



IORA

PIRACY AND MARITIME CRIME IN THE INDIAN OCEAN

UNDER SECRETARY-GENERAL
ALPER KAAAN ÖZBEK

LETTER FROM UNDER-SECRETARY-GENERAL

Esteemed delegates of City Model United Nations Conference,

I am Merve Karakulak, sophomore at Bogazici Science High School and welcome you all to IORA. I will serve you as Under-Secretary-General for IORA and the Secretary-General of CITYMUN 2020.

Participants of IORA will be discussing “Piracy and maritime crime in the Indian Ocean.” In these three days together we will try to find the best improvement methods and solve issues about this topic. This study guide is designed to be an introduction and guideline to the participants. Therefore, I highly advise participants to do some further research on the topic in order to see the issue from different perspectives.

I welcome you all to CITYMUN Conference 2020 and if you have any questions

feel free to contact me via mervekarakulak6@gmail.com

Sincerely,

Merve Karakulak

Under-Secretary-General

The Indian Ocean Rim Association is an inter-governmental organization which was established on 7 March 1997.

The vision for IORA originated during a visit by late President Nelson Mandela of South Africa to India in 1995, where he said:

“the natural urge of the facts of history and geography should broaden itself to include the concept of an Indian Ocean Rim for socio-economic cooperation...”

This sentiment and rationale underpinned the Indian Ocean Rim Initiative in March 1995, and the creation of the Indian Ocean Rim Association (then known as the Indian Ocean Rim Association for Regional Co-operation) two years later, in March 1997.

The Indian Ocean

As the third largest ocean woven together by trade routes, commands control of major sea-lanes carrying half of the world’s container ships, one third of the world’s bulk cargo traffic and two thirds of the world’s oil shipments, the Indian Ocean remains an important lifeline to international trade and transport.

Home to nearly 2.7 billion people, Member States whose shores are washed by the ocean are rich in cultural diversity and richness in languages, religions, traditions, arts and cuisines.

They vary considerably in terms of their areas, populations and levels of economic development. They may also be divided into a number of sub-regions (Australasia, Southeast Asia, South Asia, West Asia and Eastern & Southern Africa), each with their own regional groupings (such as ASEAN, SAARC, GCC and SADC, to name a few). Despite such diversity and differences, these countries are bound together by the Indian Ocean.

The Structure
IORA’s apex body is the Council of Foreign Ministers (COM) which meets annually. The Republic of South Africa will assume the role for 2017-2019, followed by the United Arab Emirates. A committee of Senior Officials (CSO) meets twice a year to progress IORA’s agenda and consider recommendations by Working Groups and forums of officials, business and academics to implement policies and projects to improve the lives of people within the Indian Ocean Member States.

Objectives & Priority Areas of Cooperation

The objectives of IORA are as follows:

1. To promote sustainable growth and balanced development of the region and member states
2. To focus on those areas of economic cooperation which provide maximum opportunities for development, shared interest and mutual benefits
3. To promote **liberalisation**, remove impediments and lower barriers towards a freer and enhanced flow of goods, services, investment, and technology within the Indian Ocean rim.

Indian Ocean Rim Association (IORA) has identified six priority areas, namely:

1. maritime security,
2. trade and investment facilitation,
3. fisheries management,
4. disaster risk reduction,
5. academic and scientific cooperation and
6. tourism promotion and cultural exchanges.

In addition to these, two focus areas are also identified by IORA, namely Blue Economy and Women's Economic Empowerment.

IORA members undertake projects for economic co-operation relating to trade facilitation and liberalization, promotion of foreign investment, scientific and technological exchanges, tourism, movement of natural persons and service providers on a non-discriminatory basis; and the development of infrastructure and human resources, poverty alleviation, promotion of maritime transport and related matters, cooperation in the fields of fisheries trade, research and management, aquaculture, education and training, energy, IT, health, protection of the environment, agriculture, disaster management.

Introduction to the Topic: Piracy and Maritime Crime in the Indian Ocean

The Indian Ocean is one of the world's busiest maritime routes and consequently, is also used as a platform for various maritime crimes. Within the Global Maritime Crime Programme, the Indian Ocean team (GMCP IO) works with coastal states of the region to enhance and coordinate their efforts to effectively respond to maritime crime affecting their waters. More specifically, the GMCP IO team collaborates with countries including Kenya, Tanzania, Mozambique, Seychelles, Mauritius, Maldives, Sri Lanka and Bangladesh to provide theoretical and practical support for the entire criminal justice chain, from maritime law enforcement to judiciaries, and through to prisons.

The cornerstone of the GMCP IO team is support for regional cooperation, which is manifested through the establishment of the Southern Route Partnership (SRP) and the Indian Ocean Forum on Maritime Crime (IOFMC). The SRP targets the trafficking of Afghan heroin from the Makran Coast in Pakistan and Iran into East Africa via the Swahili Coast, and is comprised of drug enforcement officials from Asia and East Africa who coordinate operational activities to address drug trafficking. The IOFMC focuses on promoting cooperative responses to maritime crime at both strategic and operational levels. Given that the Indian Ocean constitutes a third of the world's ocean space and borders 24 states, it is crucial that states are able to overcome legal and practical obstacles to achieve a level of cooperation and coordination. A significant aspect of this cooperation is the Prosecutors' Network, which brings together Senior Prosecutors from the littoral states of the Indian Ocean with the purpose of sharing knowledge, legislation and case law, as well as establishing cooperative strategies for the prosecution of maritime crimes. Also underneath the banner of the IOFMC, the GMCP IO team created and supports the Law Enforcement Task Force (LETF), which consists of officials from seven countries and three organizations that investigate piracy. Through the LETF, significant steps have been made towards combining global efforts for the prosecution of pirate leaders and financiers.

The GMCP IO team also assists states with legislative reform. This work includes drafting or amending domestic legislation criminalizing piracy and other maritime crimes and establishing jurisdiction, and developing guidelines on the collection of evidence and the handover of suspects to prosecuting states. Furthermore, the GMCP IO team conducts capacity building through the organization of workshops and training sessions on Visit, Board, Search and Seizure (VBSS); Maritime Domain Awareness (MDA) and criminal

investigation skills. These training sessions include both theoretical and practical exercises to ensure that maritime law enforcement officers gain a holistic understanding of the situation and can apply knowledge.

In addition to supporting maritime law enforcement, GMCP IO also undertakes projects to ensure that states have the necessary infrastructure to conduct maritime crime trials and securely detain suspects or convicted offenders in accordance with international human rights standards. For instance, the GMCP IO team constructed the Shanzu Law Court in Mombasa, Kenya and continues to expand this judicial infrastructure with the construction of additional buildings and courtrooms. In Seychelles, the GMCP IO team constructed new prison facilities to hold piracy suspects or convicted offenders, and in conjunction trained prison staff on human rights compliant security. The team also established a voluntary repatriation programme for Somali piracy suspects. In some instances, GMCP IO also provides simpler infrastructure support to states, such as the provision of patrol boats and equipment.

Finally, the GMCP IO team strives to utilize modern technology in the fight against maritime crime. In order to enhance surveillance and law enforcement capability, the GMCP IO team assists states in the induction of MDA technology including terrestrial radars as well as thermal and satellite imaging. Along with such specialized MDA equipment, the team is also introducing database systems and innovative technology such as biometric facial recognition technology in various littoral states to improve the effectiveness of surveillance and the collection of evidence for the successful prosecution of maritime offenders. The use of this technology will play a central role in the development of systems that will, in turn, improve information sharing within the Indian Ocean region.

International operations against piracy in the Western Indian Ocean are due to wind down. Some major external navies will probably remain, but the region's states will have to adjust to their new role in managing the challenging security environment. In this article, Christian Bueger and Jan Stockbruegger examine the options for cooperation in this volatile region.

The Western Indian Ocean region is at a critical juncture. Maritime security threats are on the rise. The region has become a major drug smuggling route. Human trafficking, trade in small arms and ammunition, wildlife and fishery crime are also prevalent. The threat of Somali-based pirates, who hijacked nearly 200 ships in recent years, has been contained for the moment. No international merchant ship has been hijacked successfully since May 2012. However, the pirates' organizational structures remain intact and the piracy risk prevails. The Western Indian Ocean is also a region of instability.

According to data from the Fragile States Index, the average fragility of littorals is among the top third of the world – ranked 62/63 of 195 states. Most troubling is the fact that of the Western Indian Ocean actors three are among the ten most fragile states in the world, namely Somalia, Yemen and Pakistan. Radical terrorist groups affiliated to Al-Qa’ida and Daesh (also known as the Islamic State of Iraq and Syria, ISIS) are also present in these countries. Maritime terrorism is at least a latent threat, with the latest incident taking place in 2002 – the attack on the MV Limburg off the coast of Yemen.

The Western Indian Ocean is one of the world’s most critical maritime regions. It is home to some of the major trade and energy supply routes between Europe, Asia and the Gulf. More than 42,000 ships transit through the region annually. Since 2008 there has been an increasing naval presence in the regional waters as a response to maritime piracy off the coast of Somalia. Three multilateral missions, the EU Naval Force Somalia (Operation Atalanta), NATO’s Operation Ocean Shield and the US-led Combined Maritime Forces (CMF) are currently operating in the region, along with independent navies of, among others, Russia, China, India, Japan and even Iran. More than 30 naval vessels, supported by helicopters, aircraft and support vessels, are present in the region on any given day. With no successful piracy attack reported since May 2012, the debate about the future of the international naval presence has started. The current mandates run until the end of 2016, as does the UN Security Council authorization. NATO has already decided that its mission off the Somali coast will not be extended; the future of the EU counter-piracy engagement off Somalia will also be decided soon. With this in mind, it is important to consider how the vast maritime security challenges will be handled if these naval operations end, and whether the region has the capacity to cope with piracy and other maritime challenges on its own.

A continuation of the international naval presence in the absence of a tangible piracy threat, however, also raises questions. Decision-makers will need to ask how potential tensions between naval actors can be managed and coordinated if the counter-piracy regime in the region is dismantled and other forms of legitimization are required to replace the UN Security Council mandate and the current counter-piracy legitimization.

It seems likely that the engagement of the international community, as currently constructed, will not continue after 2016. Yet the maritime security challenges will remain, as does the risk of a return of piracy. The region will have to get serious about its future maritime security architecture, whether the international navies leave or stay. In a recent survey of maritime security cooperation in the region the authors sought to identify the various proposals aimed at building a future security architecture for the Western Indian Ocean. The result was a perplexing number of no fewer than sixteen strategies,

agreements and initiatives of relevance for maritime security in the region. These aim at strengthening regional capacities for maritime security, tackling the problem of illegal fishing, addressing human and drug trafficking, and providing forums for maritime security practitioners and naval analysts. INS Viraat escorting the Indian Navy's newly acquired aircraft carrier Vikramaditya during her delivery voyage. Courtesy of Indian Navy.

There is a growing institutional thicket to address the challenges in the region's waters. While each of the emerging institutions is promising, none appears fit on its own to handle the maritime challenges of the region. The tasks are manifold and overly complex, and more than one institution will certainly be required to undertake them all. Yet, the relationships between the current institutions are often unclear, and diverging donor interests contribute to a further proliferation. Sometimes overlap and duplication might be beneficial, to ensure that someone does the job. Yet, the institutional landscape in the Western Indian Ocean has reached a degree of complexity which is inefficient. Too many resources are invested in building the diverse institutions and in maintaining them. The structure will not be able to deliver. Proliferation has to stop, a clear vision and strategy about how the region will manage maritime security are required and regional ownership is paramount in this process. International assistance is a necessity, but international actors would be wrong to think they can dictate the terms of the architecture; instead they should sign up to the maritime business plan that the region provides. In drafting this plan, a number of principles will have to be considered.

Maritime Security Dynamics in the Western Indian Ocean

Actors in the region have very different capacities and require different security assurances. India and South Africa are the only states with operational blue-water navies. They are not only geostrategic and economic power houses, but, together with Kenya, Pakistan and Iran, are also de facto veto-players. Their strategic leadership will be required and their respective interests need to be balanced. For Small Island Developing States, such as the Seychelles and the Maldives, maritime security is at the heart of their national interests. Small states have a great potential to act as honest brokers and intellectual leaders that set the agenda for innovative maritime security thinking. The Seychelles has already started to assume this role with its blue economy campaign. Fragile states, notably Somalia and Yemen, are the source of many maritime security challenges. They not only require a different set of capacity-building efforts, but it will also be more difficult to convince them that maritime security is one of their top priorities, considering the difficult development and security challenges that they face on land.

The region has a common pre-colonial history of maritime trade. For more than 1,000 years African, Asian and Arab communities have been engaged in trade and commerce across the Western Indian Ocean. These regional exchange networks have facilitated the emergence of a cosmopolitan ‘dhow culture’ among littoral societies, which dominated the region for centuries. The contemporary regional identity is, however, weak, and there is little experience of political cooperation between the African and Asian shores. Long-term state rivalries and disputed boundaries complicate the picture. Whether it is the rivalry between India and Pakistan or Kenya and Tanzania, border disputes between Somalia and Kenya, or the contested ownership of islands between Mauritius, Madagascar and the UK, significant efforts of trust-and confidencebuilding will be required. New regional thinking, the appreciation of a shared pre-colonial history and recognition of the common interest in ensuring maritime security will be productive starting points.

Maritime security has a significant economic dimension. As was emphasized in the UN Sustainable Development Goals, the maritime domain is a key source for regional economic development. It has been estimated that the regional blue economy in the Western Indian Ocean is worth \$22 billion, half of which – \$11 billion – comes from tourism. Mining and energy, and agriculture and forestry contribute 15 and 20 per cent respectively to the blue economy, and fishing is worth more than \$68 million. High levels of maritime insecurity have detrimental effects on regional economic activities, particularly in the trade, tourism, fishery, and oil and gas sectors. As the World Bank documented, Somali piracy cost the global economy \$18 billion per year, led to a 23 per cent slump in regional fishery exports and a 6.5 per cent fall in tourist arrivals. Also, the vast mineral and fossil resources of the regional waters cannot be exploited without a sufficient level of maritime security.

Large parts of the regional coastal population are, moreover, dependent on fish as a source of nutrition. Fishery and environmental crimes directly threaten their food security. The Food and Agriculture Organization (FAO), for instance, estimates that the livelihoods of more than 2 million Tanzanians are linked to various fisheries-related activities, including boat building, fish processing and fishery sales. The causal relationship between piracy and illegal fishing is contested, but the rise of Somali piracy in 2008 demonstrated how serious this issue is: illegal fishing activities gave locals the motive and the justification to attack ships under the pretext of protecting their livelihoods against exploitation. Ignoring the needs of the coastal population facilitates a culture of crime and might lead to their radicalization. Maritime security is therefore a pivotal economic and development issue and there are direct links between maritime security and the blue economy.

As external actors and navies are preparing to leave the Western Indian Ocean the region can no longer rely on them to protect its maritime domain. What is required is a sustainable approach that builds on and strengthens regional capacities for maritime security in the Western Indian Ocean. The littoral states, in or adjacent to the region, currently do not have sufficient capacity to monitor and protect its vast maritime domain. The average exclusive economic zone (EEZ) of the littoral states is 667,104 km², and their combined EEZ extends over 11 million km². The EEZs of island states such as the Maldives, Comoros and the Seychelles is larger than their land territories; coastal states such as India, South Africa and Somalia also have very significant EEZs. A few states, in particular India, Iran, Pakistan and South Africa, have capable navies, but the majority of regional forces are unable to protect fishing, intercept suspicious vessels or combat illicit trafficking in their EEZs. With an EEZ of 1.3 million km², the Seychelles has the second largest EEZ of any state in or bordering the Western Indian Ocean after India, but its naval force has only 200 officers and nine ships to patrol and monitor this area.

Maritime security remains elusive if regional capabilities continue to be weak and underdeveloped. Nevertheless, more military capabilities are not necessarily the solution. While navies play a key role in maritime security, coastguards and other law enforcement agencies are equally vital. Information sharing, the coordination of operations and appropriate legal regulations are more important for improving the situation than investment in high-end naval capabilities. Maritime security is a transnational problem. The pooling of regional resources and capabilities, and jointly coordinated operations are essential. This requires cooperation and the development of strong institutions and instruments.

The weakness of regional navies and maritime law enforcement institutions is not the only problem facing the Western Indian Ocean. Another problem is the continued militarization of the region's maritime domain. Reducing or terminating the international counter-piracy missions does not mean that external actors will completely withdraw their naval forces from the region. On the contrary, it is increasingly apparent that the international navies did not only come to fight pirates, but also to build up a strategic presence in the region. This is most obvious in the case of China, which has greatly expanded its operational experience and capabilities in the region. Counter-piracy operations gave not only China, but a wider range of navies, including from Japan and Korea, the opportunity to exercise long-term overseas deployments. China and Japan have both opened their first overseas naval bases in the port of Djibouti. India has long seen the Indian Ocean as its 'backyard' and is currently strengthening its military and security cooperation with regional states and islands. Britain and France, former colonial powers in the Western Indian

Ocean, have long maintained military bases and naval forces in the region. The US Navy continues to lead a multinational naval mission to fight terrorism in the region. It has naval bases in Djibouti and Bahrain as well as a naval support facility on the island of Diego Garcia. Andrew S Erickson et al. suggest that these bases are part of an overall US strategy ‘to establish a flexible and enduring presence within a critical and contested space’.

Therefore, even as the international counter-piracy engagement is being scaled back, major naval powers will maintain, and maybe even expand, their strategic presence in the region. The continued militarization of the Western Indian Ocean, however, carries risks and unintended consequences for regional peace and security. It is unlikely that we will see an escalation akin to the situation in the South China Sea. However, tensions and smaller disputes are unavoidable if the region continues to develop into a global centre for geo-strategic competition. Tensions between China, India and the US have already surfaced. Some analysts thus worry that these rivalries, and the continued militarization of the region, will hinder cooperation and the establishment of an effective maritime security structure in the Western Indian Ocean.

The naval presence in the region is currently managed through the Shared Awareness and Deconfliction (SHADE) mechanism, a regular forum in which navies coordinate their activities and share intentions, strategies and tactics. All naval powers, including India and China, participate in SHADE meetings, which are held in Bahrain and are co-chaired on a rotational basis by one of the ‘big three’ naval missions (Atalanta, Ocean Shield and CMF). SHADE is, however, a counter-piracy forum – navies cooperate because they share a common enemy. With recent absence of piracy attack, the authority of SHADE has already started to erode. In a post-2016 environment, when the counterpiracy operations come to an end, but the navies stay, it is likely that SHADE will cease to exist. It is not yet clear who will then manage the tensions, coordinate naval activities and ensure checks and balances.

Elements of a Maritime Security Architecture in the Western Indian Ocean

Significant efforts will be required to transfer the current situation into an effective, efficient and sustainable maritime security architecture. The architecture will have to manage interstate tensions between regional as well as international actors and it will have to build a culture of cooperation to jointly address transnational maritime threats. Yet, it will also require formats for technical coordination, capacity-building and sharing lessons learned within the region. It is useful to consider the building blocks for such an architecture.

First, a high-level official political forum is required to provide strategic guidance, ensure ongoing trust-and confidence-building and keep international navies in check. So far, these tasks have been provided by the Contact Group on Piracy of f the Coast of Somalia (CGPCS). The CGPCS is an inclusive mechanism in which almost all the littoral states participate. It is, however, primarily driven by the security concerns of the international actors and does not address issues beyond the immediate fight against pirates. Yet there are existing institutions in the region which might be able to perform the required role and take over from the CGPCS such as the 1972 UN Ad Hoc Committee on the Indian Ocean or the Indian Ocean Rim Association (IORA).

The Ad Hoc Committee was established to act as the guardian of Indian Ocean security and drive forward the vision of an Indian Ocean Zone of Peace, an idea the UN General Assembly adopted in 1971. The group, which was born during the Cold War, lost traction in the 1990s but has recently experienced a renaissance under the chairmanship of Sri Lanka. Its 455th formal meeting took

place in 2013 and was attended by states and three observers, including regional countries as well as external maritime states such as Germany, Norway and Russia. Originally concerned about interstate rivalry and nuclear proliferation,⁴³ more recently the committee has turned to discuss nontraditional security challenges as well, in particular maritime piracy but also climate change. The committee actively encourages the permanent members of the UN Security Council to participate and to contribute to its work to enhance regional peace and security.

IORA was founded in 1997 to promote regional cooperation. Headquartered in Mauritius, it is primarily an economic community interested in trade and commerce. Yet IORA has started to discuss security as well and it is considering the development of a maritime security strategy. The strategy would focus on maritime capacity-building and cooperation to enhance maritime safety and security. It would also promote competitive and innovative maritime industries as well as a sustainable blue economy. The Indian Ocean Dialogue, which took place in India in September 2015, dealt with issues such as ‘Maritime Security and Defense Cooperation’, and ‘The Blue Economy as a Driver of Economic Growth’; and the IORA Blue Economy Core Group, which held a workshop in May 2015, discussed the promotion of fisheries and aquaculture as well as maritime safety and security cooperation.

Both the UN committee and IORA are currently marginal mechanisms in the regional security architecture, and much work would be needed to turn them into more effective and efficient forums for the development of maritime security policies. However, they both provide the institutional links and the organizational skeleton to fulfill this function. The UN committee seems the right

forum for ensuring a high-level dialogue and, given its links to the UN Security Council and the General Assembly, would be an appropriate place for keeping an eye on the international naval presence. IORA, on the other hand, is anchored in the region and therefore seems better equipped to organize strategy on the ground and to translate plans into action. The problem, however, is that they both deal with the wider Indian Ocean and are therefore driven by many diverging interests and agendas. As a result, it might be necessary either to adapt these two institutions or to design new ones in order to ensure focus on the Western Indian Ocean.

Second, institutions will be required to handle maritime security operations – that is, the coordination of law enforcement operations, the sharing of best practices, the organization of training and capacity-building, as well as information sharing and maritime domain awareness. Many of these tasks are in the hands of international actors. Yet, a number of regional institutions have been built that intend to perform them. This includes those run under the multilateral counter-piracy agreement, the Djibouti Code of Conduct (DCoC), under the EU’s Programme to Promote Regional Maritime Security in the Eastern and Southern Africa-Indian Ocean Region (known as MASE), or the Indian Ocean Forum on Maritime Crime (IOFMC) organized by the UN Office on Drugs and Crime (UNODC). All three are heavily dependent on donor interests. The DCoC and MASE are also geographically limited. They focus on Eastern Africa and the Arabian Peninsula and do not include the states further to the east (Sri Lanka, India, Pakistan and Iran). At present, the three projects compete with each other over which will become the central coordination mechanism for capacity-building. It could be argued that, given the weak capacities in the region, more is better than less. However, in the long run, this would be counterproductive and ineffective. The region will be better off by betting on one of the mechanisms and reform it correspondingly (for example, by including further actors). Alternatively, the mechanism could be merged by integrating elements of the DCoC, MASE and IOFMC. This will require a strong initiative led by regional actors, given that donor interests and funding structures limit what can be done. The alternative is to create a new and regionally owned institution. This is perhaps a less favorable option, since initially it would create further institutions.

Third, a maritime security architecture requires informal coordination and strategic exchange among operatives, strategists and academics. Joint discussions and a sustained regional dialogue on maritime security are needed. This is perhaps the area where the Western Indian Ocean states have the least to worry about. With conference formats such as the Indian Ocean Naval Symposium and its working groups, the UAE annual counter-piracy conference and Sri Lanka’s Galle Dialogue International Maritime Conference, a

blossoming informal environment has emerged in the region. These formats tend to be costly, but have high symbolic value. They strengthen a culture of trust and build confidence and transnational interpersonal networks. Moreover, it is in these formats that the region will be able to start to exchange ideas and develop a strategy for its future maritime security architecture.

Towards a Western Indian Ocean Zone of Peace and Prosperity

A Western Indian Ocean zone of peace and prosperity is in everyone's interest. Littoral states with a stake in the region, together with international actors, will have to get serious about how a maritime security architecture can be built. Piracy off the coast of Somalia is currently at a low ebb, but the levels of maritime insecurity in the region's territorial waters and high seas remain high. The risk of piracy persists, illegal fishing and trafficking have increased, and a continuing naval build-up could create new security tensions in the future. As counter-piracy missions wind down, maritime security must not slip off the regional radar. The states in and around the Western Indian Ocean are at an important crossroads. A stable maritime domain is crucial to secure world trade, to harness the development potentials of the blue economy and to protect local livelihoods. The region needs a new security architecture to guarantee peace and security after 2016. The thicket of maritime security institutions that has developed in the region since 2008 provides some building blocks. Yet, it is overly complex and often driven by international actors, rather than being regionally owned. Regional actors will need to get into the driver's seat and start to develop their own regional vision, coming up with a strategic plan for how to transfer the current landscape into an efficient, effective and sustainable infrastructure. A Western Indian Ocean zone of peace and prosperity is perhaps closer than it will ever be. It is up to the region, in dialogue with its international partners, to make this happen.

Indian Ocean Maritime Crime Programme of UNODC

The Indian Ocean team within the UNODC Maritime Crime Programme assists states in the Indian Ocean region to enhance and coordinate their efforts to combat maritime crime, with a focus on criminal justice capacity building. The Maritime Crime Programme (MPC) commenced working with States in the Indian Ocean region as part of its counter-piracy activities and continues to work with those States to combat a range of maritime crime threats.

Regional "Piracy Prosecution Model"

As piracy off the Horn of Africa reached alarming rates in 2007-2008, a major component of the international response involved the deployment of multilateral naval forces to conduct counter-piracy patrols in the Indian Ocean region; securing a safe transit corridor for vessels and responding to piracy attacks or reports of suspicious activity on the high seas. This response was authorized by series of United Nations Security Council resolution.

The military response to piracy - which continues today - has proven to be a highly effective intervention. However, an immediate obstacle faced by naval forces during the first interceptions was the lack of any clear mechanism for holding suspected pirates criminally accountable when they were intercepted at sea. Naval forces intercepting suspected pirate groups on the high seas were often forced to let the suspects go without any sanctions, because the appropriate criminal justice mechanisms were not in place to enable prosecution.

The idea of a regional piracy prosecution model was formulated to provide a 'legal finish' to counter-piracy operations. In cooperation with regional States, military forces and international and regional organizations, the UNODC Maritime Crime Programme took a leading role in forging the framework for this model. To this end it has worked closely with the Contact Group on Piracy off the Coast of Somalia and its Working Group II, which is currently chaired by UNODC.

Under the piracy prosecution model, willing prosecuting States are first required to ensure they have the necessary legislation in place to prosecute piracy domestically. Prosecuting States then formalize transfer agreements with naval forces operating counter-piracy patrols in the Indian Ocean region. Under these transfer agreements, when suspected pirates are apprehended at sea, the naval force secures the available evidence and submits a request to the prosecuting State, which may accept the case for prosecution based on its own evaluation of the evidence and other considerations. Upon receiving the suspected pirates in its own jurisdiction, the prosecuting State investigates the case further and proceeds to prosecute the case domestically.

The MCP has been heavily involved at all junctures of this process, from assisting States to implement legislation criminalizing piracy through to widespread criminal justice assistance and direct support to the trial process. MCP support spans the entire prosecution process, from providing interpretation services at the dock when suspects are handed over to the prosecuting State, through to assisting throughout the trial and facilitating the eventual re-transfer of convicted persons.

A key component of the MCP mandate is promoting best practices at every stage of the criminal justice process; ensuring that trials are fair, efficient, and in line with international standards. Likewise, the MCP provides substantial support to corrections facilities in the prosecuting States where suspected or convicted pirates are detained, to ensure that they are detained in safe and humane conditions. Ensuring compliance with international human rights norms and protecting the welfare of both suspected and convicted persons is a cornerstone of the piracy prosecution model.

The regional prosecution model has been an innovative criminal justice response to piracy. Although piracy is a crime of "universal jurisdiction", which may be prosecuted by any State, the regional model has seen States in the Indian Ocean region take ownership of a regional security issue that affects them directly. The first States to indicate a willingness to prosecute piracy cases under this model were Kenya, Tanzania, Mauritius and Seychelles. Assistance provided to prosecuting States by the MCP has included:

- **Legislative implementation and reform**
- **Facilitating the signing of transfer agreements between prosecuting States and naval forces, as well as re-transfer agreements for sentenced prisoners**
- **Building, renovating and upgrading police, prison and court facilities**
- **Enhancing law enforcement and correctional services at the strategic level**
- **Monitoring and enhancing detention facilities**
- **The provision of welfare support and interpretation services to piracy suspects detained on remand**
- **The placement of in-house police, prosecution and prison mentors into national agencies**
- **Provision of vehicles and specialist equipment to law enforcement bodies**
- **Wide-ranging training initiatives for lawyers, Judges, Police, Coast Guards and Prison officials**

While these capacity-building activities have fallen under the mandate of counter-piracy support, the benefits have extended to the entire criminal justice systems of the prosecuting States. In all of its capacity building activities in the Indian Ocean Region, the MCP places a strong emphasis on sustainability and partnership with national agencies.

In addition to broad criminal-justice support to prosecuting States, the MCP also supports the trial process directly, by alleviating the costs of prosecution borne by the prosecuting State. To this end, the MCP provides:

- **Transcription services for trials**
- **Funding for defence lawyers representing suspected pirates**

- **Courtroom translation / interpretation services**
- **The costs associating with flying foreign civilians witnesses (e.g. seafarers) to the prosecuting to testify in person**
- **Equipment for video-teleconferencing of foreign witnesses unable to testify in person**

As part of the regional prosecution model, the MCP also established the Piracy Prisoner Transfer Programme, to facilitate the transfer of consenting persons convicted of piracy in regional States to UNODC supported prisons in Somalia to serve the remainder of their sentences.

Activities beyond counter-piracy support

Building upon the strong bonds it has forged with States through the piracy prosecution model, the MCP Indian Ocean programme continues to work with regional States to enhance their capacity to combat a wide range of maritime crimes. This includes tacking the rising problem of drug trafficking at sea throughout the region. Piracy Prosecution Statistics at October 2014:

Somali Piracy Prisoners - Kenya

Status	Detained By	Number of Prisoners (Sentence)	Total
On Remand	Denmark	4	4 On remand
Convicted	Denmark	24	160 Tried 143 Convicted 101 Remaining in Kenya <u>42 Post-sentence repatriations</u> 10 in 2011 7 to Puntland in November 2013 7 to Puntland in January 2014 7 + 11 to Puntland in February 2014
	EUNAVFOR (Spain)	4 (7 years)	
	EUNAVFOR (Germany)	9 (5 years)	
	United States	7 (4 years)	
	United States	9 (5 years)	
	EUNAVFOR (Sweden)	7 (7 years)	
	EUNAVFOR (Germany)	7 (20 years)	
	EUNAVFOR (France)	11 (5 years)*	
	United States	10 (8 years) Sentence complete	
	United Kingdom	8 (10 years)	
	EUNAVFOR (Germany)	7 (5 years) Sentence complete	
	EUNAVFOR (Spain)	7 (5 years)	
	EUNAVFOR (France)	11(20 years)	
	United Kingdom	6 (5 years)	
	EUNAVFOR (Spain)	7 (4.5 years) Sentence complete	
EUNAVFOR (Italy)	9 (7 years)		
Acquitted	United States	17	17 Acquitted 17 Repatriated in December 2010

Somali Piracy Prisoners - Seychelles

Status	Detained By	Number of Prisoners (Sentence)	Total
On Remand	EUNAVFOR (France)	5	14 On remand
	Denmark	9	
Convicted	Denmark	4 (3 x 24 years, 1 x 16 years)	133 Tried 129 Convicted 22 Remaining in Seychelles <u>96 Prisoner transfers</u> 17 to Somaliland Mar 12 12 to Somaliland Dec 12 5 to Puntland Dec 12 25 to Puntland Mar 13 8 to Puntland May13 11 to Puntland Oct 13 18 to Puntland March 14 <u>11 Post-sentence repatriations</u> 1 to Puntland Aug 12 5 to Puntland Oct 13 3 to Puntland May14 2 to Puntland Oct 14
	Denmark	4 (3 x 21 years, 1 x 14 years)	
	Netherlands	6 (5 x 24 years, 1 x 12 years)	
	Netherlands	11 (6 x 16 yrs, 3 x 5 yrs, 1 x 4 yrs, 1 x 1.5 yrs)	
	EUNAVFOR (France)	11 (6 years)	
	EUNAVFOR (Spain)	11 (10 years)	
	EUNAVFOR (Netherlands)	9 (7 x 6 years), <u>2 x juvenile acquitted</u>	
	Seychelles Coastguard	11 (10 years) 10 (20 years) 6 (24 years) 5 (18 years) 9 (8 x 22 years, <u>1 x juvenile acquitted</u>)	
	United Kingdom	7 (6 x 7 years, 1 x 2 years)	
	United Kingdom	14 (3 x 2.5 years, 8 x 12 years, 1 x pleaded guilty 10 years, 1 x juvenile time served, <u>1 x juvenile acquitted</u>)	
	United States	15 (13 x 18 years, 2 x 4 years)	
Acquitted	United Kingdom	1	4 Acquitted <u>4 Repatriations after acquittal</u> 1 to Puntland Aug 12 1 to Puntland May 14 2 to Puntland Sept 14
	Seychelles Coastguard	1	
	EUNAVFOR (Netherlands)	2	

Somali Piracy Prosecutions - Mauritius

Status	Detained By	Number of Prisoners (Sentence)	Total
On Remand	EUNAVFOR (France)	12	12 On Remand

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