

**Speech by Minister of Foreign Affairs Maxime Verhagen at the expert seminar ,
Clingendael, 8 July 2009**

Ladies and gentlemen,

I appreciate the opportunity to address you this afternoon. You have been discussing a complicated and urgent issue: how to deal with the problem of piracy off the Somali coast. Gone are the days when pirates brought images of adventure to our minds: childhood fantasies about roaming the seas and hunting for treasure. Today's pirates look nothing like Captain Jack Sparrow. Nor does the Gulf of Aden resemble the Caribbean.

There is nothing romantic about today's reality: destitute fishermen from the failed state of Somalia have turned into ruthless pirates and are collecting large sums of money by hijacking ships and taking their crews hostage. The International Maritime Bureau counted 42 successful piracy attacks in 2008 (out of 111 attempts), in which 815 crew members were taken hostage and an estimated 300 million euros in ransom was paid by shipping companies. Piracy has become big business. The international community is struggling to come up with effective answers to this new challenge.

The title of today's seminar, 'Pioneering for solutions against piracy', is well-chosen. Because we are indeed pioneering. We are setting about tackling the problem. It is a matter of urgency for us to move forward. Not only does piracy come at a great economic cost – especially for shipping companies that face the tough choice of using much longer alternative routes or paying exorbitant insurance premiums. It also has severe psychological effects on the crews, who may be held at gunpoint and taken hostage at any time. Their lives are at stake. And we have little reassurance to offer them. Only two weeks ago, a Ukrainian crew member was found dead on The Marathon, which sails under a Dutch flag. Captain Hendrik Toxopeus of the Pompeï, a ship that was hijacked for almost two months, gives us a glimpse of what life was like while Somali pirates were on board. 'They threatened every day to kill us,' he says. The crew was robbed of their personal belongings; they were forced to sleep outside. The pirates quarrelled constantly among themselves, injuring each other in the process. This terrifying experience will leave lasting psychological scars on the crew members who endured it.

Piracy also hampers world trade. And it undermines food security in Somalia and stability in the region. It has become a pest that needs to be eradicated. Pirates who attack our vessels from fishing boats with guns and knives cannot be allowed to get the upper hand. Piracy must not pay. We have to take decisive action against it, on several fronts.

The international community's response to the growing threat of piracy has focused so far on sending naval missions to the Gulf of Aden to protect ships. Several countries have begun national missions. The European Union has launched a naval force, Atalanta, whose mandate was recently extended until December 2010. And NATO has sent a permanent fleet to patrol the area as well.

The Netherlands has been at the forefront of these international efforts to curb piracy. Last year we carried out two national missions to protect the World Food Programme's humanitarian transports. Afterwards, I strongly urged my European colleagues to establish a multilateral force. The result is Atalanta: an operation aimed at offering long-term protection to humanitarian transports and to as many commercial ships as possible. Not by providing individual protection – that would be extremely costly and less effective – but by coordinating naval capacity. From August onwards, the Netherlands will contribute one frigate to this mission, the Evertsen, as well as the Force Commander. Earlier we contributed the frigate De Zeven Provinciën to the NATO operation Allied Protector.

The heightened international military presence in the Gulf of Aden has already had some positive effects. First of all, it has been rewarding to cooperate with countries that are not our usual partners in these kinds of international alliances, including China, India, Japan, Russia and South Korea. The fact that we are all engaged in the 'Contact Group on Piracy off the Coast of Somalia' has definitely been useful. I know you have spoken today about the geopolitical dimension of the piracy problem. My view is that we should seize this opportunity to include China and other actors in international alliances. This is precisely what Dutch foreign policy is aimed at: consolidating international partnerships based on shared interests. In this case, fighting piracy off the Somali coast.

The effects of the heightened military presence have also been noticeable on the spot. Since the launch of Atalanta, by far the majority of piracy attacks have targeted ships that had not registered with the EU's Maritime Security Centre and had not taken part in its Group Transit system. That's a clear indicator of the success of the EU's coordinated approach.

However, I'd be the first to admit that the problem of piracy cannot be resolved on the high seas alone. Many have rightly argued that the permanent solutions are on land. Somalia has to be stabilised before any effort can have a lasting effect. This is obviously a thorny issue. The UN and the EU cannot do much besides continuing to push for implementation of the Djibouti Agreement.

In the meantime, efforts should be made to enhance regional capacity to deal with piracy. I believe it is vital for the region to take on this responsibility as long as Somalia is not up to the job. This Friday in London the operational working group of the Contact Group on Piracy will be discussing ways and means of improving regional capacity. The United Kingdom, together with the UN's Office on Drugs and Crime, has been looking into ways of strengthening existing regional initiatives, such as building the capacity of the coast guard and local police. The European Commission is actively involved in these efforts, and NATO is also considering its involvement. A regional Code of Conduct was adopted in January, which nine countries in the region have now signed. This is a very positive development and a first serious step towards a regional approach to piracy.

Ladies and gentlemen,

Another issue that is of great concern to me is fighting impunity. Piracy is a violation of national and international law. But the lack of a uniform standard in bringing suspects to justice is disturbing. Sometimes pirates are not arrested at all and walk away free; that is of course wholly unsatisfactory. Sometimes they are handed over to the authorities of a third country: the EU for example has made arrangements with Kenya, which is putting apprehended pirates on trial. The question is how much longer this can continue. So far more than a hundred suspects have been handed over to the Kenyan authorities, imposing a heavy burden on their judicial system. In a very few cases, apprehended pirates are being tried outside the region. In the Netherlands, one much-publicised trial of five Somali pirates is in progress. Much publicised, because one of the defendants has said that he much preferred his Dutch prison cell to life in Somalia and will ask his family members to join him here as soon as he has served his sentence. This made me scratch my head; we can't be on the right track if our punishment is perceived more as a treat than as a threat. This could lead to the strange situation that our attempts to punish pirates actually encourage piracy instead of discouraging it. As with criminal law in general, the prosecution of pirates should deter piracy – but right now this is not the case. I believe that a more standardised, and indeed international, approach is needed.

This is why I have taken the initiative to establish a regional mechanism to end impunity at sea. In the Contact Group, the Netherlands has proposed that a piracy tribunal be established by a UN Security Council resolution under Chapter VII. This tribunal would be set up with international assistance and would be located in the region. Several countries have responded favourably: Germany and the Russian Federation in particular would like to pursue the idea. We are happy to work with them and others, including of course states in the region. This is why we invited legal experts from the Contact Group countries to an informal discussion yesterday in The Hague on creating an international judicial mechanism. Nineteen states and three international organisations contributed their thoughts on the steps that are needed to create a tribunal.

There was broad agreement among the experts that impunity should not be tolerated. Questions were raised, however, as to whether establishing a tribunal is the best solution, as this would probably be a lengthy and costly affair. The point was made that piracy is an economic crime, not comparable with the types of crimes addressed by other ad hoc tribunals or the permanent International Criminal Court. Many participants pointed out that we need an immediate response to an immediate need, and suggested that other avenues be pursued as well, such as strengthening local and regional capacity to try pirates.

I too believe that the international community should invest in local capacity. Kenya especially, which has taken on a great number of cases, is entitled to international assistance. However, I do not think that this will suffice. We cannot drop our common problem on one country's doorstep. Of course a tribunal, if it is established, should be cost-effective and efficient – that goes without saying. And I think that avoiding lengthy procedures is entirely up to us; where there's a will,

there's a way. In any case, we should be flexible about the exact form that a judicial mechanism could take. Building on the EU's experience with Kenya, one could for example envision a Special Chamber linked to a court in the region. Or an ad hoc tribunal could be established, as has been done on other occasions. What matters is finding the most effective way to put an end to impunity.

Yesterday's meeting was productive in identifying crucial questions that need to be addressed to establish a regional tribunal. I will take these findings back to the Contact Group and its legal working group.

Ladies and gentlemen,

The challenges we face in the twenty-first century require the nations of the world to work together. Fighting piracy off the coast of Somalia is a good case in point. It will not always be easy, but ultimately we will have to cooperate to be effective. I will do my utmost to ensure that the Contact Group on Piracy achieves meaningful results, including in fighting impunity. Unlike Captain Jack Sparrow, I do not like to wave at moments of opportunity as they pass by. I prefer to seize them and act.

Thank you.