

In this issue

■ On the Agenda

The Peace and Security Council (PSC) has renewed the mandate of its force to fight the **Lord's Resistance Army**, despite the withdrawal of Uganda and the US.

The PSC will devote an open session to **preventing genocide** every year in April, but this is far from adequate to prevent mass atrocities on the continent.

■ Situation Analysis

Holding former heads of state accountable for atrocities seems to be catching on in West Africa.

■ Addis Insight

Looming funding cuts should urge the AU to fill crucial **peacekeeping** doctrinal gaps.

■ PSC Interview

Institute for Security Studies researcher Timothy Walker outlines the challenges for African governments in dealing with **maritime security**.



Peace & Security Council Report

“The UN just has too much on its plate

Page 2

“The Habré case may be inspiring others

Page 7

“Somali communities grew reluctant to host pirates

Page 12



On the Agenda

Why is the AU going it alone in fighting the LRA?

On 12 May 2017 the PSC renewed the mandate of the Regional Cooperation Initiative for the Elimination of the Lord's Resistance Army (RCI-LRA) for another year. Yet two of the biggest contributors to this force have started to withdraw. And a new report by the African Union (AU) Commission suggests that the notorious LRA is still a threat, albeit a significantly smaller one.

The news from Uganda and the United States (US) is that the LRA has now been reduced to an irrelevance. That is why Uganda is withdrawing its 2 000 or so troops from the AU's regional force against the LRA, the RCI-LRA, set up in 2011. The force will now only have about 1 000 troops left, made up of the remaining contributors. These are the Central African Republic (CAR), South Sudan and the Democratic Republic of the Congo (DRC).

One has to remember that the LRA originated as a loosely ethnically based sect in Uganda. After years of war, in which an estimated 100 000 people were killed and over 2 million displaced, it extended its reach into the rest of the region, often targeting populations in remote areas.

The news from Uganda and the United States is that the LRA has now been reduced to an irrelevance

The US Africa Command, which had sent around 250 Special Forces to help with the hunt for LRA leader Joseph Kony, is also quoted as stating that the LRA has become 'irrelevant', even though the elusive Kony has not been found. Persistent reports say he is likely to be in southern Darfur, Sudan.

With the continued instability and recent resurgence of the war in the CAR, there is also little chance that the United Nations (UN) force in the CAR (MINUSCA) will be able to heed the call by the AU to help fight the LRA. For some time the LRA has used the CAR as its base to launch attacks, terrorise people, burn down villages and kidnap children across the region. The UN just has too much on its plate in the region – including a massive war in South Sudan – to get involved in trying to root out what is left of the LRA.

Meanwhile the DRC is also not making things easier by barring members of the task force from entering the DRC. Even though the DRC is part of the force, it does not want cross-border raids against the LRA. No official explanation is given for this reticence, but the north-eastern region of the DRC is notoriously unstable.

PSC Chairperson

H.E. Mull Sebuja Katende

Ambassador of the Republic of Uganda to Ethiopia and the African Union

Current members of the PSC

Algeria, Botswana, Burundi, Chad, Egypt, Kenya, Niger, Nigeria, Republic of Congo, Rwanda, South Africa, Sierra Leone, Togo, Uganda, Zambia

When Ugandan forces went after the LRA in 2011–2012 they caused significant civilian casualties and destroyed villages – prompting more instability than the LRA itself.

So, if the biggest contributors – and those who have a lot to lose – want to call it a day, why is the AU insisting on keeping the force alive? Even if it had the troops, it is clear that money is short. The European Union foots the bill for most of the force, but payments of troop allowances and operational costs are months in arrears.

New AU report shows LRA still active

A new report by the chairperson of the AU Commission Moussa Faki Mahamat, which was presented to the PSC on 12 May and which the *PSC Report* has seen, states that ‘the LRA has maintained an active presence in [the] CAR, DRC and parts of South Sudan where it continues to raid, ambush, loot, torture, abduct and detain civilians, as well as traffic ivory poached from the Garamba National Park in the DRC, and minerals looted from [the] CAR to sustain itself and its leader, Joseph Kony’. This description does not paint a picture of a weakened force.

According to the report, in February 2017 the LRA was said to have conducted 16 attacks ‘in which they abducted 70 civilians in [the] DRC and CAR, representing the group’s highest total monthly abduction since September 2016’. Meanwhile recent media reports say the LRA has abducted over 700 people and displaced hundreds of civilians thus far this year.

Where is Joseph Kony?

One of the successes of the AU force against the LRA has been the capture and subsequent handover to the International Criminal Court (ICC) of Dominique Ongwen, a former child soldier and one of Kony’s lieutenants.

Yet Kony remains at large. In 2005 the ICC issued a warrant for his arrest and a bounty of US\$5 million was put on his head, but no one has yet come forward with Kony handcuffed.

Sudan, which is said to have supported the LRA in previous decades to punish Uganda for its support of the south Sudanese rebels before the independence of South Sudan, did participate in a regional meeting on the

LRA in March this year. Yet it has not committed itself to either sending troops or providing logistical help.

What now?

Ironically, while Uganda has called for a drawdown of the force, it is the only country that has put its hand up to host the headquarters of the RCI-LRA. This was after South Sudan, beset with its own problems, said that it could no longer host the headquarters. Uganda is hoping that the move will happen while the US is still involved, so that its forces can help with the relocation.

While Uganda has called for a drawdown of the force, it is the only country that has put its hand up to host the headquarters

As for the AU, the PSC has asked the AU Commission to organise a special summit of the countries that make up the force in order to discuss how the force will be kept alive without Ugandan troops or US support.

The fear is that while the few remaining backers of the force, and the AU, get their act together, the LRA will seize the opportunity to regroup and continue its barbaric terror attacks, the aim of which, up to now, has not been fully explained.



On the Agenda

Beyond symbols: can the AU really prevent genocide on the continent?

The failure by the Organisation of African Unity (OAU) to prevent and halt the genocide of Tutsis in Rwanda more than two decades ago was a major factor in the establishment of the AU peace and security architecture. However, the AU does not seem to have a full grasp of how to prevent atrocities from happening on the continent.

The PSC held a session on 11 April 2017 on the prevention of hate crimes and the ideology of genocide in Africa. This meeting was the culmination of a month of commemorations of the genocide in Rwanda, which took place in 1994.

PSC stresses the critical need for early warning and democracy

In its statement following this meeting, the PSC underscored ‘the imperative of early appropriate responses to credible early warning signs of situations, that if not addressed in a timely and effective manner could lead to potential genocide’. This PSC statement echoed a previous one in March that addressed the challenges of early warning. It emphasised the need for ‘proper analysis in order to avoid denialism’.

The PSC stressed the importance of a culture of peace, democracy and participatory and inclusive governance

The PSC also stressed the importance of a culture of peace, democracy and ‘participatory and inclusive governance’ as a critical factor in preventing genocide.

In order to give credence to its commitment of this issue, the PSC decided to convene an open session every year in April to discuss the prevention of genocide.

Lack of definition of ‘ideology of genocide’ and ‘hate crimes’

While the PSC has decided to position itself on this critical issue, its meeting and subsequent statement have raised many questions, the first of which deals with definitions.

The ‘ideology of genocide’, defined in Rwandese law in 2008 as the ‘aggregate of thoughts characterized by conduct, speeches, documents and other acts aiming at exterminating or inciting others to exterminate people

7 April 1994

THE START OF THE
RWANDAN GENOCIDE

based on ethnic group, origin, nationality, region, color, physical appearance, sex, language, religion or political opinion, committed in normal periods or during war', does not have an equivalent in the AU Constitutive Act or the PSC Protocol.

The decision by the PSC also does not identify a legal framework that allows it to prevent the ideology of genocide and hate crimes. Such a definition is critical.

There are clearly various hurdles to be overcome before deployment under Article 4(h)

Limitations of the AU Constitutive Act

At the AU level, the Constitutive Act's Article 4(h) establishes 'the right of the Union to intervene in a member state pursuant to a decision of the Assembly in respect of grave circumstances, namely: war crimes, genocide and crimes against humanity'.

However, the PSC decision on Burundi in December 2015, which referred to Article 4(h) and authorised the deployment of a protection force to the country, only demonstrated the limitations of this symbolic provision. PSC ambassadors believed that the increasing violence and human rights abuses in Burundi, in the lead up to and following the election of President Pierre Nkurunziza, merited AU intervention. Yet the deployment was halted by the PSC heads of state at their summit meeting in January 2016.

There are clearly various hurdles to be overcome before deployment under Article 4(h). The first – legal – hurdle is the fact that such a military intervention would require authorisation by the UN Security Council (UNSC). Yet the UNSC remains divided in the aftermath of NATO's intervention in Libya in 2011.

The second – political – hurdle is that it requires consensus among AU heads of state. The case of Burundi showed that obtaining such consensus largely depends on the consent of the host state. Without this consent, many heads of state would oppose a deployment even if the African Commission on Human and People Rights signalled the threat of genocide or

impending war crimes, as it did in the case of Burundi in 2015.

Third, the 'halting of war crimes, genocide or crimes against humanity' also raises operational challenges. For example, can a hypothetical African force deployed in a given country, halt a genocide without overthrowing the government responsible for the atrocities? Following the military intervention in Libya, most African heads of state and government are more inclined to oppose any interventions that could resemble regime change.

The fact that the AU is, more than ever, an intergovernmental organisation that is reluctant to contest sitting heads of state, endangers its capacity to prevent genocide.

No reference to international legal instruments

While the PSC decision refers to individual efforts by members to prosecute those responsible of genocide, there is no mention of the international legal instruments applicable to this scenario. A critical absence is that of the International Criminal Court (ICC). While the PSC welcomes the efforts of those member states that prosecute individuals involved in genocide, nothing is said about the existing international legal instruments to try those responsible.

Can a hypothetical African force halt a genocide without overthrowing the government responsible?

Meanwhile, the ICC mandate explicitly covers genocide, war crimes and crimes against humanity. The yet-to-be-operationalised African Court of Justice and Human Rights is also supposed to prosecute these three crimes.

The fact that the ICC is not mentioned certainly reflects the poor relationship between AU member states and The Hague-based institution. More importantly, it also points to the internal contradictions in the AU, which wishes, on the one hand, to prevent genocide, while at the same time shielding from prosecution a sitting head

of state (Sudan's President Omar al-Bashir) accused of this very crime.

In this regard, the PSC decision fails to articulate a continental legal vision on how to prosecute those responsible for genocide. This comes at a time when it is supposed to be busy setting up a hybrid court on atrocities committed in South Sudan.

It should be recalled that just more than half of AU member states (30 out of 55) have signed and ratified the UN Convention on the Prevention and Punishment of the Crime of Genocide, meaning that commitment at the continental level is uneven. States such as Algeria and Morocco have raised reservations regarding the competence of legal instruments to punish acts of genocide.

Has the AU stagnated on preventing genocide on the continent?

In its latest decision, the PSC refers to the 2000 Report of the International Panel of Eminent Personalities appointed to investigate the 1994 genocide of the Tutsis in Rwanda. The PSC argues that this report provides 'a framework of principles, strategies and policies, that if followed could create conditions in which genocide will become both, unthinkable and impossible to organize'.

However, a closer look at the recommendations made by this panel reveals that the AU still falls short in many areas.

At the then-OAU level, the panel had recommended several improvements in early warning, peacekeeping capabilities and the participation of women and civil

society in conflict resolution. Yet these have not been implemented and the AU still faces challenges in each of these areas.

The panel had also advocated that monitoring human rights violations should be undertaken by the African Commission on Human and Peoples' Rights, which should be given additional means to carry out independent activities. Such monitoring, however, depends on the political will of the AU heads of state. In Burundi, the bold recommendations of the commission were never implemented, but just 'noted' by the PSC without any follow up.

Monitoring human rights violations should be done by the African Commission on Human and Peoples' Rights

In addition, the panel called for a re-examination of the 1948 Geneva Convention in a number of critical areas such as the definition of genocide, a mechanism to prevent genocide, the absence of political groups and gender as genocidal categories, the legal obligations of states when genocide is declared, and the concept of universal jurisdiction. Such calls are lacking in the PSC decision.

While the PSC is showing its commitment to preventing genocide and hate crimes on the continent, this effort has largely symbolic value. Honouring the Tutsi victims of genocide requires more than symbolic gestures: it requires the establishment (or the strengthening) of policies and instruments that effectively prevent this from happening again in Africa.

The UN definition of genocide

According to the UN Convention on the Prevention and Punishment of the Crime of Genocide, which entered in force in 1954, a genocide consists of 'any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, such as: killing members of the group; causing serious bodily or mental harm to members of the group; deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part; imposing measures intended to prevent births within the group; [and/or] forcibly transferring children of the group to another group'.

Situation Analysis

West Africa issues a wake-up call to tyrants

The decision by the Appeals Chamber of the Extraordinary African Chambers (EAC) in the courts of Senegal last month to uphold the conviction and life sentence of former Chadian dictator Hissène Habré was just the latest victory – though it was certainly among the biggest – for international criminal justice in West Africa.

The Appeals Chamber rejected part of Habré's appeal against his conviction by the EAC's trial chamber in May 2016 for crimes against humanity – including murder and torture – committed while he was president of Chad between 1982 and 1990. Purely on procedural grounds, the court acquitted Habré of rape, including that of Khadija Hasan, one of the many brave victims of the Habré regime who gave compelling evidence at the trial. The judges found her accounts of the four times that Habré raped her believable, but said the original charge sheet had not contained sexual offences.

The EAC was created especially to try Habré and his official accomplices, although only he has stood trial.

The Guinean judges have the International Criminal Court breathing down their necks, ready to step in if they fail

Already there are signs that the Habré case may be inspiring others. In Ouagadougou, Burkina Faso, the trial of former president Blaise Compaoré and his cabinet started earlier this month. They are being charged for their alleged role in killing protesters during the popular uprising in October 2014 that overthrew his government.

Trials in Guinea and The Gambia

Meanwhile in Guinea, investigating judges have for seven years been probing former coup leader Moussa Dadis Camara and other former or current high-ranking officials who were then ruling the country for their role in the massacre by the security forces of more than 150 peaceful protesters and rape of more than 100 women on 28 September 2009 at a stadium in Conakry. In March this year, one of the former high-ranking officials, Aboubacar Sidiki 'Toumba' Diakité, was extradited from Senegal for prosecution in Guinea.

The Guinean judges have the International Criminal Court (ICC) breathing down their necks, ready – under the principle of complementarity – to step



150

PROTESTERS KILLED IN
GUINEA IN 2009

in if they fail. The ICC opened a preliminary examination into the situation in Guinea in October 2009, but has kept to the sidelines to allow Guinea to deal with the matter itself.

‘The case has moved forward slowly and has yet to proceed to trial, but seems poised to ultimately advance with increased backing by the government for the effort over time,’ says Elise Keppler, associate director of Human Rights Watch’s International Justice Program. ‘This would be the first such prosecution of its kind in Guinea.’

And in Gambia the new administration of President Adama Barrow is exploring criminal accountability for those responsible for murder, arbitrary arrests, torture and enforced disappearances during the long reign of Yahya Jammeh whom Barrow defeated in elections late last year. Barrow seems still to be undecided between a justice approach and an amnesty and reconciliation approach.

The new administration of President Adama Barrow is exploring criminal accountability for those responsible for murder

Investigating mass graves

However Allan Ngari, a senior researcher at the Institute for Security Studies, says the eventual success of the case against Habré last week – after 26 years of dogged pursuit by his victims which changed the nature of African jurisprudence – seems to have given impetus to judicial moves against Jammeh. Some of Habré’s victims recently visited Gambia to provide solidarity to Jammeh’s victims and to show them that even former heads of state can be brought to justice, he says. Ngari also notes that Gambian authorities are now investigating mass graves of presumed victims of Jammeh’s atrocities recently discovered near the capital Banjul.

‘We are seeing victims pushing for justice against former heads of state who would never before have seen the inside of a court room,’ Ngari says. ‘It’s incredible.’

Progress in legal accountability is also being made elsewhere in the region. The trial of the leader of the 2012 coup in Mali, General Amadou Haya Sanogo, and 17 co-defendants, including other members of the Malian army, began last year in the southern Malian town of Sikasso.

The defendants stand accused of the abduction and killing of 21 elite ‘Red Berets’ who were detained and forcibly disappeared between 30 April and 1 May 2012, after being accused of involvement in a 30 April counter-coup against Sanogo.

It is also worth recalling the pioneering 2012 conviction of former Liberian president Charles Taylor for war crimes and crimes against humanity by

17

RED BERETS KILLED IN
MALI IN 2012

the Special Court for Sierra Leone. Though Taylor was arrested immediately after leaving office, he had been indicted while still president.

Criminal justice spreading across the region

The contagion of criminal justice spreading across West Africa has inevitably, though, also raised the question of 'victor's justice', as Ngari points out. Is the motive always an authentic desire for justice for all or is it often merely a rather sordid quest for revenge against foes?

Nowhere is this question being asked more sharply than in Côte d'Ivoire in the aftermath of the bloody civil war, sparked by Laurent Gbagbo's refusal to cede power to President Alassane Ouattara following the November 2010 presidential elections. Between December 2010 and May 2011, at least 3 000 civilians were killed and more than 150 women raped, with serious human rights violations committed by both sides.

Terrible atrocities were clearly committed on both sides. Yet, at least so far, only those in the Gbagbo camp have been tried, either by domestic courts or by the ICC. Ivorian investigators have laid charges against some pro-Ouattara commanders but none have been tried and Human Rights Watch says some of the commanders have meanwhile been promoted. The ICC is also investigating pro-Ouattara commanders. Meanwhile, Gbagbo himself and his accomplice Charles Blé Goudé have been standing trial at The Hague for crimes against humanity for some time. And Gbagbo's wife Simone Gbagbo has been convicted and sentenced by an Ivorian court for her role in the 2011 events, despite misgivings about the fairness of her trial.

Judicial processes independent from political power

Ngari nonetheless says that in general the judicial processes in most West African countries are deemed to be independent of political power, with judicial officers investigating suspects before referring them to trial. He contrasts this with the investigative process in a country like South Africa which is widely suspected of being politically tainted.

And one could add that, whatever the motivation, justice remains justice, provided that it is indeed meted out in fair trials.

The fanfare must also be tempered by doubts about whether Jammeh or Compaoré, for instance, will be extradited from exile (in Equatorial Guinea and Côte d'Ivoire respectively) to face the consequences of their alleged crimes, although the Habré case has increased the pressure and demonstrated how long the arm of the law can be.

Ngari also notes, significantly, that the rest of the continent has so far remained largely immune from this contagion of international criminal justice sweeping West Africa. Elsewhere, he says, the only successful case so far has been the ICC conviction in 2016 of former Democratic Republic of the Congo (DRC) vice president Jean-Pierre Bemba for war crimes and crimes against humanity in neighbouring Central African Republic in 2002 and 2003.

Support for the ICC, more specifically, is also noticeably stronger in West Africa than elsewhere on the continent. This was again evident in January this year when leaders at the AU summit decided to consider a strategy for collective withdrawal of African states from the court. Nigeria, Senegal, and Cabo Verde entered formal reservations to the decision – an unusual step in the AU. Burkina Faso, Côte d'Ivoire, Mali, Ghana and Sierra Leone later expressly affirmed their commitment to the ICC, along with Malawi, Zambia, Tanzania, the DRC, Lesotho and Botswana from Southern Africa.

Ivorian investigators have laid charges against some pro-Ouattara commanders but none have been tried

Habré's conviction last year was 'a wake-up call to tyrants everywhere that if they engage in atrocities, they will never be out of the reach of their victims', says human rights defender Reed Brody.

Maybe, at least as far as Africa is concerned, that should read 'tyrants in West Africa' rather than 'everywhere'.



Addis Insight

Can funding uncertainty improve peacekeeping in Africa?

Soon the United States (US) may cut a substantial amount of its development support budgets, including up to 40% of its contribution to United Nations (UN) peacekeeping, and 30% of its overall foreign aid. Whether or not the US Congress approves the proposed budget cuts, this has put organisations like the UN and the AU on high alert.

The US is a large funder of both AU and UN peace operations. It contributed around US\$2 billion to the UN peacekeeping budget in 2016; and has funded hundreds of millions of dollars to AU missions like the African Union Mission in Somalia (AMISOM). Decreasing funding to such vital global mechanisms can reduce the ability of international organisations to deploy peacekeeping operations, and even to sustain existing missions.

Decreasing funding to such vital global mechanisms can reduce the ability of international organisations to deploy peacekeeping operations

But these possible funding cuts also come at a time when it is clear that AU missions need better strategic guidance, as there is currently no overall guidance or doctrine for such operations. The cuts could thus provide an opportunity for Africa to revisit the strategic guidance that it provides to its own missions, making them more effective.

Emerging challenges

Africa hosts the majority of the world's peacekeeping operations. Nine out of 16 UN peacekeeping missions are hosted in Africa. In particular, the UN missions in South Sudan, Darfur, the Democratic Republic of the Congo, Mali and Central African Republic soak up more than 75% of the total UN peacekeeping budget.

Furthermore, the AU, regional economic communities and regional mechanisms (RECs and RMs) have, over the past 20 years, deployed a range of complex peace operations to countries like Burundi, Central African Republic and Somalia. These missions have increasingly responded to emerging challenges and provided important lessons on the requirements for African responses to conflicts, especially in terms of the need for further strategic guidance.

\$2 billion

THE US CONTRIBUTION TO
PEACEKEEPING LAST YEAR

Since the creation of the AU in 2002, it has often deployed its peace support operations in environments that lack consensus within the UN Security Council; particularly where more robust interventions have been needed. The best current illustration of this has been the UN's inability to deploy a mission to Somalia, leading to the deployment of AMISOM in 2007 – notwithstanding the substantial support AMISOM receives from the UN itself.

The need to revisit AU doctrines

AU deployments have often been done in the absence of predictable strategic guidance to missions, and in ever-changing environments. Current African conflict situations require the AU to revisit this doctrinal deficit and the widening gap between current peace support operations practices and existing AU policies and guidelines.

While a framework for the establishment of the African Standby Force (ASF) was developed between 2001 and 2003, this has still not been used by the AU. The focus on developing this initial framework means that no broad doctrine for AU peace operations has been developed.

The AU must engage in new discussions and develop a doctrine, guidelines and standards to suit Africa's constantly changing environments. As part of this process, the roles, functions, responsibilities and composition of the ASF will require critical thinking. Discussions to this effect are already under way at the AU.

The organisation engages in diverse environments, and often in non-traditional peace situations, such as counter-insurgency operations. This creates blurs the definitions of peace enforcement and peacekeeping. The AU has also shown increasing interest in helping to establish and develop state institutions, and providing support through stabilisation operations.

The ASF seen only in military terms

But the AU has a lot to learn. Although the AU acknowledges that operations are multi-dimensionality, the ASF is still mostly seen in military terms. Therefore in the discussions of an AU peace operations doctrine,

the organisation must better equip tools such as the ASF to engage in a fully multi-dimensional manner. This means also including civilian and police components, but also widen in its scope to regard, for instance, maritime security and threats.

The AU also responds to acts of terrorism and violent extremism in Africa. This issue has not been sufficiently addressed in current AU peace support operations, or in discussions to operationalise the ASF. The need to explore these issues became clear during AU engagements in relation to al-Shabaab in Somalia, through AMISOM; and Boko Haram, for which the Multinational Joint Task Force was established.

The establishment of the ACIRC in 2013 created confusion regarding the role of the ASF

Also, the AU needs to better coordinate its different peace-support operations mechanisms. For instance the establishment of the African Capacity for Immediate Response to Crises in 2013 created confusion regarding the role of the ASF.

Peace operations need to become better integrated within a wider range of responses and tools in the context of the African Peace and Security Architecture. A doctrine that gives clear guidance to determining the space and boundaries of AU peace operations is needed. This would ensure the effective deployment of the military, police and civilians to deal with specific crisis and conflict situations. It would also contribute towards keeping peace operations cost effective; and achieving more with less.

The potential funding and strategic guidance gaps require the AU to go back to the drawing board so as to better tailor its mechanisms to respond to conflicts and crises in Africa.

And new AU Commission Chairman Moussa Faki Mahamat will have to get the political will of AU member states to address the changes needed to make the AU more effective in dealing with peace operations policies and doctrinal changes.



PSC Interview

Maritime security should be a priority for the AU

The fight against piracy off the coast of Somalia over the last few years has brought together the major navies of the world, big international shipping companies, and African governments, organisations and civil society. While this has been largely successful in reducing the number of reported incidents against merchant ships, African countries are now increasingly waking up to various other aspects of maritime security.

On 25 April 2017 the PSC met at the ministerial level to discuss maritime security and harnessing the Blue Economy. The *PSC Report* spoke to Timothy Walker, the Institute for Security Studies' maritime expert, about the AU's integrated maritime strategy.

Piracy was quite significantly reduced in the Horn of Africa in the last few years. What was responsible for this success?

I would just like to start with a small caveat. Attributing the decline in piracy has not been as easy as it might first appear. As you note, it was significantly reduced with regard to all shipping, but most especially merchant or international shipping. We don't have as complete a picture of the ongoing risk faced by local and small ships that trade in and transit the waters of Somalia.

Somali communities grew reluctant to host pirates, leaving them with fewer havens or anchorages and support networks

And yet you say there was definitely a decline?

Yes, having first started with that caveat, we can state with confidence that the decline in piracy occurred thanks to a number or combination of interventions and actions. Somali communities grew reluctant to host pirates, leaving them with fewer havens or anchorages and support networks. International naval patrols were effective deterrents, as has been frequently noted in studies of imprisoned pirates.

What about ships?

Ships adopted Best Management Practices. They changed their behaviour, like sailing far away from Somalia and at greater speed. Pirates cannot easily

17

HEADS OF STATE ATTENDED
THE LOMÉ SUMMIT ON
MARITIME SECURITY

board vessels going at a higher speed. This was to reduce their vulnerability to attack. Some recent incidents seem to have been partly enabled by the adoption of risky practices and behaviours by some ships.

Ships often also carried on-board an armed guard, usually retired naval personnel working for private security companies. The threat of battle, as well as subtle and robust indications of a secure ship, like showing weapons or firing warning shots, meant many pirates would not attempt attacks.

Ships changed their behaviour, like sailing far away from Somalia and at greater speed

Were pirates also starting to be reluctant to continue?

It is likely that pirates also suffered attritionally from the sea conditions they would encounter, especially during the winter monsoon, which is almost on us and lasts from May to September, and the seaworthiness of their vessels. The risk of ostracism, harm through battles with security personnel, captured and incarcerated by naval patrols and the ever-present risk of loss of life while at sea meant the overall risk of piracy was too great for many. The rewards in the form of ransom money also became uncertain.

Over time all these factors came together to create a trend of security for vessels transiting the waters off Somalia. I should add, though, that many regional dhows and fishing vessels have been captured and crews kidnapped over the past few years, and some too likely did not report their encounters.

What role did African states and organisations play?

At a multilateral level, many states and organisations successfully coordinated and cooperated to create the conditions for reducing piracy. At national and subregional levels, states and regional economic communities drew up integrated maritime strategies, as well as codes of conduct. The Djibouti Code of Conduct is important for East Africa, as is the Yaoundé Code of Conduct for West Africa.

What we can really see as a positive outcome, as it were, of piracy, was a greater willingness among states to cooperate and engage in multilateral behaviour. This in turn reinforced those conditions that enabled better deterrence. While this kind of action is commendable, it hasn't really gone as far as it needs to, by which I mean that African states and organisations now need to be better supported and enabled so that they can create the security conditions required for maritime development and governance. Africa has been relatively marginal and absent throughout the counter-piracy process.

Apart from piracy, what are the other main threats to maritime security in Africa?

Maritime boundary disputes might flare up if not tackled and determined now. Many states have not determined where their exclusive economic zones truly lie. Illegal fishing is one of the biggest threats. It has long-term ramifications if not tackled, as it could impact the food security of many, especially with increasing populations, and denies the full enjoyment and security of a livelihood upon which millions depend.

Africa has been relatively marginal and absent throughout the counter-piracy process

One of the biggest threats is also the failure to cooperate. African states lack the capacity to fight all crimes all the time, but as many crimes are transnational, it makes sense to also make the solution transnational. Pooling capacity and sharing skills and knowledge is crucial for ensuring the most effective African response to security challenges. Better collaboration and trust, as a result of these measures, would also mean there are speedier resolutions to border and maritime trade disputes in future. These can occur at the bilateral and multilateral level, but they need to be occurring.

Are African countries aware of this threat?

There is a greater awareness of the importance of a safe and secure maritime domain, as well as knowledge that so many of the maritime crimes that cost us all dear are transnational in both nature and impact. For too

long many have been ‘seablind’ to the dependency upon safe and secure shipping (to reduce costs, for instance) as well as the benefits that could be accrued from a targeted policy of sustainable economic development.

AU member states came together in Lomé in October 2016 to discuss maritime security. What did they decide?

It was significant that the summit was attended by representatives from 52 African countries – including 17 heads of state, six heads of government and a vice-president. The AU Charter on Maritime Security, Safety and Development (the Lomé Charter) was also a success, with 31 countries signing at the summit. This is significant given the ‘seablindness’ I mentioned earlier, as well as the apparent indifference displayed by governments in the past towards signing, acceding to and ratifying other AU maritime security, development and governance instruments, such as the African Maritime Transport Charter and the Revised African Maritime Transport Charter.

The charter recognises the need for enhanced cooperation for achieving security objectives, and the need for African states and partners to cooperate in areas such as training, education, business and industry. It does not include as many developmental and governance articles as was first hoped, but we still need to see what is contained in the annexures to the charter. It is to be hoped that many of the necessary institutions and ideas for new organisations will be contained and elaborated upon there.

The charter recognises the need for African states and partners to cooperate

What needs to happen now?

Each signatory must ratify the charter, as it comes into force upon the deposit of the 15th instrument of ratification. This needs to occur soon, but it is unclear how soon this could be. A previous maritime charter, the Revised Transport Charter, is still not in force, as only eight signatories have deposited the instruments of ratification at the AU (it was signed in 2009).

The PSC discussions therefore must build on this observation and drive home the importance for all member states of ratifying such maritime charters and conventions. The increasing interest in blue economies, as well as the real threat posed by piracy and other maritime crimes, means many states will start to prioritise maritime security and development policy.

This interest should lead to more signatories and increased ratification, but the AU needs to set an example or act as a lighthouse to help guide states towards realising their maritime destinies. The relevant actors and sections of the AU, especially all relevant specialised technical committees, need to meet and agree on the text of the annexures, as do signatories and member states. They must meet to finalise the annexures and agree on who will be in

31

COUNTRIES HAVE SIGNED
THE LOMÉ CHARTER

a committee of states parties that would then be responsible for monitoring the implementation of the charter.

What should be top on the agenda of PSC member states going forward?

The revitalisation of the 2050 Africa's Integrated Maritime Strategy (2050 AIMS) implementation process, alongside the finalisation of the Lomé Charter annexures. Both have to be guided or anchored by an acknowledgment of the extent to which they will lead to the creation of African blue economies. Any delays in the implementation of either will negatively impact African maritime security enhancement. Even small delays will eventually have a long-term impact, as results need to be demonstrated to member states and the international community.

There needs to be a group well placed in the AU that can facilitate and support the implementation of maritime strategies

It is a good sign that maritime security is to be discussed by the PSC and that its importance for Africa's long-term economic transformation – as seen in Agenda 2063, where security enables development and development leads to enhanced security – will be acknowledged and hopefully taken a step further.

This is also an opportunity to determine the future of the strategic task force that was mandated at the Malabo summit in 2014 to determine the implementation of the 2050 AIMS. All AU member states and the regional economic communities must now be encouraged to nominate representatives to participate in this decision-making process, or else to seek clarification if it is expected to continue.

The major objective of maritime actions going forward must be to determine how soon an office or department of maritime affairs can be established at the AU. There are many AU stakeholders involved in both the enhancement of maritime security and the creation of blue economies. There needs to be a group well placed in the AU that can facilitate and support the implementation of maritime strategies, keep maritime on the agenda of the PSC and throughout the AU, and thereby help the AU Commission succeed in the implementation of Agenda 2063.



About the ISS

The Institute for Security Studies (ISS) partners to build knowledge and skills that secure Africa's future. Our goal is to enhance human security as a means to achieve sustainable peace and prosperity. ISS' work covers transnational crimes, migration, maritime security, peacekeeping, crime prevention and criminal justice, peacebuilding, and the analysis of conflict and governance.

Using its networks and influence, the ISS provides timely and credible analysis, practical training and technical assistance to governments and civil society. This promotes better policy and practice, because senior officials can make informed decisions about how to deal with Africa's human security challenges.

Contributors to this issue

Yann Bedzigui, ISS Addis Ababa researcher
Liesl Louw-Vaudran, Consultant to the *PSC Report*
Ndubuisi Christian Ani, ISS Addis Ababa researcher
Peter Fabricius, ISS Consultant
Annette Leijenaar, ISS Pretoria division head
Gustavo de Carvalho, ISS Pretoria senior researcher

Contact

Liesl Louw-Vaudran

Consultant to the *PSC Report*
ISS Pretoria
Email: llouw@issafrica.org

Acknowledgements



Government of the Netherlands

The publication of the *PSC Report* is made possible through support from the Hanns Seidel Stiftung and the Government of The Netherlands. The ISS is also grateful for the support of the following members of the ISS Partnership Forum: the governments of Australia, Canada, Denmark, Finland, Japan, Netherlands, Norway, Sweden and the USA.

ISS Pretoria

Block C, Brooklyn Court
361 Veale Street
New Muckleneuk
Pretoria, South Africa
Tel: +27 12 346 9500
Fax: +27 12 460 0998

ISS Addis Ababa

5th Floor, Get House
Building, Africa Avenue
Addis Ababa, Ethiopia
Tel: +251 11 515 6320
Fax: +251 11 515 6449

ISS Dakar

4th Floor, Immeuble Atryum
Route de Ouakam
Dakar, Senegal
Tel: +221 33 860 3304/42
Fax: +221 33 860 3343

ISS Nairobi

Elysee Plaza, 3rd floor
Kilimani Road
off Elgeyo Marakwet Road
Nairobi
Tel: +254 72 860 7642
Tel: +254 73 565 0300

© 2017, Institute for Security Studies

Copyright in the volume as a whole is vested in the contributors and the Institute for Security Studies, and no part may be reproduced in whole or in part without the express permission, in writing, of both the contributors and the ISS.

The opinions expressed do not necessarily reflect those of the ISS, its trustees, members of the Advisory Council or donors. Authors contribute to ISS publications in their personal capacity.