

## UNODC contributions to the Secretary-General's report on Oceans and the law of the sea

### Implementation of A/RES/72/73

**OP 18. Also calls upon States and international institutions, including through bilateral, regional and global cooperation programmes, technical partnerships and fellowships, to support and strengthen capacity-building activities in developing countries, in particular least developed countries and small island developing States, to develop their maritime administration and appropriate legal frameworks to establish or enhance the necessary infrastructure, legislative and enforcement capabilities to promote effective compliance with and implementation and enforcement of their responsibilities under international law;**

UNODC has supported the *development of maritime administration and appropriate legal frameworks* under its Global Maritime Crime Programme (GMCP) through the Indian Ocean Forum on Maritime Crime (IOFMC). Of note is the work of the sub-group that focuses on narcotics smuggling along the Southern Indian Route (the Southern Route Partnership), and the IOFMC prosecutors network, which has established legal cooperation on prosecution of maritime crime between Indian Ocean states, many of which are small island developing States.

In 2017, UNODC developed a manual in Maritime Crime for Criminal Justice Practitioners, which now serves as the backbone for training provided to criminal justice actors of all levels and in all fields of criminal justice. The manual will be continuously updated and issued with annexes covering particularly challenging areas of maritime law enforcement.

UNODC is also working to improve the collection of information on fisheries activity, including vessels suspected of Illegal Unreported and Unregulated (IUU) fishing, among western Indian Ocean States in order for this to be generally admissible as evidence in court. This is supported through the Safe Oceans Network.

**OP 30. Also recognizes the considerable need to provide sustained capacity-building assistance, including on financial and technical aspects, by relevant international organizations and donors to developing States, with a view to further strengthening their capacity to take effective measures against the multiple facets of international criminal activities at sea, in line with the relevant international instruments, including the United Nations Convention against Transnational Organized Crime and the Protocols thereto;<sup>1</sup>**

In terms of *sustained capacity-building assistance to strengthen responses to transnational organised crime at sea*, UNODC provides technical and material support to maritime law enforcement, courts and prosecutors, and detention facilities in West Africa, Eastern Africa and the Horn of Africa, and in South Asia. In Eastern Africa, such assistance has been sustained since 2009. UNODC takes the view that maritime crimes should not be tackled in isolation. Rather, with the recognition that crime at sea is interconnected, responses need to target the full crime complex found at sea.

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<sup>1</sup> United Nations, *Treaty Series*, vols. 2225, 2237, 2241 and 2326, No. 39574.

With regard to *technical aspects*, UNODC seeks to identify novel, resource efficient, and sustainable ways for Member States to tackle crime at sea, including through use of technological advance such as satellite-based technology. UNODC is piloting the use of satellite-based technology to monitor, prevent and respond to maritime crime threats in partnership with Vulcan Inc. The SkyLight system developed by Vulcan Inc. incorporates both satellite imagery and Vessel Monitoring System (VMS)/Automatic Identification System (AIS) data to identify suspicious activity at sea. UNODC will support maritime law enforcement authorities in planning and executing operations in response to information from this platform to build expertise in building intelligence-led operations. Focus will, in the first instance, be on suspected illegal trans-shipments at sea as these are a marker for illicit activity.

**OP 119. Recognizes the crucial role of international cooperation at the global, regional, sub-regional and bilateral levels in combating, in accordance with international law, threats to maritime security, including piracy, armed robbery against ships at sea and terrorist acts against shipping, offshore installations and other maritime interests, through bilateral and multilateral instruments and mechanisms aimed at monitoring, preventing and responding to such threats, the enhanced sharing of information among States relevant to the detection, prevention and suppression of such threats, and the prosecution of offenders with due regard to national legislation, and the need for sustained capacity-building to support such objectives, and in this regard welcomes the Work Plan for Maritime Security 2015–2017, which was reaffirmed at the twenty-fourth Regional Forum of the Association of Southeast Asian Nations, held in Manila on 7 August 2017;**

UNODC has been an active member of the Contact Group on Piracy off the Coast of Somalia, including by implementing numerous projects under the Counter-Piracy Trust Fund and in regional piracy prosecution centres. Details on other forms of international cooperation supported by UNODC is presented in the section related to § 148.

In relation to bilateral and multilateral instruments, UNODC supports mutual legal assistance between Nigeria and Italy through which a prosecutor from Nigeria is posted in Sicily. Previous initiatives to build bilateral cooperation include support to prisoner transfer agreements and laws for individuals convicted of piracy.

Work in support of sharing of information among States relevant to the detection of crime is presented under the section for § 18 (C) and § 128 (A).

In terms of prosecution of offenders, UNODC supports states in the Indian Ocean Region that carry out trials of Somali nationals apprehended by international naval forces on suspicion of piracy.

**OP 121. Acknowledges the work of the Commission on Crime Prevention and Criminal Justice in promoting international cooperation and strengthening capacity to combat the problem of transnational organized crime committed at sea;**

In its resolution 22/6, entitled “Promoting international cooperation and strengthening capacity to combat the problem of transnational organized crime committed at sea”, the Commission on Crime Prevention and Criminal Justice noted with concern the continuing problem of transnational organized crime committed at sea and provided a descriptive - indicative – list of types of such crime, including illicit traffic in narcotic drugs and psychotropic substances, smuggling of migrants and trafficking in persons, and threats to maritime safety and security,

including piracy, armed robbery at sea, smuggling and terrorist acts against shipping, offshore installations and other maritime interests.

In the same resolution, the Commission welcomed the technical assistance provided by UNODC, within its mandate and upon request, to States, with a view to preventing, combating and eradicating transnational organized crime at sea, in accordance with relevant international instruments, including the United Nations Convention against Transnational Organized Crime and its Protocols; and also welcomed the cooperation of UNODC with relevant UN bodies, international organizations and others.

An overview of the technical assistance activities of UNODC to combat the problem of transnational organized crime committed at sea is contained in the report of the Executive Director, which was submitted to the twenty-second session of the Crime Commission ([E/CN.15/2013/17](#)).

**OP 124. Urges all States, in cooperation with the International Maritime Organization, to actively combat piracy and armed robbery at sea by adopting measures, including those relating to assistance with capacity-building through training of seafarers, port staff and enforcement personnel in the prevention, reporting and investigation of incidents, by bringing the alleged perpetrators to justice, in accordance with international law, and by adopting national legislation, as well as by providing enforcement vessels and equipment and guarding against fraudulent ship registration;**

UNODC support to States in East Africa is focused on three main areas: maritime law enforcement, prosecution and law reform. Maritime law enforcement teams are embedded in three locations in Somalia. Also the trials of piracy suspects are supported in Seychelles, Kenya, Mauritius and Tanzania when required. Legal reform in relation to piracy is largely complete in East Africa, with the exception of Somalia, which has yet to pass a law proscribing piracy.

UNODC further support states in the Gulf of Guinea in developing legal frameworks covering piracy offences and preparing these countries for prosecution of piracy and other maritime offences. Maritime law enforcement advisors are embedded in Nigeria, Ghana, Liberia, Sierra Leone, Cape Verde, Guinea Bissau and Senegal.

**OP 125. Encourages States to ensure effective implementation of international law applicable to combating piracy, as reflected in the Convention, calls upon States to take appropriate steps under their national law to facilitate, in accordance with international law, the apprehension and prosecution of those who are alleged to have committed acts of piracy, including the financing or facilitation of such acts, also taking into account other relevant instruments that are consistent with the Convention, and encourages States to cooperate, as appropriate, with a view to developing their national legislation in this regard;**

UNODC continues its direct support to piracy trials in Eastern Africa where 350 Somali men have been prosecuted for piracy in four regional states. UNODC has provided fulltime mentoring of the process. In terms of physical facilities, UNODC has previously constructed courts and prisons. UNODC also provides interpretation at interview and trial, funds defence lawyers and trains police, prosecutors, judges and prison staff involved. This support continues for the case of six piracy suspects which is underway

in Seychelles. UNODC also continues to support the prisons in Kenya, Seychelles, Puntland and Somaliland that hold those charged with/suspected of piracy.

UNODC is supporting Nigeria in passing a Suppression of Piracy and other Maritime Offences Bill, as part of the legal reform on piracy in the Gulf of Guinea. The draft is with the President's Office for submission to the National Assembly as an Executive Bill. A legal advisor is embedded within the Federal Ministry of Justice, Department for Public Prosecution to provide support on the draft bill and training in prosecutors on legal matters related to piracy and maritime offences.

**OP. 128. *Recognizes continued national, bilateral and trilateral initiatives, as well as regional cooperative mechanisms, in accordance with international law, to address piracy, including the financing or facilitation of acts of piracy, and armed robbery at sea, and calls upon States to give immediate attention to adopting, concluding and implementing cooperation agreements at the regional level on combating piracy and armed robbery against ships;***

UNODC acts as secretariat to the Law Enforcement Task Force (LETTF) of the Contact Group on Piracy off the Coast of Somalia (CGPCS). The LETTF is a closed meeting of law enforcement officials from a number of states along with INTERPOL and EUROPOL, engaged in the investigation of those individuals who are believed to have been involved in the organization of piracy attacks, associated kidnap for ransom, ransom negotiation and money laundering.

**OP. 129. *Expresses serious concern at the inhuman conditions hostages taken at sea face in captivity and also the adverse impact on their families, calls for the immediate release of all hostages taken at sea, and stresses the importance of cooperation among Member States on the issue of hostage-taking at sea;***

**OP. 130. *Welcomes, in this regard, the ongoing work of the United Nations Office on Drugs and Crime Hostage Support Programme, funded by the Board of the Trust Fund to Support Initiatives of States Countering Piracy off the Coast of Somalia, in securing the release of seafarers held hostage off the coast of Somalia;***

UNODC work in support of the eight Iranian hostages still held by pirates in Somalia (the only remaining hostages from a total of 750) continues under the Hostage Support Partnership in which UNODC is one of a number of partners.

**OP. 133. *Takes note of the outcome of the London Conference on Somalia held on 11 May 2017, and the commitment of the Federal Government of Somalia and federal member states of Somalia to developing their maritime security capabilities;***

UNODC support to maritime security in Somalia is in line with the Somali Maritime Resource and Security Strategy (SMRSS) under which a number of international organisations are supporting Somalia to rebuild their maritime sector. Specifically, UNODC leads on Annex B, which maps the needs of Somalia in respect of Maritime Law Enforcement. IMO, UNSOM and FAO lead the remaining Annexes.

**OP. 134. *Recognizes the primary responsibility of the Federal Government of Somalia in combating piracy and armed robbery at sea off the coast of Somalia, acknowledges the importance of a comprehensive and sustainable settlement of the situation in Somalia, and emphasizes the need to address the underlying causes of piracy and to assist Somalia and States in the region, at their request, in***

**strengthening institutional capacity to fight piracy and tackle its underlying causes, including the financing or facilitation of acts of piracy, and armed robbery against ships off the coast of Somalia and to bring to justice those involved in such acts;**

Of the 1,350 Somali piracy suspects tried in 21 states, around a third are reported to have been tried in Somalia. However, the quality of the investigation and trial processes continue to fall well below international standards. UNODC has been leading the work to improve the quality of arrest and detention by the Somali maritime law enforcement agencies in Berbera, Bosasso and Mogadishu with embedded trainers in each location. Work to improve the quality of downstream investigation and trial is delivered by other agencies under the Joint Rule of Law Workplan.

**OP. 135. Notes the International Maritime Organization guidelines to assist in the investigation of the crimes of piracy and armed robbery against ships, revised interim guidance to ship owners, ship operators and shipmasters on the use of privately contracted armed security personnel on board ships in the high-risk area, revised interim recommendations for flag States regarding the use of privately contracted armed security personnel on board ships in the high-risk area, revised interim recommendations for port and coastal States regarding the use of privately contracted armed security personnel on board ships in the high-risk area, interim guidance to private maritime security companies providing privately contracted armed security personnel on board ships in the high-risk area, and interim guidance for flag States on measures to prevent and mitigate Somalia-based piracy;**

In respect of Privately Contracted Armed Security Personnel (PCASP), UNODC is working on two related issues. First, UNODC will complete the final review of the second edition of the Guidelines for the Use of Force by PCASP in June 2018. Second, UNODC is in the process of producing a summary of the legal regime that applies to Floating Armouries, an essential enabler for the provision of PCASP to ships in the Horn of Africa.

**OP. 136. Welcomes the successful prosecution of piracy cases in Belgium, India, Mauritius and Seychelles during the past year, as well as the successful cooperation between China and Somalia in transferring suspected pirates in May 2017, while noting with concern that the continuing limited capacity and domestic legislation to facilitate the custody and prosecution of suspected pirates after their capture has hindered more robust international action against pirates off the coast of Somalia;**

21 states are, or have been, engaged in the prosecution of Somali piracy suspects. UNODC has arranged the transfer of convicted pirates from Seychelles to Somalia to serve their sentences. Repatriation has also been organized from Kenya, Mauritius and Seychelles to Somalia upon completion of sentences or following acquittal or discontinuation. UNODC is also working with the Federal Government of Somalia to support transfers from Japan, Iran and other states.

**OP.140. Expresses its deep concern at the continuing incidents of piracy and armed robbery at sea in the Gulf of Guinea, in particular violence against innocent crew members of vessels, notes the adoption by the Security Council of resolutions 2018 (2011) of 31 October 2011 and 2039 (2012) of 29 February 2012 and the statement by the President of the Council of 25 April 2016, supports the recent efforts to address this problem at the global and regional levels, recalls the primary role of States in the region to counter the threat and address the underlying causes of piracy and armed robbery at sea in the Gulf of Guinea, welcomes the adoption in Yaoundé on 25 June 2013 of the Code of Conduct concerning the Repression of**

**Piracy, Armed Robbery against Ships, and Illegal Maritime Activity in West and Central Africa, and calls upon States in the region to implement the Code of Conduct as soon as possible and consistent with international law, in particular the Convention;**

UNODC is supporting states in the Gulf of Guinea in developing proper legal frameworks in line with the Yaoundé architecture and the Code of Conduct. The support includes development of legislation, capacity building in prosecutors and judges and training through moot trials in preparation for prosecution of piracy cases and other maritime offences. UNODC is further supporting the Interregional Coordination Centre (ICC) in Yaoundé through an embedded legal advisor who assists member states in implementing the Code of Conduct.

**OP. 143. Calls upon States to effectively implement the International Ship and Port Facility Security Code and the amendments to the International Convention for the Safety of Life at Sea, and to work with the International Maritime Organization to promote safe and secure shipping while ensuring freedom of navigation;**

UNODC is partnering with IMO on a range of activities to improve port and inshore security in East Africa. This project will, for the first time, provide support to regional states in ports, at anchorages and in inshore waters. Compliance with both SOLAS and the ISPS Code form part of the project.

UNODC is also in the process of identifying ways in which to address threats to freedom of navigation and regional stability surrounding the Bab el Mandeb Strait.

**OP. 146. Recognizes that some transnational organized criminal activities threaten legitimate uses of the oceans and endanger the lives of people at sea, as well as the livelihoods and security of coastal communities;**

As a guardian of the United Nations Convention against Transnational Organized Crime, UNODC works to counter Illegal Unreported and Unregulated fishing through a number of programmes, including the Wildlife and Forestry Crime Programme and the Global Maritime Crime Programme.

**OP. 147. Notes that transnational organized criminal activities are diverse and may be interrelated in some cases and that criminal organizations are adaptive and take advantage of the vulnerabilities of States, in particular coastal and small island developing States in transit areas, and calls upon States and relevant intergovernmental organizations to increase cooperation and coordination at all levels to detect and suppress the smuggling of migrants, trafficking in persons and illicit trafficking in firearms, in accordance with international law;**

In cooperation with Copenhagen University's Centre for Military Studies (CMS), UNODC is in the process of exploring interconnections between different forms of maritime crime off the Horn of Africa and in the Wider Indian Ocean. Adaptability of criminal networks to measures of deterrence and other changing circumstances is also considered. Findings, including recommendations for how the international can respond to maritime crime threats considering these dynamics, will be published by UNODC in September 2018.

**OP 148. Recognizes the importance of enhancing international cooperation at all levels to fight transnational organized criminal activities, including illicit traffic in narcotic**

**drugs and psychotropic substances, within the scope of the United Nations instruments against illicit drug trafficking, as well as the smuggling of migrants, trafficking in persons and illicit trafficking in firearms and criminal activities at sea falling within the scope of the United Nations Convention against Transnational Organized Crime;**

UNODC, in partnership with the World Customs Organization (WCO), works with countries to enhance trade supply chain security to prevent cross-border movement of illicit goods and to facilitate legal trade. A key focus is the establishment of Port Control Units in seaports, dry ports and at airports. To date, more than 70 Units have been established, most of which are in seaports, in 49 countries across the world. Large quantities of illegal goods have been seized by the CCP Port Control Units, including illicitly trafficked drugs, counterfeit goods, strategic trade and dual use goods, and proceeds of wildlife crime. Officials trained under the Programme apply their newly-acquired skills and use risk-based targeting methodology in their work.

In 2017, UNODC launched a new technical assistance programme focusing on fisheries crime. Over the past year, the training programme has been implemented in South Asia and West Africa; implementation in East Africa and Southeast Asia will take place in the coming years.

UNODC supports the Indian Ocean Forum on Maritime Crime which engenders international cooperation at all levels to fight transnational organized criminal activities at sea. The Forum focuses on a wide array of Maritime Crime from Somali charcoal and sugar smuggling, to heroin trade from Makran Coast into East Africa.

International cooperation to secure the prosecution of piracy financiers and high level organisers is supported by UNODC under the Law Enforcement Task Force.

In South East Asia, UNODC runs Maritime Law Enforcement Dialogues aimed at building stronger cooperation among Member States in the Region to tackle shared challenges related to transnational organized crime in the maritime domain.

UNODC is managing a Contact Group on Kidnap for Ransom in the Sulu and Celebes Sea.

**OP 152. *Calls upon* States that have not yet done so to consider becoming parties to the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime, the Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, supplementing the United Nations Convention against Transnational Organized Crime, and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, and to take appropriate measures to ensure their effective implementation;**

Fiji ratified the Trafficking in Persons and Smuggling of Migrants Protocols on 19 September 2017; the State of Palestine ratified the Trafficking in Persons Protocol on 29 December 2017.

**OP. 172. *Encourages* greater dialogue and cooperation among States and the relevant regional and global organizations through workshops and seminars on the**

**protection and maintenance of fibre-optic submarine cables to promote the security of such critical communications infrastructure;**

**OP. 173. Also encourages the adoption by States of laws and regulations addressing the breaking or injury of submarine cables or pipelines beneath the high seas done wilfully or through culpable negligence by a ship flying its flag or by a person subject to its jurisdiction, in accordance with international law, as reflected in the Convention;**

**OP. 355. Encourages States to work closely with and through international organizations, funds and programmes, as well as the specialized agencies of the United Nations system and relevant international conventions, to identify emerging areas of focus for improved coordination and cooperation and how best to address these issues;**

UNODC continuously monitors trends in transnational maritime crime. As well as piracy and armed robbery at sea, the trafficking of people, arms and drugs by sea, smuggling of migrants, and crimes associated with the fishing industry, UNODC is starting to work on the following emergent crimes:

- Destruction of submarine cables
- Fuel theft
- Attacks of shipping by armed terrorist groups
- Kidnap for ransom in Sulu and Celebes sea
- Trafficking of arms to terrorist groups by sea

Work to engender international cooperation to tackle maritime crime has been presented in the section related to § 148 above.