective* operations in order to promote mutual safety and security at sea (USA 2010).

Accordingly, in 2009, the UK National Security Strategy identified that maritime security,

comprises a very wide range of issues, interests and activities, many of which relate to the operation of threats and drivers across the marine and in the littoral environments. The maritime domain remains a conduit for threats but also offers a range of opportunities for the UK's national security (The Cabinet Office 2009:99).

From the definitions adopted from these two great naval powers and maritime nations, we realise that instead of defining the term, the preferred practice is to identify the threats that constitute maritime insecurity; thus avoiding controversies, overlapping and conflicting internal and external interests. In a similar context, the maritime dimension of the EU's security is no longer limited to the Common Security and Defence Policy (CSDP). Various policy areas are

concerned with transnational threats at sea, marine environment degradations and maritime insecurity. There are concerned with maritime safety (Transport), marine pollution (Environment), energy security (Energy) and fisheries control (Common Fisheries Policy [CFP]), as well as drug smuggling, illegal trafficking and clandestine immigration (Justice, Freedom and Security). The growing maritime competences within these policy areas do not diminish the importance of the CSDP, especially when it comes to fighting terrorism or simply using or coordinating military assets, as in the case of counter-piracy (Germond 2011:568).

The EU's and its member states' embrace of a broadened security agenda in the post-Cold War era has induced the development of a specific EU geopolitical vision. The EU's own security now strongly depends on the security (or securing) of others, and the securing of areas where threats originate. Hence, to fight transnational threats and to maintain internal security, the EU projects its security operations outside and exercises its power beyond its external boundaries and even beyond its direct neighbourhood (Germond 2011:573). Consequently, the EU is now active in various maritime margins, including those that are far away from its coasts. A potential EU maritime security strategy should address four issue areas: maritime-related risks and threats, maritime strategic objectives, the means to implement the strategy and to fulfil its objectives and the potential theatres of EU maritime operations. Many of these points are implicitly recognised by the EU and/or by the member states, but never approached in a coherent manner. By systematising the aforementioned constituting elements the EU can pave the way for the production of an effective EU maritime security strategy. This would require the pursuance of three strategic maritime objectives to enable the EU to address all the above maritime related risks by implementing a holistic approach to security: engaging in maritime power and force projection, securing the sea (against transnational threats) and protecting the sea per se against environmental degradation (Germond 2011:575-7).

5.2.2 Maritime Security in Practice

Almost sixty per cent of the earth's population lives within 100 kilometres from a coastline, demonstrating the great significance of the sea for humanity. The sea-based trading system, developed mostly by littoral states, offers access to and distribution of energy resources, raw materials and all kind of products around the world. Since almost 80% of global trade is transported in ships' hulls, littoral states developed a maritime infrastructure to establish and support these energy supply chains and the links between them and the hinterland; and to ensure the secure flow of goods to the international markets (Sakhuja 2010:3-4). In this framework, maritime security became one of the primary concerns and contemporary challenges of global security due to its essential contribution to economic development from the local to regional up to international level.

In terms of the threats to this infrastructure, the behaviour and methodology of those threatening maritime security are closely aligned with those of insurgents. They are localised, small in number, disparate, irregular; targeting the perceived weaknesses of conventional forces or government agencies ranged against them. Rather than a deployment of conventional forces, it would be more efficacious and cost-effective in the delivery of a long-term solution if there were a coherent, well-resourced, multi-agency international response. This recognises that a military response seldom delivers a lasting conclusion to such a multidimensional problem. The various tactics and conflicting approaches that need to be represented in the doctrines addressing these challenges can be set out as follows:

- The establishment of political primacy and maintenance of the political aim to allow governments to formulate long-term plans
- Co-ordinated government machinery – an essential, given the requirement for an integrated response and the likelihood that each government agency will likely approach the problem differently
- Intelligence and information management

- Separating the terrorists/criminals from their support
- Neutralising the terrorists/criminals
- Stabilisation planning is the key to a successful campaign as it provides a significant impetus to any non-kinetic initiative (Mugridge 2009:308-9)

In the contemporary geopolitical environment, maritime security has emerged as one of the most significant elements of global and human security (Reveron and Mahoney-Norris 2011:129-157). The various security challenges, introduced above, that actually generate and synthesise maritime security's definition (UN General Assembly 2008:18-33) are briefly explored below. Following this, Somali piracy – the focal point of this research - is discussed and analysed in depth in Chapter Six.

5.2.2.1 Modern Piracy and Armed Robbery at Sea

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Figure 6: World Oil Transit Choke Points - (EIA 2012)

The phenomenon of modern piracy that flourishes in the Horn of Africa (Pardo Sauvageot 2009, Murphy 2011), and also in the Gulf of Guinea (Gilpin 2007, Anyu and Moki 2009), without attracting the proper

attention from the international community, poses a major threat to regional and global security. The choke points where world oil supplies could be intercepted are shown in Figure 6. From this, it is clear that both sites are choke points not only for international shipping, transporting vast quantities of oil, but also for raw materials, manufactured goods and food for the global market. Consequently, the impact on the global economy and development could be substantial (Fu et al. 2010:689-690).

As the Assistant Secretary at the US Bureau of Political-Military affairs highlighted,

> Despite the romantic notions surrounding piracy of previous centuries, modern day piracy represents a new and complex threat to the international community. While piracy at sea is certainly not a new problem, its modern re-incarnation has an impact of a different magnitude. Piracy off the coast of Somalia threatens one of the principal foundations of today's modern interconnected global economic system – and that is freedom of navigation on the high seas. In a globalized world, the impact of piracy in one area of the world can cause a ripple effect greater in magnitude than ever before. We live in an era of complex, integrated, and on-demand global supply chains. People in countries around the world depend on secure and reliable shipping lanes for their food, their medicine, their energy, and consumer goods. By preying on commercial ships in one of the world's most traversed shipping lanes, pirates off the Horn of Africa threaten more than just individual ships. They threaten a central artery of the global economy, and therefore global security and stability (Shapiro 2012).

Hence, piracy and armed robbery against ships threaten maritime security by endangering seafarers' lives, as well as the security of navigation and commerce. In his remarks at 'Combating Piracy Week' in London, Thomas Kelly, Principal Deputy Assistant Secretary in the US Bureau of Political-Military Affairs expressed his country's view on piracy:

> In a globalized world, the impact of piracy in one area can ripple across the globe. People in countries around the world depend on secure and reliable shipping lanes for their food, their energy, and their consumer goods brought by cargo ships and tankers. By preying on commercial ships in one of the world's busiest shipping lanes, pirates off the Horn of Africa threaten more than just individual ships. They threaten a central artery of the global economy

-- and that means that they threaten global security and exact a painful toll (Kelly 2012).

In doing so, this might result in physical harm or hostage-taking of seafarers (see Figure 7), significant disruptions to commerce and navigation, financial losses to ship-owners, increased insurance premiums and security costs, increased costs to consumers and producers, and damage to the marine environment. For example, as Table 3 shows, despite the reductions due to 'no claim bonuses' (50%) and to having armed guards on board (30%), insurance against war risk for most types of ships is barely double that against kidnap and ransom.

Table 3: Piracy Related Insurance Costs[26] (Source: Bowden and Basnet 2012:16)

Available statistics – in particular, those from the International Maritime Bureau of the International Chamber of Commerce which monitors

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[26] In Table 3, the estimated war risk insurance premium (top rate) is 10%, the 'no claim bonus' is 50% and the reduction for Armed Guards (25% of vessels) is 30%, for all types of ships.

worldwide incidents - do not actually reflect the real dimension of the problem. Since ship-owners are reluctant to report incidents, owing to resulting business disruptions and increased insurance premiums, such events are seriously under-reported. Needless to say most insurance companies tend to settle such claims discretely.

Another significant implication of the above crimes is prevention of humanitarian assistance and increase of the costs of future shipments to the affected areas. For example, recent incidents of piracy and armed robbery against ships off the coast of Somalia have disrupted critical shipment of food aid by the World Food Programme.

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Figure 7: Seafarers' piracy related deaths (Source: Bowden and Basnet 2012:36)

International initiatives have consequently been undertaken to encourage greater cooperation between coastal, flag and other states to reduce incidents of both piracy and armed robbery at sea. Simultaneously, various measures have been envisaged to enhance cooperation at the regional and bilateral levels, including sharing information and providing mutual legal assistance. The US Department of State in its official blog demonstrates to what extent the 21st century effort to suppress modern piracy is multinational, with an indicative example:

> Consider this: when a Greek-owned, Egyptian-flagged vessel recently came under attack south of Yemen, South Korean destroyer Munmu the Great from Combined Task Force 151 came to the rescue, joined by flagship USS Gettysburg and the force's commander, Turkish Rear Admiral Caner Bener, detaining 17 Somali suspects. Created by the U.S. Navy to confront piracy, the force has also included naval personnel from the United Kingdom, Denmark, Greece, Pakistan, and Singapore (McKeeby 2009).

5.2.2.2 Terrorist acts involving shipping, offshore installations and other maritime interests

Shipping, offshore installations and other maritime interests could be potential targets for terrorist attacks. Such attacks could have widespread effects and thus constitute a major threat to maritime security. According to the RAND Database of Worldwide Terrorism Incidents, the attacks related to the maritime domain represent only 2% of overall attacks perpetrated since 1972 (RAND 2012). Yet, maritime terrorism includes a variety of threats and complicated scenarios, which pose significant challenges to global security.

Significantly, through its former leader, Osama bin Laden, Al Qaeda declared its vision of creating, 'a greater state of Islam … established from the ocean to the ocean' (Rawley 2011:5). Its maritime 'strategy' included the ambition to have attacks against seaborne targets that would damage Western prestige and economy. Indeed, the terrorist attacks against the destroyer USS Cole[27] in 2000 (see Figure 8), and the French

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[27] Al Qaeda suicide bombers in a speedboat packed with explosives blew in the side of USS Cole, killing 17 sailors, in October 2000 in the Yemeni port of Aden

oil-tanker Limburg in 2004, both in Yemen, confirmed these plans and reminded policy makers and security officials that, besides land and air, terrorist organizations can also attack seaborne targets (Luft and Korin 2004:62).

Figure 8: Diagram of USS Cole Bombing (Reuters 2000)

Moreover, the terrorist attacks against Mumbai in 2008 (BBC News 2009b) - as shown in Figure 9 - demonstrated that the sea can also be used as the medium to launch well organised lethal attacks against targets ashore (Basrur et al. 2009). Maritime terrorism includes the proliferation of weapons of mass destruction (WMD), exploiting cargo ships and trade routes as the 'delivery system', or even using the ship itself as a WMD, following the paradigm of the 9/11 attack (Nincic 2005:624-631).

Numerous UN resolutions, as well as international conventions and protocols are in force, aimed at enhancing maritime security and countering the threat from terrorist acts. They also intend to ensure that appropriate action will be taken against persons committing unlawful acts against ships, including the seizure of ships by force, acts of violence

against persons on board ships, and the placing of devices on board a ship that are likely to destroy or damage it.

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Figure 9: Mumbai Terrorist Attack in 2008 (allvoices 2011)

Finally, although terrorism and piracy can be differentiated by their motivations and objectives (Power 2008:112-116), potential established links between terrorist organisations, organised crime networks and piracy groups, could result in catastrophic effects against regional and global security. Therefore, the relationship between terrorist groups and piracy (e.g. Al Shabaab and piracy groups in the case of Somalia), and the potential funding of the former through its taxation of the latter, is under the microscope of researchers and analysts (Shortland and Vothknecht 2010, Stevenson 2010, Lehr 2010).

5.2.2.3 Illicit trafficking of weapons, drugs and people

Illicit trafficking by sea of small arms and of biological, chemical or nuclear weapons constitutes one of the major threats to maritime security. The UN Security Council has recognized that the dissemination of illicit small arms and light weapons has hampered the peaceful settlement of disputes, at times fuelling such disputes into armed conflicts and contributing to the prolongation of armed conflicts. Moreover, the absence of common international standards on the import, export and transfer of

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conventional arms is a contributory factor to issues such as conflict, the displacement of people, crime and terrorism. In turn, these undermine peace, reconciliation, safety, security, stability and sustainable development (UNODC 2005). Illicit trafficking in small arms is regulated by a number of international instruments; however, there is currently no global small arms control instrument specifically regulating trafficking by sea. In respect of trafficking in biological, chemical or nuclear weapons, the Security Council with its Resolution 1540/2004 called upon states to,

> develop and maintain appropriate effective border controls and law enforcement efforts to detect, deter, prevent and combat the illicit trafficking and brokering of biological, chemical or nuclear weapons to non-State actors..., [as well as] ...to take cooperative action to prevent illicit trafficking of such weapons, their means of delivery and related materials.

Illicit traffic in narcotic drugs and psychotropic substances by sea is another threat to maritime security included in this category. Approximately 70 per cent of the total quantity of drugs seized is confiscated either during or after transportation by sea. Fishing vessels, pleasure craft, and container vessels are particularly favoured by syndicates as the medium for this transportation (UNODC 2007). Drugs are often concealed secretly among legitimate cargo consignments on container vessels without the involvement of the crew and fishing vessels provide both a means of transport and of offshore refuelling and provisioning. Drug cartels regularly alter transportation patterns and shipping routes in order to evade detection and respond to drug markets (UNODC 2006).

As Figure 10 indicates, organised crime has a globalised character and the already established routes are utilised for trafficking and smuggling of drugs, migrants, consumer goods, etc. These maritime routes are still essential to the continued intercontinental reach of the crimes.

Apart from assisting states in addressing practical problems, the United Nations Office on Drugs and Crime (UNODC) has fostered inter-agency

cooperation and information exchange in relation to illicit trafficking through its Container Control Programme,[28] while it also established information exchange channels to enable states to send and receive alerts concerning the movement of suspicious containers.[29]

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Figure 10: The Globalisation of Crime (UNODC 2010)

Significant numbers of people continue to enter countries every year without authorization, including smuggled migrants and victims of trafficking. The root causes stem from people's need for a secure environment and to flee from conflict, human rights violations, economic deprivation and destruction of their natural environment and resources. Clandestine and irregular migration usually entails considerable risks, such as from unseaworthy ships/craft, inhumane conditions on board, or from being abandoned at sea by smugglers. Amid concerns over the increase of the phenomenon, and the exploitation and abuse of migrants in these

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[28] That Programme focuses on assisting law enforcement agencies from developing countries in identifying high-risk freight containers and is currently being implemented in four pilot countries
[29] UNODC developed a project on law enforcement and intelligence cooperation against cocaine trafficking from Latin America to West Africa by improving interdiction capacity. For further details, see UNODC/HONLAC/2007/2, paragraphs 11 and 13

situations, the international community has recognised the need for urgent action at all levels to combat trafficking in persons and the smuggling of migrants. Destination countries are especially concerned about maintaining effective border and immigration controls and combating transnational organised crime.

The legal and policy framework applicable to international migration by sea is multifaceted and includes international human rights law, refugee law, the law applicable to transnational organised crime, as well as the law of the sea. The problem of clandestine maritime migration has led to increased cooperation between states, including African and European states. These have focused on the following:

(a) The control and surveillance of borders of destination countries and preventing clandestine journeys by sea;

(b) Strengthening the capacity of countries of origin to identify people in need of protection under international instruments;

(c) Managing migration through legal channels; and

(d) Addressing the root causes of migration.

Obviously, organised crime networks also exploit sea routes for their illicit activities. In a comprehensive study, UNODC examined and reported criminal activities in the fishing industry, including trafficking in persons, smuggling of migrants, illicit drug trafficking and environmental crimes (UNODC 2011).

A recent report also reveals the nexus between human traffickers/smugglers and pirate groups in Somalia, where the established network charges $100 per person to cross from Puntland to Yemen. The groups work hand-in-hand, using boats in common, depending on the assignment (Beerdhige 2012). Again, the interconnectedness of all maritime security dimensions and failures becomes obvious.

5.2.2.4 Illegal, unreported and unregulated (IUU) fishing

Food insecurity has been identified as one of the major threats to international peace and security (UN 2004). In the context of the fishing sector, overexploitation of fishery resources remains a major challenge to achieving sustainable fisheries, and thus contributes to food insecurity around the world. It is well recognised that one of the main causes of overfishing is IUU fishing. These fishing activities involve complex webs of actions and entities (Committee on Fisheries 2007), which have undermined international conservation and management efforts. They have also constrained progress in achieving food security and sustainable livelihoods for dependent populations, as well as poverty alleviation strategies for fishers and fishing communities, particularly in developing countries.

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Figure 11: Smuggling of Migrants (UNODC 2011:61,81)

IUU fishing activities have been reported in various regions of the world and take place both on the high seas and in areas under the national jurisdiction of coastal states. Some IUU fishing has also been associated with organised crime and other illicit activities, such as actions to avoid

detection, bribery and corruption, and the use of armed resistance to surveillance and enforcement operations. As indicated in Figure 11, 45% of the reports to the IMO by Greece, Italy and Turkey involve fishing vessels involved in the smuggling of migrants by sea.

One major factor that makes IUU fishing possible, and increasingly so, is the continued lack of effective control by states over fishing vessels flying their flag, while the increasing demand for fish and fish products fuel these activities even further. For coastal states - particularly developing states - the inability to exercise effective monitoring, control and surveillance of fishing activities in areas within their national jurisdiction creates an environment in which IUU fishing can flourish.

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Table 4: Fishing Vessels Registered to 10 FOC States[30] **in 2005, 2008, 2009 (EJF 2010: 20)**

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[30] The website 'International Ship Registries' lists 13 countries under the heading 'International ship registrations: Belize, Cambodia, Cyprus, Dominica, Honduras, Jamaica, Malta, Mongolia, Panama, St Vincent and the Grenadines, State of Delaware (USA), Vanuatu (see http://www.flagsofconvenience.com/) [accessed 10 March 2014].
The International Transports Federation's (ITF) Fair Practices Committee lists 27: Antigua and Barbuda, Aruba (Netherlands), Bahamas, Barbados, Belize, Bermuda (UK), Burma, Cambodia, Canary Islands (Spain), Cayman Islands (UK), Cook Islands (New Zealand), Cyprus, German International Ship Register (GIS), Gibraltar (UK), Honduras, Lebanon, Liberia, Luxembourg, Malta, Marshall Islands

The task of addressing IUU fishing becomes even more complicated due to the practice of numerous fishing vessels registering under Flags of Convenience (Or Open registries – see footnotes 18 and 29) as Table 4 illustrates. Thus, more effective flag states' and port states' control, as well as market-related measures, could significantly contribute to eliminating the phenomenon.

NGOs (such as Greenpeace, the Environmental Justice Foundation) have also identified the danger to the marine eco-system stemming from the IUU fishing and other destructive fishing practices. The European Parliament recognised the existence and severe implications of these practices, and that they also endanger regional and global food security, and called on member states to take imminent measures to deal with this. According to the 2011 European Parliament's Committee of Fisheries report, entitled 'Combating Illegal Fishing at the Global Level - the Role of the EU', IUU fishing (although impossible to be reported accurately) is estimated to account for between 11 and 26 million tonnes of fish per year. At its lowest limit, this is equivalent to 15% of annual marine catches (Lovin 2011:13-15). Accordingly, the Environmental Justice Foundation's action focusses on reporting the extensive IUU exploitation of West African fisheries by foreign perpetrators, especially off the coasts of Sierra Leone, Guinea, Guinea Bissau and Liberia (EJF 2012:6).

Many analysts also identify IUU fishing as the root cause of piracy in the Horn of Africa (Onuoha 2009:41, Kisiangani 2010:362). Foreign fleets that take advantage of the lack of governance ashore, are leveraged in illegal fishing up to and over exploitation levels[31] and also dumping of toxic waste in Somali territorial waters (Ama Osei-Tutu 2011). These dual iniquities illustrate how interrelated maritime security challenges are. The

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(USA), Mauritius, Netherlands Antilles, Panama, St. Vincent, Sri Lanka, Tuvalu, Vanuatu (see http://www.itfglobal.org/flags-convenience/index.cfm) [accessed 10 March 2014].

[31] "It is estimated that annually between $4-9billion is generated from this illegal activity with encroachment in Sub-Saharan Africa's waters amounting to about $1billion. With no effective authority over the territorial waters of Somalia, these fishing fleets have taken control of the 3,300km coastline available to Somalia and its abundant marine resources. It is estimated that annually about 700 international vessels illegally poach in Somali territorial waters exploiting species of high value such as deep-water shrimps, lobsters, tuna and sharks"(Ama Osei-Tutu 2011:10)

extent of their interaction and interconnectedness is reflected to a great extent in the following post on the US Department of State's official blog:

> Besides the illegal dumping of toxic waste products on Somali shores, much of the problems associated with the root causes of piracy could have been prevented had the international community addressed the illegal fishing in Somali waters by western companies that have taken an estimated $300 million a year from Somali fishermen, whereas pirating made the Somalis about $100 million … And those arguing for the Somali case do admit that there are pirates who are simply gangsters, particularly in West Africa, but piracy is not a new phenomenon. Somali pirates have been active since the early 90s, and it's pretty pathetic that the only time the international community will scream bloody murder is when piracy threatens trade in one of the busiest trade routes in the world, a route that is busier than the Suez and Panama canals combined.
>
> There's a reason why 70% of Somali citizens support these pirates: because they bring with them revenue to spend in Somali markets so that average Somalis are now making money too. No one cared when fisherman were losing their livelihood or when the Somali economy continued to spiral downwards forcing its citizens to live below subhuman conditions ... but now that Somalis are acting out we're going to label them as the bad guys because they're threatening our livelihood. Yes, it is politics, but it's in the interest of the international community to address the root cause of the problem in most cases: economic injustice caused by the backlash of globalization in these areas. I'm not against globalization in all its forms, but if there is not a more humane face to it, things will not improve (McKeeby 2009).

5.2.2.5 Marine pollution and natural disasters' management

Breaches of environmental laws and regulations can threaten maritime security in a variety of ways, including loss of marine habitats, loss of species and reduced fish catch, coral bleaching and decreased biodiversity. Through these, such breaches can directly impact the social and economic interests of coastal states. This can consequently lead to direct conflict, or exacerbate other causes of conflict, such as poverty, migration, infectious diseases, poor governance and declining economic productivity.

Not every breach leads to a threat to maritime security; however, intentional and unlawful damage to the marine environment can be on such a scale that it threatens the security of one or more states. The link between organised crime and pollution has also become increasingly evident, as shown by work undertaken by INTERPOL. Furthermore, the EU is investigating potential links between the South Italian mafia and Somali piracy, and specifically the possibility that the former provides small arms and the latter permits dumping of toxic waste (Rettman 2012).

The recent incidents of the oil spills in the Gulf of Mexico and the North Sea increased the awareness of governments, companies and environmental entities, since they caused unprecedented disasters to the marine ecosystem. Clearly, this also has serious consequences for development, tourism, food security and fishing opportunities. Moreover, the tsunami that hit Japan's coast in 2011, stressed the need for proper infrastructure and early warning mechanisms in order to cope with natural disasters and provide civil society with the required sense of 'freedom from fear'.

5.2.2.6 Port security

Significant among the difficulties in controlling all these maritime security challenges (international arms movements, drug trade, smuggling and trafficking of migrants, IUU fishing etc.) are the inadequate flag state and port state controls.

UNCLOS (Section 6, Article 217) requires flag states to assert effective control over ships flying their flag. In addition, its provisions regarding transit passage (Part III, Section 2, Articles 37-44), innocent passage (Part III, Section 3, articles 17-26), archipelagic sea lanes passage (Part IV, Article 53), and the contiguous zone (Part IV, Section 4, Article 33) are particularly relevant to preventing all kinds of illicit trafficking.

The monitored use of container ships in reported destabilising commodity transfers is indicative of the current port insecurity. The increase in this, as well as the increase of incidents overall is shown in Figure 12, below.

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Figure 12: The use of container ships in reported destabilising commodity transfers (Griffiths and Jenks 2012:36)

A precondition for the exploitation of sea routes by all legal and illegal actors is the existence and accessibility of port facilities. Hence, proper port controls, efficient port authorities and law enforcement agencies, could thwart all the criminal activities cited above as security challenges of the maritime domain ashore, even before sailing. This would simultaneously enhance the security of the maritime supply-chain and also of the hinterland (Banomyong 2005, Blümel et al. 2008). However, this process is further complicated by the trend towards privatising most major ports, which results in the privatisation of their security as well, thus reducing the state's jurisdiction and engagement as security provider.

It might sound like an oxymoron, but modern technological advancements could pose another risk to vessels, port facilities, infrastructure and security as a whole. The increasing dependence of maritime activity on information and communication technology (ICT) for a variety of essential

operations such as navigation, freight management, traffic control, creates various vulnerabilities in terms of cyber-crime. Thus, the task of enhancing their security against potential cyber-attacks becomes critical in ensuring security per se (ENISA 2011:3).

Besides the interconnectedness between all the maritime security challenges cited above, at this point we can also identify interactions between maritime and other forms of contemporary threats to global security. According to the 2011 Arctic Monitoring and Assessment Program (AMAP) report, sea level is projected to rise by 0.9 to 1.6 meters by 2100, almost five times more than measured in their previous one in 2007 (AMAP 2012:ix). Obviously, this long-term rise in sea level will affect livelihood and critical port infrastructure with catastrophic effects in littoral states' trade, economy and development (Barnett and Adger 2003:323). At the same time, this clearly demonstrates the vulnerability of the maritime sector from 'threats without an enemy', such as the environment per se (Barnett 2010:228-232).

5.3 Historical Overview of Piracy

5.3.1. Piracy as an ancient phenomenon

In the Western world, piracy was a constant feature of the political geography of ancient littoral communities along the Mediterranean coastline from 2,000 B.C, when the history of piracy began in the Minoan civilisation. During that era, the Minoan civilisation dominated the microcosm of the eastern Mediterranean and King Minos was the first to form a navy. The purpose of this was to defeat the piracy and plunder that was perpetrated by raiding communities along the Greek coastline, islands and on the island of Crete. The intention was also to assert control over the Aegean Sea so as to establish legitimate trade and settlements on the Aegean islands (De Souza 1999:17-25).

The Ancient Greek language contains two particularly relevant words that are related to the modern translation of pirates: *leistes* and *peirates*. The

former, found in Homer's works and in literature throughout the Greek Classical era, means "booty" or "plunder" and it came to describe what today we call the perpetrator of armed robbery. The latter term, *peirates,* also used during the same period, comes from the word *peira* meaning "trial" or "attempt". This was the antecedent of 'pirate' in English and eventually became distinguished from that of 'leistes' or 'bandit' by the pirates' use of ships to facilitate maritime armed robbery (Blumberg 2013).

During the 13th century BC, sea raids were recorded from the Aegean and Adriatic against the coastal communities of Asia Minor and Egypt, reaching up to the Nile Delta. Later on, the Phoenicians, who were based in the Levant, expanded their area of raids as far west as Spain. The fact that they also offered mercenary services to the Persian Empire in terms of contracted naval forces blurred the distinction between piracy and naval warfare for that era. It also represents the first known case of private contractors providing an armed service for a 'state's' armed forces (Kraska 2011:10-14).

Towards the end of the 8th century BC, Homer, in his famous epic poem *Odyssey*, describes Crete anew as a maritime piracy sanctuary, which was later fought by the great naval power of that era, the city-state of Athens. Later, Thucydides described the co-existence and blurred distinction between piracy and warfare during the major Peloponnesian War (431-404 BC). When the Kingdom of Macedon rose as a great power of that era, joint initiatives were undertaken with the city state of Athens, aiming at suppressing piracy and denying pirates access to their sanctuaries and safe havens (De Souza 1999:26-41).

During the late 4th and early 3rd centuries BC, Tyrrhenian pirates were considered as a major problem in *Magna Graecia*[32] and in parts of the Aegean. The references to the evidence are very diverse in terms of location and possible identity of the pirates, so a common origin to the

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[32] Latin term meaning 'Great Greece': group of ancient Greek cities along the coast of Southern Italy, an important centre of Greek civilisation and trade. See
http://www.britannica.com/EBchecked/topic/356847/Magna-Graecia [accessed 10 April 2014]

various groups cannot be ascribed with certainty. Hence, most likely this label applied to maritime armed robbers suspected to be from Italy, and this form of piracy manifested as a result of the increasing intensity of seafaring activity of that era. Again, some of the fundamental causal factors of the crime – maritime traffic density due to trade and military expeditions, political instability among Greeks or Italians - contributed to the existence and flourishing of piracy (De Souza 1999:50-53). Even in 3rd century BC, there is evidence that the release of pirates' prisoners after payment of ransom was a typical objective of pirates (De Souza 1999:65-69).

By the end of the 3rd century BC, the Roman Empire conducted a series of expeditions against pirates across the Dalmatian coast on the Adriatic (contemporary Croatian) coastline. Later, in 122BC they conquered the Balearic Islands (located in the West Mediterranean between Spain and Algeria) with the justification of piracy suppression. In 102BC, an expedition under the leadership of Markus Antonius resulted in the occupation of the Cilician territory. The Cilicians were among the most notorious pirates in Asia Minor (today's Turkey) in ancient times, plundering coastal communities and disrupting the trade lines from the Middle East. However, even at the time it was questioned whether the aim of Markus Antonius' expedition was to deny pirates a safe haven or if this was just a legitimisation for the further expansion of the empire.

Almost 30 years later, even the famous Julius Caesar's ship was attacked by pirates while en route to the island of Rhodes. It was held in captivity for 38 days until the requested ransom was paid. Later on, in 68BC, General Pompey launched one of Rome's greatest anti-piracy naval campaigns against Cilician pirates. Leading a fleet of 500 ships with 120,000 Roman troops on board, he covered all the Mediterranean starting from Gibraltar and sailing eastwards. In the last battle, close to their sanctuary (in modern Turkey), more than five hundred pirate ships were destroyed and 10,000 pirates were killed in battle or executed. This was the first time in history when the Mediterranean was clear of pirates (Kraska 2011:10-14).

Although there are limited available sources citing piracy after pirates' slaughter from Pompey, it seems that piracy was an issue in the Mediterranean, even until the late 1st century BC. Sources stressing the importance of Pompey's campaign success highlight also the implications of the removal of pirates from the sea and the restoration of food supplies to Rome. Yet, this attempt to downgrade pirate activity is ascribed to strengthening Pompey's profile for political reasons. Hence, underreporting is also evident in that era, again providing a false image of their status and activity in the region. Furthermore, the campaign to raise Pompey's profile, on top of the suppression of piracy, built on the legitimisation of Rome's control over Syria, Cilicia, Cyprus and Crete in terms of denying pirates their safe havens. This also proves that the naval projection of power and geopolitical interests were linked with the legitimisation of anti-piracy operations, even in the Graeco-Roman world (De Souza 1999:179-80).

Still, the suppression of pirates was a task for the standing armed forces the Roman Emperors to maintain. Although the navy's main task was to carry out maritime operations in wartime, they were supposed to take action and ensure the freedom of civilians and military personnel, protect coastal infrastructure and settlements and prevent navigation by hostile forces within the area of Roman influence. All these operations, other than traditional naval warfare, fall under the suppression of piracy activities (De Souza 1999:204-205).

During this late Roman period, the Vikings started their raids from Denmark, Norway and Sweden against coastal communities in England, Scotland, Ireland, France, and even Eastern and Southern Europe via the river-ways. This 'Viking Age' was characterised by both seaborne trade and plunder, since due to the tough Scandinavian climate the region was unable to support the expanding population. Hence, since it was easier and faster to travel by sea than by land, the Vikings were led to seek conquests, settlements and colonies abroad. By the end of the 9th century, large Scandinavian settlements in Britain and many British isles were

established, providing a vast income for the Vikings from tribute payments (Kraska 2011:14-16).

In the Middle Ages and the early modern period, the Ottoman Empire employed piracy at the strategic level, aiming at enriching the caliphate's treasury end expanding its conquests. To this end, they used their North African principalities as bases for employing maritime piracy as a method of warfare against the Christian kingdom of the West. Hence, Muslim Piracy expanded dramatically in the early 16th century, when Barbary corsairs, along with Islamic fleets from Turkey and Arabia, conducted a continuous campaign of terror and plunder against the European coasts until the 19th century.

Algiers, Tunis, Tripoli and Morocco, although they remained under Ottoman rule, exercised greater autonomy, due to their issuing permission for pirates to operate from their ports. The notorious Barbarossa brothers – Aruj and Khayr ad-Din - led the piracy campaign in the Mediterranean against South East Europe. They were born in Greece but converted to Islam and resettled in Tunis, where the governor offered them his protection in exchange for one-fifth of their booty. In 1518, their fleet was wrecked in Algiers by a force of 10,000 soldiers led by Charles V. Although Aruj was killed, his brother continued his raids until 1546, conducting numerous attacks against Christian communities in Spain, Italy and Greece. It is estimated that between 1580 and 1680, more than 850,000 Christians from the shores of Europe were enslaved by Barbary corsairs and forcibly carried back to North Africa. But Christian entities, such as the Knights of Saint John, were also enslaving Muslims and using them to row their galleys, and for construction labour or profit. Hence, the slave market in Malta was as active and busy as in Algiers and Constantinople, relating the concept of piracy of that era with that of 'faith slavery' (Kraska 2011:20-22).

Between 1650 and 1720, when English and French power displaced Spanish authority from the Caribbean, pirates who were not in the service of any state became very successful in the region. Operating from the

lawless British port of Port Royal in Jamaica and the French settlement in Tortuga, they targeted Spanish colonies and shipping in the Caribbean and Eastern Pacific. They sailed as far as West Africa and the Indian Ocean, demonstrating that no merchant vessel was safe from attack, regardless of their flag state (Kraska 2011:30-33).

During this era we also find the 'Privateers'. These were lawful pirates, authorised by their government to attack and pillage ships of enemy nations and share their profits with the government. Those privateers who operated from bases in the West Indies, and attacked Spanish shipping in the Caribbean are known as 'Buccaneers'. Between the 16th and 18th centuries governments issued 'letters of marque' which in reality were licences for privateers to plunder alien ships without danger of being charged with piracy, and consequently punished by the death penalty. Francis Drake was England's most famous privateer; in the 16th century he attacked Spanish treasure ships returning from the New World, sharing his profits with Elizabeth I, who knighted him for his services (Royal Navy 2002).

However, piracy declined throughout the 19th century. This was largely due to the activities of navy associations with the upgraded authorities that the 'Treaty of Westphalia' provided to states, as well as the technological advancements that converted modern ship's propulsion to steam instead of the wind. As a result, the combination of the Royal Navy's emergence as the guarantor of *Pax Brittanica,* as well as the advantages of its modern ships in terms of firepower, endurance and speed at sea, was able to enforce 'law and order' at sea, discouraging pirates from their activities – at least until the end of the Cold War and the emergence of 'globalisation' (Kraska 2011:30-33).

5.3.2 Piracy in Asia

Piracy was ever present throughout Asian history, where the Indian Ocean, South and East China Seas were high risk areas for both seafarers and coastal communities. In comparison with the Western form of piracy,

it was mostly associated with criminal gangs and illicit enterprises which resulted in the formation of huge secret societies.

The notorious Japanese pirates prevailed in the region from the 13th until late 16th century, and besides plundering of coastal towns they were also renowned for rape and murder. They usually emerged from the marginal, poverty stricken littoral communities of fishermen and sailors, who often rotated between seafaring and pirating as a survival strategy. Their primary targets were the Korean and Chinese coastal cities which suffered numerous attacks for centuries. Only in the late 14th – early 15th century, did massive Korean defensive attacks against Japanese pirates' safe havens limit the pirates' activities in the region. The largest one, known as the 'Oei Invasion', landed 17,000 Korean troops on Tsushima and destroyed hundreds of pirate ships, forcing them into peace negotiations.

Later, pirate groups consisted of both Chinese and Japanese due to the socio-demographic and economic conditions in China, as well as the evolution of piracy throughout the centuries. Hence, piracy in Asia reached its zenith in the 17th century when the labouring poor joined the marginalised sailors and fishermen. This, combined with imperial inattention and lack of resources, enabled piracy to flourish.

By the 19th century, Chinese pirate organisations became extremely powerful, to the extent of having a significant effect on black market trade for the Chinese economy. One of the largest and most notorious of such organisations, known as the 'Red Flag Fleet', was formed in 1804 by the joint efforts of Zheng Yi and his former prostitute wife Zheng Yi Sao. After her husband's death, she became one of the most powerful and famous female pirate-admirals leading a powerful coalition counting 17,000 followers and 1,500 ships (Kraska 2011:16-20).

Although there was a decline in the phenomenon for over a century following this coalition, after World War Two piracy resurfaced in South East Asia in the 1950s and 1960s, as colonial powers transferred governance to newly independent states. It remained small scale through

the 1970s and 1980s till, between 1990 and 1992, the Malacca and Singapore Straits developed into a "hot spot" of piracy. Consequently, anti-piracy patrols intensified and the International Maritime Bureau's Regional Piracy Reporting Centre was established in Kuala Lumpur. Most activity then shifted to the South China Sea, especially the "HLH Terror Triangle" between Hong Kong (China), Luzon (Philippines) and Hainan (China); albeit the pirate gangs involved there were not the same as those in the Malacca and Singapore Straits. After 1995, increased Chinese enforcement at sea and in the ports, resulted in the epicentre moving back to the Indonesian coast, particularly in the wake of the 1998 collapse of the Suharto regime. The 1997 Asian financial crisis coincided with increased frequency of attacks until, in 2000-2005, the region reached its peak as the global piracy "hot spot", with South East Asia accounting for over half the cases reported worldwide (242 out of 469 attacks) (Banlaoi 2011:25).

The numerous coasts of Southeast Asia fulfil all the identified criteria for the existence of piracy, with its mazes of islands, reefs, sandbars, narrow seas with heavy traffic and the fragility (environmental, state and economic) of both Indonesia and the Philippines. Smuggling of people and goods, as well as IUU overfishing, further exacerbates the situation, with an approximate cost of more than $4 billion to the Indonesian government. Resultantly, the corruption and drug trafficking associated with the Philippines meant the islands have emerged as another epicentre of modern piracy. However, under-reporting is another major problem in the region (out of 143 known cases of piracy in the Philippines during 1993, none was officially reported[33]), which, simultaneously, further demonstrates the interaction and interconnectedness of all maritime security challenges.

The situation in the Malacca Straits became even more complicated due to the widespread cultural acceptance and the regional scope of the

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[33] According to the Philippines' Navy and Coast Guard, 1,329 piracy incidents were recorded between 1993 and 2005

phenomenon. Pirates could easily cross boundaries[34] after their attack and dispose of their cargo in another state, while the men/women controlling the operation were maybe based in a third country. Yet, there has been a significant decline in piracy activity in recent years,[35] ascribed mostly to three factors: increased national and regional counter-piracy measures and cooperation with international encouragement and support (Murphy 2009:72-98);[36] the effects of the 2004 tsunami on the province of Aceh, which destroyed/severely damaged many pirate communities and resources; and the significant improvement of governance in Malaysia, both in terms of law enforcement and regional cooperation in countering piracy. Moreover, additional measures were applied by the littoral states in late 2005, such as joint regional naval patrols including airborne assets. These demonstrated the continuous efforts for the suppression of piracy in the region (Murphy and International Institute for Strategic Studies. 2007:25-28).

5.4 Conclusion

This chapter used an exploration of the concept of marine security and the historical dimensions of piracy to develop an analytical framework that facilitated the integration of maritime security into the contemporary paradigm of global security, thus fulfilling the second stated objective of the thesis (Section 1.1). The relevant issues were considered both from the traditional state-centric perspective and the UN human-centric approach. The chapter focused on contemporary piracy in particular as a diachronic maritime crime, and securitised contemporary threat (according to the securitisation approach discussed in Section 2.2.5).

As Till (2007b:32) states, "disorder at sea is most often the consequence of disorder on land and that, in consequence, naval activity conducted purely at sea usually deals with the symptoms of the problem rather than its causes". Despite this fact, situations will exist where the actions

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34 Some of the existing maritime boundaries in the region are still under dispute.
35 From 80 attacks recorded in 2000 in the Straits, only 19 were reported in 2005.
36 Many years of Japanese encouragement and the US led Regional Maritime Initiative in 2004, were the most important international acts of supressing piracy in the straits.

necessary to address root causes on land cannot be taken. In Somalia, although the initial cause of piracy was foreign exploitation of their marine resources, the on-going situation exists because of the lack of effective government throughout much of the country, limited alternative employment and lack of Western will to place military forces in the country because of previous experience.

Piracy is one of a range of threats both to maritime security and to security on land. Its impacts are political, social and economic, at all levels - local, national, regional and international. It therefore poses a security challenge to be addressed by a range of authorities concerned with upholding the rule of law, rather than just by armed forces. Moreover, it needs to be treated in conjunction with other threats such as arms smuggling and illegal fishing.

The above historical overview of the phenomenon demonstrates that piracy is diachronic and all its causal factors remain unchanged, yet updated given the advancements and developments in terms of economy, technology and organised crime. State fragility has always been a precondition in terms of providing a safe haven to pirate groups; and the busiest sea lanes and favourable geography has always provided a promising reward and risky but lucrative endeavour for seagoing outlaws. However, from a closer look at the lessons learned from suppression methods used throughout history, it is evident that they were effective at regional level only when measures were undertaken ashore. Definitely, the author does not recommend a massacre ashore or hanging of the perpetrators; yet, non-violent and long term strategies could eliminate at least one of the causal factors – such as state fragility and the consequent sanctuary provision and human insecurity. This will inevitably disrupt the structure of the networks, disable the continuity of pirate activities and minimise the social motivation for land-based desperate humans to become sea-going criminals.

Piracy not only poses a risk to maritime commerce and seafarers, and therefore to food and energy security, but also to the economic and

political stability of the countries and regions affected. The risks from piracy run through the global supply chain, the just-in-time nature of which can only absorb very limited disruption, and also extends into other contingent sectors, such as insurance. The causal factors of this maritime crime remain more or less the same throughout human history. However, the subject of our research – PMSCs - serve as a short term response to address the symptoms rather than the root causes, are best understood through the human security approach discussed in detail in Section 2.2.4.

Piracy will never be eradicated globally, especially in its subsistence form. Where it does occur, efforts should be made to reduce it to, and maintain it at or below an internationally agreed level of risk to the conduct of lawful activities on the seas. This equates to the approach taken to crime on land, where it is recognised that there are insufficient resources to eradicate crime completely, but sufficient resources are generally applied to reduce the risk to an acceptable level (Sloan and Griffiths 2012:4).

Chapter Six: Modern Piracy and Armed Robbery at Sea: The Somali Case

6.1 Introduction

Maritime piracy is an historic problem but, although it was in decline for almost two decades, it has resurged in recent years. The International Maritime Organisation recorded 5,667 piracy attacks against international shipping since 1984; in 2009 only, the 406 recorded reports of piracy and armed robbery at sea, accounting for an increase of 24.6% (106 more attacks) compared to 2008. Similarly, the International Maritime Bureau recorded 3,000 maritime piracy attacks worldwide – attempted and successful - for the period 2009-2010 (Kraska 2011:1)[37].

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Figure 13: Maritime Piracy & Trade   (Bowden and Basnet 2012:31)

Some 33,000 ships a year currently transport oil, gas, manufactured goods, raw materials and food through shipping lanes around Somalia. As Figure 13 demonstrates, millions of tons of seaborne trade depend on the

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[37] See http://www.icc-ccs.org/icc/imb

sea lanes and transit the region's choke points, which are increasingly affected by modern piracy. Reports reveal that modern pirates in the Gulf of Aden on the eastern Horn of Africa have captured more than 1,600 vessels in those waters in the last five years (Smallman 2011).

The above cost paid by the global economy and development is attributed to violent non-state actors who have developed methods and capabilities, leveraged to challenge this economic order. The root causes of their appearance stem from the lack of human security, ineffective social security and bad (or even complete absence of) governance in their homeland. Additionally, the reluctance of littoral states to occasionally exceed their jurisdiction in order to thwart piracy is a primary weakness.[38] Moreover, the absence of a legal system and infrastructure that will robustly support their potential effort and the existence of ungoverned areas inside their territories due to lack of effective law enforcement both conspire to enable the establishment of safe havens for such activities. Thus, perceiving contemporary piracy not as a popular lifestyle but as the means to survive, these states actually facilitate the disruption of the sea-based trade and supply chain by revealing their vulnerability to piracy and the other forms of maritime crime detailed in the previous chapter.

Figure 14 shows the three 'choke-points' of international shipping identified as the most risky in terms of incidence of pirate attacks. These lie in relation to reported incidents from 2006-2013 in the Malacca strait in South East Asia, the coast of Somalia/ Gulf of Aden and the coast of Nigeria/ Gulf of Guinea. All three of these are also directly related to energy security as the primary routes of oil tankers towards the energy dependent economies of Europe, India, China,[39] Japan and US. Inevitably, piracy also proves to be interconnected with food, energy and economic security.

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[38] States that have not ratified UNCLOS are not subject to the piracy related clauses & definition. Consequently they do not recognise/apply their universal jurisdiction to combat piracy in international waters, which is legal in typical terms. This also reflects their reluctance to intervene as well the inevitable convenience. Additionally, if an attack occurs in their territorial waters (i.e. armed robbery at sea) and they have no relevant laws to suppress it, there is no international jurisdiction to intervene.

[39] China is the world's second largest importer of crude oil, obtaining 46% of its imports from the Middle East and 32% from Africa; see Greenberg, E. L. (2010) 'Dragon Boats: Assessing China's Anti-Piracy Operations in the Gulf of Aden ', *Defense & Security Analysis,* 26(2).

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Figure 14: International shipping choke points and acts of piracy and armed robbery, 2006-2013 (Unitar 2013)

Building further on the previous chapter's established framework, and given that PMSCs are primarily used so far as anti-piracy measures against Somali piracy, Chapter Six focuses on this specific region which forms the focus of the case study of this research. It provides a detailed examination of the root causes and develops a typology of piracy, based on existing regional distinctions, that complements the typology of private security given in Section 2.4.3. The extracted conclusions essentially contribute to acquiring a deeper understanding of the situation and a holistic picture of the operational environment in which PMSCs have to be deployed.

6.2 Defining Piracy and Armed Robbery at Sea

Piracy is an ancient phenomenon, which is described by the international law as unique in jurisdictional terms. Since ships of all states are threatened, piracy is labelled as "*hostis humani generis*",[40] hence all nations are provided with the authority to assert jurisdiction over pirates, the right to self-defence, and also the obligation to suppress it. Things become complicated when the suspected pirate ship is of one flag-state and has to be stopped, checked or boarded at sea by a war ship of another flag state. Furthermore, we have to bear in mind that piracy is **not** an international crime such as genocide that can be prosecuted at the International Criminal Court at Le Hague. It is, rather, a "domestic or municipal crime of universal jurisdiction" which, according to international law, means that this jurisdiction can be enforced through domestic criminal law systems (Kraska 2011:106).

Finally, the third United Nations Conference on the Law of the Sea, which ended in 1982 in Montego Bay, led to the adoption of the 1982 United Nations Convention on the Law of the Sea (UNCLOS); yet, although 160 states were party to the convention, it remains, to a great extent, subject to ratification by many states (Geiss and Petrig 2011:37-41).

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[40] '*Hostis humani generis*' is the legal term meaning 'enemies of all mankind'

In the UNCLOS (Article 101, pp 60-61), piracy is defined as any of the following:

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

Accordingly, a pirate ship is defined as such, if

> it is intended by the persons in dominant control to be used for the purpose of committing one of the acts referred to in article 101. The same applies if the ship or aircraft has been used to commit any such act, so long as it remains under the control of the persons guilty of that act (UNCLOS, Article 103, p 61).

Although the term 'armed robbery at sea' has been used extensively in UN Security Council Resolutions,[41] the term does not even appear in the UNCLOS. The result is of course the existence of variable interpretations, resulting in significant ramifications and limitations.

In January 2009, the IMO convened a high level meeting between states from the Western Indian Ocean, the Red Sea and the Gulf of Aden, in order to establish a 'Code of Conduct for the Repression of Piracy and Armed Robbery' against ships in this specific region. The aim was to promote regional cooperation and enhance efficiency in preventing, interdicting and prosecuting perpetrators of the referred crimes. The

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[41] See UN Security Council Resolutions 1816, 1838, 1846, 1851, 1897, 1918, etc., all issued between 2008 and 2010 concerning the situation in Somalia

'Djibouti Code of Conduct'[42] – as named since its adoption - defines armed robbery at sea as any of the following:

> (a) unlawful act of violence or detention or any act of depredation, or threat thereof, other than an act of piracy, committed for private ends and directed against a ship or against persons or property on board such a ship, within a State's internal waters, archipelagic waters and territorial sea;
>
> (b) any act of inciting or of intentionally facilitating an act described in subparagraph (a).

> (Djibouti Code of Conduct 2009: Art 1 (2), p.8)

According to the above existing legal framework and by definition the only difference between the two forms of crime is that piracy can occur only in international waters, hence it is a crime of 'universal jurisdiction. On the other hand, armed robbery against ships can be identified as such only when committed in the internal waters or territorial sea of a State. Hereof, it is perceived as a primary responsibility for law enforcement of coastal states.

6.3 A Typology of Piracy

This section provides a discussion of the various forms contemporary piracy takes. After opening with an in depth look at the recent and current situation in Somalia, it then discusses the origins and causal factors before giving a comparative overview of different forms piracy takes around the world.

6.3.1. Piracy in Somalia

The roots of Somali piracy go hand in hand with the political instability and state failure experienced back in the late '90s when the civil war erupted. Siad Barre's regime was challenged by rebel groups, formed along clan lines, from all over the country, due to his many years of military campaigns, economic policies and clan-based discriminations. In response, in the early 1990s, a coalition of opposition groups descended on Mogadishu challenging Barre's authority and power. This coalition comprised the Somali National Movement, drawn from the Isaaq clans of

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[42] Available from http://www.imo.org/OurWork/Security/PIU/Pages/DCoC.aspx [last visited 18 June 2012]

Somaliland; the Darod-dominated Somali Salvation Democratic Front, operating from present day Puntland; and the Hawiye United Somali Congress (USC) based in the South. His defeat left Mogadishu in chaos and the USC's warlord Mohamed Aidid took over, triggering the US intervention, known worldwide as "Black Hawk Down". Due to the unexpected and unprecedented casualties for the US Marines, this operation was such a political embarrassment that the term the "Mogadishu Line" was coined reflecting the subsequent US official statement and the reluctance to intervene in countries where the US has no vital interests at stake[43]. Following this, Somalia remained a largely ungoverned state and the current situation is reflected to a great extent in Figure 15. Amid all the calamities and suffering that its population experienced ashore due to extreme human insecurity, piracy emerged along the coasts. As the central 'government' collapsed, its ability to control the territorial waters declined even more, and various groups of militia, fishermen and former soldiers took advantage of this.

Figure 15: Who Runs Somalia? (Chothia 2013)

Pirate attacks emerged all over the Somali coast, initially, as opportunistic, unsophisticated and sporadic forms of crime; gunmen using skiffs were attacking transiting vessels just a few kilometres from the coastline. Foreign fishing trawlers were their most popular target. These latter, which were often involved in illegal fishing, had to get closer to the coast in search of lobsters and bottom-dwelling fish. In the beginning this offered pirates the 'legitimisation' of protest against exploitation of Somali fisheries. The pirates boarded and stole money or other valuables that were easy to transport, or they 'arrested' the trawlers and crew for their

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[43] There were also thousands of Somali casualties but these did not appear to influence policy makers or the issues that led to the future reluctance to intervene.

illegal activities and extorted 'fines' for their release. In early 1991, the first violent attack occurred off the Puntland coast against the cargo ship 'Naviluk', where three seafarers from the Philippines were transferred ashore and executed. The rest of the crew jumped overboard to save their lives. In particular, in 1992, Boyah Garaad Mohammed, a pirate group leader from Eyl, Puntland, engaged his group in struggles with foreign fishing trawlers, claiming the protection of Somali waters against foreign exploitation as legitimatisation.

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Figure 16: Somali Pirate Attacks per Year & Hijackings per year (Source: Gomez & Navaro 2013: 225,229)

However, from 1994 onward, 'professional piracy' emerged, with the complete metamorphosis taking place in 2003 as a result of the 'vision' of a former civil servant from Harardheere, Mohamed Abdi Hassan[44].

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[44] Known as Afweyne (big mouth)

He formed an organisation which he named 'Somali Marines' and transformed the ports of Harardheere and Hobyo into the epicentres of the pirate world. Hassan had foreseen the business potential that piracy had to offer and, by raising money from willing investors, he recruited instructors, consultants, negotiators, financial operators, etc., launching well organised, sophisticated and military-style professional pirate operations. More groups followed this paradigm in the southern port of Kismaayo and elsewhere, testing and gradually developing the business model of Somali piracy (Bahadur 2011:26-31), resulting in the continuous increase in the number of attacks, as shown in Figure 16.

6.3.2. Root Causes and Causal Factors

The nature and objectives of piracy have not changed throughout the ages. The causal factors remain the same: the vast and lawless space of the sea; favourable geography; weak or compliant states that provide safe havens and sanctuaries; corrupted elites that can protect and get benefits from piracy; and economic disruptions that open markets for plundered goods. All can enable the promise of reward from the sale of these goods, or from seafarers and coastal communities unable to defend themselves due to their isolation and/or weakness. Looking back through history, the reasons and factors that drove Mediterranean, Chinese or Atlantic piracy have only minor differences compared to the contemporary forms.

In all forms, it depends on the states per se – both individually and collectively - to determine whether piracy will flourish or not (Murphy 2009:21). Legal and jurisdictional weaknesses are in favour of the pirates. The limitations and existing gaps in the UNCLOS's approach to piracy (as analysed in the 'Law of the Seas' session), as well as the state's sovereignty issues, pose significant obstacles in the law enforcement agencies' efforts to supress this high risk criminal activity.

Piracy is only sustainable in places that offer the combination of rewarding 'hunting grounds', moderate levels of risk and proximate safe havens;

these are the three criteria which define the favourable geography of piracy. As analysed above, from an historical perspective, piracy occurs close to coasts or in narrow seas (straits). It is clearly land-based, and concentrated in areas that fulfil the above criteria, such as the Caribbean, the Gulf of Aden (Somalia), the South China Sea, the Gulf of Bengal and the Gulf of Guinea (off Nigeria). In these areas, vessels are forced to move closer to the coast for both navigational and commercial reasons, offering the ideal prey for the pirates. Furthermore, they are more crowded, hence the resultant slower movement of the ships offers more targets that are easier to approach and board (Murphy 2009:29-30, Murphy and International Institute for Strategic Studies. 2007:14).

State fragility results in disorder and inefficient law enforcement agencies, especially when a country is recovering from conflict. Inadequate funding and training exacerbate the situation and allow safe havens to be available to pirates. The availability to pirates of technologically advanced boats (equipped with radars, communications, etc.), shore-based command and control facilities of analogous capabilities, and the personnel skills and loyalty to their occupation and duties, complete the puzzle of preconditions needed for sustainable piracy to exist. The above conditions contribute also to the cultural acceptability of the crime since it provides income in developing societies, especially in those that are marginalised, suffering from post-conflict ramifications, famine, violence, etc. The family or clan-based model is most common in these circumstances, since the combined insecurity in the political, communal and human environments offers many opportunities for trading partners, both in terms of goods plundered or ransom payment conduits.

The role of state fragility and effective governance has been officially recognised and the need to be addressed has been stressed by protagonists in the international community. From the US, Kelly states:

> The most durable long-term solution to piracy, the strategic solution, is the re-establishment of stability in Somalia. Once Somalia has a viable government capable of policing its own territory, piracy will fade away. We are encouraged that the end of Somalia's eight-year

political transition occurred in September, culminating in a new provisional constitution, parliament, and president. Supporting the emergence of more effective and responsible governance in Somalia will require continued, accountable assistance to build the new government's capacity to deal with the social, legal, economic, security, and operational challenges it faces. To that end, the United States continues to work with our international partners to build a durable and responsive central government in Mogadishu while also supporting other regional Somali authorities working toward these same goals, a "dual-track" policy we have pursued for the better part of two years now (Kelly 2012).

In a similar tone, the EU's statement at the UN Security Council stressed anew that the only 'exit strategy' is to enhance Somalia's governance and law enforcement infrastructure/capabilities:

Together with the political process, helping Somalis establish their own effective security forces is our best exit strategy. The EU is therefore training the National Security Forces of Somalia through its Training Mission in Uganda (EUTM). This mission includes education of trainers, who can then take over the training. To date, the EUTM has trained, together with partners, some 1,800 soldiers, specialists, trainers and junior leaders, who are now back in Mogadishu to form the core of Somalia's National Security Forces. We are currently training more trainers and officers to enable them to take command and control of the forces. The EU has also funded, through UNDP, the training and stipends of 7,000 Somali police forces.

Since poverty and unemployment are among the drivers of piracy, EU development aid programs in areas such as education and livelihoods address some root causes on land. The idea is to offer young Somalis an alternative to criminal activities, and to ease the pressure of unskilled youth from the most underdeveloped regions of the country.

Now is the time to redouble efforts to reach the ultimate goal: the transfer of political and security responsibilities to a Somali government with broad-based local support. We look forward to the UN and the AU exercising decisive leadership to promote peace in Somalia. The EU will contribute to attaining this goal with its comprehensive approach. At the same time, it is imperative that all Somali stakeholders, especially the Transitional Federal Institutions, act upon their promises to solve the tremendous political, economic and security challenges before them (Mayr-Harting 2012).

Finally, the promise of reward is more than a strong motive for the perpetrators. Even in cases of opportunistic theft of cash or valuable items from the crews (as occurs in the case of Malacca Straits), a share of

$1,000 for each member is a great incentive, given that the average income in those countries is around $150 per month. Furthermore, taking into account that the average ransom for hijacked ships in Somalia is more than $5 million, or an oil cargo theft in Nigeria can be resold or bartered, the piracy crime is a lucrative perspective for societies living in poverty (Mayr-Harting 2012:29-45; 13-18).

Piracy is primarily a threat to all seafarers transiting high risk areas. But in terms of human factors, local communities and villages around the pirate sanctuaries are also at risk, due to their coexistence with both perpetrators and 'officials' organising the crime. As a land-based activity its sustainability and ability to flourish depends on land-based support, infrastructure and freedom of movement. But another critical factor is the existence of corruption and links to organised crime networks. Being a branch of organised crime itself, it fulfils all the defined criteria established for labelling organised crime: organised to commit crime; links that enable the leaders to control it; use of violence, intimidation and corruption to earn profits or control territories or markets; the ability to launder its proceeds of illicit activities and the use of these to infiltrate the legitimate economy; its ability to expand into new activities and beyond its national borders; and its ability to cooperate with other organised crime groups.

Given their mobility and flexibility, it is difficult to discriminate a skiff with pirates from another with fishermen. And the same boat or group can usually also be involved in drug, weapon or human smuggling, without the need of reconfiguring the boat or their operational model. Furthermore, the interaction between organised crime and pirate groups is essential to the exchange of ransom money for equipment, weapons and fuel. By definition, the motive and objective for all of these is financial profit (Murphy 2009:162-170).

Potential links between piracy and terrorism have also been broadly discussed and analysed. Yet, there is no evidence that pirate groups cooperate with terrorist organisations or insurgent groups. Moreover, while the former have economic motivation, the latter aim at political

gains. There might however be an _indirect_ link between terrorism and organised piracy, in terms of exchanging money for other goods, but not for cooperating in joint ventures (Murphy 2009:159-161). On the contrary there are reports about clashes between them for access to air-drops of ransom money, rather than of sharing it.

6.3.3 Operational Models and Objectives

The analysis of current piracy practices highlights the fact that piracy, in all but its most basic, subsistence form, has a business model to support its activities. In general, business models are based upon financial incentives, and personal gain is certainly a key driver for outbreaks of piracy. However, it is also evident that, in piracy, the motives (e.g. poverty, political grievance, etc.), structures (i.e. small and loose rather than large and rigid organisational structures), forms of support (e.g. government, community, etc.) and tactics (e.g. the use of children) often differ from mainstream criminality. Therefore, when considering the piracy business/operational model, these other factors also need to be recognised, and may lead some to prefer to develop a hybrid form of model which take these into account.

Understanding this business model is therefore vital if operational responses are to be targeted in a way that will have most adverse impact on the pirates' ability to operate. However, the exact form of the business model in use depends on a variety of factors, and it will vary in exact form from region to region, and even within different parts of a country. Operational responses that are successful in working to break the business model in one area may therefore not work in another area if the business model operates in a different way.

Moreover, a specific business model must not constrain the sorts of approach that might be applied in the effort to counter it, since it must be recognised that different organisations responsible for planning and conducting operational responses will have a different perspective on the model. Pirates are also adaptive. As a result, applying pressure to the business model will cause the model to be adjusted, as can their own

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desire to increase their revenue. Consequently, agencies and organisations involved in countering piracy must be at least as adaptive if they are to be able to react to changes in a timely manner or, ideally, to pre-empt those changes.

6.3.3.1 Focusing on Somalia's model

The 'modern pirates' of Somalia are not interested in the ships or their cargoes per se, since the ports they use do not have port facilities where they could unload shipments. The lack of infrastructure for the transport and resale of plundered goods imposes another constraint as well as providing suitable conditions for the current piracy business model to thrive.

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Figure 17: Seafarers Attacked in 2010-2011 (Source: IMB 2012:6-7)

The issue that sets the Somali business model apart is the practice of demanding a ransom for the crew and vessel. This explains to a great extent the high number of seafarers being attacked by Somali pirates in 2010-11, as presented in Figure 17. Although this model does occur elsewhere, it is much less usual and such incidents are outnumbered by piracy for theft of material possessions, money, cargo or the vessel itself. Analysts argue that this is only possible in the Somali case because of the poor governance along much of Somalia's coast. This in turn provides

many options for safe havens in which to hold the captured vessels until they are released. It has also been suggested that this permissive environment exists because much of Somalia lies between a state of total anarchy and one of full and effective governance: there is sufficient stability to allow piracy and all of its supporting mechanisms to thrive, but not enough to provide a level of security that would prevent it. That is, the state has the infrastructure necessary to support the survival of a community but not to the extent that it is able to enforce internationally recognized laws (Sloan and Griffiths 2012:30).

Percy and Shortland's analysis (2011:13) supports this by suggesting that piracy benefits from sufficient stability to allow pirates to do business, since "pirates need an infrastructure and stable business environment: hostages need to be fed, to be provided with a certain level of care, and be under the pirates' control so that they can be ransomed". In most cases, this is achieved by keeping captives on board their hijacked vessels, but this could change (and already has on occasion) if pirate bases and anchorages come under increased pressure from security forces. In sum, the same authors state that Somalia "represents the perfect collision of means (extensive small arms), motive (poverty) and opportunity (lack of governmental authority and proximity to shipping) for effective pirate operations" (Percy and Shortland 2011:5).

As a result, Somali pirates currently only foresee gaining ransom for releasing captured vessels and (living) crews. The amount for this can range from $2 to $5 million per ship. Hence, there is no logical or practical reason for killing hostages. On the contrary, this action deprives them of the profit from pirating operations, which is their primary objective and motivation (Middleton 2008). The above assertions are further fostered by the fact that in many other cases (such as in Sri Lanka where poor fishermen boats were seized, or in Bangladesh where crewmembers were captured from poor states), the captured people were released since the options or financial capabilities for ransom payments did not exist (Pathirana 2011).

Pirate groups are mostly clan-oriented and their structure follows the military hierarchy standards. Each group is divided in subgroups with an 'operational leader' for each one. Their operational capabilities were dramatically expanded by the use of 'mother ships', in terms of operating in rough seas during the monsoons' period, as well as the expansion of their operations' area. The expansion over the time period 2005 - 2011 is clearly presented in Figure 18.

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Figure 18: Expansion of Pirate Attacks 2005-2011 (IntLawGrrls 2011)

The use of mother ships enables skiffs to be loaded on board bigger fishing vessels with greater autonomy. Through this practice, attacking vessels transiting at greater distances from the Somali coast became feasible, thus offering many more potential targets. When these ships were registered as 'wanted' by the multinational forces operating in the area, hijacked ships were used as mother ships, so approaching targeted ships did not raise awareness or suspicions.

Financiers are responsible for funding the whole operation, including recruitment, investment in weapons, equipment, supplies and deposits for the pirates' families before leaving for operations at sea. Better educated group members are assigned with logistics' issues, such as responsibility for fuel supplies, vehicles and weapons through the established networks in the region. Those who are multi-lingual were assigned as negotiators; they are the only ones in contact with the shipping companies managing the hijacked ship. They negotiate the required ransom throughout the whole captivity period, the frequency and permission for the captured crew's communication with their families and the company to ensure that they are known to be safe. At the final stage, they also negotiate the ransom air drop.

Ransom is always delivered by air drops. Picture 3, below, shows this operation in the 2008 case of the Saudi-owned super tanker 'Sirius Star'.[45] Foreign companies based in the neighbouring Djibouti are contracted for this purpose. After the ransom is agreed by both sides, the money transfer through bank(s) account(s) is finalised and a small plane departed from the adjacent country.

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Picture 3: Ransom drop (Bowden and Basnet 2012:13)

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[45] The Liberian-flagged tanker, owned by the Saudi Arabian based Saudi Aramco, and operated by Vela International was attacked more than 450 nautical miles off the African coast on November 15, 2008. The crew of 25 Croatian, British, Philippine, Polish, and Saudi Arabian seafarers were held hostage.

After locating the ship in her exact position, it takes an aerial picture of the crew, which is gathered on the main deck, so that the shipping company can confirm that they were all safe and then authorise the 'payment'.

After the plane delivers the ransom by airdrop to the ship (she could be either at anchor or underway), the heads of the pirate group count the money and if everything is according to the agreement, the ship is released. It is in the pirates' 'code of honour' that the same ship is never attacked and hijacked twice. The final stage includes the ransom sharing. Part of this goes to the local community, through local elders, negotiators, logistics' 'managers', and the pirates take their share accordingly. However, the lion's share is siphoned to the major leaders of the group(s).

This model led the EU to make the following statement:

> Efforts need to continue to pursue piracy network leaders, financiers and instigators and to tracking and disrupting financial flows. Their "risk/reward" ratio needs to increase, and the underlying business model needs to be broken. - The EU is actively supporting Interpol in its work to improve the evidence base and capacities of countries in the region to investigate crimes of piracy ... EU Member States, supported by EUROPOL, are also active in investigations and prosecution efforts" (Vrailas 2012).

6.3.3.2 West Africa

In the Gulf of Guinea, and especially off Nigeria, the situation is different; militancy and organised crime, including piracy and armed robbery, are long established facts of daily life across the region. The Niger Delta in particular, has a long history of politically and economically motivated militancy and violence on its waterways. This has been largely targeted at the oil industry, and oil theft (bunkering) is estimated to have cost Nigeria approximately US$90-100 billion between 2003 and 2008 (Coventry Cathedral 2009:193) and US$7Bn in 2011 (Alohan 2011).[46]

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[46] A comprehensive overview of bunkering within the Niger Delta is available in the United Nations Office on Drugs and Crime's report (2009), Transnational Trafficking and the Rule of Law in West Africa - A Threat Assessment, pp. 20-26.

For almost three and a half decades following the end of the Biafran War, the Nigerian coast was the hot spot of piracy in Africa. There were several reasons for this dubious distinction. First, Nigeria was the most developed country in sub-Saharan Africa. Its economic base, spurred by agricultural expansion and crude-oil exploration, propelled it into prosperity. This economic expansion opened up new trade avenues with the rest of the world. At the same time, Nigeria's navigable waters and extensive coastline made maritime trade possible with other countries, particularly those in Europe. Moreover, the increasing economic expansion and trading possibilities were coupled with a rapidly increasing population. Nigeria's population grew from 55 million in 1963 to 82 million in the early 1980s and in 2009 it was more than 150 million.

Picture 4: Niger Delta & Piracy (Spiegel 2010)

However, the economic expansion that the country experienced did not keep up with the geographic demographic expansion. Wealth was concentrated in a few hands while poverty became more pervasive and the booming maritime trade became a casualty to those trying to alleviate poverty by illicit means. Poverty-stricken populations embraced the quick finance provided by the activities of criminal cartels as the only viable option to alleviate their situation (Anyu and Moki 2009:97-8).

Attacks are usually perpetrated by heavily-armed pirates in coastal waters and rivers (as shown in Picture 4) against vessels associated with the offshore oil and gas industry. The 'revenue' from their activities is also used for financing organised crime activities and they are much more violent than on the Somali coast. Loss of life and crew members' kidnapping for ransom is frequent, while the ships themselves are not usually hijacked (Bateman 2010:16).

The attacks off Nigeria, and Benin in particular, have included hijackings of tankers and offshore installations in order to offload the oil and product cargoes for subsequent disposal on the black market (Smith 2011). In an official statement to the UN Security Council, the EU stated:

> Although there are differences in methodology - pirates in the Gulf of Guinea focus more on cargo than hostage taking - the destabilizing and detrimental effects on the fishery, trade and development of the local population are similar. Through the Critical Maritime Routes programme, the EU is supporting countries in the Gulf of Guinea to establish regional maritime security mechanisms, share information and coordinate law enforcement" (Vrailas 2012).

Figure 19, below, demonstrates the ten-year correlation between violence in the Niger Delta primary oil infrastructure, pirate attacks and Nigeria's oil production; findings suggest that onshore violence is inversely related to the oil production, while pirate attacks appear to mirror onshore disorder and demonstrate an inverse relationship to production rates. But pirate activity is not restricted to the Delta region. It is increasingly a feature of territorial waters and beyond, where experience gained in the Delta region is used to seize relatively lootable offshore ships and installations in order to steal or ransom their cargoes.

Figure 19: Nexus between Niger Delta violence, pirate attacks and oil production (Abell, 2013)

Off Lagos and South-West Nigeria, piracy has traditionally been of a subsistence (rural pirate) character, with relatively small groups preying on ships as they approach Lagos port. More recently, it appears that these groups have become increasingly organised and more violent, to some extent copying the tactics of Niger Delta piracy (Hansen T. H and Stephen, D. 2011), as well as continuing existing practices. Some analysts believe that the amnesty deal that was offered in the Niger Delta in 2009 actually drove the militants and gangsters offshore in pursuit of seaborne business opportunities. However, it is of note that the number of piracy incidents reported off Nigeria dropped by just over 25% in the year that the amnesty for militants was declared, although part of this reduction may have been the result of local elections, many of the root causes of piracy in this area being political.

The co-coordination of attacks with the subsequent offloading of cargo and its resale on the commercial market indicates a high degree of organisation and enabling corruption, and that practices have been exported from the many years of similar activity within the Niger Delta

area. This illustrates the ability of pirates to adopt practices from other forms of organised crime or terrorism/insurgency, and to use the same infrastructure. The practice of using mother ships to support pirate operations is a further example of pirates' adaptability. It is apparent that, as vessels have moved away from the piracy hotspots off the coast of Lagos to conduct ship-to-ship transfer operations elsewhere, the pirates have followed further offshore where the practice of waiting in the region while awaiting orders, increases the time in which vessels are at risk. The pirate groups also moved along the coast to neighbouring Benin, particularly off the port of Cotonou (UK P&I Club 2011) and Togo.

Reports suggest that the increased number of attacks off Benin and Togo in 2011 may have been the result of activities by organised gangs in Nigeria that have been forced to look for targets elsewhere because of increased Nigerian counter-piracy patrols and activity. The dominance of oil-product related attacks off West Africa indicates that the current business model is focused mainly on the capture, trans-shipment and subsequent resale of such products on the commercial market. Figures 20 and 21 below, present the number of pirate attacks by location from 2007 - 2012, according to UNODC statistics. The two diagrams show clearly that Nigeria has the highest number of attacks with 204 incidents reported and recorded.

Consequently, piracy and armed robbery in the region increasingly attracts international attention, since 2012 marked the first time that the reported number of ships and seafarers attacked overtook that in the Western Indian Ocean. Hence, Lloyd's further extended the West African high risk area in Nigeria's and Benin's exclusive economic zones (EEZs), Togo's EEZ has been added too. Moreover, the IMB warns that on top of those already mentioned, Cote d'Ivoire broadens the list of piracy and armed robbery prone areas in the Gulf of Guinea (Oceans Beyond Piracy 2013:12-13).

Figure 20: W. Africa Piracy Attacks by location (UNODC 2013:47)

Figure 21: W. Africa Piracy Attacks by location (UNODC 2013:47)

Nevertheless, there are also instances of other types of vessels being attacked, and of crews being held for ransom. The latter practice could be the result of pirates learning from the Somali business model, although such tactics have also been a feature of attacks by insurgents in the Niger Delta, so they could equally well be an extension of that business model.

6.3.3.3 South East Asia

A striking feature of contemporary piracy in South East Asia, as also seen in the Indian Ocean and the Gulf of Guinea, is the migration of "hot spots", with changing circumstances.

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Figure 22: SE Asia Piracy (BBC 2002)

Approximately 50,000 ships, carrying one-third of the globe's trade, annually transit the Malacca straits. Pirates in the area sometimes wear military uniforms to appear to be legitimate maritime security forces. After stripping fishing vessels of their equipment, typically pirates demand 'protection money' that varies from $3000 to more than $12,000. These criminal acts are unfolding in one of the world's busiest waterways, , as illustrated in Figure 21, making effective patrolling especially challenging (Wilson 2009:493).

Piracy in South-East Asia occurs mainly against ships at anchor or in ports of Indonesia, the Philippines and Viet Nam and is a form of opportunistic theft. A second type of piracy occurs in the Straits of Malacca and Singapore when ships are underway; armed pirates board vessels to steal cash and valuables, but they rarely use violence. The last type of piracy in the region is the theft or hijacking of an entire ship, aiming to turn it into

a "Phantom ship".[47] Commercial vessels targeted in South East Asia currently include a full range of vessel types, although there is a focus on vulnerable tugs, small tankers and other small craft. Most attacks occur to the east and south of the Malacca and Singapore Straits (ReCAAP 2011) outside the area on which maritime patrol activity concentrates.

The perpetrators of marine piracy in South East Asia (and beyond) can be distinguished between two broad types: local opportunists and organised criminals. As Liss (2011:40-1) suggests, the "vast majority of pirate attacks today are simply hit-and-run robberies committed by what can best be described as sea robbers, [while the] second group of pirates are characterized by a much higher level of sophistication". Localized piracy is usually, but not always, opportunistic and community-based, and is analogous to municipal petty crime and street gangs that operate without any notable supporting organisation. Organised piracy, on the other hand, is usually, but not always, transnational and analogous to large biker gangs, Mafiosi and other criminal syndicates. Even though the eventual choice of the specific target may be opportunistic, in this form the activity relies on a well-founded support structure that forms part of the business model. If the conditions allow, opportunist pirates may evolve to become organised, but in both cases there must be an enabling cultural and social environment that permits criminal groups or sub-cultures to flourish. Piracy is, after all, a group activity. Frécon (2011:384) suggested the evocative terms for piracy in South East Asia: 'countryside pirate' and 'town pirate'. The countryside pirates are normally born in the area in which they operate, and are less demanding than the town pirate. In contrast, the town pirates have generally migrated to the area in which they operate, and are braver and less scared by counter-piracy patrols.

In the first quarter of 2011, nine incidents were reported off Malaysia (where vessels were boarded in seven incidents by robbers armed with guns and knives), which is in sharp contrast to the 38 attacks recorded for

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[47] Ships were hijacked with the objective of giving them a false identity and fraudulent registration documents. Measures taken such as the International Ship and Port Facility Security Code reduced the phenomenon, but smaller ships which do not have to meet these requirements are still occasionally hijacked in the region. See Bateman (2010:15-16).

2004. This is despite a series of proactive counter-piracy measures that the littoral states of the Straits — Indonesia, Malaysia and Singapore — undertaken since 2004. These included surveillance and reconnaissance of the Straits through coordinated sea and air patrols; intelligence sharing and security enhancement; and the engagement of the US with the Regional Maritime Security Initiative (RMSI). Under this latter initiative, the US deployed Marines and Special Forces with high-speed boats to combat terrorism, piracy, gun-running and drug smuggling (Sakhuja 2010:5).

6.4 The Counter-Piracy Response

> [W]e may be dealing with a 17th century crime, but we need to bring 21st century solutions to bear … The solution to Somali piracy includes improved Somali capacity to police their own territory. Our envoy will work with other partners to help the Somalis assist us in cracking down on pirate bases and in decreasing incentives for young Somali men to engage in piracy ... I've tasked a diplomatic team to engage with Somali Government officials from the Transitional Federal Government as well as regional leaders in Puntland. We will press these leaders to take action against pirates operating from bases within their territories (Clinton 2009).

With these words, Hillary Clinton, US Secretary of State at that time stated the intentions of her government's approach and counter-piracy initiatives. However, as the following sections demonstrate, military response is clearly not a panacea for suppressing piracy. Quoting Major General Howes, the Operation Commander of the European Union Naval Force Somalia, the naval operations "… are treating the symptom only. We are containing a problem that emanates directly as a consequence of instability in Somalia, so the only way this is going to be resolved is over a long period of time with a comprehensive approach that reduces the insecurity in that country" (The Foreign Affairs Commitee 2012:62).

6.4.1 Regional Organisations' and States' Level

Throughout the timeframe of this research, 2005-2013, international attention and efforts have been focused on the Horn of Africa. A multinational flotilla has been deployed in the region, assigned to counter

modern piracy and secure the sea-trade lanes by providing escort to merchant vessel convoys transiting the high risk area, as illustrated in Picture 5. However, in terms of a realist approach to security (as discussed in detail in Section 2.2.1) this can also be seen as an opportunity that provides justification for naval expansion, projection of national power and promotion of national interests abroad - in accordance with the Mahanian theory[48] referring to the use of naval forces (Chapsos 2013a:2-3). Moreover, it presents a

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Picture 5: Warship Escorts Released Vessel (gCaptain 2011)

unique opportunity for promoting naval diplomacy, through cooperation with non-allied partners in ad hoc coalitions for suppressing piracy; and for demonstrating the humanitarian dimension of international maritime assistance by escorting ships of the UN sponsored 'World Food Programme' (WFP)[49].

At the level of international/regional organisations, and in addition to various individual states' naval presence in the Gulf of Aden and the Indian Ocean, three different naval task forces/operations are currently active in the area, assigned to suppress Somali piracy, as shown in Table 5, below. The Combined Task Force 151[50] along with the 5th Fleet based in Bahrain, is the major US-led multinational maritime force, assigned to counter violent extremism and terrorist activities in the Arabian Gulf and Arabian Sea. Numerous nations contribute assets and advisors[51] to the

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[48] Alfred Thayer Mahan (1840-1914), defined the three pillars of 'sea dominance' to be overseas commerce, naval and merchant fleets, and naval bases arrayed along the sea lanes to support the ships having the advantage of 'global reach'. This way the navy should protect the state's trade, which will in return offer part of the profits to support the navy, following the paradigm of Ancient Athens

[49] See World Food Programme, available from http://www.wfp.org/
[50] The CTF 151 Commander –a three star US Admiral - actually controls three different international combined task forces - 150,151 and 152 - which are assigned to deter maritime terrorism and enhance 'good order at sea' in the Gulf of Aden and the Somali Basin.
[51] Besides the USA, contributing nations include Australia, Bahrain, Belgium, Canada, Denmark, France, Germany, Greece, Italy, Japan, Kuwait, the Netherlands, New Zealand, Pakistan, Portugal,

Combined Maritime Forces to fulfil the difficult task of patrolling more than 2.5 million square miles of ocean; including the Gulf of Oman, the western Indian Ocean, the Arabian Sea, the Red Sea and the Arabian Gulf.

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Table 5: Naval Anti-Piracy Operations & Costs (Source: Bowden and Basnet 2012)

It is noteworthy that the above vast area of operations includes the Suez Canal, the Strait of Bab el Mandeb, the Gulf of Aden and the straits of Hormuz, all of which are choke points of strategic importance (Kraska 2011:92-97).

In December 2008, the European Union launched its first ever naval operation within the framework of its Common Security and Defence Policy (CSDP): a counter-piracy mission named 'Operation Atalanta',[52] under the UN Security Council Resolution 1846. Its mission is to provide protection to WFP ships delivering humanitarian aid to Somalia and conduct anti-piracy operations along its coastline and territorial waters. Besides prevention, this included boarding of suspected vessels, detention of suspected pirates and use of lethal force if necessary. The annual cost

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Singapore, South Korea, Spain, Turkey, United Kingdom and the United Arab Emirates. Jordan, Qatar and Yemen are non-members, contributing only staff-members.
[52] See EUNAVFOR Somalia, available from http://www.eunavfor.eu/

of this operation counts approximately €10 million annually, and includes deployment of both surveillance aircrafts and naval assets.[53]

In March 2012, the Council of the European Union expanded the mandate, by extending the area of operations to include the Somali coastline.[54] Furthermore, again in the framework of CSDP, in December 2011 the European Council approved the concept and in July 2012 it launched the training 'Operation Nestor', aiming at strengthening the maritime capacities of eight countries in the Horn of Africa and the Western Indian Ocean.[55] In reference to the launch of this operation, the EU stated in the UN Security Council:

> The EU has launched EUCAP Nestor, a new regional maritime capacity building mission which aims to strengthen the capacity of States in Somalia and the Indian Ocean to govern their territorial waters effectively and to reinforce their ability to fight maritime crime. The mission complements other programmes in the region.
> We fully agree with the Secretary General's observations, and see the need to increase support to programmes and initiatives that will limit the ability of groups of pirates to operate from land, while maintaining the pressure at sea. Key to this will be the ability of the Somali Government to regain control of its territory, to which the EU is contributing in a variety of ways, including by providing training to the Somali defence forces (Vrailas 2012).

Before this, in September 2009, the North Atlantic Treaty Organisation (NATO) had launched the 'Operation Ocean Shield' to combat piracy in the Horn of Africa (NATO 2009). Besides naval operations, the mission includes capacity building initiatives for regional developing states, while it can also be perceived as collateral to the Mediterranean's anti-terrorism operation 'Active Endeavour' (NATO 2013).

At states' level, the US aims at a thousand-ship navy, while in its Maritime Strategic Concept it explicitly stresses the need for establishing a

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[53] Belgium, UK, France, Germany, Greece, Italy, Luxemburg, Portugal, Spain, the Netherlands and Sweden are contributing nations to the operation. War ships from non EU member states of Norway, Croatia, Montenegro and Ukraine have also participated in the mission.
[54] See http://www.eunavfor.eu/2012/03/eu-extends-counter-piracy-mission-off-coast-of-somalia/ [accessed 31 July 2012]
[55] See http://www.consilium.europa.eu/eeas/security-defence/eu-operations/eucap-nestor [accessed 31 July 2012]

persistent global presence whose distribution must extend beyond traditional deployment areas (USA 2007:10). According to the same maritime strategy doctrine, credible combat power will be continuously postured in the Arabian Gulf and the Indian Ocean to protect vital US interests and deter and dissuade potential adversaries and competitors. This combat power will be selectively and rapidly repositioned to fulfil the strategic imperatives of limiting regional conflict, deterring war between major powers and winning the nation's wars.

It is also indicative that during President George Bush's visit to India in 2006, Washington and New Delhi developed a new agreement that was designed to promote maritime security cooperation and coordination. Facing an unpredictable China in the East and troubled by instability in Pakistan and their own reliance on oceanic trade routes for economic security, the world's two largest democracies are natural maritime allies. The agreement affirmed the commitment of the two states to address piracy and armed robbery at sea. The accord called for the two states to conduct bilateral maritime exercises, cooperate in search and rescue operations at sea, exchange information and enhance cooperative capabilities. In October 2008, 8,500 naval personnel from India and the United States participated in 'Malabar', a week-long naval exercise in the Arabian Gulf. The exercise was designed to help both naval forces better understand each other's tactics, techniques and procedures, thereby promoting inter-operability (Wilson 2009:495).

Meanwhile, China boosted the modernisation of its navy for 'long-range' missions (Till 2007a:575). The promotion of its energy-related national strategic interests in the Indian Ocean and its establishment of remote naval bases by implementing a 'sea-denial strategy'[56], created a new rivalry in the region, which inevitably engaged the emerging and ambitious India, and vice-versa (Holmes and Yoshihara 2008:368-373, Kraska 2009:15).

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[56] The term refers to a strategy applied from a state, similar to Mahan's theory; when a state prevails in a specific region, with major naval bases and continuous presence, it denies other states' dominance in the same ocean

Furthermore, China deployed three modern vessels on an anti-piracy mission (first deployment in December 2008), which constitutes its first 'long range' mission since the 15th century (Ong-Webb 2011, Greenberg 2010). Simultaneously, it considered the establishment of a permanent base in the Gulf of Aden (most likely in Yemen) (BBC News 2009a) with the justification of supporting its anti-piracy operations. In the framework of 'naval diplomacy', the Chinese frigate 'Maanshan', carrying a team of Special Forces troops, successfully completed her first escort of MV Amina (21 March 2011), carrying WFP aid along the lawless coast of Somalia. Since then, it is estimated that Chinese ships has escorted approximately 3,968 merchant ships through the Gulf of Aden (as of July 2012) (Safety4Sea 2012), and rescued 40 ships from pirate attacks (Lowe 2011a). More such escorts are expected as European Union naval forces are overly stretched.[57]

Russia, a potential strategic rival of China in the Indian Ocean, offered to help soon after the Chinese escort voyage, and completed a similar WFP escort in the middle of 2010.[58] Moreover in July 2012, the Chief of the Russian Navy confirmed that talks and negotiations were in progress with Cuba, Vietnam and Seychelles, about setting up maintenance and supply facilities for hosting Russian war ships abroad – in addition to those already existing in Tartus, Syria. A strategy that stresses the sustained and growing interest of naval diplomacy for this energy rich country (The Guardian 2012).

The Indian Navy has sustained anti-piracy operations in the Gulf of Aden since October 2008 (MSR 2011b). Especially so after Lloyd's, the London based world leading ship insurance market, included the west coast of India in the 'war risky' areas (MSR 2011c)[59] - due to the numerous incidents in its proximity (as indicated for 2011 in Figure 22) - and India launched a remarkable offensive against pirates, recording many successful operations. But even India's aggressive policy ended. The government has affected a policy shift in its anti-piracy operations, asking

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[57] NATO Daily News Summary, as of Thursday 31 March 2011
[58] Ibid
[59] Areas that entail 'Hull War, Strikes, Terrorism and Related Perils' (MSR 2011c)

Figure 23: Piracy near India (Bowden and Basnet 2012:34)

the Navy not to arrest any more pirates, and also not to bring them to India's mainland, fearing that its aggressive operations is having a negative impact (MSR 2011a).

It is also notable that India, China and Japan recently agreed to coordinate their ships' escorts in the high-risk area of the Gulf of Aden (Lowe 2012). So while the USA, India, China, Japan and Iran share intelligence and collaborate in counter-piracy operations there are issues resulting from their having few diplomatic bonds. As Richard Shaw, of Southampton University's Institute of Maritime Law notes, many analysts fear that this may lead to a battle for naval supremacy in the region (Lowe 2011b).

Despite there having been an international naval presence in the region for more than two years, piracy in the Horn of Africa reached its zenith point in 2010, with 174 attacks in total of which 47 were successful and resulted in vessel hijackings. As Kelly explains:

> On any given day, up to 30 vessels from as many as 22 nations are engaged in counter-piracy operations in the region. This includes countries that are relatively new to this kind of effort, like China and Japan ... We have worked together to create safer shipping lanes through the Gulf of Aden for commercial shipping vessels by establishing the Internationally Recommended Transit Corridor or IRTC. This transit zone is heavily patrolled by naval forces and used by some countries for convoy operations … Pirates adapted to these efforts. The expanded use of mother-ships enabled pirates to expand their area of operations toward the west coast of India. Mother-ships have also made pirates more difficult to interdict and more effective at operating during the monsoon seasons. Somali pirates now operate in a total sea space of approximately 2.5 million square nautical miles – an area equivalent to the size of the continental United States. This makes it difficult for naval or law enforcement ships and other assets to reach the scene of a pirate attack quickly enough to disrupt an ongoing attack. There is just too much water to patrol. Naval patrols are a required component of an effective

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counter-piracy strategy but will not succeed alone. Military power, while necessary, is not sufficient. (Kelly 2012)

Hence, the naval presence in the region was mostly focused on geopolitical rivalries and concerns rather than suppressing piracy in the region. For instance, the competition between China and India that prevails in the Indian Ocean and the strategic deployment of the Western states' navies in proximity to the straits of Hormuz due to the disputes with Iran. But beyond the profound inefficiency of the applied measures, the lack of governance in Somalia, the weakness of the Somali security sector and the inability to prosecute and imprison the arrested pirates, resulted in the international naval forces operating a 'catch-and-release' strategy. According to this, most suspected pirates captured by international warships are released because other nations do not want to jail them, and most Somali prisons and courts are not up to international standards (Kontorovich 2010, Roach 2010, Chang 2010).

It is extremely interesting and revealing to look at practitioners' experience in relation to this issue, as reported officially in the House of Commons in the UK. Captain Reindorp RN, Head of Defence Crisis Management Centre at the UK Ministry of Defence, described the considerable practical challenges of detaining and transferring suspects who are captured in the Indian Ocean. At the same time, he highlighted the dilemma between allocating resources to pursuing prosecutions, rather than conducting deterrent operations:

> You could be doing this 1,800 miles out into the Indian Ocean; it would take you five or six days to get a pirate back if you had to steam him back, and you may not want to send your one and only helicopter off to do that, because that might be better used looking out for and trying to deter and interdict pirate operations. This is not simply an issue of jurisdiction; it is also an issue of practice, which comes from the unique maritime environment in which it is happening … whilst all this is going on, a ship is not performing its primary role which is deterring pirates, so you have to decide whether you are going to chase an ever-decreasing possibility of a successful prosecution or go back and deter pirates. (Foreign Affairs Committee 2011:44)

Beyond the operational dimension, Major General Howes OBE, the Operation Commander of the European Union Naval Force Somalia, also explained the political restrictions and governance difficulties. He described in the same session, in illuminating detail, how once EU naval forces detain suspects they must undertake a negotiation with one or more states to obtain agreement to accept them for prosecution:

> First, they are taken. We [at EUNAVFOR HQ] ask the captain whether we will be able to produce an evidence pack, such that we have a chance of prosecution. It takes him time to make that judgment. The habeas corpus rules, whatever the nationality of the ship that is responsible for the disruption, will determine how long they can be held for. If it is a Spanish ship, you have 24 hours, so you have to decide within 24 hours whether you are going to release people or whether you can transfer them.
>
> We immediately start negotiating with, for example, Kenya. You have to unlock Kenyan bureaucracy—and it is invariably on a Friday—and say, 'Will you take this prisoner?' They will want to know what the evidence pack is. Before we do that, though, if it is, say, a British flagged ship, we will say, 'Right. Do you have an interest in this? Are you prepared to take them?' If it is a Dutch ship, we say, 'Are you prepared to take them?' If the pirates have murdered a Dutch national, the answer will probably be yes. … Sometimes the answer is, 'Yes, we'll take them'—bang! Done. Deal cut. Otherwise you are racing against the deadline of having to release people, because there are laws that say, 'This is what you've got to do. You can't hold them.' I think the record of someone being held at sea without recourse to judgment or legal representation is 47 days. That infringes their human rights. (Foreign Affairs Committee 2011:52)

Yet, based on EUNAVFOR's statistics (Table 6), 2011 proved to be the culmination point for Somali piracy (so far). However, according to the statistics, albeit indicating the highest ever number of overall perpetrated attacks (176 recorded), only 25 were successful. Clearly, 25 vessels hijacked is not a number that offers relief, or which can be overlooked, but since nothing actually changed in the navies' applied tactics, why did the rest of the perpetrated attacks fail? Most likely the answer lies in the shipping companies' tactics and the private sector's security response. These involved the deployment of armed guards on board ships to enhance their protection against pirate attacks during their transit in the HRAs, as explored in detail in the next section (Chapsos 2013a:7-8).

Table 6: Pirate events' statistics, facts and figures (Source: EUNAVFOR 2013)

6.4.2 The Private Sector's Response

6.4.2.1 Best Management Practices

In an effort to counter piracy in the high risk area off the Horn of Africa, officially defined as the area indicated in the anti-piracy planning chart in Figure 23, the private sector introduced a booklet, including guidelines and best management practices for ship owners, operators, managers and masters transiting the Gulf of Aden and off the coast of Somalia.

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Figure 24: The HRA: Anti-piracy planning chart - Red Sea, Gulf of Aden & Arabian Sea (Source: NATO shipping Centre)

The first issue of this was published in 2009 and the purpose was to assist ships to avoid, deter or delay piracy attacks.[60] This booklet provides recommendations for non-lethal measures to be applied for this purpose.

After defining the high risk area (focusing solely in Somali piracy), it devotes a section in risk assessment and the whole of the next section provides descriptions of typical piracy attacks, always following the Somali operational model. The rest of the BMP sections refer to the implementation of the suggested measures, from the perspective of the company and the master, prior and during the transit from the specific area. It even provides guidelines in case the measures fail and the ship is finally boarded by pirates. As well as for circumstances when, due to a transmitted distress signal, military action from the ships patrolling in the area is imminent.

Although it is undoubtedly a remarkable effort and a useful tool both for companies and masters, the booklet did not prove to be quite as impressive in praxis. Razor wires, speed increases, citadels, dummy guards and water under pressure (see Figure 25) were not enough to deter or discourage determined pirates from boarding tens of ships that had implemented these according to the instructions.

It is also indicative that, although the third version of the booklet, BMP3, clearly states that, "[t]he use of additional private security guards is at the discretion of the company, but **the use of armed guards is not recommended**…" (UKMTO, par. 6.11, p.14) [emphasis mine]. The next updated version, BMP4, has a whole paragraph on the specific issue.[61] Just one year after the previous edition, this latest issue suggests that the decision to use PMSCs is the responsibility solely on the individual ship operators, based on their own risk assessment and the flag state's

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[60]As of January 2013, the 4th version of BMP is in effect, available from https://homeport.uscg.mil/cgi-bin/st/portal/uscg_docs/MyCG/Editorial/20110817/BMP4%20August%202011.pdf?idI assume you mean thisI assume you mean this71a122dd442f3eaa69d675de206c1d848f419a7b&user_idI assume you mean thisI assume you mean this2a47d4dbfd24ce2da39438e736cab2d6.
[61] See BMP4, par. 8.15, pg.39-40

approval and regulation. However, the IMO have produced relevant guidance on this practice for operators and master.

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Figure 25: BMP Measures (BMP4 2013:32)

6.4.2.2 Private Maritime Security Companies

The increased number of piracy attacks in hot spots around the world – although mostly in the Horn of Africa due to its specific 'business model', media attention publicity and popularity - inevitably introduced a boom in the private security provision in the maritime domain.

Moreover, the implementation of the International Ship and Port Facility Security Code (ISPS Code)[62] embedded new mandatory security duties in the role of shipping companies and port authorities, such as the Ship

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[62] See IMO, ISPS Code, available online from
http://www.imo.org/ourwork/security/instruments/pages/ispscode.aspx [accessed 20 June 2012]

Security Officer (SSO), the Company Security Officer (CSO), the Port Facility Security Officer (PFSO). States demonstrated their will to implement anew an indirect security governance technique, enlisting the private maritime security industry to provide the training, accreditation and certification of the future security officers. The companies assigned with these duties, also provide a variety of other security services, including armed and unarmed site security, operational support, tactical and operational training, security and risk consultancy, intelligence provision, etc. (Cullen 2012:26-29).

Ship owners started contracting PMSCs – as part of the shipping industry's best management practices for Protection Against Somalia Based Piracy - due to the efficiency of the practice in real numbers: no ship carrying armed guards has been (officially) hijacked so far. Additionally to the armed and unarmed security escorts for ships transiting high risk areas, PMSCs also provide services in security intelligence, risk assessment and consulting, and crisis response and intervention.

In his remarks to the Centre for American Progress, in Washington DC in 2012, Andrew Shapiro, Assistant Secretary at the US Bureau of Political-Military Affairs stressed:

> [W]e must also recognize that even when fully implemented best management practices do not guarantee security from pirates. As a result, we have also supported the maritime industry's use of additional measures to enhance their security – such as having armed security teams on board. To date, not a single ship with Privately Contracted Armed Security Personnel aboard has been pirated. Not one.
>
> These teams serve as a potential game-changer in the effort to counter-piracy. While many expected these teams to be made up of undisciplined "cowboys" that would cause an increase in the violence at sea, from what we have seen so far this has not been the case. We have not seen cases of pitched battles at sea between pirates and armed security personnel. In fact, in most engagements, the situation ends as soon as pirates are aware an armed security team is on board. In most cases, as pirates approach a ship the armed security teams will use flares or loudspeakers to warn the pirates. If the pirates keep coming, they will fire warning shots. That is usually when the interaction ends. Pirates break off the attack and turn their skiffs around and wait for another less protected ship to come by.

These teams therefore have served as an effective deterrent. (Shapiro 2012)

The International Chamber of Shipping (ICS)[63] changed the hitherto declared policy and, as from the 15th February 2011 when the Reuters report stated that it accepted that "operators must be able to defend their ships against rising pirate attacks" (Reuters 2011), many individual states altered their legislation. Consequently, they allowed armed security escorts on board merchant vessels flying their flag, under various terms and conditions. This was a result of pressure from the shipping sector in response to the increasing numbers of ships been hijacked off Somalia and in the broader region of the Indian Ocean (Struwe 2012).

Obviously, all the questions and issues raised at international level regarding PSCs are also relevant when researching the maritime domain. But if the PSCs issue is complicated, the vastness of the oceanic areas – the international waters, which under the principle of the freedom of the seas demonstrate 'lawless' areas beyond the jurisdiction of the state - form a 'Gordian knot' for the international community.

Hence, there are numerous issues in addition to those mentioned earlier: the public relations problem, creating a general reluctance to employ private security contractors and the question of control, where every state and non-state entity questions the efficiency and adequacy of the established 'International Code of Conduct for Private Security Providers' (ICoC).[64] There is also the risk of escalating the violence in already problematic areas since there is no legally binding regulation in terms of the threshold of use of force; 'collateral casualties' have already been experienced in many incidents.[65] Additionally to the above mentioned loyalty issues, the high cost of contracting prestigious and high quality services brings even more debate since it tends to transfer the problems to lower profile shipping companies which cannot afford the financial burden. Finally, and perhaps most significantly, it might provide an

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[63] The ICS represents almost the 80% of the world's merchant fleet. See http://www.ics-shipping.org/
[64] See www.icoc-psp.org
[65] Fishermen have been shot dead in many reported incidents, perceived to be pirates by mistake

effective (and in many cases preventive) protection measure, but by no means do PMSCs address the root causes of piracy in the long term. Hereof, Spearin (2010:66-8) advocates the traditional practice of security provision by the state, stressing that companies prefer it and feel safer when the guarantors of their security are the 'grey-hull' navies.

6.5 Conclusion

This chapter presented the detailed research on maritime piracy, focusing on the Horn of Africa. Since the vast majority of PMSCs' contracts and deployments are focused on providing security against this specific maritime crime in the region, their regulatory framework was selected to be investigated through this case study.

After providing the definitions of piracy and armed robbery at sea, its root causes and causal factors are analysed. Researching the case study of Somalia, these causes and factors reflect the continuity of the history and the perpetuation of the phenomenon in the Horn of Africa. Finally, the chapter provides an overall assessment of the international response to contemporary Somali piracy, both at the state and commercial sector's levels. Thus, it provides a further contribution to the development of the analytical framework for the integration of maritime security and contemporary piracy into the contemporary paradigm of global security.

Operational responses alone – especially if they have a limited scope and focus on the ulterior motivations cited by a realist approach - are unlikely to be sufficient to reduce the risk of piracy to an acceptable level because they address the symptoms and not the root causes. They must therefore be considered as but one part of a comprehensive approach. However, if it is not possible to implement measures on land that "discourage" by addressing the root causes of piracy, the necessary actions can support the "disrupt", "deter" and "defeat" effects.

In any form, piracy is a criminal activity; in its developed form, it is organised crime employing a business model, and is usually perpetrated by armed, non-state actors. However, piracy and terrorism are two different phenomena with different goals. Maritime piracy is preoccupied

with attacking vessels at sea with the goal of looting and demanding ransom from the vessel owners. It is focused on material and monetary gain for the pirates, while violence and killing are secondary. Terrorism, on the other hand, is preoccupied with terror, not monetary or material gain. It is defined as a means to propagate a political or religious ideology and fight against "hostile" ideologies. Terrorists traffic in gratuitous savagery and have little respect for human life. Nevertheless, although piracy and terrorism are different phenomena, they are not mutually exclusive. The success of maritime piracy is attracting the attention of terrorist groups around the world as a potential source of finance for their activities. Millions of dollars derived from ransom negotiations could go a long way towards supporting terrorist activities around the world. Although there is no solid evidence of a terrorist connection, there is an emerging and worrisome nexus between Somali pirates and terrorist groups. There is evidence that Somali pirates are partly financing the activities of the Alliance for the Re-Liberation of Somalia, led by al-Shabaab, which is fighting the internationally recognised Transitional Federal Government of Somalia. The continued success of piracy may enhance this financial relationship and the relative ease and success of pirate attacks may encourage terrorists to work in concert with pirates; the combination of piracy and terrorism could be deadly (Anyu and Moki 2009:116). Because the ideologies driving the two forms of criminality differ, if the two merge, or even if a link is made and terrorism becomes more closely aligned with piracy, it is very likely to have implications for the operational responses required. Therefore, this possibility is of real concern for world security and stability since any such interdependence will likely be subject to strong local influences.

Chapter Seven: Private Maritime Security Companies off Somalia

7.1 Introduction

As discussed in Chapter Four, the traditional perception of the state as the sole security provider is evident in the marine industry. Shipping companies, commercial associations and trade unions have been strictly loyal to this perception. This is not only because protecting the freedom of the seas and ensuring the openness, safety and security of sea trade lanes was the states' exclusive task, but also because these organisations were reluctant to accept the additional cost of paying for their own security while at sea (Berube and Cullen 2012:4). Yet, the need to address the sharp rise of piracy attacks in the Indian Ocean (as discussed in detail in Chapter Six) introduced a drastic change in this practice. Statistics indicate that in 2012 more than 26% of merchant vessels transiting the high risk area, in particular the Gulf of Aden, _officially_ contracted and deployed armed security guards on board,[66] for their protection against potential attacks (Brown 2012:5). The following sections provide an in-depth analysis of the major key issues which define the structure and practices of PMSCs. Based on the conceptual framework developed in Section 2.4.3 and the concerns of the transferred privatisation trend in the maritime domain, as discussed in Sections 2.4.2 and 4.4.2, this chapter provides an in depth analysis of the complex framework of the PMSCs' business model. The insights generated indicate the legal, operational and ethical concerns that emerged in the global maritime security market and the states' response.

7.2   Recruitment, Evaluation and Training

7.2.1 Recruitment and Vetting

The hierarchical structure of the armed forces – no matter what their nationality - results in the early retirement of their personnel. They go through a demanding, high cost and high quality training following the

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[66] This official figure rose to 35% in the first quarter of 2013, while unofficially it is estimated to be up to 80%.

most demanding and updated international standards. However, they become unemployed at a very young and still productive age, either due to the armed forces' leadership promotion system (where not all officers are promoted to the higher ranks and so are inevitably disbanded) or through their voluntary resignation. At this stage they have few new career options since their field of expertise does not provide many job opportunities and alternatives in the private and/or commercial sector. Consequently, they form the optimum and primary group for recruitment from private security companies of all kinds. A UK-based recruitment agency published a most indicative and obvious advertisement, entitled 'Private Security Industry Wants Former Forces Personnel'. Starting with the phrase '*Congratulations – you are in demand*,' it identifies that former forces' personnel are ideal candidates for security industry jobs:

> Nine out of ten members of the British Security Industry Association (BSIA) say that former-forces personnel are ideal candidates for security industry jobs, according to a recent BSIA survey.
>
> Asked about what they liked about former-forces personnel, six out of ten respondents said the discipline gained in a forces job made for great candidates, but they also liked the awareness of security threats, motivation, alertness and understanding of security specifications that former-forces lasses and lads bring with them.
>
> BSIA members know what they are talking about too – almost nine in ten of those who responded to the survey had former-forces personnel working in their organisations (Cross Deck 2013b).

Hence, the vast majority of PMSCs are founded and manned by former military personnel, who have had many years' service in the Special Forces or other branches of the armed forces (mostly Navy, Army and, in the case of states such as the US and the UK, the Marines). All of the managing directors and personnel interviewed in this research stated that they are working in this domain for financial reasons.

Depending on the number of contracts and the kinds of services provided - from consultancy services for governmental bodies (Interview F, 2012) to armed escort teams for merchant vessels – PMSCs' management has to recruit the necessary number of sub-contractors in order to fulfil the tasks undertaken. Each sub-contract is mission-oriented and, after this is

fulfilled, the subcontractors are usually not employed until the next contract is signed and the new client's requirements are defined. Consequently, a human reservoir of eligible and suitable sub-contractors is created from each company and contracted anew each time, depending on their availability.

The vast majority of sub-contractors are preferably also former military, since their training, familiarisation with weapons and hostile environments are given, while the state certification of their service and records are beyond doubt. Yet, the globalised market, increased demand and promising high revenue have affected the recruitment process in several ways.[67]

Firstly, and obviously, companies now recruit from the global reserve of retired militaries, no matter their nationality. Some of them – like the Indian Commandos for example - have a better reputation (and relatively lower price) compared to other nationalities, but this is not the sole criterion for recruitment. Given the principles of the free market, the one who requests lower compensation per day deployed in the transit escort, will be preferred by the company due to the objective of minimisation of expenses versus the maximisation of profit. In one interview, a PMSC's director highlighted the globalised market for recruitment:

> I have had cases [shipping companies] where they requested only for Chinese, Korean, Indian, European teams, etc. If they don't have a special request, then I usually use Indian Marcos that had worked together before – which is very important … I mostly deploy Indian ex-commandos (Indian special forces); I had a client though who declined the presence of Indians on board the vessel because he thought that they were of lower standards from the Europeans. So I had to send him a recommendation certificate of one of the team leaders for bravery and distinguished action and after that he accepted them (Interview A, 2012).

Second, the free market never denies jobs to those who are willing to work for the lowest possible daily compensation, with analogous results, of course, in quality of the services offered. There are high levels of

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[67] All interviewees stressed their preference in recruiting former Special Forces military as subcontractors with proven record in the Navy or Army/ Marines.

demand for subcontractors in an era in which the financial crisis created the highest unemployment rates coupled with the effects of Hollywood movies promising high levels of adrenaline in the pursuit of pirates in the Indian Ocean. This, inevitably, attracts members of other professions receiving a lower income or offering less excitement to occasionally apply to participate in armed escorts. A director of a single UK registered PMSC, with an existing 'pool' of 1,500 subcontractors, stressed at interview that:

> I had 6000 CVs from all around the world –around 150-200 per day- to choose from. I shortlisted them to 2.000 and that's my 'pool'. Most of them were from developing countries such as e.g. Nepal, India, Ukraine, Lithuania, some of them from the UK, Australia, USA, Greece (due to the high unemployment), Singapore ...There are though many non-qualified people applying for the job; I had CVs from plumbers, taxi drivers, pizza delivery boys, even bankers who applied for the adrenaline... Although it is very dangerous to have an untrained member in your team in armed escort missions, there are many companies who hire non-qualified people with the potential to be trained from their colleagues during the transit. I know accidents that have happened, people that had been taken from the vessel by helicopter for trying to rappel down from the Bridge ... It's all about the money and everyone wants to beat the competitor by offering lower-price contracts. There are companies … that offer escort transits for $29.500 from Suez to Galle. When you start cutting corners, you have to lower the prices for the people you employ, so inevitably you have to hire lower quality people. Pizza delivery boys e.g. take €20 a day, but if they go and work on a vessel they will take €50 a day (Interview A, 2012).

Third, in the case that all a company's subcontractors are either deployed in a transit or unavailable for other reasons, and a contract opportunity emerges, the PMC has to urgently recruit additional guards. Therefore, they form teams of employees that have never met before or worked together, since rejecting a contract is not an option.

The recruiting procedure typically goes as follows. The applicants have to firstly submit their full CV to the company, and should they be found eligible and shortlisted, are then invited to interview following the standard procedure. After the interview assessment, the candidate has to submit a series of additional documents and certificates that the company keeps confidential in its own records. These include clean a criminal record

certificate, medical, psychiatric and cardiologist records (including alcohol and drugs free certificate) and of course their Special Forces and previous military background records (including non-dishonourable discharge). The vetting process follows the ICoC established standards and afterwards the successful candidate is eligible to undertake tasks and contracts with the company (Interviews B, C, 2012).

New companies that are supportive to the process have emerged in order to create databases with worldwide qualified personnel eligible to undertake anti-piracy armed escorts. 'Armed Contractors Register' for example, is an Abu Dhabi based company registered in Singapore,[68] where all qualified individuals can register and the company provides vetting for the personnel by examining and evaluating the required and submitted documents (Interviews G, I, 2012).

7.2.2 Training

As already mentioned, the quality of training of former military personnel is beyond any doubt, due to the provision of states following the highest international standards. Yet, in the case where an applicant had been retired from the armed forces many years before, or if during his many latest years at service he has not been re-evaluated/certified in terms of his operational capabilities, he has to demonstrate his eligibility for the post by other means. This case obviously also refers to civilian applicants, who wish to follow a new career path within the private maritime security industry.

The global market also saw the opportunity in this training domain. There are private companies around the world that provide the required training, depending of course on each state's legislation limitations since weapons' training is obviously included.

An indicative case for meeting the training requirements was described by a PMSC's director at interview:

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[68] See https://www.acregister.org/

We run a training centre in Porto Allegro in … and this is where we do the training of candidates for the company or MarSecOps[69] from other companies. The certification is provided by CTTE[70] in Brazil; an ex-SWAT trainer runs it and we provide our maritime training there … after a 160-hours course of theory and practice (including weapons use and firing, close combat, personal defence, etc.), if they are successful in the final exam, they receive certification by [the specific PMSC] and CTTE/Brazil. The course is for 16 days and the participants pay their own fees (€4.300 - accommodation and meals included but not their flight costs from wherever they arrive). I know other companies which charge €11.000 for a close protection course. We also have an old vessel for on-board training in Brazil too. I don't know any other companies doing this kind of training; Most European companies are not allowed to do such tactical training … since it's considered as training for potential terrorist teams. There are others … that do this training in Serbia (Interview A, 2012).

There are strict limitations imposed on European companies in terms of undertaking or providing similar tactical training, since it is considered to be training of potential terrorist teams. Yet, it seems that interested companies in the UK in particular have overcome this obstacle. Although it was illegal for pistol shooters to train in England, Scotland or Wales even for the Olympic Games, following the government's authorisation for UK PMSCs to be armed on UK flagged vessels new companies have emerged and registered in the ICoC such as 'Shooting Training Solutions', which primarily provides maritime firearms training and of course certification.[71]

The key issue is licensing the individual being 'trained'... The current licensing procedure involves: positive verification of identity, two referees of verifiable good character who have known the applicant for at least two years (and who may themselves be interviewed and/or investigated as part of the certification), approval of the application by the applicant's own family doctor, an inspection of the premises and cabinet where firearms will be kept and a face-to-face interview by a Firearms Enquiry Officer (FEO) also known as a Firearms Liaison Officer (FLO).

A thorough background check of the applicant is then made by Special Branch on behalf of the firearms licensing department. Only when all these stages have been satisfactorily completed will a license be issued, which must be renewed every 5 years.

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[69] The acronym stands for Maritime Security Operations; it was not amended to retain the originality of the interviewee's statement.
[70] See http://www.ctte.com.br/?idioma=eng
[71] See www.shootingtrainingsolutions.co.uk

It should be noted that it was illegal for pistol shooters to train in England, Scotland or Wales for the Olympic Games unless they could meet the above criteria (Correspondence A, 2012).

Similarly, given that there is still no mechanism in place for live fire arms training in the UK for local PMSCs, the only appropriate live training that can take place is 0.22 calibre rifle training and plastic firing airsoft pistols. However, there are many different types of firearms being used in vessel protection, including up to five or six different semi-automatic rifles and two or three different semi-automatic pistols. To partly overcome this obstacle, another company made available the option of firearms competency training using deactivated firearms with lasers fitted in order to assess the accuracy and evaluate the performance of the firer, enabling objectives and assessment strategy:

> to ensure the safe handling of firearms the PMSC should - … in my opinion this wording needs to be changed to PMSC must. Why? Because should could mean it's a good thing to do and not compulsory. If in the event of a post incident investigation the PMSC are questioned, their answer is – well we did all we could given the circumstances. Which isn't good enough especially when many PMSCs are providing little to NO training for their PCASP. I know this because I'm still on the books of a leading company.
>
> Also, you will of course be aware that UK Govt provided authorisation for UK PCASP to be armed on UK Flag Vessels, this was in Oct/Nov 2011. Over 18 months have passed and still there is no mechanism in place for live fire training in the UK for Maritime PCASP. There was a letter presented to the UK Govt in Feb 2013 through SCEG ... But still very little progress [or] no progress made on authorising Section 5 category firearms (semi auto rifles over 0.22 calibre and semi auto pistols of 0.22 cartridge calibre or above) to be used in training within the UK. How much longer will it take, another 24, 36 months… Will it ever be permitted? The term specific is important. There are many different types of firearms being used in vessel protection, including up to 5 or 6 different semi auto rifles, 2 or 3 different semi auto pistols. Number of options available that I see include training on the specific firearms outside of the UK, this will not be without problems, especially where tight timelines are concerned. Use of deactivated firearms which are specifically the ones to be used, this is the approach I have adopted. The use of deactivated firearms can completely facilitate firearms competency training, and it's 100% safe. At present the only live fire that can take place is 0.22 calibre rifle training and plastic BB firing airsoft pistols! There is another option available which is the approach I have taken; this is firearms competency training using deactivated

firearms. This provides for safe training and is a sensible option. The course I provide is 1 day duration and has a fully accredited course learning design, complete with learning outcomes, enabling objectives and assessment strategy. I know of no other training provider who delivers an accredited course which has a recognised assessment strategy. All other training providers are quite simply making up their own standard for competency…

Also, how is the competency assessed, there are no standards set. I've already mentioned that the course which I had designed does have a fully accredited assessment strategy. The how long prior question is also important because if it were immediately prior then it would be extremely difficult to conduct live fire with the specific firearms outside of the UK, due to flight timings, eg UK to Europe, Europe to Vessel Transit start point. An option could be use of a live fire range close to the start point location, but there are many start point locations. From my experience notification for a Vessel Protection transit can be as short as a few weeks and could involve armed transit through a number of different territorial waters. I have absolutely no confidence that the different country laws are being explained to members of armed security teams. In my opinion the rules for the use of force training in the newly designed 'Maritime Security Operator's' course does NOT cover this type of training in enough detail, not nearly enough and falls way short (Correspondence B, 2013).

At this point I would like to highlight another paradox within the security industry procedures: On one hand, the international standards (which are discussed further in the next section) endorsed both by governments or the security industry, identify the essential requirement and certification of armed guards in terms of firearms training. On the other hand, in most of the European countries there are significant limitations in terms of firearms training which can actually make the fulfilment of these requirements extremely difficult. However, the globalised environment and, even more so, the allowance of open access within European Union countries provide alternatives. France and Spain, for example, legitimised training in semi-automatic weapons used by Maritime Security guards. In this way they have managed not only to provide a solution to PMSCs registered under their flag, but also to offer business developing opportunities to the companies providing such training, by attracting 'clients' from other countries who have to be certified (Correspondence B, 2013).

Thus, this practice reflects two major issues: first, the business model is expanding, and no longer limiting itself solely to security services provision. 'Side-products' and supplementary companies are emerging, offering training, recruitment and vetting, targeting as potential clients the security companies which later provide security services. A manager of such a company explained in the interview:

> I thought I could help; I could help shippers, crew and hostages by doing what I do best: build an online system. An independent maritime security vetting system that will register credible security operators and monitor their qualifications. Like with the medical register, people who do not perform would be struck off" an interviewee stressed (Interviews G, 2012).

Second, the private security industry itself certifies its employees, stressing even more the fragmentation of state control and management of these companies and their authorised employees.

7.3   Regulation and Certification

Building further on the concerns expressed in Chapter Four, Section 4.4.2 with regard to the application of the private security model in the maritime domain, a broader and deeper research follows. This focuses on the existing international bodies responsible for regulating PMSCs and the standards developed for the private security providers' certification and accreditation.

As already discussed in Section 4.4.2, the IMO outsourced the regulation of PMSCs to the flag states and issued Circular 1406 '*Revised Interim recommendations for Flag States Regarding the Use of Privately Contracted Armed Security Personnel in the High Risk Area*' (IMO 2011b). In this framework, and given that we have already identified indications about states' selective engagement with PMSCs' regulatory issues in terms of hard law (see Section 4.4.2.1), one could argue that states are in favour of the soft law approach to regulate the private maritime security industry. According to Snyder (1993:36) soft law could be defined as rules

of conduct which in principle have no legal binding force but may have practical effects. Guzman and Meyer (2010): 172, 174) provide definitions from various perspectives; they insert a subsidiary category, defined in opposition to clearer established categories rather than on its own terms, commonly defined to include hortatory, rather than legal binding obligations (Guzman and Meyer 2010:172). They also define soft law as 'those nonbinding rules or instruments that interpret or inform our understanding of binding legal rules or represent promises that in turn create expectations about future conduct' (Guzman and Meyer 2010:174). Like most of issues dealing with international security and international relations, soft law has its advocates and critics; the traditional debate asserting that, as Weil (1983) puts it, 'these obligations are neither soft nor hard law; they are simply not law at all'. The debate develops further, focused mainly on the emerging questions: Is soft law really a law, or is it rather a 'non-law'? Despite its non-legal binding character, is soft law able to produce norms and regulations of real effectiveness from a legal and, most importantly, a policy making perspective (Zerilli 2010:10-11)?

Before attempting to provide answers to the above questions (which, although they are not included in the aims and objectives of this thesis, have a significant bearing on the argument), we could constructively conclude that soft law is not law in positive meaning of the term. However, it may be considered as other social normative instruments, the force of which is ensured not by sanctions but by the authority of enacting body and suitability of ready decisions for different situations. Hence, we should wonder how an instrument of social pressure, influence or persuasion can be considered efficient, sufficient and to possess universal validity, especially when considering soft law as an approach to regulating the private security industry? Furthermore, even if this approach could work for land based PMCs/ PSCs, how could it be applied to PMSCs, which operate in the middle of the oceans, out of social sight and reach? How can a soft law for example be endorsed in the UK and applied/followed by a UK registered PMSC, which is transferred to a Liberian flagged vessel, transiting the Indian Ocean in international waters, whose next port of call is in the United Arab Emirates? However, despite (or because of) the

distinctiveness of the maritime domain with regard to the applicability of soft law in regulating PMSCs, this could be a worthwhile area of further future research.

7.3.1 International Bodies

Thus, following the paradigm of the recruitment and training procedures, regulation and certification is clearly another major issue. Stressing anew that the principles of the free market dominate the private security industry, non-state actors are responsible for undertaking the essential issues of regulation and certification. More important, since there are no legal binding relationships between the regulating/certifying bodies and the companies, the whole process is based on two factors.

First, the prestige of a company is increased when it is certified from as many bodies as possible. This offers to the potential clients the sense that its reputation is genuine, since it is certified by diverse institutions, associations, standards or even other private companies.

Second, as long as the relationship with the regulators cannot possibly have legal implications, being based solely on a membership or paid assessment/vetting, should any wrong-doings become publicly known this will only impact on the company's reputation in the market. Definitely, in this competitive environment this is quite important, since it is the primary criterion by which a client chooses among the hundreds of available companies offering the same services. However, they are not sufficient for regulating the companies in terms analogous to those that used to be imposed by states. A simple change in the company's name for example, could overcome the effects of any potential recorded trespasses.

In respect of this, the IMO established an inter-sessional working group and issued further interim guidance on the use of privately contracted armed security personnel on board ships, in order to counter Somali-based piracy. These circulars give interim guidance concerning the use and conduct of private maritime security companies providing contracted armed security personnel on board ships in the high risk area (IMO 2012).

They are intended both for PMSCs themselves and for port and coastal states regarding their use on board ships (IMO 2011a), for flag states (IMO 2011b) and the shipping industry (IMO 2011c) accordingly.

Yet, all interviewees confirmed that there is no international body responsible for regulating and/or certifying PMSCs. Perhaps the only established mechanism for this purpose is the International Code of Conduct for Private Security Service Providers (ICoC), which obviously refers to both maritime and land oriented companies. Quoting the initiative's statement on the home page of its web-site, the ICoC is,

> a multi-stakeholder initiative convened by the Swiss government. It aims to set private security industry principles and standards based on international human rights and humanitarian law, as well as to improve accountability of the industry by establishing an external independent oversight mechanism. The Articles of Association seek to establish this mechanism which will include certification, auditing, monitoring and reporting. By signing the ICoC, signatory companies publicly commit to operate in accordance with the Code and to work with relevant stakeholder to establish this mechanism and related standards by the middle of 2012 (ICoC 2013).

In 2013, the International Code of Conduct Association was also established,

> composed of private security companies, civil society organizations and governments. The ICoCA is governed by a multi-stakeholder Board with equal representation of the three stakeholder pillars. The purpose of the ICoCA is to govern and oversee the implementation of the International Code of Conduct for Private Security Service Providers (ICoC), and to promote the responsible provision of private security services. Its main functions are to provide and support certification, monitoring and complaints resolution (ICoCA 2013).

Again, becoming a signatory of the ICoC is not mandatory, but only supportive to the company's reputation. There are numerous such companies that have been operating for decades and became signatories long after 2010 when ICoC was established. Furthermore, introducing the code of contract, standards, mechanisms, etc., does not mean that the ICoC is simultaneously also monitoring the strict implementation of its terms by all the registered companies.

Another initiative which attempted to enforce some rules in the private security industry is the Montreux Document. In 2008, 17 states[72] participated in the finalisation of this document entitled "Pertinent International Legal Obligations and Good Practices for States related to Operations of Private Military and Security Companies during Armed Conflict". The Montreux Document is the first international document to describe international law as it applies to the activities of private military and security companies whenever these are present in the context of an armed conflict. It also contains a compilation of good practices designed to assist states in implementing their obligations under international law through a series of national measures.[73] Although it is a remarkable effort, it is more applicable to companies operating ashore. In this respect, it refers to 'legal obligations and good practices for states', but private maritime security companies are primarily being contracted by shipping companies and not by states (at least thus far), as emphasised in the conceptual framework presented in section 2.4.3.

The Security Association for the Maritime Industry (SAMI)[74] and the International Association of Maritime Security Professionals (IAMSP)[75] are the two major bodies that focus in an advisory capacity on the effort to certify/accredit and regulate the PMSCs registered as their members. Obviously, they also provide a 'code of conduct' and their members are committed to follow their guidelines.

SAMI was formally launched in April 2011 (and incorporated as a non-profit making company in June 2011). Given the vast variance of quality amongst founded and operational PMSCs, the original SAMI concept was to formulate a list of reputable PMSCs that would be available to the clients (ship-owners, flag states and marine insurers) to enable an informed choice about which company to choose. The PMSCs on the list would then form a guild and collectively push standards up, thereby separating the good companies from the bad by defining quality, reliability

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[72] Afghanistan, Angola, Australia, Austria, Canada, China, France, Germany, Iraq, Poland, Sierra Leone, South Africa, Sweden, Switzerland, the United Kingdom, Ukraine, and the United States of America
[73] See http://www.eda.admin.ch/psc
[74] See http://www.seasecurity.org/
[75] See http://iamsponline.org/

and credibility. The association provided maritime security consultancy to the Marshall Islands registry. It also gained significant international recognition by representing this registry as a *pro bono* consultant for all relevant meetings at the IMO; as well as representing both the registry and the private maritime security industry at the Contact Group for Piracy off the Coast of Somalia.

SAMI is a UK based international association that represents PMSCs and acts as the leading body within the maritime security industry. It provides a direct link to the commercial shipping industry, oil and gas sectors and works in partnership with flag states, regulatory bodies, insurance and legal professionals and shipping organisations and its main aim is to try and bridge the gap between security and shipping. As of May 2014, SAMI counts around 160 members from 40 different nations (Cook 2014). SAMI also encourages and promotes academic research relevant to the provision of private maritime security. In support of this, it is establishing an Academic Partnership Programme with Greenwich Maritime Institute of the University of Greenwich to provide a focal point for students studying the discipline (Cook 2014).

The governance structure of SAMI allows the member companies to work with the Secretariat by way of the Industry Steering Group to continue the development of a robust and resourceful organisation that is internationally respected as the authoritative representative of the private maritime security industry. To gain membership[76] a PMSC is required to complete a certification programme that was set up in February 2012. As SAMI states on the Association's website, it

> provides reassurance, guidance, and minimum quality and standards in the delivery of maritime security where none has existed before. The SAMI Standard has been established as the international benchmark for standards within the industry… One major aspect of this is the creation of a clear, transparent, and robust standard that is applicable across the wide spectrum of the maritime security industry. (SAMI 2013)

The programme encompasses a three-stage process; the standard was developed by its Standards Accreditation Working Group and based on the

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[76] The annual membership fee for an average sized PMSC – one that employs more than 10 permanent employees internationally - is around £2,500.

IMO MSC Circulars 1405 and 1406 (IMO 2011c, 2011b); and National Security Inspectorate[77] was selected as the third party certification body to act as auditor.

To gain certification, a PMSC will initially approach SAMI to request membership and SAMI will carry out a due diligence check of the applicant company. This first stage is a documentation process and is conducted by an independent agency. The second stage for certification is an onsite audit, where the above mentioned external agency carries out examination of management and operational procedures during a two-day visit to the company's headquarters. Finally, the third and final stage to achieve accreditation by SAMI is an operational site visit; this entails an on-site assessment of the PMSC's operational procedures in deployment (either pre or post transit). This could actually ensure the company's deployable teams' compliance with international regulations, either when they are about to embark/disembark the vessel or about to be re-tasked or demobilised (SAMI 2013).

However, this last stage is still under development (as of January 2014), which in practice means that the whole process established by SAMI's developed standard is based on a documentation process and the audit conducted at the HQs. The reason behind this is that SAMI's standard has to a great extent formed the basis for the document, ISO/PAS 28007, as will be discussed in detail in the next section in relation to the development of the ISO standards. Consequently, PMSCs undertaking the international certification process will not be required to also complete SAMI's third stage of certification.

The International Association of Maritime Security Professionals was founded in 2010 as the response to a perceived need by a number of private entities to raise the level of professional conduct within the maritime security industry. IAMSP is a not-for-profit, volunteer organisation, which seeks to address a broad range of issues associated with the maritime security industry, ranging from the protection of

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[77] National Security Inspectorate (NSI) is a UK based organisation that has a history of dealing with a range of new and different audit challenges. The NSI team were involved in the development of the SAMI Standard from an early stage and worked very closely with the SAWG and the SAMI Secretariat. See http://www.nsi.org.uk/ [accessed April 2014]

seaports and vessels and platforms operating at sea. The IAMSP is an inclusive organisation, seeking to build strong relationships between like-minded entities and institutions, aiming at forming alliances which will build stronger voices and further the ability to build capacity within the industry. According to its mission statement, the IAMSP aims to establish itself as the pre-eminent Association of security professionals operating within the maritime environment. To accomplish this mission, the Association is focused on the fulfilment of the following objectives:

- To develop the appropriate sound security standards, guidelines and practices;
- To promote and advocate professional conduct in all aspects of the maritime security domain;
- To soundly advise internal and external organizations with respect to maritime security issues;
- To develop (or assist in the development of) sound education, training and professional advancement material; and
- To provide a community of trusted professionals that can work collaboratively to address challenges within the maritime security domain (IAMSP 2014).

In this effort to promote professionalism, academic research and academic qualifications, the IAMSP has established a long term strategic partnership with Coventry University since 2012. Through this, the IAMSP offers the motive and opportunity to its members who will successfully graduate from the University's Master's programme in maritime security to gain a dual award/qualification from IAMSP, recognising their continued professional development.[78]

In this framework, it worth looking at the major differences between SAMI and IAMSP, given that many actors both from the shipping and private security industry see them as being in competition. Firstly, all IAMSP executive board members and committee chairs participate on a voluntary basis, there is no compensation for their contribution and they also have

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[78] See Coventry University Maritime Security MA (online) http://www.coventry.ac.uk/course-structure/2014/faculty-of-business-environment-and-society/postgraduate/maritime-security-ma-online/ [accessed April 2014]

to pay an annual membership fee, since their membership is a precondition for senior assignments.

Furthermore, although both international associations have a very similar focus, SAMI welcomes only companies as registered members. However, the IAMSP, in trying to address the issues discussed above with regards to PCASPs' performance while in deployment abroad, focuses on and welcomes individuals as members. Of course companies are welcome to register as well, but individual contractors – even from registered companies - are also eligible to register as members in their own right. For this purpose, IAMSP's annual membership fee is only $100, which is very low and affordable compared to the average fee of £2,500 for PMSCs to register with SAMI.

Still, there is little possibility of either organisation monitoring the member companies and even less of evaluating the guards' performance while on duty; even the companies which sub-contract them have only loose remote control when they are deployed on a transit on the other side of the globe. Inevitably, the whole private security system relies finally on single individuals' decisions, accountability, personality, training and performance. The confirmation of this came in March 2014, when two maritime consultants of the UK based company Port2Port,[79] which was a member of SAMI and certified by ISO 28007, were arrested in Nigeria for illegal bunkering and bribery (Eziukwu 2014).

Of equal importance for the main research question of this thesis, is the fact that all the international bodies discussed in this section, ICoC, IAMSP and SAMI were established from late 2010 onwards. Hence, for more than seven years (counting from 2003 when many PMSCs were already established and operational) there was no relevant international body to regulate, certify or even provide guidelines to PMSCs. This is clear evidence that the private maritime security industry, and consequently the companies themselves, were almost totally unregulated for the critical period of their development; and for the time that piracy incidents off

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[79] The company's official announcement on the incident is available from
https://www.port2portwestafrica.com/news?id=7 [accessed 31 March 2014]

Somalia were continuously and alarmingly increasing (see Figure 16, Section 6.3.2).

Lloyd's Register[80] (and other similar bodies) also provides International Organization for Standardization (ISO)[81] quality assurance certification but this is mostly business oriented and all that the applying company has to do (after, of course, paying the relevant fees) is box ticking and confirm that it fulfils all the required skills and demands.

In 2011, The Security in Complex Environments Group (SCEG) was founded and established in the UK,

> in order to define, develop and facilitate robust, internationally recognised professional standards for the UK Private Security Sector operating abroad. SCEG's partnership with the UK Government is vital and provides a unique construct whereby an industry body has a sustained dialogue with government departments with opportunities to contribute to the debate, shape policies and influence international fora (SCEG 2013)

Although this is a remarkable initiative in terms of an attempt at regulation and policy making, inevitably, it has a strictly localised and advisory character, focused solely on UK registered PMSCs. Not many other countries around the world (if any) have similar bodies established. Moreover, in practical and realistic terms, its efficiency and useful contribution is questioned from the basis of its own fundamental declaration and principle. The paradox in this case is that UK registered PMSCs are regulated and subject to the UK relevant laws and legislation. However, when operating abroad (as the SCEG declares), they have to be subject and comply with the vessel's flag state legislation, which most likely differs from the UK's. Accordingly, after this first differentiation is overcome, both the vessel and the contracted PMSC have to comply with the relevant (and most likely different) legislations of all the potential coastal states, in order to be allowed access to their scheduled ports of

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[80] See http://www.quality-register.co.uk/bodies/body64.htm
[81] ISO (International Organization for Standardization) is the world's largest developer of voluntary International Standards. International Standards give state of the art specifications for products, services and good practice, helping to make industry more efficient and effective. Developed through global consensus, they help to break down barriers to international trade. For the subject's standards, see http://www.iso.org/iso/catalogue_detail?csnumber=42146

call. Clearly, this initial and simplistic approach demonstrates that SCEG has a limited reach, jurisdiction and overall potential.

7.3.2 International Standards with Regional Application

Many flag states at the IMO were not prepared to accept a self-regulation process and consequently there were calls for the IMO to take the lead and establish a standard for PMSCs. In response, two standards were set up simultaneously, on either side of the Atlantic. In Europe, and following the usual practice, the IMO asked the International Organisation for Standards (ISO)[82] to formulate the foundations of an ISO standard for the use of armed guards on board ships that could be audited by accredited third party certification bodies. The Baltic and International Marine Council (BIMCO) took the lead on working with the ISO on this. At the same time SAMI, as part of the Marshal Island's registry delegation in the IMO – as discussed in the previous section - submitted its developed standard to the IMO as a working standard that could constructively contribute to the committee's assignment. Consequently, the project leader responsible for developing the ISO standard formed a core drafting team from the International Chamber of Shipping, BIMCO, SAMI and SCEG (Cook 2014). However, the ISO Technical Committee consisted of 25 voting members from around the world who were concerned to ensure that the document, ISO Public Available Specification (PAS)/28007, which would form the basis of the new standard, would have an international character and that it could be adopted by PMSCs from any nation. Hence, PAS 28007 was prepared by the ISO Technical Committee on Ships and Marine Technology and entitled 'Guidelines for Private Maritime Security Companies (PMSC) providing privately contracted armed security personnel on board ships (and pro forma contract)'. The first edition was published on 15 December 2012, and set out the guidelines for applying a risk based quality management system for the security of operations and

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[82] ISO (International Organization for Standardization) was founded in 1947 and is the world's largest developer of voluntary International Standards. International Standards give state of the art specifications for products, services and good practice, helping to make industry more efficient and effective. Developed through global consensus, they help to break down barriers to international trade. See http://www.iso.org/iso/home/about.htm

activities conducted by organisations, such as PMSCs, (who comply with ISO 28000) (ISO PAS/28007 2012:v).

BIMCO's Chief Maritime Security Officer, Giles Noakes, explains the purpose of this in a BIMCO Bulletin (Volume 108 #4):

> The document [ISO PAS 28007] addresses security management system elements such as: resilience, planning, resources, training and awareness, human rights, communication and documentation. It also outlines operational requirements for dealing with issues such as: scene and casualty management, incident reporting and investigation, health and safety and customer complaints […] ISO PAS 28007 also includes recommendations for performance evaluation such as monitoring, audits, management and continual improvement. Implementation will enable security companies to demonstrably evidence their competence in the provision of PCASP for anti-piracy operations on board ships. (Rider 2014)

ISO/PAS 28007 also gives guidelines containing additional sector-specific recommendations, as highlighted by the ISO and PMSCs can implement these to demonstrate that they provide privately contracted armed security personnel on board ships. To claim compliance with these guidelines, all recommendations (stated as "shoulds" in the document) should be complied with. This compliance can be by first, second and third party certification.[83]

Although the UK Government has an affiliate relationship and advisory role in SCEG, it had no direct engagement with the standard. The reason behind this, is that if it had, then all IMO members and flag states should have been requested to ratify and endorse the standard, with the inevitable delays and rejections resulting in the initiative's failure. This both highlights, and partially explains, states' reluctance to engage with PMSCs' regulation issues, preferring to leaves it up to the market to self-regulate the private security industry.

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[83] See ISO/PAS 28007:12 [online] available from
http://www.iso.org/iso/home/store/catalogue_tc/catalogue_detail.htm?csnumber=42146

On the other side of the Atlantic, ASIS International[84] issued the PSC 1 to 4 series in April 2012. The initiative was launched to develop an American quality assurance and security management national standard specifically for PMSCs as guidance in terms of applying the PSC-1 standard (or related ISO such as 28000) in the maritime environment. It was designed to ensure this was consistent with respect for human rights, contractual and legal obligations. ASIS distributed an invitation letter to potential committee members (either as voters or observers with respective obligations, rights and commitments), falling under the general interest, producer/service provider or user/manager category, and interested in contributing their expertise in this domain (ASIS 2012).

The first meeting of the technical committee was held on May 17th 2012, and additionally to 18 ASIS members with diverse professional backgrounds (including Control Risks Security, UN, London Metropolitan University), 65 more committee members participated in the whole process under the status of voter or observer. Interestingly, committee members not only included US entities but ones from all over the world (for example, from Australia), including SCEG (which has jurisdiction and focus only on UK registered PMSCs, as discussed in Section 7.3.1), other UK based institutions (London Metropolitan University, CPRS/ Coventry University, IR Consilium, etc.). These members were also from varied professional backgrounds, indicatively including high profile academics (that is D. Avant, A. Wylde, A. Hunter, L. Thomas), PMSCs (for example Triton Risks, Sidewell Protection Risks, Marine Security Initiatives, 3rg Security, Argonaut Security, Sea Guardian and many others), the IAMSP, and the Geneva Centre for the Democratic Control of Armed Forces.

The researcher and author of this thesis participated in the whole standard development process as a voting member of the technical committee, in his hat as a researcher in Coventry University. This is an indicative example of the advantage of the empirical research utilised in

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[84] ASIS International is the US based preeminent organisation for security professionals, with more than 38,000 members worldwide. Founded in 1955, ASIS is dedicated to increasing the effectiveness and productivity of security professionals by developing educational programs and materials that address broad security interests, such as the ASIS Annual Seminar and Exhibits, as well as specific security topics. ASIS also advocates the role and value of the security management profession to business, the media, government entities, and the public. For the subject's standards, see https://www.asisonline.org/Standards-Guidelines/Standards/Pages/PSC-Series-of-Standards.aspx

this thesis, as discussed in the methodology chapter – Section 3.3; the experience gained throughout this process would not have been otherwise accessible or easily transferred by other means.

The consideration of the submitted comments during the voting process and the final amendments were finalised by the PSC4 working group in early January 2013; and its approval as a US national standard was officially announced on 31 January 2013 (ANSI 2013). The produced guidance standard is applicable for any type of PMSC providing security services and operating at sea. Its purpose is to improve the quality of their services, maintain the safety and security of their operations and clients. The legal framework supporting this aims to ensure compliance with applicable and relevant provisions of international law (including human rights law); international maritime law and the law of the sea; laws and regulations of national, coastal and flag states; and commitments under the ICoC to respect human rights (ANSI/ASIS PSC.4 2013:xii).

Definitely both published standards have strengths and weaknesses; one of the most obvious differences between the two, is PSC4's broader focus on human rights. In fact, it dedicates its section 9.5.1 to this subject (ANSI/ASIS PSC.4 2013:27), something that ISO/PAS 28007 refers to in very limited terms. The aim of this research though is not to evaluate the standards and present the more effective and proper one. The major point - which is directly related to the identification of the main research question of this project, as discussed in Chapter One - is that PMSCs have been operating on worldwide basis since 2003 in broad terms, without any specific standards in place, since both the currently available guidelines were published in December 2012 and January 2013, respectively. Even within the developed conceptual framework of this research (see Section 2.4.3), according to which the shipping and offshore oil and gas industry are the main drivers of the private maritime security sector, there were no internationally agreed criteria. Hence, there was nothing on which potential clients could be assured that the companies offering their services had specific guidelines to follow and requirements to meet in order to be certified.

Furthermore, and given the globalised nature of both demand and supply (the former obviously referring to clients from the shipping and offshore oil and gas industry and the latter to PMSCs offering their services globally), the very existence of two different standards has created another dilemma that both PMSCs and shipping companies have to overcome. The former have to choose between the two; since the auditing process is time, money and effort consuming very few companies will consider the possibility of applying for both.

Even if the final criterion for their choice might be geographical, the globalised maritime security provision does not offer solutions to the shipping companies in terms of choosing the PMSC with the proper credentials and relevant certification. So, what certification should shipping companies ask for from the PMSCs in order to ensure that they will contract the most suitable and reliable one to provide security on board their ships? And if a PMSC has already been certified with Standard A but not with B, and/or vice versa, does this mean that it is not reliable or capable of accomplishing successfully its mission?

One simple and obvious solution – although currently purely theoretical - would be the integration of the two in one truly international standard, produced jointly by both institutions. Beyond the potential of filling each other's gaps, minimising (or even eliminating) the weaknesses and enhancing both documents' identified strengths, this possible merging can provide the solution to the above dilemma. It will also overcome the current trend, where US based companies request PSC certification and Europeans request ISO, with the justification of conceptual and cultural differences in the use of force and the 'post-Blackwater' legacy of US private security providers. The first signs of the potential of this idea/ initiative have emerged through the introduction of a global standard that combines the standards of ASIS/ANSI and ISO. This has been advanced by the appointment of the ASIS commissioner in Global Standards, Dr Mark Siegel, as chairman of the ISO project committee PC 284,[85] assigned to develop a global private security quality management standard based

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[85] See ASIS announcement available from, https://www.asisonline.org/News/Press-Room/Press-Releases/2013/Pages/ISO-to-Develop-New-Global-Private-Security-Quality-Management-Standard.aspx

on the ANSI/ASIS PSC.1-2012 (ASIS 2013). An optimistic approach could see the broadening of this specific initiative to include the maritime domain and so having a jointly developed global private maritime security quality management standard. However, both options are still pending.

The body which was supposed to provide answers and guidelines in this case, including the development of auditable standards and ethical considerations, should be the Swiss-based International Code of Conduct for Private Security Service Providers, already introduced above. As of May 1st, 2013, this currently counts 630 signatory companies. On the contrary, the association remains apathetic and its primary objective seems to be currently focused on its budget development and the establishment of a Board of Directors. This latter will – among other restrictions - introduce membership fees to such an extent that small-sized companies will not be able to afford them (Chapsos 2013b).

There is also confusion at local level. In the UK for example, SCEG endorses, promotes and urges UK registered PMSCs to adopt and be certified following the ISO standards. Yet, in December 2012, the UK Foreign and Commonwealth Office issued a written ministerial statement which actually officially endorsed the PSC ASIS standard for regulation of private security providers.[86] Hence, the obvious question and dilemma which all UK registered companies currently face, is which of the two should they adopt? Since SCEG has an advisory character, should some companies follow the ISO standardisation and the rest look to the government's endorsement for ASIS as authoritative? Clearly, there will be a variety of standards applied even within the UK and the SKEG's regulation and standardisation potential will be futile by default.

In the above framework, the clearest indication of the lack of control, regulation and compliance within the private security industry, comes from the potential regulators per se. For instance, the ISO certification process is overseen by SAMI, which has awarded a contract to the National Security Inspectorate (NSI), to audit its members under the

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[86] See
http://psm.du.edu/media/documents/national_regulations/countries/europe/united_kingdom/uk_2012_fco-statement_adoption_of_asis-psc1.pdf

existing SAMI standards, as discussed earlier in this section. Furthermore, the ISO standards are based upon the SAMI standards but have been further developed at the IMO with input from the aforementioned bodies (BIMCO, International Chamber of Shipping, SCEG) (Cook 2014). At the same time, RTI Forensics along with other certification and business assurance firms, MSS Global and Lloyd's Register Quality Assurance (LRQA), are working with the UK Accreditation Services. This latter is looking to accredit the three companies as private security auditors that will formally be able to issue PMSCs with ISO28007 certificates (Van Marle 2013). Thus a situation is being created whereby several different firms will then be working in competition with each other according to different standards. Hence, those who are supposed to enhance regulation and foster the control mechanisms in reality promote chaos and anarchy by investing in free market principles and competitiveness.

Focusing on the situation in Greece, which provides a second focus of this study in terms of the status of registered PMSCs, no such entities equivalent to the UK based SCEG exist. The regulation of PMSCs and all certification issues are assigned to the Coast Guard. Besides the identified weakness of the Greek public sector, the irrelevance of the Coast Guard as a governmental body to the above issues and the private security sector per se, leaves Greek registered PMSCs uncontrolled and unregulated.

7.4   Use and Storage of Weapons – Use of Force

7.4.1 Weapons Hire and Procurement

The most sensitive and complicated issue in all ways is that of weapons' procurement, use and storage, since by definition armed guards are supposed to carry them and if necessary to use them. Given the plethora of different port states' regulations referring to weapons allowance on board ships, it is not possible for vessels with armed escorts to enter many ports en route. On the other hand, the lawless nature of the high seas offers alternatives since the above regulations are only in effect up to

the 12 nautical miles from the states' coastline, which defines the limits of their territorial waters.

PMSCs may either hire or own their own weapons, which relies solely upon their business strategy and operational planning. During the interview process, at least three interviewees made comments to the effect that: "At the moment, our company hires weapons from authorised agents in various ports, but we are under procurement procedures to buy our own" (Interview B, 2012).

However, according to the UN legislation for weapons and small arms proliferation,[87] renting and hiring weapons is illegal; in simple words, hiring a country's military weapons to civilians and unauthorised persons, in general, is illegal. Yet, almost 75% of the PMSCs – especially the smaller ones or those in their first 'steps' - follow the practice of hiring weapons, since the procedure of buying their own is time consuming and requires a lot of bureaucracy depending on their state of registration regulations.

> If a company wants to hire weapons, this can be done legally due to bilateral agreements signed with the Navies of some countries such as Djibouti and Sri Lanka; the arms are transferred from a Navy storage depot to the vessel … when we arrive at port, these arms are escorted back by the police (Interview B, 2012).

This clearly indicates that companies contracted to deploy armed guards during a transit in the region can hire the required weapons while calling at a Djibouti port (or Sri Lankan depending on the ship's route direction), and they may then use them while in international waters. Of course the quality and reliability of these weapons cannot be guaranteed. And problems emerge when the next port a ship calls at prohibits the weapons within the state's territorial waters. Even within states' exclusive economic zones, if there is no certificate from the company that is undertaking the contract and there is an 'incident report', the vessel could be arrested, impounded and heavily fined, while the person responsible for the weapons must be a representative (or employee) of the owner of the

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[87] See United Nations Office for Disarmament Affairs (UNODA),
http://www.un.org/disarmament/convarms/SALW/

weapons. In this case, the common practice is to dump the hired weapons at sea, before entering the territorial waters of the reference state. In an interviewee's words 'there are more AK47s off the coast of Egypt than anywhere else in the world', because weapons are not allowed on board merchant vessels crossing the Suez Canal (Interview A, 2012).

Another alternative is to unload under specific 'terms and conditions' possibly in ports in Mozambique, Kenya, or South Africa. In this case, it behoves the person who hired them to return them to the country and owner that they were rented from. If this is not possible, the company that hires them provides a guardian (an employee) who joins the armed team on board and theoretically s/he has all the responsibility and papers required for the weapons in her/his custody. Of course this is not realistic because s/he has to sleep at some time while at sea and the weapons should be permanently under her/his control. Theoretically, s/he also has to make sure that the weapons used by the other persons of the contracted team will only be used in a legal manner. In this case, when arriving at port, the owning company has the right to disembark them while escorted by its employee.

One of the interviewees offered a clear picture of the concerns raised by the hiring of weapons:

> It is still possible to "rent" from Sri Lanka military weapons for armed security companies to carry out transits, this happens on a daily basis and not only in Sri Lanka but places such as Djibouti also issue licenses and rental weapons to "paying customers"… How can a country rent out military weapons even with a so called "Guardian" that accompanies the weapons? Obviously these countries have their own national laws that apply to their territorial waters & contiguous zone. The problem is that these weapons go further than that and often transit the whole of the Indian Ocean to end up in countries like Kenya, Tanzania, Mozambique, Oman, Egypt etc. From there it is the responsibility of the PMSC that "rented" them to return them to the home country where they came from. I know of PMSC's that pay on a monthly basis thousands of $US just for a "license", the rental fees & floating armouries are on top of that. If the weapons are stored in a navy or police armoury there are also charges but nowhere as near as what is being asked for by the floating armouries plus the fact if stored in governmental armouries they are legally held. The business of Anti-Piracy operations is an extremely

profitable one but I must ask myself sometimes who the real pirates are? (Interview A, 2012).

Most of the smaller companies – especially those currently starting up - are hiring weapons (illegally); in fact almost 75% of them are hiring. For all those that buy weapons, their serial numbers are registered as belonging to this specific company. The other option for companies is the procurement of single shot semi-automatic weapons, because fully automatic weapons are not allowed in many port states, so they cannot be loaded on board vessels. The company that sells weapons has to be licensed and registered in its home country; weapons are mostly bought from various factories in USA, Russia (Izhmash) and/or Israel (IWI - Israeli Weapons Industry) (Interview D, 2012). As one of the interviewees described,

> the process is simple: I place the order in the factory; the factory applies on my behalf, using the papers that I have, stating that I am a registered security company and I have armed and unarmed missions to provide maritime security. These are enough for the [XX] authorities to issue an export certificate for the factory; the factory produces the arms, I get an 'End User's Certificate (EUC)' with the registration of the arms' serial numbers (SN) … This is what it makes the arms legal. If I want to sell them to a third party, I have to get permission from the department of export of the country that the weapons were manufactured. So far I buy weapons for my company, but also on behalf of others companies, which means that they order through me (doing the whole process on their behalf), making also sure that the legal process is followed this way (Interview A, 2012).

The next complicated issue is safeguarding the weapons while in transit. According to the guidelines, when not in use they should be locked in a case on the bridge. If not possible, they should be placed in a weapons' case under the bed – so that the box cannot be opened. Only the master and the team leader have a key for this lock. They should not be out of the case unless the ship is transiting high risk areas (Interviews B, H, 2012). Anyone who carries a gun while at sea is not supposed to open fire unless authorised by the master and, of course, only during transit through high risk areas. Furthermore, the night watch must always have a

weapon him/herself. While not used on duty, the weapons must be back in their box.

Weapons have to be declared by the shipping company's agent and/or the security company at least 24 hours prior to the arrival at the next port that the ship will be calling at. On arriving in territorial waters, the weapons have to be locked in the safe; the customs board the vessel (before entering the port or upon docking - depending on the port state legislation) and the safe is then to be opened upon request. The required documentation, weapons and serial number is checked (and probably photographed), the safe must be locked again and bonded by the customs. The weapons may then be disembarked.

7.4.2 Floating Armouries

The practice of disembarking the armed security teams' weapons in ports of convenience (due to geography, legislation and availability) offers the flexibility to PMSCs to operate throughout the whole high risk area. It also offered the potential for a generous income for national police, coast guard or navy services, since the allowance and safeguarding of PMSCs' weapons is obviously not free of charge. As a result the issue of the so-called 'floating armouries' emerged. As one interviewee explained: "We buy our weapons from licensed arm dealers … [and] they are safely guarded on board floating armouries or at police armouries" (Interview J, 2013).

The practice for their deployment started in Sri Lanka, which due to the allowance of weapons transfer in the country – as mentioned in relation to the hiring process - became a hub for PMSCs operating in the region (MSR 2012d). However, the potential of local militia breaking into such warehouses where weapons might be stockpiled led the country to allow the deployment of vessels outside its territorial waters where PMSCs could store their weapons and avoid this risk. Furthermore, perhaps in more practical terms, this new operational initiative created an annual income of over Rs300 million annually for the Sri Lankan navy which was controlling the armouries. This practice has been implemented throughout the region up to the Gulf of Aden, where a vessel used by a Sri Lankan

company was briefly arrested by the authorities in the United Arab Emirates. 'Sinbad' the vessel, which was in the control of 'Avant Garde Security', was held whilst it was being refuelled off the coast of Fujairah. The company was approved by authorities in Sri Lanka to operate a maritime security company in the troubled Gulf of Aden which has become a high risk-zone with frequent pirate attacks (MSR 2012b).

Hence, for countries that do not allow arms in their territorial waters, business companies deploy 250-300 tonne vessels in international waters to take and store the weapons on board on behalf of the merchant vessel. The escort team is then able to disembark at the port of call and fly back home. This is a highly dubious legal method of operating as the floating armoury has actually no connection to the company that uses or deposits the arms on board. In late 2012, more than 18 private ships were operating in the region's international waters, in the locations indicated in Figure 25, demonstrating not only the profitable nature of the concept, but also the desire of PMSCs to bypass the port states' regulations regarding the arms aboard vessels (Brown 2012:5).

Figure 26: Locations of Floating Armouries (Oceanus Live 2012)

Obviously the floating armouries are on the fringes of legality because they take on arms that belong to another company with no connection between them, which is in breach of their 'End User Certificate', if they have one. Furthermore, the registration of some of these vessels is of a highly suspicious nature: they are often registered as fishing vessels, tugs or pleasure crafts and are not simply being used for another purpose but for the purpose of storing weapons at sea (Interview A, 2012).

Beyond these legal issues, if we examine the scenario of a floating armoury being hijacked by pirates or a terrorist organisation, there is great cause for concern (MSR 2012a). The vessel will have a stockpile of weapons and ammunition in their weaponry, ready to be used in all kinds of illicit and terrorist activities, and the weapons will have the PMSCs as officially registered 'end users'. For example, Picture 6 shows the floating armoury 'Aladin' operating off Fujairah; she does not seem to be very well protected against such a potential scenario, with cases of weapons visibly stockpiled even on the decks of the vessel.

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Picture 6: Floating Armoury 'Aladin' off Fujairah (Source: Author's archive, 2013)

In operational (and business) terms, this provides the flexibility to PMSCs to embark and disembark in ports where port states' legislation does not allow weapons. By using the floating armouries, they can pick up their weapons as soon as they exit the territorial waters of one and disembark them before entering the waters of the next (Interview J, 2013). Again, another 'side-service' business company is invented, exploiting both the 'freedom of the seas' and lawlessness of the international waters for developing market opportunities in support of the main actors: the PMSCs.

7.4.3 Use of Force

The overall concept of deploying armed guards that may use force in case of pirate attacks on board merchant vessels is justified under the right to self-defence since the guards are perceived as crew-members during the attacks. Although, in military terms, there are specific and strict limitations and required authorisation for the use of force provided through the release of Rules of Engagement by governmental bodies, the free market has no such mandatory mechanisms in place.

A general manager of a big and prestigious company in the global market, attempted to describe his teams' experiences in moderate terms:

> To date, [the company] has conducted over 600 transits of the High Risk Area (HRA) and we have encountered pirates on 25 occasions. [The company's] teams have encountered pirates on 25 transits of the High Risk Area. Just recently, a [company's] team encountered 7 pirate skiffs operating at the southern end of the Red Sea. The Team Leader reported that the pirates had heaving machine guns and RPGs and they closed the vessel in a coordinated fashion in order to probe the security team. The [company's] Team Leader received permission from the Master to employ warning shots and disabling fire as necessary while the ship performed evasive manoeuvres. The team maintained their presence on the bridge while the ship opened the distance with the pirate action group. No shots were fired and the presence of the professional security team was enough to deter the pirates from closing within the 1NM security zone (Interview D, 2012).

The notion of a 'threshold of use of force' has been broadly debated at all levels of engaged entities. Yet, no specific solution has emerged so far, despite the shooting between PMSCs and pirates that is frequently reported (with many more unreported) from the region. Given the difficulty to distinguish the pirate from the common fisherman in this specific region, armed guards and vessel protection military detachments have shot and killed both pirates and fishermen (Katz 2012). The most indicative and broadly discussed case, is that of the Italian marines on board the Italian merchant ship, Enrica Lexie, who shot and killed two fishermen mistaking them for pirates off the coast of Kerala, on 15 February 2012, as discussed above (MSR 2012c).

IAMSP was one of the first organisations to issue and distribute relevant standards on the threshold of use of force to its members, including forms for reporting such incidents at sea and also making them available from its website.[88] Yet, as clearly stressed within the manual, these standards have first to be adopted by the company in order to come into effect; furthermore, they need to be implemented by the individual guards, depending on their decision-making skills, training and experience, etc.

Similarly, the Baltic and International Maritime Council (BIMCO)[89] issued the "Guidance on Rules for the Use of Force (RUF) by Privately Contracted Armed Security Personnel (PCASP) in Defence of a Merchant Vessel (MV)"[90] in accordance with IMO's circulars. This document attempts to offer a 'manual' to engaged and interested parties.

It is obvious and commonly accepted that it is in the master's authority to 'order' the firing against upcoming pirates. But is he experienced enough to retain his self-control in such an incident? When it comes to personal survival of the experienced guards, how long should they wait for the master's authorisation? Is the high-speed approach of a skiff enough to

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[88] See http://iamsponline.org/tag/use-of-force/

[89] BIMCO is an NGO/shipping association providing a wide range of services to its global membership which has vested interests in the shipping industry. This includes ship owners, operators, managers, brokers and agents. The association's main objective is to facilitate the commercial operations of its membership by developing standard contracts and clauses, and providing quality information, advice, and education. See https://www.bimco.org/About/About_BIMCO.aspx [accessed 1 June 2013]

[90] Available online from https://www.bimco.org/Chartering/Documents/Security/~/media/Chartering/Document_Samples/Sundry_Other_Forms/Sample_Copy_Guidance_on_the_Rules_for_the_Use_of_Force.ashx [accessed 1 June 2013]

justify opening fire for self-defence? Is the force that will be used by the armed guards equivalent to that of the pirates' or might it be used in excess in response to the imminent threat? How subjective can self-defence be? All these questions depend on personal characteristics and proper training for similar conditions, on the level of familiarisation with emergency and under fire conditions, in order to be answered. Thus, the debate referring to state and private training and security emerges once again.

In late May 2013, the publication 'The 100 Series Rules – An International Model Set of Maritime Rules for the Use of Force (RUF)'[91] was officially issued, after being reviewed more than twenty times due to lack of consent or required amendments from the contributors. Its objective is, on one hand, to provide the PMSCs, the ship's master and the crew with guidance "on lawful graduated response measures and lawful use of force in accordance with the right of self-defence when subjected to either perceived or actual acts of maritime piracy, armed robbery or hijacking". On the other hand, it aims at reducing the risk of civil liability claims, and/or potential criminal or other charges against the master, crew, PMSCs and the shipping industry in general.

As already highlighted in other similar issues, this is just to provide guidance to the interested parties and by no means has a compulsory character. Even if it did, there is no assigned and responsible international body to ensure and enforce its proper adoption and application.

7.5   Quality Assessment and Ethical Concerns

7.5.1 Quality Assessment

Clients depend on references for PMSCs in order to approach them and offer them a contract for an armed escort. In this context, BIMCO issued a standardised contract for the employment of security guards on vessels

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[91] See http://www.100seriesrules.com/ [accessed 1 June 2013]

(GUARDCON),[92] which also provides a 'checklist' for shipping companies in order to take all the required aspects, measures and precautions into consideration before contracting a PMSC.

However, the PMSC's experience and references from previous contracts are the main additional credentials, as well as the insurance (for about US$5million) for accident, kidnap ransom, etc.. It is in the shipping company's remit to accept or reject the PMSC's suggested team members for the armed escort.

Given the same certification process for all companies from the same institutions - as described earlier - the credentials that the clients finally request refer to the subcontractors who will actually form the escort team and participate in the mission. Their CVs constitute the basic documents, proving that they were in the military and also in the service of the respective company for a certain amount of time. Although they do not have the capacity to check the accuracy of the content of this document, the company has to ensure that the prospective employee's background is appropriate. And, again this depends on each company's reliability and ethos. Even in this way, due to the confidentiality of the candidate's previous military service, it is not possible to have exact data about the specific military assignments that each individual member of each team had been through. The generic CV that is provided to clients includes some personal details (name, date of birth, passport number, military service and time that each member has worked for the company) and evidence that they have had the necessary training on the particular defence platform in order to demonstrate and confirm their relevant experience for the mission. However, a potential team member does not solely operate on armed protection of vessels. One of the interviewees' latest missions was the protection of an international diamonds' dealer in South Africa, ensuring the safe transfer of himself and his valuable commodities (Interview H, 2012).

Definitely, the quality assessment of the personnel needs to be directly related to the level of the risk that the escort teams have to face during

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[92] Available online from https://www.bimco.org/Chartering/Documents/Security/GUARDCON.aspx [accessed 20 May 2013]

their transits, and for all companies and teams this risk stems primarily from pirate attacks in the HRA. As described in one of the interviews, in one reported case, a security consultant who was a member of an unarmed escort team was taken hostage along with the rest of the crew, and held in captivity for approximately nine months (Interview H, 2012).

Another PMSC's director, who mostly offers consultancy for the protection of critical infrastructure, stated in an interview that for his company, the major risks include "kidnap and physical violence; generally … activities [that] occur on shore. This has included instances where we received tactical intelligence that our team (in situ) was being looked at by certain groups" (Interview F, 2012).

All interviewees identified the event of having an untrained member in a mission as the major danger for the armed escort teams:

> The non-qualified personnel that don't know what to do and has never been under fire before, is a major danger. They don't know how to react, and under pressure they even shoot at fishermen perceived as suspected pirates (as it happened with the Italian military team and in many other cases). I don't know how many fishermen have been overall shot by PMSCs' personnel and die and never been reported.

> Of course they face also the danger to be shot, kidnapped if the vessel gets taken (which means that the team wasn't up to the job properly and you didn't do the recruitment properly or you did it and you had substandard personnel).

> There was an incident where one of my teams was swamped and attacked by 20 skiffs in the Babb el Mandeb straits. That is a danger; and another vessel with one of our teams on board was attacked 3 times within a space of half an hour by 5 different skiffs. Warning shots were fired and they turned away (Interview A, 2012).

Companies, who hire non-qualified people, with the expectation that they will be trained by their colleagues during the transit, do not usually provide the option to the team leader to choose the specific synthesis of his own team. An operator's statement in his interview was revealing:

> [T]he selection of the teams' composition is a great issue in maritime security companies; you cannot deploy the very last minute four team members which have never even met before just because they

were selected by the management and their only common ground is the operation's briefing. The company has to re-assess periodically the available sub-contractors and deploy only the best; during the transit there are human lives at stake, as well as the vessel and its cargo, so there is no space for apologies due to human errors.

Risks actually start even while at port and boarding the vessel which asked for protection; there are many pirates' informers paid to provide details for the number of team members onboard, their weapons, ammunition, etc." (Interview H, 2012).

7.5.2 Ethical Concerns

There are companies that offer escort transits for US$29,500 from Suez to Galle, compared with an average price for this specific transit of between US$48-50,000. In this competitive environment, companies have to lower the prices for contracts, so subsequently it effects the daily compensation of the subcontractors and inevitably their quality. As explained by one interviewee,

> Non-qualified personnel will take €50 a day for working on a vessel, while the average price for qualified personnel is €200. Another company is hiring Yemeni personnel for $50 per day they give them a rifle and ask them to shoot anything that approaches within 800 yards from the ship. It's all about the money and everyone wants to beat the competitor by offering lower-price contracts (Interview A, 2012).

It is indicative to hear the views of an experienced operator on this same issue:

> When I first started offering maritime security services, my compensation was $300 per day, counting from the day I was boarding on the vessel. However, relatively soon after it was reduced to $250 per day and finally I was almost not even paid at all; they were refusing to pay me (and the rest of the team) for several days of the transit, using ridiculous excuses. Finally I was paid for all the days; later on I found out that it was a common practice of this specific company and apparently I never worked with them again.
>
> Bad businessmen spoil the industry's reputation; I realise that their primary objective is financial profit, but shouldn't be made against the employees'. You cannot cut corners in terms of proper equipment and the team-members' security in general, or the selection and vetting procedures. Of course this does not mean that all companies operate the same way; yet, due to the sudden booming of the industry and the increased demand, many of them appeared and became 'companies' in one night, and the quality was significantly downgraded (Interview H, 2012).

These conditions do not allow tolerance in the quality of the subcontractors that are employed, but under the current circumstances it depends solely on the company's ethical approach and overall concept.

7.6   Conclusion

Chapter Seven provides a substantial contribution to the fulfilment of the third identified objective: to analyse the complex framework of the PMSCs' business model, in legal, operational and ethical terms. It uncovers the dynamics underlying the PMSCs' regulatory framework in the context of the privatisation of international security, through an in-depth investigation of the actors' regulation and applied practices. On the one hand, these private maritime service providers clearly challenge the states' monopoly in terms of maritime security provision. On the other hand though, they emerged as the most popular and effectively applied anti-piracy measure, and were broadly recognised as such. This chapter gives a detailed description of the methods and practices used regarding their recruitment, evaluation and training procedures, their international certification and regulation process in force, their controversial approaches in buying, hiring and safekeeping weapons and, even more importantly, in using them for projecting force. Finally, the chapter provides an analysis of the significant issues relating to their regulation at international level. This includes the use and carrying of weapons on board commercial vessels and the debateable process of assessing their quality and performance within the free market - which actually controls the whole provision of private security by default due to the reluctance of the states to actively control the outsourcing. These are examined in parallel with the ethical concerns stemming from their deployment.

PMSCs introduced a whole new business model into the field of security, which transformed security provision services into a lucrative activity. To a great extent, this has disengaged the state from providing security to the shipping industry, while simultaneously offering many employment opportunities to well-trained former military personnel, who were already retired at a very young age. It is indicative, for example that the UK government officially stated that:

> The Government does not currently recognise an accreditation process for PSCs operating in the maritime security sector. Shipping companies must, therefore, be extra vigilant in selecting an appropriate PSC to provide armed security on board their ships. The

Guidance goes on to provide a number of recommendations as to the selection, size and training of a private security team (Foreign Affairs Committee 2011:27).

Moreover, new peripheral companies have emerged – following free market principles - to support and enhance the already established and flourishing private maritime security services. Particularly, in areas where states were either reluctant to develop their own security services, or were developing them in parallel with the private sector but with less interest and active engagement, this 'supportive industry' demonstrated another perspective for market opportunities.

The deployment of PMSCs is justified to a great extent by the extremely high increase in insurance premiums that ship-owners have to pay to giant insurers. For example, as soon as piracy incidents increased in the Gulf of Aden, Lloyd's, the London based world's leading ship insurance market, included the west coast of India in its list of 'war risk' areas (MSR 2011c). This practice had severe financial implications and in 2011 alone, it resulted in the increase of insurance companies' income by $600 million, (six times higher than pirates made from ransom money in the same year) (Singh 2013). However, insurance companies somehow encourage and promote the private security practice by offering significant discounts to those ship-owners who decide to contract such providers in any form. This highlights the 'business model loop' involving both the private security industry and the shipping industry, since the insurance discount is more or less balanced by the cost of contracting private security companies. Thus, in practical terms, the only differentiation for shipping companies is a robust security provision on board the vessels, given that the overall cost remains approximately the same.

Finally, many states have taken advantage of the booming private security industry, whether through indirect taxation, or even direct taxation, and by renting infrastructure and facilities for such services as weapons safeguarding and stockpiling, which are essential for PMSCs operations in remote regions.

Chapter Eight: Privatisation of Security - Implications and Future   Trends

8.1 Introduction

Consideration of the implications of the privatisation of security in the global context in relation to the international community's efforts to address contemporary piracy off Somalia provides revealing findings and insights. Currently, three United Nations Security Council (UNSC) resolutions provide the legal basis and the mandates for the multinational flotillas to patrol and operate in the region. However, as Brown (2012:4-5) comments, "the world navies' efforts have been akin to a police car patrolling an area the size of France". Moreover, although more than 1,000 pirates have been brought to prosecution in approximately 20 different countries, there has been a profound reluctance to take action ashore; not only in terms of military operations but also in terms of improving governance, human security and infrastructure. At an international level, the UN rejected six requests to impose a blockade on specific Somali ports, fishing villages and identified pirate safe havens, although this is the most obvious way to deny them access to open seas - instead of hunting them across the oceans (Brown 2012:5).

This final chapter reviews the developments underway in the international private security industry, looking for justifications in terms of market expansion and new emerging initiatives, and considering their implications in international maritime security. Combining the findings of Chapter Seven concerning the PMSCs' existing regulatory framework and business model with the analysis of the international maritime security environment in the context of the privatisation of global maritime security trend, developed in Section 2.4 and Chapters 4 and 5, it addresses the final identified objective of the thesis. In effect, it provides an assessment of the extent to which these issues will affect international security in governance and policy, strategic, social and commercial terms.

8.2   Vessel Protection and Military Detachments

As discussed in Chapter Four (Section 4.4.2), the blurred distinction between state and private maritime security becomes even murkier as a consequence of the common practice of deploying the so-called Vessel Protection Detachments. Through this, what was hitherto perceived as the state's obligation has become a private endeavour as well since states are privately hiring armed military teams to shipping companies for protection of commercial vessels. On the one hand, the private sector's high demand for armed escorts at competitive prices and, on the other, the guaranteed high level training of military personnel, as well as the reduction of states' armed forces budget, offers great potential for both parties to do business. The service is available to ships registered and flying the flag of the respective state, or even to companies controlled by the state's nationals. Given also the flexibility and legal status of military personnel in terms of carrying weapons through transit ports and their consequent better protection in case of prosecutions, many companies are in favour of contracting them (Brown 2012:9).

It is estimated that currently almost 2,000 military personnel are deployed in the Indian Ocean, all hired as members of VPD teams to provide protection for commercial interests. The Russian Navy has deployed VPDs since 2009 and the Netherlands, France, Spain, Belgium and Italy have fully adopted this practice, making their VPDs available to private shipping companies. Indonesia, which counts more than 76,000 nationals employed as seafarers, is also seriously considering the implementation of this practice. Dutch shipping companies have been banned from contracting PMSCs, due to the government's concerns regarding the challenge to the state's monopoly in the use of force. Consequently, more than 26 Dutch VPD missions with 10 members each were deployed in 2012; half of their cost was paid by shipping companies, even so, it is questionable if this is a cheaper option than contracting a PMSC (Brown 2012:9-10). In 2012, India also announced its intention to establish the Central Industrial Security Force (CISF), with the responsibility to protect merchant vessels. The force will be manned

initially with 100 Indian commandos, trained especially for this purpose (SaveOurSeafarers 2012).

Perhaps the practice of deploying VPDs is the strongest evidence of the contemporary perception of security, which completely aligns national military power and force projection with private commercial interests. Hence, it could be interpreted as an attempt to integrate the neo-liberal model of security privatisation (see Sections 2.2.2 and 4.3), into the state-centric traditional mechanisms of security provision, as interpreted through the realist approach (see Sections 2.2.1 and 6.4.1).

The implications of this deviation from the traditional practice -of patrolling high risk areas to ensure the 'freedom of the seas' and secure the 'common goods'- are profound. It is a clear statement from states that they deploy their military in order to protect only their nationals' ships and/or companies, who in turn are willing to (at least) share the attributed cost of security provision. Simultaneously, the practice of carrying military on board merchant vessels questions the neutrality and civilian character of commercial shipping, as defined in international law (Brown 2012:10). However, deploying a VPD on board a merchant vessel is incomparably cheaper than deploying a frigate to patrol the Indian Ocean: the annual cost of one frigate's deployment, is equivalent to employing 100,000 law enforcement officers in Somalia for one year (Singh 2013). The final choice is up to the states themselves but the outcome is obviously business oriented rather than having any intention to address root causes or fighting piracy ashore.

The limited demands on the state's defence budget entailed in employing VPDs compared to the deployment of naval assets on the other side of the globe clearly provide a convincing justification for adopting these tactics. The figures provided in Table 7, which present the average cost for various types of counter piracy vessels, is strong evidence of this shift in approach.

The debate that emerged regarding this practice was that states were desperately trying not to completely abolish and outsource their monopoly in security provision, while more business oriented analysts suggest that

states are just trying to take their share from the security provision pie, within the contemporary anti-piracy business model.

Source: Bowden and Basnet 2012

Table 7: Cost of Counter-Piracy Military Vessels (Bowden and Basnet 2012)

From the shipping companies' perspective, there are theoretically even more advantages. The guaranteed high level of military training, reduced price for contracting VPDs compared to PMSCs, their flexibility and their legal status as state entities in terms of carrying weapons through transit ports and their protection from the state in case of wrongdoings has persuaded many companies to contract them.

Yet, the reality is slightly different and this has been demonstrated in the cruellest way possible. That is, through the incident involving the two Italian marines deployed on board '*Enrica Lexie*' (Banerji and Jose 2013). The death of the two Indian fishermen, who were shot by the marines after being mistaken for pirates, highlighted the complexity of maritime security issues and the murky framework of its provision.

One single sentence can reflect the paradox of the overall situation: A state's military detachment, protecting private commercial interests in international waters was charged with the death of another country's nationals and therefore should be prosecuted. However, firstly, there are no bilateral agreements or treaties between Italy and India to dictate (as is usual in these cases) that the investigation of the case and the

prosecution of the perpetrators is a matter for military jurisdiction. Hence, it rests with the international and local law to resolve the issue. Consequently, the mainstream media headlines publicised the escalating diplomatic tensions between the two countries for a long time; stemming from the prosecution process of the Italian marines in Indian courtrooms. The culmination point was Italy's refusal to return the marines to India, after their visit to their home country for the national elections. India in return withdrew the immunity of the Italian ambassador and banned him from leaving the country, unless the marines returned to complete their trial (Chapsos 2013c).

In 1999, US Marine General Charles Krulak coined the term 'Strategic Corporal' to stress the need for low ranked, tactical level commanders to understand the strategic effects and implications of their decisions (Barcott 2010, Shanahan 2011). This gained further significance in the context of General Krulak's approach for contemporary conflicts' complex environments and the 'three block war' concept whereby military forces conduct humanitarian, peacekeeping/stabilization, and combat operations simultaneously on three separate city blocks (Dorn and Varey 2009). In light of this, analysts and strategists concerned with the Iraq war, adopted the term, alluding to the significance of the deeds of armed street patrols in a foreign country. However, the decision making abilities of the patrolling military personnel failed to have analogous implications in winning the 'hearts and minds' of local populations, reflecting their low-rank level. The term has also applied effectively in the maritime domain, in the case of the '*Enrica Lexie*', where a tactical mistake by two 'Strategic Marines' resulted in the diplomatic tension between two countries.

Through the above incident, the globalisation of international security becomes profound, along with the justifications for its privatisation. Although there are indications that during the last five years many similar incidents have taken place in the Indian Ocean, with innocent fishermen being shot by armed guards after being mistaken for pirates, the consequences were not proportionate, since no state entities were engaged. This can partly explain states' reluctance to keep the monopoly of security provision, both ashore and offshore, since its expeditionary

forces have to operate in complex and hostile environments. On the other hand, private security providers enable governments to avoid supervision, external (and internal) legislative requirements, parliamentary inquiries or political cost when using force and conducting controversial operations abroad, especially if the outcome looks likely to result in embarrassing failure. Thus, especially in the maritime domain, the responsibility is transferred to the shipping companies and vessel masters, both for the choice and contract of the private security provider, as well as for covering the cost of their own security. The state retains only the right of regulation and control of the private security providers; however, practice indicates that even these are following free market principles and the states' engagement remains rhetoric (Chapsos 2013c).

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Figure 27: European Maritime States' policy on vessel protection (Van Ginkel et al. 2013:22)

An indicative study was released in February 2013, analysing the status of VPDs in Europe and addressing the critical question: should state or private protection be used against maritime piracy (Van Ginkel et al.

2013)? The report clearly reflects the EU states' preference in contracting PMSCs for the vessels flying their flag, instead of deploying VPDs, as Figure 26 clearly indicates. However, although the report provides only the Dutch perspective, given that the Netherlands is the sole state that adopts the deployment of VPDs as the backbone of its policy (and considers the use of PMSCs illegal), its assessment concludes with three possible scenarios as policy recommendations. These include the potential of using PMSCs either as a government taskforce or privately contracted, under strict criteria and supervisory mechanisms (Van Ginkel et al. 2013:35).

The current situation puts the VPDs' practice and future under question. Even India itself has not as yet deployed the CISF (mentioned above) nor officially declared its operational availability. And, perhaps more importantly, the security of seafarers lives and vessels becomes an increasingly private concern, relying solely upon the shipping company's wealth, and the ship-owners' discretion and will to allocate funds for contracting the company with the optimum service to cost ratio.

8.3   Private Navies

A practice that is a natural evolution of private maritime security services, and simultaneously an even broader expansion of the private security business model, is the deployment of private armed ships for the protection of merchant vessels.

From 2001 up to 2003, the private UK firm 'Hart Nimrod' operated a 65 metre long vessel – *MV Celtic Horizon* - with three RHIBs[93] on board, contracted by Puntland's authorities to enforce fisheries' protection. This was another clear example of substitution for the state's functions, since the lack of law enforcement agencies – both at state and international level - allowed the exploitation of Somali fisheries from foreign fishing fleets, which is one of the root causes of modern piracy (Berube 2012:78).

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[93] The acronym stands for Rigid-Hulled Inflatable Boats

In 2006, Blackwater, arguably the most notorious private security company in the world, attempted to expand into the maritime domain. To this end, it purchased *McArthur*, a 40-year old Oceanographic ship (her cost was approximately $400,000). Her renovation cost another $3.5 million and three RHIBs another $1 million, and she was also modified so as to be capable of carrying two helicopters on board. Her crew counted thirteen members minimum, but had the capacity to carry an additional 30 members of armed security teams (Berube 2012:79).

McArthur sailed from Norfolk, Virginia, on the day of President Obama's inauguration, 20 January 2009, heading towards the Gulf of Aden to provide armed anti-piracy escort to potential clients (Berube and Cullen 2012:3). Yet, although Blackwater approached several clients representing more than 1.000 ships, none were very enthusiastic about buying its services due to two major issues. First, the company's reputation was broadly spoiled in the 'market' due to publicity given to its controversial activities in Iraq. Second, the cost of hiring an armed vessel for escort through the high risk area was not cost effective: whilst Blackwater had to receive the return from the money invested to renovate and equip the ship, the ship owners could find cheaper solutions by contracting PMSCs to deploy armed teams on their vessels. Soon enough, even more logistics' problems emerged that demonstrated the complexity of the international maritime environment due to different flag and port states' legislations. Oman did not allow the ship to even re-supply in its ports; political issues excluded Yemen from any potential consideration of logistics contracts; Djibouti appeared to be the solution and suitable to function as the ship's base, but a third party had gained exclusive rights to vet any private security forces within the country. Thus, the final cost for Blackwater was very high. The ship, finally, ended up in Aqaba, Jordan, actually out of the operational area. The whole initiative was doomed to failure and the ship was finally sold silently in Spain for just US$4.5 million (Berube 2012:79-80).

In his study of maritime piracy, after a historical overview of the well-known 'privateers' during the 17th century, Bellamy (2011:81-2) stresses the risk of PMSCs turning to pirates themselves due to the lack of secure,

legitimate bases and legal protection. He points out that private security teams have already been arrested in Eritrea for these reasons. As he makes clear, these incidents demonstrate the significance of creating safe and legitimate bases – even through regional maritime security regimes - with robust regulation and maintenance standards should the international community wish to use PMSCs as an anti-piracy means. Furthermore, his research reflects anew that, whilst these issues have been addressed throughout the perpetual existence of the phenomenon, (albeit with different factors being taken into account by policy makers and strategy planners - such as human rights), the primary concerns and major difficulties remain very similar even in the contemporary struggle against piracy. And as discussed in previous sections regarding the 'typology of piracy', even though there are differentiations in terms of geographic locations, operational models and pirate groups' objectives, there are still strategic issues which apply in all cases. Such issues need to be taken into consideration, aiming at the development of a common, joint, international and effective anti-piracy response on a worldwide basis.

8.3.1 Contemporary trends

The blurred distinction between state and private initiatives, jurisdictions and security provision becomes further emphasised if we consider the Yemen Coast Guard's activities during the same period. Given the high demands for security and anti-piracy escorts in its area of jurisdiction, the Yemen Coast Guard provided its services to private shipping companies, which generated quite a high income. Although the Yemeni Government expected a 'bottom-up' revenue from this lucrative service provision, it never reached the governmental treasury (at least not to its full extent). This resulted not only in tension between the government and the Coast Guard leadership, but also in the cancelation of the latter's budget funding (O'Byrne 2013).

As of late 2012, approximately forty private armed patrol boats were operating in the region, offering a 'security zone' around clients' ships by challenging suspicious boats approaching them. This method is attractive to shipping companies, since their ships do not have to carry armed

personnel on board; hence they do not compromise their right to 'innocent passage' through foreign coastal states' territorial waters. Moreover, the master and her crew do not have to be engaged in decision making or the potential consequences of weapons firing against pirates, since the whole operation is assigned to the patrol boat and her crew. However, the private patrol boats' status is extremely unclear, and could in fact be included in the category of piracy itself, since according to international law the use of aggressive force on the high seas without government authority constitutes piracy. Furthermore, the use of force by armed escort teams' on board vessels under attack may be legitimised through the principle and right for self-defence. However, in the case of private armed patrol boats, the interception, shouting and perhaps boarding of another civilian vessel obviously raises significant legal issues. It could also result in creating chaos, anarchy and further loss of human lives. There are also serious ethical issues to consider stemming from the scenario of the patrol boat witnessing a pirate attack against a vessel other than the client's without taking any action since she is not paid to protect ships other than the contractor's (Brown 2012:8-11).

Given that a ship can be registered as a military vessel only by a state or similar entity with official armed forces, this is not an available option for private security companies (Correspondence D 2013). The companies offering this service usually buy decommissioned military vessels, convert them to civilian use in the area and register them as security crafts (Correspondences C, D 2013). At this stage, the situation becomes complicated, since the modification of their previous armoury has to comply with the restrictions and limitations of the flag state's legislation. However, and given the variations of states' legislation in this specific issue, it does not necessarily mean that compliance with the flag state's regulation will also be in accordance with the port state's equivalent, where the vessel will potentially be contracted and deployed in the future. Hence, in the case of operations for combating piracy in the Malacca Straits, the heavily armed private boats that were contracted for this purpose were deployed from two or three ports. Thus, their base, in terms

of logistics provision, replenishment, departure for patrolling and calling after the patrol was complete, was limited to these specific ports.

Similarly, in the offshore oil industry, where the use of private vessels have been a practice in terms of security provision to the oil rigs for many years, there are specific arrangements with local authorities and governments in order to licence their operational deployment. Even in this case, they are only allowed to depart from a specific port, execute a specific mission around the oil rig and only within the state's territorial waters and afterwards return to the same port. This practice was explained by a member of an international law firm, with expertise in maritime issues:

> [A] ship can only be registered as a military vessel if you are a state or similar entity having official armed forces. Personally or as a company you cannot register a military vessel (maybe you can register a "security craft" or something like this, but it will never be "military". The arms depend on the flag and port state but personally I don't know a single state granting permissions for heavy guns to any private person (except maybe museums with quite a lot of bylaws – not likely in this case).
>
> Registering a "security craft" should be quite easy as long as you keep to a standard routine. What I mean: when we had the situation with piracy in the Malacca Straits quite heavily armed boats were used from two or three ports, leaving from there, doing the escort and returning to one of these ports (in the some country). Therefore you could arrange something with the competent authorities and you did just domestic trade. You have a similar situation with offshore platform protection (one port, going for a mission, returning to the same port).
>
> It gets a lot more problematic if you do this across boarders [*sic*] and it gets near to impossible if you do this as "tramp shipping".
>
> A former military crew means actually it is not military and can therefore be only civilian. As a consequence it is a civilian vessel with a civilian crew, even when looking military and maybe behaving officially. The only chameleon being partly military and partly civilian I could imagine is something like MARAD with maritime prepositioning ships or coast guard, but definitely not a private security provider.
>
> By the way – if it would be easy to own such a boat, I would have one – even just for fun! (Correspondence D, 2012).

It is obvious that when the operational concept entails a form of convoy protection, things become even more complicated, since the "security craft" will inevitably have to cross multiple coastal states' territorial waters; hence obtaining a relevant agreement and the resultant authorisation from all of them is unrealistic. And even if the route planning is such that it avoids all states' territorial waters, the minimum requirements will still, normally, engage at least three states (and authorisations): the port of departure, the port of call after completing the convoy escort and another port of call for replenishment (even just as an emergency plan since there is a whole ocean to cross). The above requirements, which are the minimum legal commitments that have to be considered by such companies, highlight and to some extent explain the failure of Blackwater's attempt with *MacArthur*, as described above.

Despite the failures of the past, in early January 2013, the initiative of a British businessman to fund and launch a private navy in anti-piracy operations was in the headlines of the global mainstream media. The armed vessels were to be led by an ex-Royal Navy commodore, also responsible for recruiting 240 former marines and sailors for the unit. Their task was to escort oil tankers, bulk carriers and yachts around the east coast of Africa. Involving military-like planning and principles, their project was focused on a decommissioned ex-military 10,000 tonne 'mother ship', positioned in the 'main body' of the convoy being escorted and modified so as to be capable of carrying three to five smaller fast patrol boats. These smaller boats would be deployed ahead of the convoy in a 'shift – mode' in order to provide early warning, deterrence and thwart pirate attacks with the use of force if necessary.[94] Thus, by these means they would keep pirate skiffs away from the 'high value units', that is, the 'clients' who contracted the company for this purpose. The company was set up because the Royal Navy, NATO and the EU Naval Force lack the vessels to patrol the vast area; the company's chief executive (CEO) stressed in the media that, "[t]hey can't do the job because they haven't got the budget …". Deploying a billion-pound

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[94] Subject of course to the weather, sea-state and fuel self-efficiency

warship against six … [pirates] with $500 of kit is not a very good use of the asset" (Keating 2013).

The CEO of the company reflected on the whole concept in an interview conducted and released by Bloomberg (2012): he explained that the aim of the billionaire who invested in this initiative,[95] was to be focused on offering anti-piracy escorts all around the globe and wherever they might be needed and contracted for this service. The concept involved investing in and building on the low insurance premiums that shipping companies would pay while contracting the security providers and spreading the cost of the convoy escort by getting together as many as possible for each transit (Bloomberg 2012).

Still, for all the reasons and difficulties analysed above, and an in-person 'debate' about the weaknesses of the venture and the high risk of failure (Correspondence G, 2012), the publicised operational model, investment and launch of this new form of private security provision at sea remain rhetoric.

8.3.2 The 'Defender'

Following this, the venture of the British gunboat '*Defender*', shown in Picture 7 below, initially looks like a repetition of the cases already researched in this section. However, it does highlight the distinctiveness of the maritime domain in terms of the variety of states' legislation involved, the lack of regulation and the applied practices encouraging entrepreneurship in the security industry market. It also highlights the risks and future trends.

A former Royal Navy officer bought the decommissioned boat from the Navy of Oman,[96] according to his claims, he converted her into a civilian craft and registered her as a 'pleasure boat', flying the British flag. The two mounted cannons visible on deck are supposedly decommissioned and

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[95] The mastermind of the investment and business opportunity was identified at Bloomberg's interview as Simon Murray, who joined the French Foreign Legion as a teenager. The 55-year-old millionaire is also chairman of Glencore, one of the world's largest commodities traders

[96] Chris Enmarch bought the vessel, which is 127ft long and weighs 135 tons; she was built in Lowestoft, Suffolk, in the mid-Seventies, as a fast attack craft for the Sultan of Oman's navy in the Gulf and decommissioned in 2002.

out of service as well. However, they do give her a somewhat provocative and questionable appearance. She was afterwards manned with five ex-Royal Marine Commandos, and prepared to sail for new adventures.

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Picture 7: The British gunboat 'Defender', while held in Tenerife (Couzens 2013)

Although she was registered as a 'pleasure boat', it was reported in a local Essex's newspapers in November 2011 that the owner "intended to arm her for shipping and oil rig protection … [and her] … task will be to deter any pirates intent on boarding the many ships that pass the East African coastline. One look at her should be enough to send them looking for easier targets" (Couzens 2013). She finally sailed from Cornwall UK on April 16, 2013 and the owner stated that his 'pleasure boat' was going on an anti-piracy mission.

A mechanical failure forced the ship to deviate from her planned course and head for an unplanned stopover for repairs in Tenerife. In sight of the port, she was boarded by Spanish Civil Guard officers, refused permission to stay there and escorted to a berth 50 miles away in Santa Cruz port by a Spanish navy warship. However, due to the gaps in international legislation, the Spanish authorities had to deal with the vessel's registration as a 'pleasure boat' despite her suspicious and formidable appearance. To this end, they conducted five detailed inspections for a

whole week, focused on finding evidence of private security activities and other wrongdoings. Finally, the Spanish ministry of defence announced that an inspection revealed "irregularities in the paperwork of the boat and its crew, as well as deficiencies in safety equipment" (Couzens 2013). Consequently, the owner was fined €40,000 because the vessel's waste systems and the fire extinguishers did not meet the standards of 'pleasure crafts'. Despite his previous statements, the ship owner now stressed that,

> the reports of us heading to Somalia are nonsense. We would not have come down this way if our destination was the Horn of Africa. There are quicker routes to get there. We are on our way from England to Senegal to discuss with the authorities there the possible use of the Defender as a deterrent against illegal fishing boats. The idea is that one look at us and anyone who should not be fishing there will think twice about staying … the presence of a formidable looking vessel would be enough to deter illegal fishing (Couzens 2013).

Perhaps not surprisingly, just five days after her release and departure from Tenerife, the boat was intercepted off Senegal and detained again by the Senegalese authorities this time, on 'suspicion of illegal activities'. The spokesman for the Senegal Army said the ship was being held in Dakar and four British former members of the armed forces had been arrested, but he refused to disclose further details. The arrested ship owner for his part stated that he and his crew were not mercenaries and their venture is strictly business oriented, "similar to other British private protection firms which operate in Iraq and Afghanistan" (Daily Mail 2013).

The controversies provoked by the ship owner's statements highlight on the one hand the weaknesses of the international regulations. His ship had already been removed from the UK registry, but the practice of registering 'security crafts', as discussed above, still needs many improvements, should they intend to operate in multinational environments and cross-country territorial waters.

Perhaps even more importantly, and given the continuously increasing number of PMSCs offering anti-piracy escorts, protection and services in general, new areas are under investigation in order to create new business opportunities which are still under-researched and unexplored. In this specific case, while underway, the crew decided to head to the Gulf of Guinea instead of the Horn of Africa, which was already crowded in terms of private security providers. They consequently offered their services to the Senegalese government to combat illegal fishing, which is indeed a major issue in the region.

PMSCs already provide security services to the offshore oil industry, consultancies to governmental bodies and commercial companies; as discussed in detail in the conceptual framework of private security in Section 2.4.3, the vast majority are contracted by private, commercial companies to provide security services, However, 'Defender's' case is one of the very few attempts to achieve and gain a contract directly with a government which does not have the means to secure and promote its interests. Hence, what becomes evident and which we can expect to see in the near future is the extent of PMSCs engagement in other maritime security challenges. These will include illegal fishing and trafficking related crimes at sea, in particular, as well as offering their services to and signing contracts with governments, following the paradigm of their land-based colleagues.

8.4 The Hellenic Case Study

Hellas is traditionally a maritime nation and the sea is inseparable from the Hellenic culture, history, society and its existence per se. More than 50% of the global merchant fleet belongs to Hellenic shipping companies, although the vast majority is registered in states under 'flags of convenience'.

As already discussed in Chapter Six (Section 6.4.1), in December 2008 the European Union launched its first ever joint Maritime Operation under the European Common Security and Defence Policy (ESDP). 'Operation

Atalanta' was the EU's counter-piracy operation off the coast of Somalia, "as response to the rising levels of piracy and armed robbery off the Horn of Africa in the Western Indian Ocean" (EEAS 2012) and in accordance with the relevant United Nations Security Council resolution. The assignment of a Greek Commodore (on board a Hellenic frigate) as the first operational commander of the joint Naval Force added a mythic parameter to the whole operation, particularly as, during this specific period, the Secretary General of the IMO was also Greek[97]. Yet, almost one year later and after the completion of his assignment he resigned from the Hellenic Navy and in 2010 he founded (and to date is still directing) a Hellenic PMSC registered in Cyprus but based in Piraeus (Interview B, 2012).

While the above events reflect the interest and the continuous bonds of Greece with the maritime domain in general and its security in particular, the levels of economic depression were increasing at dangerous levels in the country. As a result, since defence budgets do not refer solely to armament procurements but also to salaries, training, health care, maintenance, funding of military operations etc., as from March 2012, the Hellenic government withdrew any assets operating in the high risk area. Furthermore, it is very unlikely that in the near future any Hellenic frigate will be re-deployed in the region. Hence the paradox here is that a country which prides itself on leading global shipping, has become dependent on other countries' navies to secure the trade routes and ensure the 'freedom of the seas'.

Another paradox associated with this is that, despite the extent to which national economy has shrunk, Hellas remains in the top positions among NATO member states in terms of defence spending. Obviously maritime security is not among the top priorities to be funded, since the personnel costs alone account for approximately 57% of the overall budget (ekathimerini.com 2013).

In the environment of the most supressed economy within the EU, where thousands of Hellenic businesses have been bankrupted within the last

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[97] See footnote Nº 2

three years, private maritime security services is one of the very few businesses that flourish. In March 2012, the Hellenic government issued the relevant legislation, authorising the contracting of private armed security guards and their deployment on board Hellenic vessels (Hellenic Parliament 2012). The date that this law came into force coincides with the date that the Hellenic frigate was withdrawn from the EUNAVFOR Somalia. Maybe it is only a coincidence, but it is also interesting to have a closer look at Article 4 of the relevant law, which defines the cost and duration of the required licence. It is indicative that a shipping company that is interested in contracting private security services has to pay €2,000 for a six month licence or €3,500 for an annual licence. This is of course a significant income for the state in terms of taxation. However, it also provides another incentive for the Greek ship-owners who still have a few ships left flying the Hellenic flag to switch to a 'flag of convenience' registration so as to avoid the license fee.

8.5   Implications in International Security and Future Trends

When the International Code of Conduct for Private Security Providers was founded and launched in 2010, as analysed in detail in the previous chapter (Section 7.3), there were only 56 registered PMSCs. Of course, this does not mean that there were not more than this in existence, but initially companies were sceptical in publicising their existence and especially so in governmental bodies. When later on, the ICoC was promoted as an inspiring ethical regulatory body, which would provide compliance assurance, respect and prestige in the global market, the registrations kept increasing with geometrical progress: 206 companies were registered in 2011 alone and another 200 in 2012.

As of June 2013, out of 659 private security providers registered by the ICoC overall, 462 provide purely maritime security related services, be they armed escorts, training, consultancy, risk assessment, etc. These 462 companies are registered in 65 different countries worldwide, a fact which clearly demonstrates the globalised nature, character and

requirements of private security provision. Yet, it is impressive that 172 of them are registered in the UK, 36 in the US and 23 in Cyprus.

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Table 8: PMSCs Registered per Country as of June 2013 (Source: ICoC)

There are also 22 registered in Greece, with another 24 companies managed and operated by Greek nationals registered with 'flags of convenience', such as Liberia, Bulgaria, Malta, Marshall Islands, Belize, etc. Table 8 lists the number of PMSCs registered per country as of June 2013, given that the respective numbers provided in ICoC's webpage reflect the overall number of private security providers (including PMCs and PSCs) per country.

There are two points worth noting in relation to this; firstly, although Greece and Cyprus are both experiencing a long term economic recession, perhaps with the highest unemployment rates in the Eurozone, the private maritime security sector not only flourishes, but Greece is also classified at the top of the list of the countries offering such services.

Secondly, it is not accidental that the UK, Greece and Cyprus host the majority of the PMSCs worldwide. London is the global hub and policy/decision making centre of the global shipping industry, while Greece and Cyprus manage the vast majority of the global merchant fleet. Hence, the quality, quantity and concentration of clients provide the ideal and most fertile ground for the private maritime security industry to flourish.

The following sections provide an assessment in terms of implications in international security and future trends from governance, social, strategic and commercial perspectives.

8.5.1 Governance and Policy

The governance practices and the traditional state's structure of security provision, which follow the neoliberal model, as analysed in detail in Chapter Four (Section 4.3), have been transformed due to the extent of the privatisation of security provision ashore.

As Avant (2008:449-51) stresses, the opportunities to finance and deliver private security services, have been enhanced by an amalgamation of worldwide forces, new ideas and political choices. Consequently, the private security industry now exists in parallel and operates along with

state military and police forces. Yet, there has to be a proper mechanism within the state in order to control, regulate and assess the industry's performance. She highlights, saying:

> the privatisation of security and force projection has undoubtedly loosened the ties between states and force and undermined states' collective monopoly on authorised violence in the international system. This has not made states less important, but it has opened the way for changes in the roles that states and other actors play in controlling force on the world stage." (Avant 2008:449)

This development poses significant implications both for international security and the control of force. At the level of individual states, although they may sometimes be able to enhance their military capabilities, the market undermines their *collective* monopoly over violence in the international arena. Hence, the obvious dilemmas are focussed on the services per se and their overall regulation. Furthermore, the variety of alternative services and options that the market can provide has implications in their foreign and security policies, in terms of involving the private sector in decision-making. Additionally, and specifically in the framework of foreign policies, it becomes more likely that states take action that otherwise would not have been taken due to lack of internal support and legitimisation. This highlights the fact that beyond outsourcing the monopoly over violence, states also outsource power over violence outside their own mechanisms. At the non-state actors' level, influence over security decisions becomes more possible and available to actors both outside government and the state's physical boundaries. Finally, transnational financing could diffuse power over the control of force, which from a broader perspective could allow a greater variety of actors to have influence over the use of force. It also foreshadows a furthering of competing institutions with overlapping and conflicting jurisdictions over force (Avant 2008:449-51)

However, the integration of the maritime domain in the security provision structure offers a more comprehensive aspect, in this way adding a dimension that was overlooked and missing from the contemporary

security jigsaw. The state transformed maritime security from a costly and defence budget consuming obligation into a revenue opportunity. No matter if it called Vessel Protection Detachment team (like the Dutch and the Indian cases); floating or land based armouries renting (like Sri Lanka and Djibouti accordingly); state patrol boats' escort (like Yemen); weapons renting and selling (like Djibouti and Russia accordingly); or taxation of the PMSC's contracts (like Greece), it reflects the states' achievement in reducing the cost of providing security to commercial companies and its citizens. And, in the process, it raises a significant income from privatising it through controversial and perhaps murky practices.

One of maritime insecurity's primary causal factors is state fragility; inevitably, although weak states have the human resources, they do not have the means and assets to safeguard and enforce law and order in their littoral areas, territorial waters and exclusive economic zones, hence maritime security challenges flourish. Further conclusions can be drawn on this issue, when we take a closer look at the official announcement of the UK government, referring to the financial aid to support the work against piracy:

> The Government is committed to continuing the fight against piracy and maritime insecurity wherever it may occur... To this end, I am pleased to announce a new a package of support worth £2.25m for the work of the United Nations Office on Drugs and Crime, with whom we are working in close partnership to deliver capacity building assistance. This includes:
>
> - $1.135m of additional funding to the UNODC's Post Trial Transfer Programme, to complete the construction of a new prison in Garowe, Puntland, to hold convicted pirates in facilities that meet international standards. Prison capacity remains one of the biggest challenges we face in bringing pirates to justice and it is essential that we provide a targeted, long term solution.
> - A $100,000 project to tackle corruption in the Somali penal system. As UNODC continue the process of transferring pirates back to Somalia, we face the risk that convicted pirates may seek to secure early release by the paying bribes to prison staff. The project will extend existing anti-corruption awareness training from Garowe prison to all the prisons in Somalia holding piracy prisoners.

- A $240,000 project to develop the Somali coast guard. Supporting UNODC work with the maritime authorities in Mogadishu, Puntland and Somaliland to begin the process of securing Somalia's coastline (Foreign & Commonwealth Office 2013b).

Yet, the future trend and option of contracting PMSCs for this purpose, and specifically to replace and perform the tasks that their non-existing navy and/or coast guard should perform, is approaching with a fast pace. However, there are still a few problems that have to be addressed.

The financial requirements are a major factor as well; although it is definitely cheaper to hire a PMSC instead of building a navy or coast guard and sustaining it, the cost is still high, especially for the specific countries. The solution here will obviously be the external funding from the international community and regional organisations. Instead of allocating funds from their national defence budget, and deploying vessels in faraway seas, states will very likely endorse and fund the contract with a PMSC to do the job and their financial burden (and internal legitimisation for deploying military assets abroad) will be incomparably and significantly lower. Following the paradigm of UN peacekeeping operations ashore, where none of the contemporary ones has been launched without the participation and inclusion of private security contractors to fill essential gaps, the maritime domain will inevitably follow. In both ashore and offshore operations, for all the above reasons and given that UN relies upon states' contributions, states are and will be very keen on contributing their financial share towards contracting PMSCs for expeditionary missions - instead of deploying their own troops and assets and undertaking both the risk and financial cost which would be added to their portfolio.

Finally, there is an evident tendency from developed countries (so far) to offer contracts and business opportunities only for PMSCs abroad. The equivalent land based companies, conquered a big space of the security sector both in homeland security posts and law enforcement, as well as by joining the expeditionary military forces abroad. Private guards can be seen in banks, public buildings and premises and in the subway,

supplementing or partially replacing state's police forces, but also in hostile environments abroad such as in Iraq and Afghanistan. Yet, the outsourcing of states' monopoly in maritime security provision has not expanded to that extent yet. Hereof, there is not even partial redistribution of, for example, the coast guards' tasks and missions to PMSCs in their homeland, although there would be a plethora of mission types that could be assigned to them. Following the paradigm established for contracting PSCs for port security (mostly due to privatisation of ports), the potential of a private coast guard has been broadly discussed and debated over recent years. However, even the practice during major international sport events such as the Olympic Games for example, demonstrate the States' reluctance to contract PMSCs in homeland operations. Although PSCs have a major role in these events, the maritime events' security remains under the states' forces jurisdiction. Despite its current status, and when the proper arrangements are agreed in the governmental structures, it is very likely that at least part of the coast guards will be privatised.

8.5.2 Strategic

Many analysts argue that the multi-national naval forces deployed in the region have a predominantly symbolic character of the traditional naval force projection doctrines, reflecting contemporary naval diplomacy while simultaneously serving the protection and promotion of each state's national interests in the region. Although if it can be interpreted as having the intention of securing the sea lanes for energy supplies or for furthering the geopolitical rivalries in the Indian Ocean, it is also a unique opportunity for navies coming from states with tense diplomatic relations (e.g. United States, China, Iran) to *co-operate*, conduct joint operations and training and even share valuable intelligence that would otherwise not be possible.

For many years now, analysts and policy makers have stressed that the solutions for countering piracy lie ashore, as the human security approach asserts (see Section 2.2.4). Yet, this is a long term process and both global public opinion and the commercial sector need action to ensure the

safety of seafarers, ships, cargoes and to enhance economic, food and energy security in general. The solution has been found in the privatisation of short term security provision, as described above. This trend provides both alternatives and revenues to all actors, state and private.

All developed countries are already downsizing their armed forces structure due to the financial crisis and defence budget restraints. There is a clear attempt to minimise permanent staff to those in critical posts only, and only in numbers that are essential. They cover the additional requirements by signing project based contracts with PMSCs on an ad hoc basis, both for consultancy work and operational tasks, confident that their personnel and sub-contractors have been educated and well trained by the state per se. Regional organisations already contract private entities following the same concept, even in the hitherto sensitive and restricted field of intelligence. EUNAVFOR for example, the EU maritime security force, contracted a private company to provide intelligence concerning high risk areas and identify hot spots of piracy at a global level. The provider, through a developed mobile phone application, distributes live intelligence feeds to designated and authorised staff personnel at the headquarters' level, in order to be evaluated and utilised accordingly (Correspondence F 2013). Hence, the expanded option of PMSCs contracted by the states instead of solely commercial companies seems to be approaching very fast, as it also overcomes the legal issues and restrictions/limitations relating to authorisation by governmental bodies.

These legal issues bring us to the second major point: local, regional jurisdictions and nation states' sovereignty. Should a state contract a PMSC as security provider, it simultaneously outsources and allocates its sovereignty rights of force projection, law enforcement and security provision in its territorial waters and exclusive economic zone to a private actor/company, which additionally and most likely will be registered, managed and operated by citizens of another foreign country. Furthermore, given that the PMSC will not be an asset of any foreign state's armed forces, it will make the internal legitimisation easier for the

hosting state to outsource this security provision, since it will by no means give the impression of international or external intervention in territorial sovereignty and internal affairs.

One could argue, that this is not a big issue for a fragile state, which anyway does not have the means to ensure law enforcement on its own account, nor to exercise its sovereignty rights and eliminate (or at least minimise) the ungoverned areas within its territory, be it sea or land. Yet, a private entity, contracted and authorised by the state to perform these tasks on its behalf, will have this right only within its sovereign territory. At this point, both legal and ethical issues emerge: What if this PMSC witnesses a pirate attack or illegal fishing activities at just a few hundred yards distance, but could/should not intervene due to contractual obligations and territorial/legal issues?

Perhaps the above question brings to mind Srebrenica's peacekeepers. However there is a potential answer to this dilemma as well; the regional focus, dimensions and ramifications of maritime crime, all point towards the solution of regional organisations contracting PMSCs for similar purposes (such as ECOWAS, AU, EU). And why not also the UN with a regional mandate? Given that EU/NAVFOR's mandate for anti-piracy operations off Somalia expires in 2014, it would not be surprising if a PMSC is then contracted with a similar mission, task and contractual obligations. The example of the deployment of FRONTEX by the EU, to patrol the Greek–Turkish borders in order to combat human trafficking/smuggling and illegal immigration is not very far from the above concept (FRONTEX 2012). The 'regional mandate' will give the flexibility and the international legitimisation to the private contractor(s) to act accordingly in all territorial waters and exclusive economic zones of the region's states that are included in and have accepted this private security provision through international funding and sponsorship.

In the context of researching the potential of contracting private security companies to conduct EU operations, White and MacLeod stress that endowing non-state actors with legal status – especially in the security services industry - demonstrates a lack of political will rather than any

actual or conceptual restrictions to recognising them as subjects of international law. Hence, adopting these practices would require one, or both, of two developments. On the one hand, the accountability and responsibility for their acts (and perhaps wrongdoings) would need to be transferred to the organisation that contracted them. This would require adopting stricter and more careful clauses and mechanisms ensuring their accountability in their contractual obligations. Alternatively, there would need to be a radical change in the status of PSCs as legal entities subject to the international law, as the cited research suggests (White and MacLeod 2008:976, 988).

In any terms, the vital need for an international body/authority which will be responsible for the regulation, vetting and accreditation of PMSCs, is one of the profound findings of this research. Even if a state has the ideal mechanisms in place to perform the above critical tasks, its jurisdiction is limited to those PMSCs registered under its flag, and its laws apply only to those companies accordingly. Yet, the globalised market offers the potential to shipping companies to contract PMSCs from the country of their choice, and consequently, the alternative will not necessarily have the same quality and compliance standards. Even from the industry's perspective, the potential that strict regulations enforced upon PMSCs in one country may result in higher prices for their services and so reduce their competitiveness compared to other companies from other countries. Hence, an international body authorised to perform this task will ensure, on the one hand, that the same standards and regulations apply to all PMSCs on a worldwide basis. On the other hand, their vetting process will also assure all ship-owners that no wrongdoings are overlooked nor double standards applied.

8.5.3 Social

The social dimensions of the privatisation of security are directly linked with the PMSCs' recruitment process, which was analysed in detail in Section 7.2.1. The 'Cross Deck' recruitment agency perfectly reflects the social implications and career metamorphosis that the near future officially offers to the former military personnel (Cross Deck 2013a). The

most recent advert, entitled 'Ex-Forces Personnel & the Transition into Private Security' (13 Sep. 2013), presents the results of a British Security Industry Association's (SIA) survey of its members to demonstrate the background, qualifications and experience they look for in their potential employees. On the one hand, the results of the survey were revealing: 88.2% of the already existing employees are ex-forces personnel; 90% advocate that the most suitable candidates for private security roles are ex-forces men and women due to their transferrable skills, as well as their training and experience which are a perfect match to the private sector's requirements.

On the other hand though, they highlighted several issues which would motivate military personnel currently in service to switch careers and join the private sector. The first point in the survey relates to the announced cuts for the armed forces, which made many servicemen redundant:

> With the announcement in June 2013 of more cuts, many soldiers are now opting for redundancy. With so much uncertainty over the future, and drops in morale, service men and women are choosing to take control of their own decision to leave (Cross Deck 2013a).

The second refers to the intensity of tours of duty in hostile environments abroad, which results in great stress on families due to long term absences. Hence, the job in the private sector triggers the emotional sensitivity of the ideal candidates:

> With the intensity of recent tours of duty, the stress on families can also be great. Taking a job in the private security industry can allow you to spend more time with your family, and avoid constant resettlement as your children attend school. Being able to stay in one spot also gives your spouse the opportunity to develop their own career (Cross Deck 2013a).

Finally, they touch upon the risk of injury or stress, stressing that the private security sector does not entail the same dangers:

> A number of service men and women leave due to injury or stress. Some of the roles in the security sector offer the familiarity of routine without the danger. Becoming involved in organisation and non-

frontline jobs allow you to use your skills without any of the triggers another tour may induce (Cross Deck 2013a).

The above publication reflects the recruitment issues analysed in the previous chapter, and the dual benefits – both for the state and the retired members of the Armed Forces - in terms of unemployment rates and career change for those who retire, respectively. However, there are other elements, which encourage and to some extent motivate members in active service to switch to the private sector, with much better salaries, less danger and better working conditions and environments both for the candidates and their families. And the common practice, as the research findings of this study also highlight, is that growing numbers of active service members of the Armed Forces join the private security industry with the promise of better reward and much better working conditions.

But even for those who do not have a military background, training and experience, the established market and business model of the security industry has opportunities to offer. The companies that provide training and certification can prepare individuals with the minimum requirements to follow the private security's career path without the need to enlist in the Armed Forces. Yet, from the author's perspective, the question in the long term is to what extent will states' Armed Forces be able to recruit the required personnel in order to accomplish their mission, since youth will have far more lucrative and promising possibilities should they follow the private security industry's career?

8.5.4 Commercial

The private sector has established a peripheral commercial network around the node of the state, which is booming for many reasons. This provides the opportunity to manage its own security, provide the required short term solutions and identify new business opportunities with the states' tolerance and encouragement. It can help to reduce unemployment rates with the creation of new security provision companies (training, vetting, logistics, etc.) which support the main core

of security operations, following the paradigm of equivalent companies ashore. What remains to be realised is the extent to which the state will achieve the goal of managing and regulating this network, and whether it will retain the jurisdiction and control over security and force projection.

So far, states have demonstrated a selective approach towards this trend, attempting to intervene only in identified issues which are on the threshold between legal and illegal activity and raise serious security concerns in the international maritime community. An indicative example is the stance of the UK government towards the controversial issue of floating armouries, analysed in detail in the previous chapter (Section 7.4.2). Although there is a major issue and debate around their deployment, acceptable/legitimate standards and use, the UK Department of Business Innovation and Skills has issued 50 licences for such vessels, operating in the Indian Ocean and Gulf of Aden (McMahon 2013). Hence, the state prefers a tolerant approach, choosing to legitimise issues which are still under research instead of interrupting the business model with a more robust intervention in the global market.

In late 2010, Hellenic ship owners were discussing and investigating the option of funding armed convoy escorts to provide security for their vast merchant fleet through the Indian Ocean's high risk area (Correspondence E, 2013). The idea was finally rejected due to the high cost and the available option of contracting armed guards on board every individual vessel as more cost-effective. However, this potential at international level cannot be overlooked. A possible future request by the UN to international shipping bodies to sponsor and fund similar ventures and activities in terms of security provision for their vessels and share the cost of their own security and profit, would introduce a completely new era in international security.

Furthermore, it is very important not to overlook the commercial dimension and the business opportunities that PMSCs offer both to the industry and the state. Interestingly, although the Netherlands, and other states, have banned the use of PMSCs on board vessels flying their flag (Van Ginkel et al. 2013), there are 13 Dutch PMSCs registered in their

homeland (as of June 2013 - See Table 8, Section 8.5), which offer their services in vessels flying foreign flags (although they may be managed by Dutch owners).

Another option which is very likely to be adopted in the very near future is the creation of a 'Security Department' in every individual shipping company. This will definitely save a lot of expenses for companies who contract PMSCs for security provision on board their vessels. The 'Company Security Officer' is already a land-based mandatory post in all shipping companies, eligible to manage, operationally monitor and deploy security teams. What is missing, as yet, is the employment of security operators directly from the companies, who will be deployed aboard the employer's vessels whenever required and obviously whenever a ship is transiting a high risk area. This will definitely introduce not only a shift away from what is known as 'Commercial Shipping' but also significantly alter the international security domain. Yet, in the free market nothing seems impossible.

In terms of implications for the commercial sector, and within the framework discussed above, we could also include the effects of technological advancement. Satellite imagery for example, has become increasingly popular and of significant importance to the maritime security industry. Broadband connection is available via satellite for seagoing vessels all around the world, which makes communications with the shipping company's headquarters possible 24/7. Consequently, future studies about the collation and dissemination of piracy related information, could perhaps also alter the applied tactics, policies and strategies to suppress modern piracy.

8.6   Conclusion

Based on the conceptual framework of private security developed in Section 2.4.3, and using the findings of previous chapters (4, 5 and 7, in particular), this chapter contributes to the fulfilment of the last identified objective of the thesis. To this end, it provides an assessment of the extent to which the existing regulatory framework and PMSCs' practices

and business model are liable to affect international security in governance and policy, strategic, social and commercial terms.

Clearly, a relationship of mutual benefit between the state and the private sector can be identified. The state reduces the defence expenditure budget for providing security in the globalised environment while simultaneously minimising the political cost from potential human casualties, or even engagement in ambiguous operations in the territories of foreign sovereign states. The private sector offers jobs to former well trained military personnel, and the profitable contracts generate an attractive income both for the companies and the state in terms of taxation.

However, there are significant implications identified that are expected to transform the international offshore security concept and provision. Following the extensive contemporary trend of replacing human participation and engagement in high risk environments by unmanned vehicles, (aiming obviously at eliminating potential armed forces personnel casualties), the contract and deployment of PMSCs will, to a great extent, replace expeditionary state and multinational maritime operations. Additionally to sharing the financial cost between participating and interested actors – be they regional organisations or commercial companies - this will also provide internal and external legitimisation to fragile states to outsource sovereign rights to private security providers to perform the tasks that they lack the assets, infrastructure, training and 'know how' to apply.

Most likely, in the near future, UN mandates for local and/or regional maritime operations will be replaced by contracts with national or multinational PMSCs assigning tasks for them to fulfil, while state entities and military navies are left to supervise their coordination, compliance, regulation and efficiency. What needs to be done though is to overcome and resolve all the identified weaknesses and controversial practices, including those identified in this research, that currently impact the global private security industry at a local, regional and international level.

Chapter Nine: Summary and Conclusion

The present research focused on the contemporary trend of privatisation of international security which is apparent ashore and which has recently also expanded offshore. In light of the deployment of land based PMCs and PSCs in numerous wars, especially in Africa, and the contractual missions still in evidence in Afghanistan, the sharp rise of pirate attacks off the Horn of Africa offered fertile ground for PMSCs to flourish and even overwhelm (in quantitative terms) their predecessors in the private security industry. Hence, the main research question of this project emerged, as explicitly posed in the Introduction and the Methodology, Chapter One and Chapter Three – Section 3.1, respectively: How are private maritime security companies regulated in the context of the international security privatisation trend?

Throughout the preceding chapters, I have highlighted the fact that the existing literature in the theoretical approach to the privatisation of international security is relatively limited, both in relation to land based and maritime practices. Furthermore, I have provided the reader with an analytical framework through which to focus on maritime security and the individual challenges it entails in the context of international security. In relation to the perpetual phenomenon of sea piracy, I researched the performance of major actors deployed both by states and commercial companies off Somalia, as my case study in order to reach the conclusions about their role, future trends and implications in international security.

9.1 Summary

The aim of the research, as set out in the introduction and methodology chapters (Chapters 1 and 3, respectively), was the analytical investigation of the private maritime security companies' regulation in the context of the international security privatisation trend, and the extent to which this trend affects international security, in general, and maritime security, in particular. Thus, the research should provide insight into the contemporary situation and so further the academic debate about the conceptualisation of security privatisation. In order to achieve these aims,

specific objectives had to be achieved; these were defined as follows (Chapter One, Section 1.1):

- To analyse the conceptual framework of private security, and particularly maritime security, in the context of contemporary academic literature and professional practice.
- To develop an analytical framework for the integration of maritime security and contemporary piracy in particular, into the contemporary paradigm of global security.
- To analyse the complex framework of the PMSCs' business model, in legal, operational and ethical terms.
- To assess the extent to which the existing regulatory framework and PMSCs' practices affect international security in governance and policy, strategic, social and commercial terms.

In order to uncover the dynamics underlying the PMSCs' regulatory framework in the above context, this research project identified and used appropriate qualitative research methods. These were strongly supported by empirical data collection that was made possible by extensive professional experience and personal engagement with the private maritime security industry. Using the case study of PMSCs' operations off Somalia from 2005-2013, and a plethora of selected data from primary sources and semi-structured interviews, the study accomplished in depth research into the functioning and regulation of PMSCs and establishment of international standards. Through this it amassed a substantial amount of evidence that supports the argument for the need for more effective regulations.

I used a plethora of secondary sources and the synthesis of the findings assisted both in overcoming the obstacle of the relatively limited available literature and in contributing to the broadening of knowledge in this specific domain. Perhaps more importantly, I used primary sources, including semi-structured interviews and correspondence with professionals from the private security industry. This can definitely be labelled as a significant achievement given the commercial confidentiality

of the subject, the sensitive issues researched (on the borderline between legality and questioned legitimacy) and the profound 'air-tightness' of the industry. Of equal importance is my contribution to the empirical data that stems from my professional background, not only in terms of familiarity with the marine domain, but also my interactions with PMSCs within the structure and activities of the International Association of Maritime Security Professionals. This broad experience enabled me to strongly support my selected qualitative research strategy in a variety of ways. The predominant of these involved the following: evaluating and validating the collected data; providing empirical data from my participation on professional committees; commenting on specific issues from a professional perspective, with confidence and without need for assumptions, risks of exaggerations or generalisations; analysing the collective data based on a deep knowledge of the realities and practices in the 'real world' without bias in favour or against the PMSCs. Hence, I would like to pride myself on completing a research which might seem to be unachievable to outsiders in this domain and this adds more significance and potential impact to the outputs. Therefore, the aim of this final chapter is to highlight the key points of these research outputs, which to a great extent fulfil the identified objectives, and also to provide suggestions for potential future research.

Beyond the identification of the conceptual gap existing in this area (Section 2.5), the review of the selected literature in Chapter Two produced two major outputs in terms of the conceptualisation of privatised maritime security in the context of international security,

Firstly, it provided the links and implementation of existing international security approaches and theories with the maritime security approach. The realist approach (Section 2.2.1) reflects to a great extent the international response to Somali piracy in the Indian Ocean at the state level. At the other end of the spectrum, international political sociology (Section 2.2.6) reflects the rise in security relations across an increasingly globalised terrain between security professionals, governmental and non-governmental institutions, the police, military and private companies. The neoliberal approach (Section 2.2.2) actually sets the basis, principles and

conceptualisation of privatisation. Similarly, constructivism (Section 2.2.3) – which supports the shift away from identifying the state with security - can offer a useful insight in the trend to privatise security, while simultaneously forming the fertile ground and theoretical basis for the concept of 'human security' to emerge. Human security (Section 2.2.4) is perhaps the only approach that can offer a longer term solution to maritime crime-torn countries. Securitisation theory (Section 2.2.5) acts as a useful tool to analyse how maritime security in general, and piracy in particular, were brought into the security agenda and successfully 'securitised'. Although all of these theories focus on the role of the state, none of them actually conceptualise private entities that replace the state per se in its hitherto fundamental obligations and primary characteristic as the security provider. Despite this, the project's in depth research identifies that contemporary states' approach to maritime security could be interpreted as an attempt to integrate the neo-liberal model of security privatisation into the state-centric traditional mechanisms of security provision, as interpreted through a realist approach (see Section 8.2).

Secondly, it established a conceptual framework of privatisation of maritime security (Section 2.4.5), hence providing the basis for the investigation of the PMSCs' regulatory framework and the fulfilment of the first objective of the thesis. This framework highlights the major differences (and very slight overlaps) between land based and maritime companies, the major one being the main driver for their existence and clientele: PMCs/PSCs are so far contracted mainly by governments, while PMSCs offer their services mostly to the shipping and offshore oil industry.

After a thorough description of the methodological strategy in Chapter Three, Chapter Four further broadened and deepened the analysis of the conceptual framework of privatisation of security, in the context of the international security academic literature and professional practice. It identified the causal factors of the trend, examined the major concerns and issues that were raised ashore and transferred them to the maritime domain. The data and arguments of this research to a great extent addressed these issues and illustrated how the dividing line between state and private security is even murkier in the maritime domain that it is

ashore. Although the projection of naval power, use of force and security provision in the maritime domain was states' traditional and undeniable sovereign right and hitherto obligation, its outsourcing and fragmentation are a fact and a process that is still in progress.

In practical terms, the private maritime security sector takes advantage of the unemployed, retired and well-trained military personnel to develop an already booming and well established business model.

On the other hand, states take a dual award for the defence budget expenditure invested in their training. Not only does it minimise the allocation of funding required for the deployment of assets on the other side of the globe, but also generates income in terms of taxation from the private sector activities.

Finally, irrespective of whether global public opinion is in favour of, or against, the deployment of PMSCs on board merchant vessels – given the numerous ethical, operational and legal concerns stemming from their applied practices (analysed in Chapter Seven) - the shipping industry inevitably considers them as the sole means of security provision in high risk areas. As such these have come to be considered the only available guarantee of the safety and security of both the seafarers and their cargo.

Following on from this, Chapter Five developed an analytical framework and integrated maritime security into the contemporary paradigm of global security, both from the traditional state-centric and the UN human centric approach. It further focused specifically on contemporary piracy, as a diachronic maritime crime and securitised contemporary threat (in the context of the securitisation approach discussed in Section 2.2.5). Hence, this chapter contributed to the fulfilment of the second defined aim and objective.

The historical overview of the phenomenon demonstrated both the ancient character of the maritime crime as well the diachronic character of the causal factors for its genesis, sustainability and suppression, and the responses to these. Consequently, Chapter Six was dedicated to the detailed research and presentation of modern maritime piracy, focusing on

the Horn of Africa. The vast majority of PMSCs' contracts and deployment are focused on providing security against this specific maritime crime in this region, hence their regulatory framework was selected to be investigated through this case study. Again, researching the case study of Somalia, these causes and factors reflect the continuity of the history and the perpetuation of the phenomenon in the Horn of Africa.

Another major output of this chapter is the development of a typology of modern piracy (Section 6.4). This offers a thorough understanding of the regional distinctiveness of the phenomenon, essential for acquiring a holistic picture of the operational environment in which PMSCs are deployed. This is discussed in detail in the following Section 9.2: *Major outcomes and impact of the research*. At this point I have to stress again that, since they address tactical and operational issues and symptoms of the phenomenon rather than the root causes, PMSCs can only be viewed as a short term anti-piracy measure and not as the means to address piracy in general. Furthermore, relating this typology and the private maritime security response to the issues of regulation outlined in the main research question suggests that this is not a transferable response. For instance, the existing framework developed for addressing Somali piracy would have to be significantly reconsidered and reconfigured if the industry wished to transfer the provided services and existing business model to another region, especially (and most likely) the Gulf of Guinea.

Chapter Seven uncovers the actual dynamics underlying the PMSCs' regulatory framework in the context of the privatisation of international security. All the in-depth investigations of the actors' regulation and applied practices, point towards the same answers to the main research question. Although the IMO outsourced the PMSCs' regulation to flag states, the latter are either reluctant or inadequate in this regard. No matter if the question refers to recruitment, training, regulation and certification, use of weapons or quality assessment, the research findings clearly demonstrate that they are all outsourced to the industry itself, with little/indirect or no state involvement at all. Focusing on the regulation and certification domain, the years between 2003 and 2012 saw a transition from the non-existence of international standards for PMSCs to

the development of two competing standards whilst deployment kept growing significantly, resulting in the problems discussed in section 7.3. Currently, the very existence of two different standards with different geographical focuses (US vs Europe) has created another dilemma that both PMSCs and shipping companies have to overcome: the former have to choose between the two and the latter have to assess which offers better credentials for the certified PMSC. However, significant initiatives and encouraging steps have been taken by the two international associations specifically towards the development and improvement of existing standards (since 2012). These are aimed at the promotion of professionalism, transparency and oversight in the private security industry. Still, the findings of the research and several incidents described in Chapters 7 and 8 suggest that the international community should focus on establishing an international organisation with the global jurisdiction to regulate, vet and certify private security providers. This will perhaps apply different requirements and standards between land based and maritime operators, due to the distinctiveness of the maritime domain, as will be highlighted in Section 9.3 below.

Finally, Chapter Eight contributes to the fulfilment of the last identified objective of the thesis, by providing an assessment of the extent to which the existing regulatory framework and PMSCs' practices and business model is liable to affect international security in governance and policy, strategic, social and commercial terms.

In this framework, fragile states without the necessary means to enforce maritime law and order within their territorial waters and exclusive economic zones will turn to contracting PMSCs to perform and safeguard their sovereign rights, following the paradigm of land based practices. But even more importantly, developed states and regional/international organisations, will very soon mandate private contractors to replace multinational naval forces in maritime security operations. Although the presence of private security providers is evident in all contemporary peacekeeping operations, the expansion of this practice and tactics in the maritime domain will transform the current perception of international security in general and maritime security in particular.

Given the current international economic restraints, it will be more cost effective for states and regional organisations (such as e.g. NATO and EU) to contribute and share the financial burden of contracting PMSCs to do the job, with a local or regional mandate. This practice will alleviate the demand to allocate funds from the already tight defence budget to deploy naval assets on the other side of the globe in order to enhance maritime security on behalf of fragile states. Even further, this rapidly increasing strategy will also provide the internal and external legitimisation to fragile states to outsource sovereign rights to private security providers to perform the tasks that they are incapable of executing. Consequently, developed states will not have to go through the internal struggle of persuading public opinion in this present financial crisis that tax revenues should be allocated to deployed assets in faraway seas rather than meeting social demands at home.

In addition, whilst PMSCs already provide security services to the offshore oil industry, consultancies to governmental bodies and commercial companies, what we can expect to see is a rapid increase in the extent of their engagement in maritime security challenges other than modern piracy, such as IUU fishing and trafficking related crimes at sea.

Yet, if we want to enhance maritime security, a longer term strategy that involves common standards, regulation and policies has to be applied at international level. The planning process has to bring together all the stakeholders – government, military, private sector and academia – in order to implement policies and practices of mutual benefit that go far beyond short term profit (Chapsos 2013a:56-7).

However, there is evidence to support the notion that states are still reluctant to intervene and pose restraints on this rapidly growing, already booming and highly profitable industry. On the contrary, they are also integrating PMSCs in their security provision structure; they are expanding the privatisation trend in the maritime domain and also gradually outsourcing monopolies to them. Even in states such as the Netherlands, which are still reserved on this issue and ban the use of PMSCs on board vessels flying their flag, there are 13 Dutch PMSCs

registered in their homeland[98] (as of August 2013), which offer their services in vessels flying foreign flags (although they may be managed by Dutch owners).

Private security is undoubtedly a contemporary phenomenon that is accepted, adopted and being rapidly developed with mutual benefits for both states and the private sector. Yet, as this research revealed, there are still a plethora of issues to be addressed in order to regulate and standardise the private maritime security provision at global level.

As a closing point of this evaluation, the following 'Table 9' provides a summary of the achievements of this research and the extent of the fulfilment of the objectives from the author's perspective:

Objectives	Summary of Analysis
Chapter Four: To analyse the conceptual framework of private security, and particularly maritime security, in the context of contemporary academic literature and professional practice.	The research demonstrated the integration of private maritime security services in the already existing controversial, debatable and under-researched framework of privatisation of security. It also provided an analysis of the legal, ethical and operational concerns of land-based practices, which are inevitably transferred, applied and further expanded in the maritime domain.

Chapter Five:	The examination of primary and secondary data demonstrated that international security and development is affected to a great extent by maritime insecurity and threats such as piracy, maritime terrorism, IUU fishing and illegal trafficking of drugs, weapons and humans. Furthermore, all of these challenge economic, energy, food and human security at a global level.
To develop an analytical framework for the integration of maritime security and contemporary piracy in particular, into the contemporary paradigm of global security.	
	The chapter focused then specifically on maritime piracy, and a historical overview confirmed and provided further evidence for the argument that the perpetuation of this ancient crime stems from the same root causes and causal factors throughout the ages.

Chapter Six: To develop an analytical framework for the integration of maritime security and contemporary piracy into the contemporary paradigm of global security. To use the case study of Somalia to substantiate this.	After defining the crimes of piracy and armed robbery at sea, the analysis of primary and secondary data provided a typology of piracy and an in depth analysis of the root causes and causal factors of the phenomenon. It highlighted the different operational models and objectives in relation to the geography of the three current major global hot spots. Furthermore, the analysis demonstrated that various short to medium term responses that have been applied off Somalia primarily address the symptoms and not the root causes of this land-based phenomenon. It also reflected the fact that the states' response, (along with all its significant obstacles, operational difficulties and the extremely high cost for the already economically depressed international community), has not proven to be as efficient as the armed guards' deployment on board merchant vessels. The collected data suggests that the deployment of multinational naval forces in the region was, in fact, mostly focused on geopolitical rivalries and promotion of individual states' national interests rather than eliminating the problem.

Chapter Seven:	The in depth research of PMSCs' recruitment, evaluation, training, regulation, certification, use of force and weapons, and quality assessment was mostly conducted through consideration of the primary data.
To analyse the complex framework of the PMSCs' business model, in legal, operational and ethical terms.	Their analysis and synthesis demonstrated that although states are responsible for the regulation of PMSCs, which are integrated into the states' security provision structure by outsourcing monopolies and exporting security services, there is no international mechanism in place to standardise all the above requirements on a common worldwide basis.
	Similarly, the "push – pull" factors affecting PMSCs in the global market and security environment, put in question the reliability of the procedures and established mechanisms for their certification and quality assurance.
	On the other hand, the variety of states' regulations and their careful/limited interference in the procedures, reflect their tolerance and promotion of the privatisation trend, for the sake of minimisation of defence budget expenditure, unemployment rates and increase of taxation income, business opportunities and ventures around the core of service provision in

	the security industry.
Chapter Eight: To assess the extent to which the existing regulatory framework and PMSCs' practices affect international security in governance and policy, strategic, social and commercial terms.	The analysis of the primary and secondary data led to the identification of implications, stemming from the privatisation trend, for international security, in governance and policy, strategic, social and commercial terms. In this chapter, the author highlights and foresees a metamorphosis of international security in the maritime domain, due to the forthcoming use of PMSCs from developed countries, deployed by state entities, international/ regional organisations such as the UN, NATO, EU, etc. Identified future trends relating to the deployment of private navies and coast guards, even for tasks in developed countries' homelands. The motivations identified for this include further reductions and cuts in states' armed forces and law enforcement agencies, following the paradigm of land based companies in the same industry.

Table 9: Summary of Research Achievements

As can be seen from the summary provided in this section and the brief summary in the table above, my main research question, and identified aims and objectives have been successfully and efficiently addressed. Through this analytical investigation of the PMSCs' regulation and the uncovered dynamics underlying their regulatory framework in the context

of the international security privatisation trend, I assessed the extent to which this privatisation trend affects international security in general and maritime security in particular. While this assessment indicated a significant lack in terms of regulation and its effectiveness, it also furthered the academic debate about the conceptualisation of security privatisation.

9.2 Major Outcomes and Impact of the Research

There are three major outcomes of this research, which can add to the existing international security literature and research, and which may also benefit future research in the maritime security domain.

The privatisation of international security in general and maritime security in particular, is relatively under-researched as a contemporary theoretical approach, highlighted accordingly in the literature review. Furthermore, all the existing theories and approaches identify the state as a key actor; no matter exactly what the role of these approaches might be in the contemporary international security environment, the state is identified by all of them as the security provider, regulator, projector of violence, etc. Some of the analysed approaches or individual academic's views include or foresee the private sector as an emerging or increasingly influential actor in international security. However, none of them actually conceptualise private entities as *the* security providers, replacing the state per se in its hitherto fundamental obligation and primary characteristic.

Based on the conceptual framework of private security developed in Section 2.4.3, this research shows that private industry (both land based and maritime) has emerged as a 'third sector' of security provision, stressing the shift from government to security governance, where the state is the central node of security, and operates as a potential manager of the established networks. Yet, although the interests of those who participate in the network differ, the final objective of security provision and governance remains the goal. Still, the state retains the legal, symbolic and material capacities, critical for its achievement. This nodal

model can also be transnational, especially in cases where the states are reluctant to undertake specific tasks, instead assigning them to the well-established and continuously growing global security market (Chapter Four, Section 4.3).

The Typology of Piracy offers a comprehensive and detailed analysis of the root causes and causal factors of this specific maritime crime (Chapter 6, Section 6.3). On the one hand, the comparative study of the three major piracy hot spots on a worldwide basis demonstrates that every geographic location where it flourishes has to be dealt with as a distinctive and unique case. Hence, the lessons learned from a region A, cannot be transferred and applied to a region B, since the business model, the objective and characteristics differ, depending on local issues.

Yet, through the historical overview and the study of modern piracy we realise that the root causes and causal factors remain the same throughout the history of mankind, despite varying geographic locations, continents or centuries. This typology could be utilised to develop a mechanism which could perhaps enable researchers, strategy planners and policy makers to safely predict potential piracy hot spots that are likely to emerge in the future. Thus, it would enable them to take into account the choke points of international shipping, geopolitical and human security factors around each one of them.

Finally, the analysis of the private maritime security companies' *modus operandi* (Chapter 7) identifies the 'weak points' regarding both the industry's and the market's regulations, methods and practices. Combining these findings with the future trends and implications described in Chapter Eight, we can see the major issues that have to be addressed at international level in order to enhance maritime security so as to make the vast oceans safer, as well as the concomitant promise of reward. They could also trigger the international community in founding and establishing an international organisation with the global jurisdiction to regulate, vet and certify private security providers. This will perhaps apply different requirements and standards between land based and maritime operators, due to the distinctiveness of the maritime domain.

Down at the state level, individual countries could improve their regulation and supervision of PMSCs. This, in turn, may enable them to use these services in enhancing homeland maritime security in the near future and also address maritime threats other than piracy accordingly.

9.3 Recommendations for Future Research

The role of PSCs and PMCs has been broadly discussed and debated in relation to their participation and role in humanitarian and peacebuilding operations (Lilly 2000). Similarly, this research makes extensive reference to the potential mandate from international organisations to PMSCs to conduct operations under their supervision and on their behalf in the maritime security domain. Hence, this could be another avenue for potential future research, in terms of the requirements and benefits of such a practice, in local, regional and international terms. Definitely, this would have to take into account sovereignty and territorial issues, and examine even the potential of outsourcing such jurisdictions to PMSCs under the 'Responsibility to Protect'[99] doctrine through UN mandates.

Another issue which emerged from the findings of this research is the lack of contracting of PMSCs (so far) from developed states to conduct operations in their interior and so contribute to homeland security tasks. The potential of private coast guards has also been mentioned and the research proposal which might stem from this combination would be the extent to which PMSCs could be contracted to conduct operations against maritime security threats other than piracy. That said, countries facing major issues with IUU fishing, irregular migration and/or trafficking and smuggling of weapons, drugs and human beings in their territorial waters could perhaps be the case studies of the proposed research.

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[99] The doctrine was released in 2001, transforming international community's hitherto "right to intervene" into the "responsibility to protect" (R2P). It was adopted in the 2005 UN General Assembly's World Summit that declared the "responsibility of the state to protect its own populations from genocide, war crimes, ethnic cleansing and crimes against humanity…" [Resolution A/RES/60/1, paragraphs 138-140, pages 30/38, available from <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N05/487/60/PDF/N0548760.pdf?OpenElement>, (accessed January 15, 2010)]. It is indicative that the recent intervention in Libya was authorised under the provisions and principles of this doctrine.

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List of Interviews and Primary Sources, Speaking on Condition of Anonymity

<u>Interviews</u>

Interview A – 26 Sep. 2012

Interview B – 27 Sep. 2012

Interview C – 7 Oct. 2012

Interview D – 9 Oct. 2012

Interview E – 9 Oct. 2012

Interview F – 28 Oct. 2012

Interview G – 8 Nov. 2012

Interview H – 10 Dec. 2012

Interview I – 17 Dec. 2012

Interview J – 21 Jan. 2013

<u>Correspondences</u>

Correspondence A – Email 11 Dec. 2012

Correspondence B – E-mail 6 June 2013

Correspondence C – E-mail 13 June 2013

Correspondence D – E-mail 2 May 2013

Correspondence E – E-mail 9 January 2013

Correspondence F – E-mail 5 Feb. 2013

Correspondence G – E-mail 4 March 2012

Appendices

Appendix 1 PARTICIPANT INFORMATION LEAFLET

Overall purpose of the research

The purpose and objectives of this research in general terms, are:

1.   To analyse the conceptualisation of 'maritime security' and the current trend of 'privatization of security'

2.   To identify the need for regulating private maritime security companies (PMSCs) and the role that free market principles can play in this domain

3.   To assess the existing international standards for regulating, recruiting, training and certifying PMSC personnel.

Why have I been contacted?

You have been contacted because it was felt that this area of research might be of interest to you, as well as because your personal experience and expertise can contribute significantly to the expected outcome.

Do I have to take part?

No - taking part in this research is entirely a matter of choice. There is no obligation to take part and if you choose not to do so, then this will be treated in the strictest confidence.

If you choose to take part, all information gathered will be treated confidentially and reported in an anonymous way where you will not be able to be identified (further details are provided below).

Furthermore cash payments or any other kind of inducements or compensation will NOT BE OFFERED for participating in this research project.

What do I have to do?

1.   If you agree to take part, I will arrange a time with you for an interview to take place. This will, of course, take place at a time and location that suits you. The interview will last approximately one and a half hours. However, if it is more convenient for you, this could take part in two 45-minute sessions.

2.   Before the interview takes place, you will be asked to sign a form giving your consent to take part in the research and, if it is okay with you, provide consent for an audio recording of the interview to be made. If you do not agree to this, I will ask your permission to make a written record of the interview. After the interview, you will be provided with the interview transcript and asked to check for factual accuracy.

3.   During the interview, we will discuss about the role of private maritime security companies in enhancing maritime security in international level, as well as the procedures and International standards in effect for regulating, recruiting, training and certifying them.

Can I stop the interview?

Yes, you can stop or pause the interview at any time you wish.

Do I have to answer all of the questions?

No, you do not have to answer questions if you do not want to.

What are the risks associated with the research?

Sometimes when people talk about previous stressful and dangerous experiences, or about difficult events, they may experience some feelings that are related to the past. This is normal, so please don't worry. If you feel that you would like to speak to a health professional that is used to helping with these kinds of feelings for free, then I can provide you with their details. Although this is not the intention of the research, in case you have previous experience of unpleasant situations at sea or due to the sensitive nature of the topic, please keep this in mind.

What are the benefits of taking part?

By taking part in this research you will have the opportunity to contribute to the development of the research and to knowledge that seeks to improve the international framework related to the regulation of private maritime security companies and enhance their contribution in coping with contemporary maritime security challenges.

Withdrawal Options

You are free to withdraw from this research whilst it is being carried out. You have a right to withdraw up until the completion of the analysis of the interview transcripts.

Data Protection and Confidentiality

•	No personal information, in compliance with the Data Protection Act (1998) will be collected or stored. Participants are not required to disclose protected information that could hinder their personal or their company's security.

•	Information obtained from the interviews will only be used for research purposes and will not be shared with any other individual/organisation. The identity of all who participate will remain anonymous.

•	All information gathered during the interviews will be kept in a secure, locked cabinet, away from participant's contact details.

•	All information gathered will be destroyed one year after the completion of the final report.

Should you need to complain:

If you have any concerns regarding my conduct then please feel free to discuss these with me as soon as possible. Alternatively, you are welcome to contact my Director of Studies.

Name: Professor Alan Hunter

Address:

Centre for Peace and Reconciliation Studies (CPRS)

Coventry University

ECG.2, The Enterprise Centre

Coventry, CV12TT

UK

Tel: 02476158610

Email: lsx142@coventry.ac.uk

What will happen with the Results of the Research?

The results will form part of the final research report, which will contribute towards my PhD degree. The findings may also be used for the purposes of academic journal articles and conference papers.

Who Oversees the Research?

I am a part-time PhD candidate at the Centre for Peace and Reconciliation Studies - Coventry University. Therefore, the appropriate authorities within the University have carefully examined the proposed research and have ensured that correct ethical protocol has been maintained.

Please Feel Free to Contact Me

If you would like any further information, or would like to discuss your involvement in this project, then please feel free to contact me,

Ioannis Chapsos at: chapsosi@uni.coventry.ac.uk

Appendix 2   INTERVIEW SCHEDULE

<u>INFORMATION ABOUT THE COMPANY & THE OPERATOR</u>
Country and Date of Registration, Offering Services, Background, Previous Experience

<u>THE STARTING POINTS</u>

How and why did you decide to found/ work in a Maritime Security Company?

<u>TOPICS OR AREAS TO BE EXPLORED</u>

Recruiting Process and training

Certification process; which international bodies are responsible and what certification did you receive so far?

What kind of assignments are you contracted for so far? What is the average cost and frequency for each one of them?

What kind of credentials do your clients request for?

Could you describe the process of buying/ hiring weapons for your assignments? How to you manage their safeguarding while at sea and when arriving at a port?

How do you decide the composition of the teams assigned in each mission?

What are the dangers that your teams are subject to? Could you describe any relevant incident?

Are there any international regulatory bodies evaluating periodically your performance or request reporting after each mission?

Do you have any kind of cooperation with state entities or code of conduct/ communication/ restrictions?

Do you have any internal procedures for re-evaluating or training your personnel?

<u>QUESTION TO END ALL INTERVIEWS</u>

Are there any other comments about the role of private maritime security companies that you would like to make?