

The 7th PLENARY SESSION OF THE CONTACT GROUP ON PIRACY OFF THE COAST OF SOMALIA

(NEW YORK, 10 NOVEMBER 2010)

COMMUNIQUE

The Contact Group on Piracy off the Coast of Somalia (CGPCS) held its seventh meeting in New York on 10 November 2010, under the chairmanship of the Republic of Korea.

The CGPCS noted with grave concern that piracy off the coast of Somalia poses an ongoing and serious threat to the safe and effective delivery of humanitarian aid to Somalia, to international navigation and the safety of commercial maritime routes, as well as to fishing activities conducted in conformity with international law.

The CGPCS welcomed the success being achieved in delivering very high levels of security for shipping following industry-agreed Best Management Practice in the critical Gulf of Aden trade artery through the joint efforts of the military operations and the shipping industry, and agreed that the Gulf of Aden should remain the key focus of international operations in light of its importance for global trade. The CGPCS also welcomed the continuing complete protection provided to the critical World Food Program and AMISOM supply shipping into Somalia.

The Group noted with concern the number of piracy acts continues to increase and the pirates' main areas of operation have expanded from the Gulf of Aden to regions 1,100 nautical-miles off the coast of Somalia. As of September 2010, 164 incidents can be attributed to Somali pirates this year alone, which include 37 hijacked vessels and about 682 seafarers who have been taken hostage, 12 of whom have either been injured or killed as a result.

The CGPCS condemned and deplored all acts of piracy and armed robbery against vessels at sea off the coast of Somalia. It called upon States interested in the security of maritime activities to redouble efforts in the fight against piracy on sea off the coast of Somalia, in particular, by providing additional military assets and other support to meet the needs of the military operations, in particular Maritime Patrol Aircraft, oil-tankers, helicopter-capable ships and military Vessel Protection Detachments and boarding teams, as well as basing support in the region.

The Contact Group called on partners to take all possible steps to provide such additional resources, and noted the potential for many of these capabilities to be provided by

non-military means by countries not currently providing naval contributions, and welcomed strongly, as an example, the contribution of Luxembourg in paying for the commercial provision of Maritime Patrol Aircraft. The Group expressed gratitude to all countries providing a military contribution to counter-piracy activity, and welcomed the new military contribution by Thailand and India. The CGPCS also underscored the importance of continued effective military coordination between different naval forces combating piracy off the coast of Somalia.

The CGPCS also agreed that an effective solution to end piracy cannot be achieved without addressing the root causes, most notably, instability in Somalia. The ever closer cooperation of Transitional Federal Government (TFG) of Somalia, as well as regional administrations into the wider international efforts against piracy is essential. The Group paid particular attention to the need of the TFG and regional administrations of Somaliland and Puntland to build their capacity to prosecute and imprison persons responsible for acts of piracy and armed robbery at sea off the coast of Somalia.

The Contact Group encouraged States to cooperate with the TFG of Somalia in the fight against piracy and armed robbery at sea and noted the primary role of the TFG in rooting out piracy and armed robbery at sea.

The international community has made notable accomplishments in the fight against piracy. The new edition of the well-known counter-piracy guide - Best Management Practice (BMPs) - has been published, as has the UN Secretary General's report (S/2010/394) regarding the possible options for the prosecution of suspected pirates.

The CGPCS welcomed the targeted and well executed efforts by the UNODC in the region. It also took note that the IMO Djibouti Code of Conduct Trust Fund is implementing various projects, including the establishment of regional information centers and a regional training center. The Trust Fund to Support the Initiatives of States Countering Piracy off the Coast of Somalia is also in operation to support initiatives associated with the prosecution of suspected pirates, as well as other relevant projects.

However, piracy persists and continues to pose more challenges to the international community, requiring greater cooperation and strengthened coordination among its members. It is, therefore, of paramount importance to continue to enhance international cooperation to address piracy in an effective manner.

Against this backdrop, the international community should continue to pursue ongoing efforts to achieve a comprehensive solution to the problem of piracy.

The Contact Group underscored the importance of bolstering the prosecution of piracy, as bringing pirates to justice encompasses an integral part of a broad counter-piracy strategy.

In this sense, the Contact Group welcomed the UN Security Council's resolutions, including 1918, and the report of the Secretary General on possible options to further the aim of prosecuting and imprisoning persons responsible for acts of piracy and armed robbery off the coast of Somalia. The CGPCS agreed to review the seven options on legal reform proposed by the Secretary-General and to seek the best and most feasible options for moving forward. To eliminate piracy, it is of utmost importance to demonstrate by action that piracy will be prosecuted and not be offered impunity. The CGPCS also took careful note of the need to ensure additional funding to the necessary capacity building efforts in the region, including in regard to incarceration, and called on all interested and affected parties, including flag states and industry, to contribute to this.

The CGPCS wished to applaud the contribution of regional countries in the field of prosecution, as well as the role of the Republic of Kenya and the Republic of Yemen in bringing pirates to justice and the commitment of the Republic of Seychelles to continue prosecution of suspected pirates nationally, with support of the international community.

The Contact Group agreed that the industry itself must exert efforts to be better protected against pirates, through compliance with the industry-agreed Best Management Practices (BMPs). It is welcoming news, in this sense, that the third version of the agreed BMPs has been distributed, and actively recommended to be followed by the international community. The Contact Group encouraged each member of the international community to take practical steps to ensure a greater level of compliance, including ways to provide incentives to industry and merchant shipping companies for better compliance with the BMPs.

The Contact Group noted the urgent need to monitor and disrupt funds which finance piracy attacks. The Contact Group expresses with urgency the need for efforts to draw up viable ways to cut the flow of illicit money, such as the work currently being undertaken by the Financial Action Task Force. In this regard, the Group recommended holding an ad hoc meeting of experts on the subject to focus on the financial aspects of piracy and to ensure that this issue is dealt with comprehensively and includes relevant law enforcement agencies. It is of paramount importance to continue to enhance international cooperation in order to deter pirate activity and stifle the financial network supporting that activity. Towards that end the CGPCS intends to hold the ad hoc meeting of experts before the next plenary.

The CGPCS heard presentations from the Somali Transitional Federal Government (TFG) and noted with grave concern that the scourge of piracy off the Gulf of Aden, the long coast of Somalia and beyond the Indian Ocean is still with the international community and that it will continue as an international problem unless a credible solution is found to address the insurgency and instability on the land in Somalia.

The CGPCS noted the need to continue to work with the TFG on projects, which would contribute to enabling Somalia to protect its maritime resources and environment.

The Contact Group believed that the use of the Internationally Recommended Transit Corridor (IRTC) through the Gulf of Aden has succeeded in deterring pirate activity in that area. The Group is also pleased that all CGPCS participants providing military forces to counter-piracy efforts share the belief that the Shared Awareness and Deconfliction (SHADE) meetings in Bahrain provide excellent operational coordination and thanks all partners for their participation in the SHADE process.

The United Nations Department of Political Affairs addressed the CGPCS plenary and emphasized the importance of fighting piracy simultaneously on three fronts: deterrence; security and the rule of law; and development. The CGPCS welcomed the effort to reinvigorate the Kampala Process. The CGPCS took note of the United Nations calling for Member States and the maritime industry to contribute to the CGPCS Trust Fund to Support the Initiatives of States Countering Piracy off the Coast of Somalia. The CGPCS deeply sympathized with 438 kidnapped victims, who remain in the hands of Somali pirates. The Contact Group urged all the stakeholders, including ship owners and Flag States, to make substantial efforts for the immediate release of seafarers being held hostage by pirates and dissemination of information to countries and families of the seafarers held hostage.

The CGPCS strongly believed that coordination and cooperation among the Contact Group participants and the UN is a critical factor for the continued success and effectiveness of the Contact Group and the latter looks forward to continuing to work closely with the U.N.

The United Kingdom reported on the Working Group 1 meeting held in London on 21 October. The Contact Group underlined the importance of continuing close dialogue, cooperation and coordinated action between military operation commanders, governments, international organizations and the shipping industry, in response to the threat of piracy off the coast of Somalia - this multi-faceted partnership remains central to effective action. The Contact Group welcomed the interactive partnership between the WG1 and the co-chairs of the Shared Awareness and Deconfliction (SHADE) mechanism, which enables both a fuller understanding of the operational situation and the wider international community to respond to the concerns of the military commanders. The Contact Group welcomed the continued work of the SHADE in coordinating military operations in the region, including its productive relationship with the navies of countries operating outside the framework of multinational operations. The Contact Group welcomed the continued significant contribution of these independent deployers, including their willingness to escort merchant ships from all Flag States and the steps being taken to assist with wider tasks such as escort of World Food Program and AMISOM supply shipping, and welcomed consideration of increased co-ordination of convoys to maximize military support to industry.

Recalling the importance of effective coordination of international support for regional capability development through the Working Group 1, the Contact Group welcomed the progress being made in several key areas of development. The Contact Group welcomed in particular the results of the regional ministerial meeting on piracy and maritime security in the Eastern and Southern Africa – Indian Ocean region in Mauritius on 7 October 2010 and looked forward to the earliest possible implementation of the Regional Plan of Action. The Contact Group encouraged the regional countries to work together with the Working Group 1 to prioritize next steps and to coordinate their implementation with the many international partners prepared to offer assistance. The Contact Group welcomed the progress being made in many areas assessed as priorities already in its needs assessment report, and many of which are relevant to this Regional Plan of Action:

- the coordinated work of the IMO and the European Commission in the implementation of the Djibouti Code of Conduct;
- excellent results being achieved by the UN Office on Drugs and Crime in its program of capacity building work in the region in support of prosecution and imprisonment, noted UNODC's ongoing priorities and funding requests, and encouraged the international community to give its full support to these activities;
- the complementary efforts already being made by the TFG and regional administrations of Puntland and Somaliland to counter piracy both directly in intercepting, detaining and trying pirates, and in work to undermine piracy at its roots, and encouraged continued and intensified efforts by these authorities;
- the contribution being made to the training and equipping of naval and coast guard forces throughout the region to enable them to respond to and deter acts of piracy in and beyond their national waters, including both bilateral and multilateral contributions; and
- noting the agreement by the Friends of Yemen to continue their support to reinforce the capabilities of the Yemeni security forces, including the Yemen Coastguard, to protect Yemen's borders, the Contact Group welcomed the newly agreed Concept of Operations for the Yemen Coastguard, including future equipment and training requirements, agreed that these requirements should be incorporated into the Contact Group regional needs assessment matrix, and encouraged the international community to provide full support to the development of the Yemen Coastguard, linked to the ongoing work of the Friends of Yemen.

Denmark briefed on the main issues discussed in the Working Group 2 meeting. The WG2 noted that the meeting focused on measures to increase prosecution of suspected

pirates, even if an increasing number of suspected pirates are being prosecuted in States both outside and within the region, including in Somalia. The discussion of the WG2 focused on a model for post sentencing transfer of convicted pirates. (transfer of an individual, sentenced in one State, to incarceration in another State). The Working Group, in general, agreed that a model for post sentencing transfer was a necessary and legitimate method to address the issue of incarceration of convicted pirates, recognizing the importance of such a model as a key element in ensuring an increased number of prosecutions. The Working Group agreed that the most feasible model for such a system would be bilateral agreement or arrangements between the prosecuting State and the incarcerating State on the issues described in the conclusions of the WG2 chair. Based on presentations by the Group of Law Reform Experts from TFG, Puntland, Somaliland, the United Nations Office of Legal Affairs, Mr. Jack Lang, Special Adviser to the Secretary General on Legal Issues related to piracy, and Ukraine, the Working Group furthermore had an extensive discussion on the possible options to further the aim of prosecuting and imprisoning pirates. Finally, the Working Group discussed human rights considerations and decided to continue to extract practical guidance from the exchange of views on this issue.

The CGPCS noted that prosecuting of suspected pirates and incarceration of sentenced pirates remains areas of concern. Capturing suspected pirates and releasing them without consequences when there is sufficient evidence to support prosecution creates a perception of impunity.

The CGPCS applauded those States both outside and in the region who are prosecuting pirates as listed in the conclusions of the Chairman of the WG2. The CGPCS especially noted the constructive role played by a number of States in the region. The CGPCS calls on all States to ensure that the proper national legislation is in place and to undertake prosecution of suspected pirates when the conditions are met.

The CGPCS believed that the development of prison capacity in the region to accommodate convicted pirates and a model for post sentencing transfer will result in an increased ability and political will among States to prosecute suspected pirates. The CGPCS agreed that all interested parties, including the WG2 and the UNODC, should continue to work on such a model.

The Contact Group welcomed the UN Security Council's resolution 1918, and the subsequent report of the Secretary General on possible options to further the aim of prosecuting and imprisoning persons responsible for acts of piracy and armed robbery in the sea off the coast of Somalia. The CGPCS welcomed the Security-General's appointment of Mr. Jack Lang as his Special Advisor on legal issues related to piracy off the coast of Somalia. The CGPCS in this regard took note of the decision of the WG2 to continue to explore the question of mechanisms for prosecution in the region in close cooperation with Mr. Lang and

in accordance with any decisions by the Security Council, the Contact Group and other relevant actors.

The United States presented the report from the Working Group 3. The WG 3 continued to review, in a regular basis, the gathering and dissemination of lessons learned and the implementation of BMPs onboard vessels operating off the coast of Somalia, as well as identifying labor issues and developing labor related guidance in support of crew training and post event activities.

Industries and governments continued to monitor the tactics used by Somali pirates and based on evaluations, have revised BMPs and other counter piracy guidance. The BMPs Version 3 (BMP3) is currently being distributed widely through the internet and 35,000 hard copies are being circulated at no cost. Industries, governments, and NGOs have continued to disseminate BMP3 with new initiatives to ensure access to BMP3.

The development, revision, and implementation of BMPs and other counter piracy guidance continue to be one of the most effective preventative tools against piracy, but more work must be done. Although most vessels appear to be taking measures to prevent the success of pirate attacks, those who do not take such measures endanger all ships and crews by allowing successful attacks which contribute to the destabilization of Somalia. All means to improve the implementation and use of best practices must be considered and/or revisited. One example may be for the insurance industry to be encouraged to offer ways to incentivize their use.

Measuring effectiveness of protective measures, including their relationship with military actions supporting prevention, is a key to making improvements. Even though some practices in the BMPs have been quite successful recently, such as the use of citadels for the crew, continuous adaptation is needed. The WG3 supported the development of procedures for MSC-HOA to notify Flag States that may not aware that their ships are not implementing appropriate preventative measures.

The WG3 was pleased to report that industry groups had collaborated and developed seafarer related guidance covering the training, preparation and care of seafarers, and planning actions recommended to be taken for the event of being hijacked by pirates. These works have been published and submitted to IMO MSC 88 for consideration.

The WG3 co-chairs continued to emphasize that the WG3 is seeking a balanced, comprehensive, and multi-national approach; one that will both improve the safety for shipping and mariners who transit the region, and reduce the use of ransom payments. In order to carry-out these efforts and discussions with increased participation and collaboration, the WG3 would seek closer coordination and discussion with other CGPCS Working Groups

on, inter alia, guidance on the use of private security and preservation of evidence. The WG3 will continue to solicit pertinent concerns from industry and governments to be further addressed by the WG3.

Egypt briefed on the fourth meeting of the Working Group 4 that convened in New York on the 9th of November 2010. The progress of the communication strategy, adopted by the CGPCS was reviewed. The UNPOS representatives informed the Working Group on the progress of implementing the media project aiming at raising the internal and regional awareness of the threats of the phenomena of piracy, which was endorsed by the Trust Fund. In addition, participants of the Contact Group were called upon to further respond to the questionnaire distributed by the Egyptian Chairmanship to assess the efforts of various participants with regard to the application of the communication strategy.

Also, presentations were provided by representatives of the European Union's Naval Force, Operation ATALANTA, and NATO, on the components of their communication and information strategy, aiming at creating an opportunity for discussion on such matter within Somalia, and to raise the awareness of the gravity of the threats of piracy and of the role played by the international military presence to suppress acts of piracy.

During the meeting, the following was agreed upon among others:

- the need to streamline the means and objectives highlighted by the Communications and Media Strategy with the needs of the people in Somalia and in the Somali Diaspora so as to insure that the CGPCS message bears the necessary resonance inside Somali communities.
- support the leading role of the UNPOS in Nairobi in coordinating Somalia related communications activity, working in partnership with the Egyptian chairmanship of the Working Group 4.
- the need to enhance the preventative aspect of the communication strategy and the need to have focused messages to the people in Somalia and to the Somali Diaspora and to involve families of detainees in the message broadcasted.
- the communication strategy should make use of means of communications that is suitable for the situation in Somalia, particularly Radio Broadcast.
- that communications on counter piracy need to be delivered within a wider, comprehensive communications effort across Somalia.

Future Action to be conducted by the Working Group 4:

- that the Chairman of the Working Group 4, together with Chairmen of the Working Groups 1, 2 and 3, visits the region to promote the work of the CGPCS and its Trust Fund.
- that the Chair of the Working Group 4 should undertake visits to the region and participate in activities and coordinate meeting of the UNPOS in Nairobi.
- the need to intensify coordination between the four Working Groups through possible regular contacts and meetings between the Chairmen of the four Working Groups and other interested participants.

The CGPCS, taking note of the benefit of a website that it would enhance effectiveness and productivity of the meeting, welcomes the Republic of Korea's proposal that the Group would initiate the process to construct and operate the website. The United States and the United Kingdom expressed their willingness to take part in the process. The Group expects these three States, along with other States which wish to contribute, to develop a concrete action plan to be presented at the next plenary meeting. The Group called for cooperation in this process.

The Contact Group agreed to regularize the plenary meetings to be held three times a year, in March, July and November, in order to enhance their efficiency, raise predictability and to make room for developing long-term plan.

The CGPCS welcomed the Republic of the Philippines as a new participant in the Contact Group and looked forward to their contributions to countering piracy.

The 8th plenary session will be held under the leadership of Turkey.

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