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Killing Pirates: Dilemma of Counter - Piracy

By Sam Bateman

Synopsis

The recent storming of a hijacked ship off Somalia by South Korean navy commandos, resulting in the killing of eight pirates, has met with considerable acclaim. The success, however, has not resolved the debate over international counter-measures against piracy.

Commentary

SOUTH KOREAN NAVY commandos successfully stormed and secured the release of the chemical tanker, Samho Jewelry, early on Friday 21 January 2011 after it was hijacked several days earlier by Somali pirates in the Arabian Sea. Eight pirates were killed in the action, five were captured, and the master of the ship was shot in the stomach. In another equally dramatic raid, shortly before this incident, the Malaysian Navy successfully freed a hijacked Malaysian-flagged chemical tanker Bunga Laurel soon after it was seized by Somali pirates. There was no loss of life although three pirates were wounded.

Same Goal, Different Approaches

These two actions had marked differences. The raid to release the Bunga Laurel was launched within hours of the initial hijacking and only after the military was assured the crew was locked in a safe "citadel" and would not suffer harm. The action was similar to earlier successful operations to secure the release of hijacked ships. For example, in April 2010, Dutch marines released the German-owned container ship Taipan from pirate control. In a similar engagement in September 2010, US marines released another German ship, the Magellan Star. Both actions occurred without casualties. In another incident, the mere arrival of a warship drove pirates off a hijacked ship after the crew had immobilised the vessel before hiding away.

The risks of casualties are much higher if an assault is delayed for several days. The pirates will be better prepared to defend the ship and may be holding the crew hostage after finding their hiding place or "citadel". This appears to have been the case with the Samho Jewelry with reports that crew members were told to lie on the deck before the commando assault commenced.

The release of the Samho Jewelry provided a morale boost for the South Korean military after last year's sinking of the corvette Cheonan and the North Korean shelling of a border island. The South Korean foreign minister announced the successful operation at a diplomatic reception in Seoul, receiving cheers from those present. The action has been enthusiastically reported by the international media.

Risks of Escalation

Despite acclaim for the Korean action, it could have undesirable consequences. It opens up questions whether violent assaults should be made on hijacked ships in circumstances when there are high risks of loss of life to the assaulting forces, the ship's crew and the pirates themselves. Such actions could lead to an escalation of violence off Somalia. Already there are reports of the Somali pirates threatening revenge against South Korean ships and crews.

The international shipping community remains generally opposed to employing armed security guards onboard vessels passing through high risk piracy areas. Reasons for this include fears about the risks of escalating violence and of injury to the crew and damage to the ship, as well as the uncertain legal implications. Similar considerations apply to military assaults on the pirates holding hijacked ships. Following the Samho Jewelry incident, the European Union Naval Force operating off Somalia said it would not follow suit in storming ships to secure their release for fear of endangering hostages.

It is a moot point now whether Somali pirates should be attacked and killed just because they have hijacked a ship. Ideally, Somali pirates caught in the act should be subject to proper trial despite the difficulties of bringing them to justice. The rule of law should prevail.

Collateral Damage

The storming of the Samho Jewelry was successful but it could easily have gone wrong with the death and injury of innocent crew members. Seafarers are potentially the innocent victims of piracy if violence is allowed to escalate in the fight against Somali piracy. From a seafarer's perspective, it would be better to be held hostage onboard a ship anchored off Somalia for several months than dead!

There have been other incidents when crew have been killed as a result of the military assaulting a hijacked ship. In November 2008, the Indian Navy sank a Thai fishing vessel believed to be acting as a pirate vessel with the death of the pirates and all but one of the vessel's crew. In April 2009, a French military operation to free the yacht Tanit resulted in the death of the yacht's skipper and two pirates.

Policy Implications

Dealing with piracy off Somalia is a vexed issue with widely diverging views on how best to deal with the pirates. However, it is important that the international community reaches some common ground on the preferred response to a hijacking incident. Both the UN and the International Maritime Organisation have been working towards that end but with mixed results so far. The escalation of violence should be avoided as far as possible.

There are now warships from many countries conducting counter-piracy operations off Somalia. Some are coordinated as part of the European Union's efforts or through one of the international task forces organised by the US Navy. Others operate independently. All have their own national rules of engagement (ROE) prescribing how and when force might be used. These differing ROE allow a variety of responses and this can lead to problems.

The Koreans might argue that the release of the Samho Jewelry was their own business. The ship was Korean-owned, on the high seas, and Korean nationals were onboard. However, "spill-over" consequences of the action should not be ignored, particularly with regard to the possibility of escalating violence and of collateral damage to ships and their crews. International agreement on preferred actions to secure the release of ships hijacked off Somalia is essential.

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