PIRACY

Maritime Menace of the Century

The veritable hijacking of the Indian Ocean by Somali buccaneers is a logistical and diplomatic nightmare that requires the concerted effort of the international community, which is not doing enough, says Andrew Shapiro, the US Assistant Secretary in Political and Military Affairs, reports **WANJOHI KABUKURU**

In November 2010, addressing the 2nd African Caribbean and Pacific (ACP) Fisheries Ministers Meeting in Victoria, the Seychelles, President James Alix Michel warned:

"As a leader of a maritime nation, I cannot begin my opening remarks without addressing the greatest threat that currently exists to fisheries, trade and development in our region. The scourge of piracy is hijacking not only our economy but the whole of the Indian Ocean." Michel's sentiments came hot on the heels of three pirate attacks on fishermen within the Seychelles Exclusive Economic Zone (EEZ) and seven other pirate-related attacks in the region.

Few took him seriously. Now the chickens are coming home to roost. In mid-January 2011, East African transport ministers found themselves grappling for answers over rising freight costs which have translated into increased commodity prices in the region necessitated by piracy on the western Indian Ocean shelf. Meeting in Kenya's coastal resort city of Mombasa under the auspices of the Inter-Governmental Standing Committee on Shipping (ISCOS), headquartered in Mombasa, the ministers lamented that shipping costs were escalating owing to the increase in insurance premiums imposed by firms to cover ransom costs demanded by Somali pirates.

ISCOS brings together, Kenya, Uganda, Tanzania and Zambia and has been exploring ways to reduce the costs incurred by shipping in view of the recent spate of pirate attacks.

"We are calling on insurance firms to discourage payment of ransom and instead concentrate on efforts to prevent piracy," Kenya's Transport Minister Amos Kimunya said.

Kimunya's sentiments not only ring hollow to maritime commercial operators, but underscore the ignorance key policymakers are steeped in on such a crucial and multifarious issue.

Maritime industry watchers currently estimate that annual costs to piracy now stand at a staggering $200 million. According to the Kuala Lumpur-based piracy reporting centre, the International Maritime Bureau (IMB), in 2010 a record 1,181 seafarers were kidnapped. In total, 53 vessels were hijacked. Of the 1,181 kidnappings, 1,016 were recorded in Somalia with demands for ransom. At present the Somali pirates are said to hold 31 vessels and 713 crew members. Twice last year, Seychelles Coast Guard commandos, in a joint operation with the European Union Naval Force (EUNAVFOR), intercepted pirates in the Indian Ocean and rescued Seychellois and Iranian fishermen. It is now a generally agreed principle that Somali pirates pose the

greatest danger in the Indian Ocean today. The International Maritime Organisation (IMO) notes that the Horn of Africa coast is the most dangerous shipping line. Lack of a centralised government in Somalia and known links to extremist groups like Al Shabaab, have made the collapsed nation a comfortable ally for pirates and terrorists alike.

The complex dynamics that piracy has posed to international law experts, foreign policy gurus and global security watchers is dizzying. Hear out President Michel:

"We are doing more than our part, while, at the international level, not enough is being done. We need to re-look at the strategy being adopted to tackle piracy. Piracy is exploiting the weaknesses that exist in global governance. It exists, not only because of the dire state of Somalia but also because of the inaction of the international community".

President Michel's sentiments are spot-on. At present the Seychelles and Kenya shoulder the unwieldy burden of trying, convicting and incarcerating pirates. That the international community is shying away from piracy is not in doubt. The biggest worry to the international community is what to do with jailed pirates after they have completed their terms.

In his paper *Counter-Piracy Policy: Delivering Judicial Consequences* presented last year at the American Law Review Symposium Andrew J. Shapiro, the US Assistant Secretary for Political and Military Affairs, lamented the diplomatic nightmare that piracy poses to both Port Victoria and Nairobi:

"Prosecuting pirates can be an incredibly complex proposition in today's globalised world. The realities of international shipping and global commerce are such that in any given piracy case you could have suspect-

ed Somali pirates intercepted and apprehended by a British naval vessel after trying to attack a Liberian-flagged ship, owned by a Canadian company, crewed by Ukrainians, Indians, and Filipinos, with a Russian captain and carrying cargo owned by a Turkish company, en route for delivery to a company in Dubai. And the case could be taking place in a courtroom in yet another country, like Kenya or the Seychelles, which are both currently prosecuting piracy cases. The logistical and diplomatic challenges presented by such a scenario are immense".

That a solution to piracy is yet to be found Shapiro left no doubt:

"Courts in Kenya and the Seychelles are currently prosecuting more than a dozen cases between them, and we hope they will continue to do so. But, at the end of the day, two countries are not enough. Kenya and the Seychelles simply do not have the capacity to handle all of the potential suspects that are apprehended. For reasons of both fairness and pragmatism, the burden currently shouldered by these countries must be shared more broadly both within and beyond the piracy-affected region. We cannot ask just a few states in one region of the world to bear the burden of holding, prosecuting and incarcerating pirates. The cost of this crime is borne globally. The cost of combating and defeating it should likewise be borne by many states in all corners of the world". To this day few states have stepped forward to ease Port Victoria and Nairobi on their heavy burden of tackling piracy. Echoing his president's view, Seychelles Foreign Affairs Minister Jean Paul Adam notes:

"Piracy *fundamentally affects* the way we are able to interact with the world. The sea-lanes are our arteries. We are dependent on imports

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and the increased insurance costs of freight leads to increased cost of goods in shops. Many tuna vessels that used to call at our capital, Port Victoria, can no longer do so. Those that continue to fish have to invest in expensive security and restrict their fishing to areas that are less at risk."

According to Adam, piracy is now costing the Seychelles Government a cool 2.5million. Nairobi is yet to reveal how much of its exchequer expenditure goes to combating piracy. It is significant to note that both Kenya and the Seychelles have signed several pacts with the European Union and the US on how to handle piracy. These pacts however haven't been able to fully discourage piracy activities and neither have they safeguarded Nairobi and Port Victoria from the perils of its side effects.

According to Adam, long-term solutions to piracy cannot be found without involving the Somalia government.

"We must seek to build effective facilities in Somalia itself, with the support of international organisations in the immediate short-term. It is important that Somalia is part of the solution of incarceration from the start," says Adam.

For the last three years, diplomats have been mulling over how best to deal with piracy but there have been no easy answers. Suggestions such as setting up a special court like The Hague have been bandied about, but the polemics have not generated any consensus. Sadly though as international law experts, security agencies and diplomacy practitioners struggle to come to grips with piracy, the buccaneers are unrelenting. *Nairobi and Port Victoria continue to stoically bear the brunt of a global problem* with little help from the community of nations, not to mention the increased costs of imports ■