

GENERAL ASSEMBLY INFORMAL MEETING ON PIRACY

14 May 2010, United Nations Headquarters

The problem of international maritime piracy has in the last few years gained global attention, particularly with the increasing incidents of piracy in the Gulf of Aden and especially off the coast of Somalia.

Recent statistics from the International Maritime Bureau indicate that in 2009 alone pirates attacked 217 ships with 47 successful hijackings. Pirates extorted more than US \$60 million in ransom, the largest payment on record. In 2008, there were 242 attacks with 111 successful hijackings and about US \$40 million in ransom. The adverse security, political, legal, economic and social implications of this scourge are of serious concern to the international community.

With regard to Somalia, the United Nations has taken actions aimed at strengthening and assisting the Transitional Federal Government (TFG) to improve the security situation in Somalia, which is essential for an enabling environment to fight piracy off the coast of Somalia. The Security Council has authorized measures to counter piracy and armed robbery off the coast of Somalia. A Contact Group on Piracy off the coast of Somalia (CGPCS) has also been established. These efforts notwithstanding, the sovereignty, economy and security of Somalia remain under serious threat as a result of piracy.

Piracy has a destabilizing effect on regional and global trade and security. There is therefore the necessity for global strategies to address the factors that trigger and sustain piracy. Moreover, its rapid geographical spread and complexity necessitate a deeper and more comprehensive look at the various facets of the problem in order to devise a collective and more coordinated response.

In view of the foregoing, the President of the General Assembly is convening on 14 May 2010 an informal meeting of the General Assembly to provide an opportunity for all Member states to discuss the problem of international maritime piracy in a comprehensive manner to effectively address the issue. Representatives of relevant Specialized Agencies, Inter-Governmental Organizations and NGOs will also be invited to participate in the meeting.

A comprehensive approach will be taken in addressing the issue of international maritime piracy in its political, legal, social and economic perspectives. Discussions will be held in the form of sharing of views between delegations and other participants on the issues and proffering possible solutions. The meeting will be opened with remarks by the President of the General Assembly and the Secretary-General. The President's closing remarks will mark the end of the Meeting.

Outcome of the Meeting:

A summary of the Chairman (President of the General Assembly) drawn from discussions at the Meeting. Inputs from the synthesis provided by the moderators will be considered as part of the summary.

Topics for discussion during the Meeting:

1. *Political, Legal, Social and Economic aspects of combating piracy*

Issues under this topic could include an examination of the relevant provisions of the United Nations Convention on the Law of the Sea (UNCLOS), the ILO Maritime Labor Convention 2006; discussion of the initiatives that can be implemented within the framework of the International Maritime Organization to enhance security of navigation; political implications and socio-economic repercussions of piracy; the necessity for land-based initiatives in the fight against piracy and discussion of other options in bringing the perpetrators of acts of piracy to justice and cooperation among states.

Other issues include jurisdiction over the crime of piracy; the problem of custody and prosecution of pirates; ways of strengthening mutual legal assistance between Member states in investigating piracy acts and by ratifying and implementing the international treaties in this field, the welfare and protection of victims of piracy including seafarers and a consideration of ways of enhancing the effectiveness of national criminal justice systems aimed at ensuring that any person involved in financing, planning, preparation or perpetration of piracy acts or who supports such acts is brought to justice.

2. Somalia: A Case Study

Fighting piracy off the coast of Somalia will be impossible without addressing the root causes of the scourge. The stabilization of the political and humanitarian situation in the Horn of Africa region as a whole is also a key component of effective action against piracy. Land based initiatives in Somalia could be discussed as a key factor in addressing the root causes of piracy in the region. Other issues that can fall within this topic include the lessons learned from the efforts in Somalia and their application in the fight against the problem in other parts of the world, effective information sharing amongst member states, the need for strengthened and more effective peacekeeping efforts in Somalia etc.

3. Global character of piracy and the crucial role of the UN and Cooperation amongst Member states in combating the scourge

Being a global problem, piracy demands a global approach which includes the elimination of its root causes, suppressing its manifestations both on land and at sea and addressing its impacts. Most effectively this approach can be implemented by the United Nations as the only universal Organization able to consolidate international efforts in countering maritime piracy. Cooperation amongst Member states as well as other stake holders is crucial.

Date, time and duration of Meeting:

The interactive meeting will be held on 14 May 2010, from 10 am to 1pm and from 3pm to 6pm. After the opening segment, invited panelists and experts will make presentations in their respective panels. Each speaker/panelist will be allocated 10 minutes. Questions/comments from delegations will be taken by the presenters after each panel presentation. Questions/comments from delegations and other participants and responses from presenters may continue at the end of the three panel presentations.

In order to allow all interested Member states to participate in the discussions, delegates are kindly requested to limit their interventions to three minutes.

**INFORMAL MEETING OF THE GENERAL
ASSEMBLY PLENARY ON PIRACY**

NEW YORK, 14TH MAY 2010

1000 - 1050 –Opening Session

Speakers:

H.E. Ali Abdussalam Treki – President of the 64th session of the General Assembly of the United Nations

H.E. Ban Ki-Moon – Secretary-General of the United Nations

Special Guests of the President of the General Assembly:

H.E. Mr. Abdurahman A. Ibrahim – 1st Deputy Prime Minister and Minister of Fisheries and Marine Resources of Somalia

H.E. Mr. Amos Kimunya – Minister of Trade of Kenya

H.E. Ms Stefania Prestigiacomo – Minister of Environment, Land and Sea of Italy

- 1050-1140: 1st Panel Presentation on the first topic: *Political, Legal, Social and Economic aspects of Combating Piracy*

Panelists:

Ms. Patricia O'Brien – Under-Secretary-General, UN Department of Legal Affairs, the Legal Counsel

H.E. Ambassador Thomas Winkler – Legal Adviser of Denmark and Chair Working Group II of the Contact Group on piracy off the coast of Somalia (CGPCS)

H.E. Ambassador Samir Hosny – Special Adviser to the Secretary-General, League of Arab States

Mr. Douglas B. Stevenson – Director, Centre for Seafarers' Rights, the Seaman's Church Institute of New York and New Jersey

Moderator: Ms Patricia O'Brien – Under-Secretary-General, UN Department of Legal Affairs, the Legal Counsel

- 1140-1300: Questions/Comments/Responses on the 1st Panel Presentation
- 1500-1550: 2nd Panel Presentation on the second topic: *Somalia: A Case Study*

Panelists:

Mr. Ahmedou Ould-Abdallah – Special Representative of the UN Secretary-General to Somalia

H.E. Mr. Buri M. Hamza – Minister of Environment of Somalia

H.E. Ambassador Ramtane Lamamra – African Union Commissioner for Peace and Security

Mr. Antonio Maria Costa – Executive Director, UNODC

Gen. Chikadibia Isaac Obiakor – Military Adviser, UN Department of Peacekeeping Operations

Moderator: Mr. Ahmedou Ould-Abdallah – Special Representative of the UN Secretary-General to Somalia

- 1550-1620: Questions/Comments/Responses on the 2nd Panel Presentation
- 1620-1710: 3rd Panel Presentation on the third topic: *Global character of Piracy and the crucial Role of the UN and Cooperation amongst Member states in Combating the Scourge*

Panelists:

Mr. Efthimios E. Mitropoulos – Secretary-General, International Maritime Organization (IMO)

Rear Admiral Peter Hudson – Operations Commander of EU NAVFOR “Atalanta”

Mr. Yoshihisa Endo – Executive Director, ReCAAP Information Sharing Centre

Mr. João Honwana, Director, Africa I Division, UN Department of Political Affairs

Moderator: Mr. Efthimios E. Mitropoulos – Secretary-General, International Maritime Organization (IMO)

- 1710-1750: Questions/Comments/Responses on the 3rd Panel Presentation
- 1750-1800: Closing remarks by the President of the General Assembly and adjournment of the meeting.

*Civil Society representatives are also invited to speak at Q/C/Rs

Overview of an Informal Plenary Meeting by the General Assembly on International Maritime Piracy

Friday, 14 May 2010

A. General Overview of the Debate

The phenomenon of piracy was universally rejected by the participants in the thematic debate and widely condemned as a serious crime constituting a threat to international peace and security. The actual and potential threat to international commerce was highlighted, especially in light of the fact that a large part of international trade is being conducted along international shipping lanes.

Many of the interventions by Member States specifically focused on the problem of maritime piracy off the coast of Somalia where incidents have become prevalent in recent years. Others focused on the threat posed in other geographical regions, notably the Gulf of Guinea in West Africa. While important progress has been made to secure the waters off the coast of Somalia, it was widely agreed that more needed to be done especially on land to address the root causes of the scourge.

The numerous efforts made by the United Nations Security Council and various other international actors were welcomed in the debate. One example that was frequently cited was the Djibouti Code of Conduct which lays out best practices based on lessons learned. As several delegations pointed out, the vast majority of vessels affected by piracy did not comply with these guidelines. The efforts of the Contact Group on Piracy off the coast of Somalia (CGPCS) were also widely acknowledged and commended.

In the course of the discussions, many speakers agreed that piracy off the coast of Somalia was a symptom that reflected the situation on land, notably the enduring climate of lawlessness, poverty, youth unemployment and a general lack of state institutions which needed to be addressed in a holistic and comprehensive manner. Several speakers underlined the fact that illegal fishing and the dumping of toxic waste were key contributing factors in the emergence of the phenomenon. Youth unemployment was a connected and interlinked factor and providing youth in Somalia, and beyond, notably in Africa, with hope was crucial for effectively combating the scourge of piracy.

Many speakers referred to the UN Convention on the Law of the Sea as the primary legal regime on piracy. The recent adoption by the Security Council of its resolution 1918 was noted and in this regard, some interventions pointed out that its provisions and other actions authorized by the Security Council in Somalia should not be understood as establishing customary international law or to indicate the emergence of new international norms. Many speakers looked forward to the issuance later this year by the Secretary-General of his report as requested in resolution 1918 regarding the possible establishment of international judicial mechanism for the prosecution of suspected pirates.

It was noted that as efforts to combat piracy heightened, pirates themselves were changing their tactics, becoming more tenacious and fearless, traveling 600 to 700 miles off the Somali coast, operating in gangs of as many as 60 to 70, flooding whole areas, hijacking ships and seizing fishing vessels to be used to launch other attacks. Often merely 14 to 15 years old, the pirates who are mostly unemployed youth controlled by covert kingpins are lured into the crime by the lucrative, life-changing ransom money.

There was general consensus that a stronger, more robust, better coordinated, holistic and comprehensive international action was imperative in the fight against piracy and that pirates needed to be prosecuted and brought to justice. It was underlined that there must be no impunity. Countries currently making special efforts in prosecuting pirates as well as those cooperating under the Contact Group were commended. The importance of cooperation between the UN, its Agencies and Member states on the one hand and amongst Member states on the other was emphasized. In line with the premise that pirates are raised on land, there was general consensus that addressing the root causes of piracy on land is indispensable for effectively combating the menace at sea.

The high-level participation by delegations and the deep interest shown by many speakers during the discussions confirmed the international community's grave concern regarding piracy and the urgent need to take all necessary measures to address it.

B. Summary of the Opening segment

Opening Session

The Opening consisted of remarks by the President of the General Assembly (PGA), Dr Ali TREKI, the Secretary-General (SG), Ban Ki-MOON, the Deputy Prime Minister (DPM) of Somalia, Abdurahman A. IBRAHIM, the Minister of Trade of Kenya, Amos KIMUNYA and the Minister of the Environment, Land and Sea of Italy, Stefania PRESTIGIACOMO.

In welcoming delegations and thanking them for their participation, the PGA set the tone by commenting that “the challenge posed by maritime piracy ...has assumed serious proportions. Piracy is a complex problem with political, legal, social, economic, and even human rights dimensions and consequences [...that] warrant a comprehensive, urgent, and effective response by the international community. Turning to the situation in Somalia in particular, he underscored that it “calls for a truly holistic approach”, “call[ed] on the Security Council, in particular, to shoulder its responsibility with regard to Somalia”, and “believe[d] the General Assembly will fully back the Security Council in this objective”, subsequently reaffirming that the GA “has a crucial role to play in this regard”.

The SG, whose assessment of the overall situation of piracy agreed with the PGA's, offered four observations: international cooperation would be essential in addressing piracy (and UNCLOS and the six recent relevant Security Council Resolutions were good examples of it); “piracy cannot be solved only at sea”; piracy suspects must be brought to

justice; and piracy needed to be examined and addressed in the wider context of crimes committed at sea. He commended the work of various groups and countries, noting in particular the efforts of the Transitional Federal Government (TFG) of Somalia, urged Member States to support the Trust Fund, and noted that “[t]he international community has reacted quickly and effectively to the piracy crisis off the Horn of Africa”.

The DPM of Somalia offered trenchant insights into piracy as perceived from within his country, mentioning that the “results of overfishing, the dumping of wastes in Somalia territorial waters, and subsequently the demonization of our fishermen, have generated a bitter resentment from the people. This resentment, coupled with the collapse of the Somalia central government, has led to, among other things, piracy. [...It] has helped invoke the pirates’ legitimate grievances regarding foreign exploitation of marine resources and the degradation of the marine environment.” He then laid out 8 actions to be undertaken “if the international community wants to stop piracy off the coast of Somalia: identify and address actual root causes; create alternative sources of livelihood; rehabilitate the Somali Coast Guard and other agencies; create information-sharing networks; provide security escorts for mercantile vessels; effectively support the TFG of Somalia; help the TFG in its post-conflict environmental assessment; carry out assessment studies with neighbouring states to determine spill-over effects. In closing, he assured the Assembly that “the Somali Government is ready to eradicate this problem. We know who is responsible and where they are, and what they are doing. This can be achieved if the international community supports the TFG of Somalia”.

The Minister of Trade of Kenya asserted that “the problem is mutating to a monstrous scale, with large implications on trade and other sectors... The problem could easily evolve into one of Terrorism. There will be no eradicating it until the Somali situation is stabilised.” He alerted delegations that, while “Kenya is playing and will play its part, the burden is becoming unbearable and needs to be shared by all”. Accordingly, he was “giving notice of termination” by Kenya of the 6 MoUs it entered into with other countries on detention and imprisonment of suspected pirates “while we wait for the international community to catch up”. The problem would “require a more coordinated international approach”.

Lastly, the Minister of the Environment of Italy, emphasizing that “sea piracy is having a large global financial effect and is threatening stability in fragile areas”, noted the international community’s response to the situation in Somalia by “creating an informal multilateral coordination mechanism that includes 48 countries from every region of the world and 7 international organizations”. She asserted that “capacity building, institution building, and economic development in Somalia are key to a more permanent solution to the problem”, noting as well that “the international community, with UN leadership, has taken concrete steps and quick action to address the short-term and medium-term concerns”.

Panel presentations:

Panel 1

Political, Legal, social and Economic aspects of Combating Piracy

In opening the first panel, Under-Secretary-General, Office of Legal Affairs (OLA), Ms Patricia O'BRIEN highlighted both the provisions of the United Nations Convention on the Law of the Sea (UNCLOS) and customary international law as regards piracy. She underscored that "any State can arrest and prosecute", but acknowledged that, in this regard "States have a right, but not an obligation". Progress at the regional level – such as the RECAP agreement reached in Asia in 2006, or the Djibouti code of conduct – had helped address the issue of piracy, but important difficulties remained: there was a lack of national legislation (or enactment of it), a lack of capacity, and a number of evidentiary issues. OLA was collaborating actively with both UNODC and IMO in addressing these. The UN generally was very aware that "capacity of states remains the main problem" and was working to assist capacity development. The Trust Fund was but one mechanism that was important in this. She also acknowledged both the GA and SC resolutions taken on the issue, the latter of which, she noted, had been adopted under Chapter VII of the UN Charter. Additionally, and importantly, under UNCLOS, anti-piracy measures were considered law enforcement.

Ambassador Thomas WINKLER, Legal adviser of Denmark and Chair of Working Group 2 (Legal) of the Contact Group on Piracy off the Coast of Somalia (CGPCS), provided an overview of legal issues, challenges, and measures currently at play, explaining that "we are at a crossroad. We have a potentially feasible model to prosecute pirates. But this would require clear commitment from the international community and timely and effective assistance." He also underscored how important it was that "national systems – in law and in practice – should be able to prosecute." He then clarified that the approach of his group was "to help in the sharing of information; we are not negotiating new instruments or texts". Quickly sketching the approach, activities, and "legal tool box" of the group, he then concluded there was not a lack of international law, but rather the need to understand and interpret it better, and a need to implement national law as well. Ensuring national prosecution was one stumbling block, but even more significant was the question of transfer and incarceration of convicts. Significant long-term costs were associated with the latter, particularly when they involved fragile countries".

Ambassador Samir HOSNY, Special Adviser to the secretary-General League of Arab States, acknowledging regional efforts by the EU, NATO, and others, stressed the importance of ensuring stability within Somalia and similar countries so that they could develop systems to try and handle these cases themselves. He recalled "the enormous gap" between commitments made at the Brussels Pledging Conference for Somalia two years ago and contributions actually made since. He hoped that this might soon be corrected. He also emphasized the importance of "countering the illegal fisheries and poisoning of the marine environment of Somalia" in addressing the situation there. In closing, he referenced efforts being made by the League to assist in updating relevant legislation amongst its members.

Mr. Douglas STEVENSON, Director, Centre for Seafarers' Rights, the Seaman's Church Institute of New York and New Jersey, noted the importance that marine mercantile trade still had in the world ("90% of global trade travels by ship at some point") as a way of indicating the scale of the threat of piracy and the importance of addressing it effectively. He explained that "most efforts aim to prevent or deter piracy", lamenting the dearth of attention given to the hostages and victims of the act. "No one is keeping track of the fate of seafarers. There is no central resource. In fact, no [SCR] even cites the protection of seafarers as a rationale for addressing this problem." He mentioned both the study his group is currently undertaking on the effects of piracy on seafarers and the increasing difficulty of finding people to become seafarers given the piracy threat. In closing, he reminded delegations that "all nations share responsibility for maintaining maritime security".

Interventions

Joining the discussion, speakers, among who was the Deputy Foreign Minister of Ukraine, Mr. Pavlo KLIMKIN, stressed the importance of crew protection and post-accident treatment for piracy survivors. One speaker urged that a fresh look be taken on seafarers' employment agreements and modalities of justice for the protection of rights of labourers generally as well as accessibility and quality of medical and social assistance. Other speakers stressed the need to strengthen international cooperation. Some delegations also noted that the difference (under article 101 of UNCLOS) between acts of piracy and armed robbery at sea in terms where the alleged criminal acts take place should be taken into account in typifying what constitutes piracy.

Panel 2

Somalia – A Case Study

Ahmedou OUID-ABDALLAH, Special Representative of the Secretary-General to Somalia, moderated the panel discussion with panelists Ramtane Lamamra, Commissioner for Peace and Security of the African Union; Antonio Maria Costa, Executive Director, United Nations Office on Drugs and Crime (UNODC); and Chikadibia Isaac Obiakor, Military Adviser, Department of Peacekeeping Operations.

Mr. LAMAMRA said the African Union Plan of Action adopted by the Special Session of the African Union Summit regarding conflicts in Africa recommended the convening of an international conference to discuss the adoption of an international convention on maritime piracy and its underlying causes and the promotion of international cooperation. He stressed that the African Union saw the issue of piracy as a symptom of the broader challenge to peace and security in the Horn of Africa. Any effort to address piracy in isolation from its wider context would not produce the desired results. Piracy in Somalia should be seen in the context of the collapse of its government in the 1990s, and its subsequent lawlessness had led to the development of illegal fishing

off the coast and the dumping of toxic materials. Initial acts of piracy had been directly linked to attempts by local fishermen to protect their coast.

Piracy had evolved in scope with the involvement of larger criminal networks and had become a threat to efforts to bring an end to conflict in Somalia, he said. The situation called for a comprehensive approach to address poverty and instability, including strategies for effective environmental conservation and fisheries management. It called for a truly holistic approach covering the political, security and humanitarian tracts. The efforts to prosecute pirates should also include the issue of illegal fishing and toxic dumping. Perpetrators of those crimes were no lesser criminals than the pirates. One good idea, presented to the Security Council the previous day, was, according to him to encourage Governments, mostly from developed countries, whose citizens were involved in fishing off the coast of Somalia to pay license fees to the Transitional Federal Government of Somalia.

In order to address cross-cutting maritime challenges to African growth, the African Union had organized a workshop which had emphasized the issues related to illegal fishing, dumping of toxic waste, arms and drug trafficking, human trafficking and piracy and dumping of toxic waste. A well-managed African maritime domain, on the other hand, would be a source for prosperity in Africa and a contribution to global security. To that end, the workshop had stressed the need for a significant contribution by the international community.

As for the quest for peace in Somalia, he said the African Union made efforts to promote an inclusive political process and increase security throughout Somalia through continued deployment of AMISOM. An effective way to combat piracy was to provide more support to AMISOM and the Transitional Federal Government of Somalia, because piracy should be defeated inside of Somalia.

Mr. COSTA said that commendable anti-piracy efforts included the fact that the Contact Group had built a consensus as to the most appropriate anti-piracy measures, while donors had been financing shore-based criminal justice responses in several countries. Significant naval cooperation off the Horn of Africa had become a significant deterrent. Pirates had been tried in regional criminal courts, rather than released or shot on sight. The current problem was not finding court capacity, but making it possible to imprison convicted pirates in Somalia itself and, eventually, moving trials there. A recent UNODC mission had concluded that the construction of adequate detention facilities in Somalia must be expedited to ensure the transfer of prisoners from other countries.

He said that, although naval patrols had reduced the success rate of attacks to one in ten attempts, the overall number of attacks was growing. Individual pirate earnings per successful attack had increased, as had individual ransoms. Pirates now asked for money in exchange for people, not only vessels. A growing number of seized pirates had indicated that they originated from internal parts of Somalia, which was evidence that poverty, insecurity, social distress and poor health were increasingly root causes of the problem. Piracy off the coast of Somalia had had a limited impact on rich countries, but

the impact on Eastern Africa had been severe. Kenya and Seychelles had seen their tourism business decimated. Fishing was down. The disruption had now moved to Great Lakes States that used East African ports for trade.

There were some 500 pirates under detention, about half outside Somalia, but there was a limit to the number of pirates who could be imprisoned outside of the country. Court proceedings in the countries of seized vessels was impractical, given the distance and jurisdictional hitches. The cost of patrolling the seas of Somalia was enormous. The annual budget of all 44 vessels operating in the Indian Ocean stood at \$1.5 billion, while the Anti-piracy Trust Fund had a budget of \$3 to \$5 million.

He said that the contextual factors that facilitated piracy must be neutralized. Key was the engagement in Somalia, where anti-piracy work could be conducted without unreasonable risks, such as in Somaliland and Puntland. Basic institutional and logistical infrastructures relating to coast guards, police and courts were needed to support Somali high-sea patrolling and Somali law enforcement on land. At the same time, anti-money laundering measures were needed. Most of the profit of piracy did not go to the pirates, but to criminal groups that invested in and sponsored piracy. Apart from piracy, the economic lawlessness in the Horn of Africa included a free illicit trade zone of arms, fuel, counterfeits, migrants, children, natural resources and drugs. Piracy could not be addressed without taking on these other crimes.

The only viable long-term solution was to empower Somalia itself. Current measures had served an interim purpose, but the international response had been constrained by no peacebuilding and little peacekeeping. Sustainable anti-piracy must be part of a larger strategy, including: a push towards lasting peace in Somalia and towards reconstruction; engagement with community leaders in the provinces where pirates come from to create jobs targeted on youth; establishment of criminal justice institutions in Somalia able to prosecute, try and imprison its own pirates and their sponsors; energetic anti-money laundering efforts; and establishment of a specialized Anti-piracy Court in Somalia staffed with well-trained nationals mentored by international experts.

Somalia must be assisted in dealing with its own piracy problems. That was feasible from the budgetary vantage point of rich countries. It would be sufficient to re-deploy some of the resources currently spent on the naval force in the Indian Ocean. The United Nations could contribute by expediting the return of its political and development presence in Somalia.

General OBIAKOR in his presentation underlined the possibility that the scourge of piracy off the coast of Somalia could spread to other vulnerable parts of Africa, including the Gulf of Guinea. It was essential that the complex issue is addressed in a comprehensive and holistic manner. Although significant results had been achieved in combating piracy, maritime operations, while essential, did not address the root of the problem, which was on land. Unless the state of lawlessness on land and the dire humanitarian situation there was addressed, it would not be possible to eliminate piracy.

He said the delivery of humanitarian assistance and the logistical support package for AMISOM could contribute towards addressing the conditions on land that bred piracy. The escorts provided by the European Union and NATO to humanitarian vessels and AMISOM vessels were mutually beneficial. However, other participating navies should share the burden to provide such escorts. At the same time, the reactions of the pirates should be anticipated, as Somali pirates now had expanded their operation well into the Indian Ocean. “We cannot successfully combat piracy through military means at sea alone,” he said.

The Department of Peacekeeping Operations was an active participant in several international forums that addressed piracy, including the Contact Group. It was also the focal point for information sharing and reporting obligations of the Secretary-General on military naval counter-piracy issues. The Shared Awareness and Deconfliction (SHADE) mechanism was made up of over 91 participants from different States and regional organizations and demonstrated that successes could be achieved when activities were coordinated and information shared.

Stressing that the fight against piracy could not be won unless the problem at sea and on land were addressed concomitantly, he said that efforts to develop the Transitional Federal Government’s security and rule of law institutions should be strengthened. Similar efforts were underway in Somaliland and Puntland. Indications that extremist groups were beginning to take an interest in the havens of piracy along Somalia’s coast were of serious concern. Hizbul Islam had recently overrun Harardhere and dislodged pirates. Their intentions were unclear, despite declarations that they would free hostages. “We must remain suspicious and consider ways of preventing any attempts by them to take over the lucrative enterprise of piracy,” he said in conclusion.

Mr. OULD-ABDALLAH said piracy was an important issue because of its ramification for East Africa and because of its implications for trade. Piracy should be taken seriously because of its impacts on security, the economy and the families living in coastal areas. Noting that the renewed focus on Somalia was linked to the surge of piracy, he said the international community must see the need for an effective and supported Somali Government. Responses should be devised on how to address some of the root causes. Reiterating his suggestion to the Security Council two days earlier, he said the establishment of a trust fund where contributions could be made through the payment for fishing licenses could help to address the problems.

He said that the issue of piracy could not be separated from the situation on the continent. Payments of enormous ransoms had led to a resurgence of piracy, which was now the most lucrative activity in Somalia. The international naval presence had had a positive aspect, as it was dissuasive and effective.

Interventions

During the ensuing discussion, speakers, noting that the negative effects of the conflict and the breakdown of authority in Somalia were felt abroad, stressed that the

long-term solution to the piracy problem had to be found on land, in Somalia, through a comprehensive plan that included addressing the root causes of piracy. They stressed in that regard that, although it was the responsibility of authorities and the people of Somalia to create an environment of law and order, the international community must provide support, among other things through capacity-building, not only in the country, but also in the region. One speaker asked why the huge amounts of money paid in ransom could not be tracked and be subject to asset freezes, as happened with some terrorist entities.

Some speakers from the region expressed concern that the naval efforts to combat piracy had a detrimental effect on fishing by neighbouring States of Somalia, as they had been the target of fire by the international naval forces. Efforts should be concentrated on the areas of the Somali coast where pirates were coming from. One speaker drew attention to the Gulf of Guinea, where acts of piracy were increasing, threatening the fragile countries of on the coast of West and Central Africa.

Panel 3

Global Character of Piracy and the crucial role of the UN and cooperation amongst Member States in Combating the Scourge

The third panel, entitled, “Global character of piracy and the crucial role of the United Nations and cooperation amongst Member States in combating the scourge”, was moderated by Mr. Efthimios E. Mitropoulos, Secretary-General of the International Maritime Organization (IMO). Panellists included: Rear Admiral Peter Hudson, Operations Commander of the European Union Naval Force Atalanta; Yoshihisa Endo, Executive Director of the Regional Cooperation Agreement on Combating Piracy (ReCAAP) Information-Sharing Centre; and Joao Honwana, Director of the Africa I Division of the Department of Political Affairs.

Mr. MITROPOULOS spoke of the long history of piracy and the severe consequences on seaborne trade today. For those under attack, the threat to life, the conditions of captivity and fear were not anything that anyone should have to suffer during their lives. The IMO had been identifying patterns and trends, promoting regional agreements and drawing up international guidelines since the 1980s.

He appreciated the response of the Security Council, and the authorizations given through consecutive resolutions. Protection of workers and passengers, safeguarding humanitarian aid and safeguarding shipping in the Gulf of Aden were key elements for IMO in confronting the problem. Council actions, including the creation of the Contact Group, were models for effective international action and dovetailed with IMO efforts for cooperation and adoption of standardized safety codes.

He said that promoting legislative action and legal capability were also priorities of IMO, and were the objectives of the Djibouti Code of Conduct. He was working with

many international organizations and individual States on the implementation of the code. States must continue to increase cooperation, with the United Nations providing the central coordinating role. In addition, the root causes of piracy must be addressed. The job was by no means completed; more and more ships were being held hostage.

Rear Admiral HUDSON agreed that coordination was crucial ashore, as well as at sea, to combat piracy and concurred that piracy was not a new threat. He said that the scale of violence, the volume of the attacks and the geographical range of pirates was something new, however. The four Security Council resolutions persuaded the European Union to quickly cooperate through the Atalanta Force, deploying it in the Gulf of Aden within ten weeks of authorization. The force offered reassurance to all lawful mariners, he said, and he expected it to be extended as long as needed.

The Force had made a difference; no ship supplying AMISOM had been attacked since deployment. With NATO and international forces operating out of Bahrain, attacks had been greatly reduced. Well-defined procedures had been established with other forces and escorts of the ships of individual nations. Sharing of best practices, open communication between partners and widespread provision of guidance remained crucial — some ships recently captured did not comply with such guidance. International cooperation would continue to make progress in the years to come, but could not eliminate piracy without a comprehensive approach, including development and building judicial capacity on land. The European Union was active in both areas.

Mr. ENDO outlined initiatives taken in the region since 1997 by the Association of Southeast Asian Nations (ASEAN), including the genesis of ReCAAP, signed in 2004 by 16 countries (ASEAN+6). He said that information sharing, capacity-building and co-operative arrangements to respond to incidents were the pillars of the agreement. With a Secretariat to be located in Singapore, it was open for accession by any State — recently the Netherlands had signed on. Each contracting party designated a focal point and funded activities. Capacity-building arrangements had been signed with IMO and other international organizations.

The roles of focal points were managing anti-piracy operations within the jurisdictions of its country, as well as managing cooperation and information sharing with other parties. Integration of law-enforcement agencies and maritime organizations with the agreement was another role of focal points. All information on incidents was recorded for the Information Centre and trends were analyzed there. All this activity had significantly reduced the threat of piracy in the region.

MR. HONWANA, speaking on behalf of Lynn Pascoe, Under-Secretary-General of Political Affairs, emphasized the serious consequences of the global increase in piracy, including the increase in the price of goods. In regard to the role of the United Nations, he said that the engagement covered activities at sea, working as a centre of information-gathering in conjunction with IMO. On land, the Organization conducted development initiatives to provide alternatives to piracy, as well as awareness-raising and assisting

States in building capacity for the prosecution of pirates. In addition, he noted that the United Nations Office on Drugs and Crime (UNODC) and INTERPOL were active in tracing the funding trail of piracy, and a United Nations-backed trust fund helped assist countries of the region to deal with the scourge.

Interventions

In the discussion that followed, speakers agreed that international cooperation and the central role of the United Nations in combating piracy were crucial, along with international efforts to help countries prosecute piracy at the national level. Many speakers described their national efforts in both of those areas. Not all speakers thought the creation of international tribunals to prosecute pirates could be effective, however. Some stressed that the Convention on the Law of the Sea was fundamental in providing the framework for international cooperation. In that context, arrangements made in the current climate should be considered exceptional because of the exceptional nature of the problem, they said.

Many speakers called for extending the strong international cooperation demonstrated on the high seas, in the fight against piracy, to the fight against root causes of piracy, such as conflict and extreme poverty in Somalia and elsewhere in Africa. Some representatives of countries of the region called for international assistance to their local fisherman and questioned whether the fight should not be more focused on the areas around the Somali coast from which the pirates took to sea, rather than allowing them to range far and wide.



THE PRESIDENT
OF THE
GENERAL ASSEMBLY

29 March 2010

Excellency,

The problem of international maritime piracy has in the last few years gained global attention, particularly with the increasing incidents of piracy in the Gulf of Aden and especially off the coast of Somalia. The security, political, economic and social implications of this scourge are of serious concern to the international community.

With regard to Somalia, the United Nations has taken actions aimed at strengthening and assisting the Transitional Federal Government (TFG) to improve the security situation in Somalia, which is essential for an enabling environment to fight piracy off the coast of Somalia. The Security Council has authorized measures to counter piracy and armed robbery off the coast of Somalia. A Contact Group on Piracy off the Coast of Somalia (CGPCS) has also been established. These efforts notwithstanding, the sovereignty, economy and security of Somalia remain under serious threat as a result of piracy.

The rapid geographical spread of maritime piracy and the complexity of the issue necessitate a deeper and more comprehensive look at the various facets of the problem in order to devise a collective and more coordinated response.

In view of the foregoing, I intend to convene an informal meeting of the General Assembly on May 14 2010, to provide an opportunity for all Member states to discuss the problem of international maritime piracy in a comprehensive manner and to address its causes and effects both on land and at sea. Representatives of relevant Specialized Agencies, Inter-Governmental Organizations and NGOs will also be invited to participate in the meeting.

It is my hope that during this meeting, Member states would take an in-depth look at piracy, share lessons learned and proffer suggestions to improve the international response.

Further details regarding the meeting will be provided in due course.

Please accept, Excellency, the assurances of my highest consideration.

Ali Abdussalam Treki

All Permanent Representatives
And Permanent Observers
To the United Nations
New York

UNITED NATIONS

NEW YORK

OFFICE OF THE PRESIDENT
OF THE
GENERAL ASSEMBLY



الأمم المتحدة

نيويورك

مكتب رئيس الجمعية العامة

The Office of the President of the sixty-fourth session of the General Assembly presents its compliments to all Permanent Missions and Permanent Observer Missions to the United Nations and with regard to the Informal General Assembly Plenary Meeting on piracy to be held on Friday May 14 at the GA Hall, has the honour to attach herewith for your information the draft programme and background note.

The Office of the President of the sixty-fourth session of the General Assembly avails itself of this opportunity to renew to all Permanent Missions and Permanent Observer Missions to the United Nations the assurances of its highest consideration.

New York, 4 May 2010

To All Permanent Missions and
All Permanent Observer Missions to the United Nations

A handwritten signature in black ink, consisting of a stylized 'Y' followed by a diagonal line.

GENERAL ASSEMBLY INFORMAL MEETING
ON PIRACY

14 May 2010

The problem of international maritime piracy has in the last few years gained global attention, particularly with the increasing incidents of piracy in the Gulf of Aden and especially off the coast of Somalia.

Recent statistics from the International Maritime Bureau indicate that in 2009 alone pirates attacked 217 ships with 47 successful hijackings. Pirates extorted more than US \$60 million in ransom, the largest payment on record. In 2008, there were 242 attacks with 111 successful hijackings and about US \$40 million in ransom. The adverse security, political, legal, economic and social implications of this scourge are of serious concern to the international community.

With regard to Somalia, the United Nations has taken actions aimed at strengthening and assisting the Transitional Federal Government (TFG) to improve the security situation in Somalia, which is essential for an enabling environment to fight piracy off the coast of Somalia. The Security Council has authorized measures to counter piracy and armed robbery off the coast of Somalia. A Contact Group on Piracy off the coast of Somalia (CGPCS) has also been established. These efforts notwithstanding, the sovereignty, economy and security of Somalia remain under serious threat as a result of piracy.

Piracy has a destabilizing effect on regional and global trade and security. There is therefore the necessity for global strategies to address the factors that trigger and sustain piracy. Moreover, its rapid geographical spread and complexity necessitate a deeper and more comprehensive look at the various facets of the problem in order to devise a collective and more coordinated response.

In view of the foregoing, the President of the General Assembly is convening on 14 May 2010 an informal meeting of the General Assembly to provide an opportunity for all Member states to discuss the problem of international maritime piracy in a comprehensive manner to effectively address the issue. Representatives of relevant Specialized Agencies, Inter-

Governmental Organizations and NGOs will also be invited to participate in the meeting.

A comprehensive approach will be taken in addressing the issue of international maritime piracy in its political, legal, social and economic perspectives. Discussions will be held in the form of sharing of views between delegations and other participants on the issues and proffering possible solutions. The meeting will be opened with remarks by the President of the General Assembly and the Secretary-General. The President's closing remarks will mark the end of the Meeting.

Outcome of the Meeting:

A summary of the Chairman (President of the General Assembly) drawn from discussions at the Meeting. Inputs from the synthesis provided by the moderators will be considered as part of the summary.

Topics for discussion during the Meeting:

1. *Political, Legal, Social and Economic aspects of combating piracy*

Issues under this topic could include an examination of the relevant provisions of the United Nations Convention on the Law of the Sea (UNCLOS), the ILO Maritime Labor Convention 2006; discussion of the initiatives that can be implemented within the framework of the International Maritime Organization to enhance security of navigation; political implications and socio-economic repercussions of piracy; the necessity for land-based initiatives in the fight against piracy and discussion of other options in bringing the perpetrators of acts of piracy to justice and cooperation among states.

Other issues include jurisdiction over the crime of piracy; the problem of custody and prosecution of pirates; ways of strengthening mutual legal assistance between Member states in investigating piracy acts and by ratifying and implementing the international treaties in this field, the welfare and protection of victims of piracy including seafarers and a consideration of ways of enhancing the effectiveness of national criminal justice systems aimed at ensuring that any person involved in financing, planning, preparation or perpetration of piracy acts or who supports such acts is brought to justice.

2. Somalia: A Case Study

Fighting piracy off the coast of Somalia will be impossible without addressing the root causes of the scourge. The stabilization of the political and humanitarian situation in the Horn of Africa region as a whole is also a key component of effective action against piracy. Land based initiatives in Somalia could be discussed as a key factor in addressing the root causes of piracy in the region. Other issues that can fall within this topic include the lessons learned from the efforts in Somalia and their application in the fight against the problem in other parts of the world, effective information sharing amongst member states, the need for strengthened and more effective peacekeeping efforts in Somalia etc.

3. Global character of piracy and the crucial role of the UN and Cooperation Amongst Member states in combating the scourge

Being a global problem, piracy demands a global approach which includes the elimination of its root causes, suppressing its manifestations both on land and at sea and addressing its impacts. Most effectively this approach can be implemented by the United Nations as the only universal Organization able to consolidate international efforts in countering maritime piracy. Cooperation amongst Member states as well as other stake holders is crucial.

Date, time and duration of Meeting:

The interactive meeting will be held on 14 May 2010, from 10 am to 1pm and from 3pm to 6pm. After the opening segment, invited panelists and experts will make presentations in their respective panels. Each speaker/panelist will be allocated 10 minutes. Questions/comments from delegations will be taken by the presenters after each panel presentation. Questions/comments from delegations and other participants and responses from presenters may continue at the end of the three panel presentations.

In order to allow all interested Member states to participate in the discussions, delegates are kindly requested to limit their interventions to three minutes.

**INFORMAL MEETING OF THE GENERAL
ASSEMBLY PLENARY ON PIRACY**

NEW YORK, 14TH MAY 2010

DRAFT PROGRAMME

1000 - 1050 –Opening Session

Speakers:

H.E. Ali Abdussalam Treki – President of the 64th session of the General Assembly of the United Nations

H.E. Ban Ki-Moon – Secretary-General of the United Nations

Special Guests of the President of the General Assembly:

H.E. Sheik Abdikadir Ali Omar – Interior Minister of Somalia_(tbc)

H.E. Mr. Amos Kimunya – Minister of Trade of Kenya

- 1050-1140: 1st Panel Presentation on the first topic: *Political, Legal, Social and Economic aspects of Combating Piracy*

Panelists:

Ambassador Thomas Winkler – Legal Adviser of Denmark and Chair Working Group II of the Contact Group on piracy off the coast of Somalia (CGPCS)

Mr. Douglas B. Stevenson – Director, Centre for Seafarers' Rights, the Seaman's Church Institute of New York and New Jersey

Moderator: Mr. Antonio Maria Costa – Executive Director, UNODC

- 1140-1300: Questions/Comments/Responses on the 1st Panel Presentation
- 1500-1550: 2nd Panel Presentation on the second topic: *Somalia: A Case Study*

Panelists:

Mr. Alain Le Roy – Under-Secretary-General, UN Department of Peacekeeping Operations

Ambassador Ramtane Lamamra – African Union Commissioner for Peace and Security.

Moderator: Mr. Ahmedou Ould-Abdallah – Special Representative of the UN Secretary-General to Somalia

- 1550-1620: Questions/Comments/Responses on the 2nd Panel Presentation
- 1620-1710: 3rd Panel Presentation on the third topic: *Global character of Piracy and the crucial Role of the UN and Cooperation amongst Member states in Combating the Scourge*

Panelists:

Rear Admiral Peter Hudson – Operations Commander of EUNAVFOR “Atalanta”

Mr. Yoshihisa Endo – Executive Director, ReCAAP
Information Sharing Centre

Moderator: Mr. Lynn Pascoe – Under-Secretary-General, UN
Department of Political Affairs

- 1710-1750: Questions/Comments/Responses on the 3rd Panel Presentation
- 1750-1800: Closing remarks by the President of the General Assembly and adjournment of the meeting.

*Civil Society representatives are also invited to speak at Q/C/Rs

14 May 2010

**Statement of H.E. Dr. Ali Abdussalam Treki,
President of the 64th Session of the General Assembly,
at the informal meeting of the General Assembly
on International Maritime Piracy**

H.E. Mr. Ban ki-Moon
Secretary General of the United Nations

H.E. Mr. Abdurahman A. Ibrahim,
1st Deputy Prime Minister of Somalia

H.E. Mr. Amos Kimunya
Minister of Trade of Kenya

H.E. Ms Stefania Prestigiacomo
Minister of Environment, Land and Sea of Italy

Excellencies, Ladies and Gentlemen,

I am pleased to welcome you to this important discussion that the General Assembly is holding on international maritime piracy. The challenge posed by maritime piracy, particularly off the coast of Somalia, has assumed serious proportions. Piracy is a complex problem with security, political, legal, social, economic and even human rights dimensions and consequences. It has a particularly destabilizing effect on national, regional and international security, stability and trade. Recent statistics from the International Maritime Bureau confirm these concerns. In 2009 alone, pirates attacked 217 ships with 47 successful hijackings and extorted \$60 million in ransom.

While maritime piracy is not a new phenomenon, changes in geographic “hot spots”, rapid geographical spread, increased frequency of piracy incidents and the severity of these attacks warrant a comprehensive, urgent and effective response by the international community.

The problem of piracy off the coast of Somalia is rooted in the insecurity, instability, chaos and lack of governmental authority, which have characterized the situation in Somalia for the last two decades. In recent years, the United Nations has taken actions aimed at strengthening and assisting the Transitional Federal Government (TFG) to improve the security situation in Somalia. The Security Council has also authorized measures to counter piracy and armed robbery off the coast of Somalia. A Contact Group on Piracy off the coast of Somalia has been established. Most recently, on 27th April, the Security Council adopted resolution 1918 addressing the issue.

These efforts notwithstanding, there is no respite in the piracy incidents off the coast of Somalia. The sovereignty, security and economy of Somalia remain under serious threat. Somalia and its people continue to suffer from problems compounded by internal strife and years of neglect by the international community. The increase in piracy engenders continuing political instability and a further blow to the already dilapidated economy of Somalia. The looting of Somali marine resources and the dumping of toxic waste on its territory only exacerbate the situation. The situation is already a serious threat to maritime security, shipping and trade in this strategic part of the world. If left unaddressed, the consequences will be global.

There is therefore an urgent need for coordinated strategies, not only to fight piracy, but more importantly to address the complex factors that trigger and sustain crime and impunity in Somalia, the North-Western Indian Ocean and the high seas in general.

The situation calls for a truly holistic approach in Somalia covering political, security, governance and humanitarian tracks. It is true that the primary responsibility lies with the people of Somalia, but given the magnitude of the problems, Somalis cannot do it alone. The international community must step forward to help Somalia. I commend the African Union for its efforts and sacrifice in support of Somalia. I also commend the efforts exerted by the League of Arab States and the European Union. However, a much broader international effort and allocation of resources are required to effectively face the challenge. I call on the Security Council, in particular, to shoulder its responsibility with regard to Somalia by undertaking strong and resolute measures in support of a wider political, peacekeeping and peace-building strategy in Somalia, to bring peace to the country and to ensure its sovereignty, unity and territorial integrity. I believe the General Assembly will fully back the Security Council in this objective.

The United Nations is indispensable in forging international cooperation and increasing coordination of all efforts to address the problem of piracy. As the universal and most representative organ of the United Nations, the General Assembly has a crucial role to play in this regard. This is why I have convened this meeting - to provide an opportunity for an informed, inclusive and comprehensive discussion of the problem of international maritime piracy. It is my fervent hope that Member states and other stakeholders would take an in-depth look at the various facets of the piracy issue with a view to devising the much needed collective and coherent international response. I trust this discussion will also serve to reaffirm the urgency of restoring peace and stability in Somalia and thus provide a fillip to the international efforts in that regard. I am also confident that the Istanbul Conference on Somalia, which will be held from 21-23 May 2010, will further intensify our collective efforts in tackling the conditions in Somalia and the problem of international piracy.

I would like to thank all the distinguished panelists and senior officials for their participation and wish you all a very productive discussion.



Statement

By

**H.E. Prof. Abdurahman Adan Ibrahim "Ibbi"
Deputy Prime Minister and
Minister of Fisheries and Marine Resources
of the Transitional Federal Government (TFG)
of the Somali Republic**

At the

**United Nations General Assembly Informal Ministerial Meeting on
International Maritime Piracy and Security**

New York, May 14, 2010

Please check against delivery

Your Excellencies,
Distinguished Representatives,
Ladies and Gentlemen.

Mr. President,

I have the honour to start my statement by thanking you most sincerely for your initiative in convening this Informal Ministerial Meeting on International Maritime Piracy.

Mr. President,

Following the collapse of Somalia's Central authority, the country succumbed to enormous problems. The country's natural resources have been mismanaged by warlords and corrupt businessmen. Marine resources have been depleted, and foreign vessels from industrialized nations have flushed their wastes into the country's territorial waters. As a result of this, Somalia's coral reefs are reportedly dead and the lobsters and tunas are gradually vanishing.

Mr. President,

It is an established fact now that the country is experiencing indiscriminately illegal, unregulated and unreported fishing activities by foreign sea poachers. These activities have already had a devastating impact on our fishermen. Their livelihood is jeopardized and their fishing infrastructures have been destroyed.

The consequential results of overfishing, the dumping of wastes in the Somali territorial waters, and subsequently the demonization of our fishermen, have generated a bitter resentment from the people. This resentment coupled with the collapse of the Somali central government has led to, among other things, piracy. Piracy is therefore a symptom of the problems related to overexploitation of Somalia's resources, the demonization of Somali fishermen and other coastal dwellers, the flushing of wastes in

our territorial waters by foreign vessels without being accountable for their actions, and the destruction of the Somali marine and coastal infrastructures.

Mr. President,

The Somali people's resentment has helped to invoke the pirates' legitimate grievances regarding foreign exploitation of marine resources and the degradation of the marine environment. The Somali pirates admit that their actions are counter to the Somali traditional values. Somalis, despite their 3333-km coast, were never known to have indulged in piracy prior to the collapse of the Somali national institutions. What has prompted piracy is the destruction that has taken place on land. And for the pirates to resort to illegal activities would for many be justifiable as long as the country and its people continued to succumb to poverty and unemployment. For the pirates, placing more value on the money and the mouths it can feed is more important than the Somali traditional values.

Mr. President,

It is sad that the number of attacks in the waters off the Horn of Africa continue to increase. Piracy is exacerbating security in the region. Its impact is also affecting global security and contributing to the world's economic slowdown. Each year thousands of vessels pass through the Gulf of Aden, a vital shipping route for international trade. The risk raised by piracy is so severe that some shipping companies have already decided to take the longer and more expensive sea route around the Cape of Good Hope. And many stakeholders, who depend on regional sea trade, are suffering from the rise of Somali piracy.

Mr. President,

Pirate attacks also entail serious environmental risks, a threat that remains often unsaid but is increasingly likely, given the fact that within the targeted vessels there are

oil or chemical tankers, and that pirates are using even more powerful weaponry. A major environmental disaster in the Gulf of Aden could be triggered if a tanker is set on fire or even sunk, a probability which grows day by day.

If the International Community wants to stop piracy off the coast of Somalia, the following actions are needed:

1. The identification of the actual root causes of piracy. The international community must participate in addressing these root causes.
2. Creation of alternative sources of livelihood such as income generating projects for the fishermen and other coastal dwellers.
3. Rehabilitation of Somali Coastal Guards and other law-enforcement agencies.
4. Creation of Information-sharing networks among African coastal states on piracy activities and other sea-related crimes.
5. Preliminary security escort for mercantile vessels that ferries goods to and from the African coastal states for seafarers' safety.
6. The International Community should fully support the TFG to be able to counter pirates' activities by providing the resources required for the enhancement of marine and coastal security forces.
7. The International Community should help the TFG in its planned post-conflict environmental assessment to determine the impact of the toxic wastes dumped in the Somalia territorial waters.
8. Carry out assessment studies with the neighbouring states to determine the spill-over effects of the marine pollution caused by the foreign vessels from the industrialized and other countries.

Mr. President,

I thank you.



**STATEMENT BY HON. AMOS KIMUNYA E.G.H., M.P., MINISTER OF TRADE
OF THE REPUBLIC OF KENYA, TO THE UNITED NATIONS INFORMAL
MEETING ON SOMALIA.**

14TH MAY 2010, NEW YORK.

President of the General Assembly,

The Secretary General,

Colleague Ministers Present,

The Under Secretary General of the United Nations,

Members of the General Assembly,

Ladies and Gentlemen,

I wish to thank everyone for being here to share knowledge and ideas on how to resolve the problem of piracy on the East African Coast.

I also wish to thank all who have assisted in the process of eliminating the piracy menace. Let us remind ourselves that Piracy is complex and is fast mutating into a monstrous problem with implications on trade, cost of doing business, and human safety.

We are here to seek your support for a more focused and multilateral approach to the problem which recognizes the following:-

- a) There will be no eradication of piracy, unless the Somali situation is stabilized. We therefore need to work together to ensure a more effective government in Somalia.

- b) The more ransom money that the ship owners pay, the stronger the pirates become. Indeed, there is no telling what new dimension piracy will take; including advanced terrorism.
- c) While Kenya is, and has always been, willing to play her part in solving the problem as a neighbor of Somalia and as a responsible member of the international community, the burden of prosecuting and imprisoning suspects is becoming unbearable and needs to be shared out by all.

Between 2008 and 2010, Kenya entered into cooperation arrangements with six (6) members of the international community to enable them apprehend piracy suspects off the coast of Somalia and to have them transferred to Kenya for purposes of prosecution and imprisonment. The six partners with whom Kenya entered into these arrangements are:-

The United Kingdom	-	Signed on 11 th December 2008
The United States	-	Signed on 16 th January 2009
The European Union	-	Signed on 6 th March 2009
Denmark	-	Signed on 9 th July 2009
China	-	Signed on 21 st December 2009
Canada	-	Signed on 12 th January 2010

These MOUs imposed a heavy burden on Kenya without a corresponding complementary obligation on the other parties. Currently, over a hundred (100) suspects are in remand in Kenya with their cases presently ongoing at various stages.

The Full impact of implementing these MOUs would in Kenya's case lead to huge administrative and capacity challenges. It should be noted that little support has so far been received from the international community in offsetting these challenges. Furthermore,

as a consequence of these MOUs, Kenya is faced with other related challenges such as security risks, that would require a more coordinated and comprehensive approach to the problem of Piracy.

It is in consideration of the foregoing that the Government decided to issue notice for termination of the six (6) MOUs already signed; discontinue the signing of any other additional MOUs that were pending for signature; and put a stop to receiving any more pirate suspects for trial and imprisonment in Kenya.

Going forward,

I wish to bring the following issues to the attention of the members of this assembly:-

1. Acts of Piracy under International Customary law have always been treated as crimes of universal jurisdiction, enabling any state to seize pirates anywhere in the international waters and try them.
2. The Government of Kenya believes that the problem of piracy requires a more coordinated and holistic approach. This approach should be informed by the principle of fairness and shared international responsibility in the fight against piracy which is an international problem and should seek to encourage every member of international community to play their respective role and to support the institutional capacity of Somalia. In this regard, we welcome the recent United Nations Security Council Resolution 1918 (2010) and hope that further efforts by the international community towards the recognition the resolution of the problem in this direction will be intensified.
3. The UN Security Council's specific mandate authorizes naval ships deployed for anti piracy patrols to *'enter the territorial waters and*

undertake all necessary measures that are appropriate in Somalia’. It would be prudent to focus the available effort on the Somali coastal areas so as to target the pirates while they are breaking out at sea. This will limit the sea area to be kept under surveillance.

4. If a UN Peace Keeping Force was to be mounted, another element of this force could carry out land operations in the coastal areas of Somalia, in coordination with the naval element, so as to eradicate the bases/hide outs of the pirates ashore.
5. Payment of ransom by ship owners is one of the major factors contributing to the increase in incidences of piracy. A unified UN anti-piracy mandate would have uniform, deliberate response to demands of ransom and not the individual panic ridden reaction by ship owners seen today.
6. The legal framework for efficient, credible and timely trials ashore of arrested piracy suspects needs to be worked out by the UN and enunciated. Current arrangements which have seen pirates handed over and tried in Kenya and the Seychelles place a heavy burden on these countries and are clearly untenable.
7. Somali Piracy will not be eradicated until stability takes hold in the country itself. Somali Piracy is directly tied to the failure of the Somali State. Any comprehensive solutions to piracy will therefore have to involve operations on the ground to stabilize the state itself, as well as to unsettle pirate sanctuaries and destroy pirate infrastructure.

Thank You.



ITALY

**INFORMAL MEETING OF THE
GENERAL ASSEMBLY PLENARY ON PIRACY**

STATEMENT BY

**THE HON. STEFANIA PRESTIGIACOMO
MINISTER OF THE ENVIRONMENT AND OF PROTECTION OF
LAND AND SEA**

(NEW YORK, 14 MAY 2010)

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Mr. President, Mr. Secretary General,

I would like to start by paying my respects to the first victims of piracy. Crimes at sea are a problem that has a very human dimension. The men and women who work on commercial vessels come from all over the world and put themselves at great risk when transiting through dangerous waters.

In 2009, more than 850 seafarers were taken hostage in the Gulf of Aden and off the Coast of Somalia. In the same year, pirates injured 68 seaman, killed 8, and kidnapped 12. Eight seaman were still missing at year's end. Ecoterra International estimates there are currently some 464 seamen being held hostage by Somali pirates alone. These losses are tragic and we must continue to do all we can to protect the seafarers and their families, the persons whose work is essential to sustain the life lines of global trade and economic development.

Piracy off the Somali coasts also affects commercial interests of many people in the region and beyond. Approximately 21,000 ships pass through the Gulf of Aden carrying humanitarian aid, food and industrial exports, including 10 percent of the world's oil supply. Between ransoms, rising insurance costs, and the costs of military intervention in the Gulf of Aden, sea piracy is having a large global financial affect and is threatening stability in fragile areas, particularly in the Horn of Africa region.

Mister President,

I would like to recognize the fundamental role the United Nations has played in addressing the growing problem of sea piracy and armed robbery particularly in the Gulf of Aden and off the Coast of Somalia.

To protect our seafarers and our trade, the multilateral response has been strong, effective and rapid. During the last 18 months, several countries and international organizations have established unprecedented military coordination and

cooperation in the Gulf of Aden. Military naval vessels from around 30 different countries, including ships from EU and NATO members as well as from several other countries engaged on a national level, are securing the delivery of UN humanitarian assistance to Somalia and assisting commercial ships that come under pirate attack. The international response in the East of Somalia has helped in containing the expanding aggressiveness of pirates.

The international community has responded robustly to piracy off Somali coasts by creating an informal multilateral coordination mechanism that includes 48 countries from every region of the world and 7 international organizations, including the African Union, the European Union, the IMO, INTERPOL, the League of Arab States, NATO, and the UN. This international Contact Group on Piracy off the Coast of Somalia addresses the whole range of issues surrounding sea piracy in the region, including building the capacity of regional States, based on the model of regional cooperation already implemented in Asia, which was very successful in combating piracy in the Malacca Straights.

In 2009, under the Italian Presidency, G8 members addressed the issues of piracy in a comprehensive way for the first time, stressing the need for an international effort in assisting countries in the region.

Capacity building will lead to a longer-term solution to piracy in the region by giving regional coast guards the skills and means to patrol their waters effectively. Simultaneously, we must not forget that supporting institution building and economic development in Somalia is the key to a more permanent solution to the problem. A better security environment and more stability will be conducive to improve trade and economic development. We attach great importance to the opportunity to broaden the base of donors to support, also financially, AMISOM and the Somali security forces.

Resolving the piracy issue off Somalia will not be easy, but the international community, with UN leadership, has taken concrete steps and quick action to address the short-term and medium-term concerns. Now this multilateral cooperation has to be sustained in the long-term.

Mr. President,

Today, the speakers that you have invited will provoke an important debate. I would like to thank you for your leadership which contributes to drawing the world's attention to the scourge of piracy and to the risks that, if not properly addressed, expanding crimes at sea will undermine the safety of many seafarers, the security of world trade and the stability of countries in the most affected regions.

Informal General Assembly Plenary Meeting on Piracy

Comments presented by Brazil

Panel I: Political, Legal, Social and Economic aspects of Combating Piracy

This Informal Meeting of the General Assembly on Piracy is yet another opportunity for Member States to exchange views and good practices on this item of the maritime security agenda.

We recall that piracy has been the focus of the General Assembly attention both in the context of the IX Session of the Informal Consultative Process on Oceans and Law of the Sea, which dealt with Maritime Security, as well during the consultations, in the fall of 2009, on the *omnibus* Resolution on Oceans and Law of the Sea. Resolution 64/71 has a comprehensive section on the issue that contains recommendations, which were the object of a carefully negotiated agreement.

Article 101 of the United Nations Convention on Law of the Sea-UNCLOS-clearly sets out the *locus* where piracy occurs, that is, on the high seas and in a place outside the jurisdiction of any State. That part of the definition is essential for typifying the unlawful acts that piracy consists of, as per Article 101 of UNCLOS.

The role of international cooperation at the global, regional, subregional and bilateral levels is crucial in combating, in accordance with international law, piracy. The sharing of information among States and sustained capacity-building are key in supporting efforts to enhance maritime security, including in what concerns the prosecution of offenders.

The role of the International Maritime Organization must be emphasized. Cooperation among States and with the IMO is crucial in assisting with capacity-building through the training of seafarers, port staff and enforcement personnel in the prevention, reporting and investigation of incidents and bringing the alleged perpetrators to justice, in accordance with international law.

In that context, we also recognize the role of the United Nations Office of Drugs and Crime (UNODC) and its cooperation with the IMO, the Division of Oceans and Law of the Sea in compiling national legislations on piracy. Furthermore, the coordination between of UNODC and the Contact Group on Piracy off the Coast of Somalia may prove useful in helping to enhance the capacity of the judicial and the corrections systems in States in the East African region to prosecute and

imprison convicted pirates in a manner consistent with applicable international human rights law.

Panel II: Somalia: A Case Study

Efforts to address the issue of piracy off the coast of Somalia at the global and regional levels, have been the object of several resolutions by the Security Council [resolutions 1816 (2008) of 2 June 2008 and 1838 (2008) of 7 October 2008, resolution 1816 (2008) and resolution 1838 (2008), as well as resolution 1918 (2010)]. It must be recalled that the authorizations contained in resolution 1816 (2008) and the provisions in resolution 1838 (2008), 1846 (2008) and 1851 (2008) apply only to the situation in Somalia and do not affect the rights, obligations or responsibilities of Member States under international law, including any rights or obligations under the Convention, with respect to any other situation. Furthermore, they are not to be considered as establishing customary international law.

It should also be emphasized, as in General Assembly Resolution 64/71, “that peace and stability within Somalia, the strengthening of State institutions, economic and social development and respect for human rights and the rule of law are necessary to create the conditions for a durable eradication of piracy and armed robbery at sea off the coast of Somalia”. The resolution further emphasizes that “Somalia’s long-term security rests with the effective development by the TFG of the National Security Force and Somali Police Force, in the framework of the Djibouti Agreement and in line with a national security strategy”.

Panel III: Global Character of Piracy and the Crucial role of the UN and cooperation among Member states in Combating the Scourge

The social and economic impacts of piracy are undeniable. We have already underlined the vital role of international cooperation, both among States and with the system of the United Nations in combating piracy. Capacity building is an essential component of those cooperative efforts.

The focus of this Informal Meeting of UNGA is on piracy. We must, thus, keep in mind that Article 101 of UNCLOS clearly sets out the *locus* where piracy occurs, that is, on the high seas and in a place outside the jurisdiction of any State.

Pursuant to IMO’s Maritime Safety Committee (MSC) instruction, the secretariat of that organization issues monthly reports on acts of piracy and armed robbery against ships, as well as quarterly composite reports with an analysis on a regional basis. The MSC instructed that reported incidents be separately

classified to reflect whether they constitute piracy, when committed on the high seas or in a place outside the jurisdiction of any State, or armed robbery at sea when committed within the jurisdiction of a coastal State.

The annual report for 2009, published on March 29th 2010 (MSC 4/Circ.152), indicates that “Most of the attacks worldwide were reported to have occurred or to have been attempted in international waters, which are largely due to the steep increase in incidents off the coast of Somalia. However, for other regions of the world incidents mainly occur in the coastal States’ concerned territorial waters while the ships were at anchor or berthed”. Those do not constitute acts of piracy: they are armed robbery at sea and fall under the exclusive jurisdiction of the coastal State.

The regional analysis of reports reveals that, out of 210 reported incidents, 83 (40%) occurred in international waters, 48 (almost 60%) of which in East Africa. In our own region of South America, on the Atlantic coast, out of 14 reported incidents **none** occurred on the high seas. Two took place in territorial waters and twelve in port areas, thus constituting armed robbery and not piracy.

UNGA THEMATIC DEBATE ON PIRACY (14.05.2010)

- At the outset I would like to thank you Mr. Moderator and the distinguished panellists for their presentations. My country aligns herself with the points raised by Spain on behalf of the European Union. And, as a member of the Contact Group on Piracy off the Coast of Somalia, Greece supports the statement made by Norway.
- I would also like to make the following brief comments, concentrating on the sea aspects of Piracy off Somalia:
- Although it is correctly acknowledged that the root causes of piracy are associated with the situation in the mainland in Somalia, we are of the view that efforts to restore political stability in the country should not affect, in any way, the operational aspects of counter-piracy initiatives.
- On the contrary, as peace and reconciliation in Somalia is expected take some time, counter piracy

operations and measures should be maintained and, if necessary, reinforced.

- Second, my country's shipping industry continues to be heavily affected by pirate attacks, as the latest incident involving the Greek-owned merchant ship "Eleni R." just two days ago demonstrates. The protection of vessels and seafarers continues to be a priority for Greece, as is the prosecution of pirates. Touching on the issue of self-protection of ships, I would like to say that Greece continues to promote the implementation and wider dissemination of Best Management practices by shipping companies and to seafarers.
- Moreover, coordination among naval assets is an essential part of the operational strategy. In this respect, we believe that the SHADE mechanism provides a solid framework for cooperation.
- I would also like to draw the attention of member-states to a long term aspect of counter-piracy operations, particularly the sustained economic burden to those States which have provided, and will

continue to provide, naval vessels to combat piracy for an uncertain length of time.

- Mr. Moderator, in concluding my remarks I would like to take this opportunity to inform all members of this Assembly and especially the states participating in the Contact Group that the next Plenary of the Contact Group under Greek Chairmanship will take place in New York on June 10th, 2010.

Thank you Mr Moderator



PERMANENT REPRESENTATIVE OF MALAYSIA
TO THE UNITED NATIONS
NEW YORK

17 May 2010

Excellency,

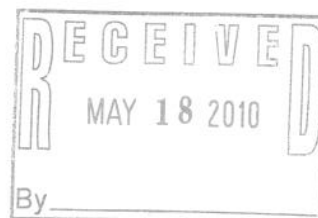
On 14 May 2010, your office convened an informal meeting of the plenary on the theme of piracy. Unfortunately, due to the constraints of time, many delegations such as mine, were not able to take the floor to request further clarification, comment upon, or factually correct the presentations made by panelists.

2. I am therefore writing to you, in the hopes that you will be able to consider this communication as *part of* the interactive debate that *should* have taken place on 14 May 2010.

3. During the first interactive panel moderated by Under Secretary General Patricia O'Brien, the USG was very clear in her definition of what constitutes piracy, and what constitutes armed robbery against ships. These are the definitions as provided by Article 101 of the 1982 UN Convention on the Law of the Sea, of which Malaysia is a party, and the International Maritime Organisation. By virtue of that definition, the unlawful acts committed in the Straits of Malacca have been classified as armed robbery against ships, falling within the jurisdiction of the territorial waters of Malaysia and Indonesia.

4. Since these acts were committed within the territory of the littoral states, only the littoral states of the Straits of Malacca (Malaysia, Indonesia and Singapore) have the sovereign right to take action against the perpetrators of these acts. The three littoral states have taken their responsibility seriously, undertaking enforcement, direct protection and surveillance of its maritime zones. For Malaysia's part, the Maritime Enforcement Agency of Malaysia is the agency mandated to enforce the country's maritime acts and laws.

5. In addition to Malaysia's physical presence in the Straits of Malacca through direct patrolling, Malaysia has also established a Sea Surveillance System (SWASLA) and the Automatic Identification System (AIS), both electronic monitoring capabilities to enable better surveillance of maritime activities within the Straits.



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6. As a direct result of the littoral States' vigilance in the Straits of Malacca for the first four months of this year (2010), only two incidents of armed robbery was reported. This is a marked decrease from the 6 incidents in 2009 and the four incidents each in 2007 and 2006.

7. As a littoral State of the Straits of Malacca which has contributed money, effort and personnel in patrolling the Straits of Malacca to ensure the safety of the Straits, Malaysia believes that the statement by the Executive Director of the Regional Cooperation Agreement on Combating Piracy and Armed Robbery against Ships in Asia (ReCAAP) is misleading. **It was not ReCAAP's activities which resulted in the decline of piracy and armed robbery in the Straits of Malacca, but the excellent cooperation and political will of the Straits' littoral States which managed to ensure that armed robbery against ships practically became a thing of the past.**

8. To disavow the contributions of the littoral States is an injustice in itself, and a disservice to the many security personnel who put their lives at risk for the security of Straits.

Please accept, Excellency, the assurances of my highest considerations.



Hamidon Ali
Ambassador, Permanent Representative
of Malaysia

His Excellency
Dr. Ali Abdussalam Treki
President of the 64th UN General Assembly
NEW YORK

STATEMENT BY NIGERIA AT THE INFORMAL GENERAL ASSEMBLY
PLENARY MEETING ON INTERNATIONAL MARITIME PIRACY
14TH MAY, 2010

Mr. President,

Excellencies,

Distinguished Delegates

The Nigerian delegation wishes to thank the President of the General Assembly for convening this meeting and to express its appreciation of this laudable effort at finding a solution to the menace of piracy off the coast of Somalia. The meeting comes at a time when the problem of international maritime piracy has come to pose extremely destabilizing and disruptive challenge to global trade and maritime security. We applaud the creation of the Contact Group on Piracy Off the Coast of Somalia. We believe the Contact Group will help to evolve a focused approach to what has emerged as one of the greatest maritime challenges of our time.

NIGERIA'S SITUATION

We are very grateful to the Moderator for the morning session for the clarity thrown on the definition of 'piracy' within the framework of UNCLOS – as acts committed on the high seas and not within territorial waters of any state. This is the position of Nigeria.

Contrary to the reports published by IMB, the word 'piracy' would not be strictly correct in the Nigerian context where local brigands occasionally confront vessels entering the ports and at times help themselves with

valuable items before disappearing quickly; and agitations by some youths in the oil-rich Niger Delta region for control of the resources of the region and need for infrastructural development are sometimes demonstrated through vandalization of pipelines, illegal oil bunkering and armed robbery against ships.

Nigeria has however put in place measures to deal with the maritime security breaches that occur within its territorial waters. To underscore the importance Nigeria attaches to dealing with these issues, the country is working with the active support of IMO to develop a robust legal framework to provide punishment for those involved in these maritime security breaches. As I speak, an IMO-nominated Consultant is in Nigeria to assist in the preparation of a stand-alone piece of legislation on the subject. We are grateful to the IMO for this support.

* * *

Mr. President,

The security challenge posed by piracy should not be under-estimated, given the important requirement of having safe Sea Lines of Communication (SLOC) and arterial maritime lanes that are needed to ensure smooth functioning of global trade. The international maritime domain plays host to important arteries of global commerce, which are necessary for the movement of crucial supplies, such as energy, raw material and manufactured goods. This is underscored by the fact that:

- i. 70 % of the earth's surface is covered by sea;
- ii. 90 % of global trade items is transported by sea;
- iii. The majority of world urban population live within 200 km from coast. 2.2 Billion within 100 km range.

- iv. 1.9 billion tons of petroleum or 60 % of global production are shipped through maritime transportation.

Against this background, the current situation off the coast of Somalia raises serious concern. The grim statistics from the International Maritime Bureau, regarding the number of hijackings in the last two years and the cost of ransom payouts are troubling. Even more troubling are the political, legal, and wider economic implications, which also includes serious downstream insurance losses. The once peaceful water of the strategic Gulf of Aden has become a dreaded, high-risk, area for Oil tankers and merchant vessels.

Heightened insecurity in the Gulf of Aden has thrown up unique challenges that were hitherto unforeseen, spurring some countries whose vessels have been victims of piracy to deploy more robust response action in the area. However, such can rightly be described as disparate self-help actions that are uncoordinated and lacking in uniformity in their reprisals, in the sense that the level of response is shaped by the country's naval outreach capacity. More needs to be done to forge a holistic response to the scourge by the international community.

Determination of jurisdiction over the crime of piracy, including resolving the issue of prosecution and penal custody of the convicted pirates is imperative. On this score, the Nigerian delegation would like to express its appreciation of the steps taken so far by the government of Kenya in helping to resolve some of the immediate legal challenges.

Mr. President,

Distinguish Delegates,

The problem of piracy cannot be resolved without considering the wider crisis in Somalia. It is a matter of criminality feeding on a festering crisis situation, in a mutually self-reinforcing cycle. The Transitional Federal Government (TFG) of Somalia lacks the capacity to check the pirates, who are mostly based in Puntland in northern Somalia, over which it has no control. On this score, we believe the time has come for the international community to take a closer look at the situation in northern Somalia, especially in Puntland, with a view to establishing political and criminal accountability, in order to eventually bring to book, those providing safe haven for the pirates, besides helping them to create the criminal infrastructures.

The United Nations can, and should take the lead in coordinating anti-piracy initiatives. We believe the time is ripe for the international community to deploy coordinated action to fashion appropriate response to this global maritime challenge. The task ahead would require cooperative synergies, pooling of capacities, information sharing, and designing creative solutions to difficult legal issues. Nigeria stands ready to engage positively to help realize these objectives.

Once more, the Nigerian Delegation appreciates the President of the General Assembly's initiative in convening this meeting. It is hoped that this would provide the required momentum needed to drive the search for solutions to the raging scourge of maritime piracy.

Thank you.



PHILIPPINES

(Please check against delivery)

**Statement by
H.E. Libran N. Cabactulan
Permanent Representative of the Permanent Mission of the Republic of the
Philippines to the United Nations in New York
at the
United Nations General Assembly
Informal Meeting on International Maritime Piracy
GA Hall, 14 May 2010**

Mr. Chairman,

First of all, I wish to thank H.E. Ali Abdussalam Treki, President of the General Assembly of the United Nations, for convening this important meeting. I also wish to thank H.E. Ban Ki Moon, Secretary-General of the United Nations for his participation in and valuable support to this meeting.

As we speak and discuss the issue of piracy today, 45 Filipino seafarers are currently being held by Somali pirates in separate hijacking incidents and many more are in danger of being kidnapped.

Of the 45 Filipino seamen, 19 of them form part of the crew of MV Samho Dream, a South Korean-owned, Marshall Islands-flagged super tanker, that was hijacked by Somali pirates northeast of Somali Basin on 04 April 2010. The super tanker, carrying 300,000 tons of crude oil, was en route to the port of Louisiana from Iraq when it was captured.

On 22 April 2010, another 21 Filipino crew members of MV Voc Daisy, a bulk carrier, was hijacked by Somali pirates in waters 190 kilometers southeast of Salalah, Oman. These are just two of the most recent celebrated cases.

Five Filipino seamen - three working aboard MV St. James Park, a UK-flagged ship, and two others aboard MV Talca and MV Iceberg I respectively - are among the international crew who still remain hostaged after their vessels were seized by Somali pirates last year.

Mr. Chairman,

The security, protection and welfare of Filipino seafarers have always been the principal concerns of the Philippine Government.

We anxiously await the successful conclusion of the negotiations that will lead to the expeditious release of the Filipino seafarers. We know that it will neither be an easy nor quick task. Last March, the 17 Filipino crew of a Taiwanese vessel seized by Somali pirates off the coast of Seychelles Islands were finally freed by their captors after spending 10 months in captivity.

The Philippine Government continues to coordinate closely with the ship's principals and local manning agencies for the early and safe release of all the Filipino seafarers.

At present Filipino seafarers comprise 25% or about 300,000 of the world's merchant mariners. They are valued for their technical skills, industry and dedication. It is no wonder that they form the backbone of the international crew aboard trans-oceanic ships. During the first nine months of 2009, the Filipino seafarers remitted around US \$2.5 billion to their families in the Philippines.

Due to the alarming increase of piracy off the coast of Somalia, the Philippine Government has reinforced its safety precautionary measures and crisis management training for Filipino seafarers on board vessels transiting the Gulf of Aden. Philippine labor officials also meet regularly with foreign ship owners and operators to discuss and implement step-up efforts to protect ship owners and seaman manning vessels plying the pirate-infested waters.

For the past two years, a notable decrease in the number of piracy incidents has been reported. In 2008, for example, 111 ships were attacked by pirates and 42 were seized, 214 Filipino seafarers aboard 18 ships were taken hostage. In 2009, however, pirates seized 7 ships and 106 Filipino seamen were taken hostage. The decrease may be attributed to the presence of multinational naval forces that patrol and assist ships in the "safe zone" of the Gulf of Aden. Thus, the Philippines is grateful to the US, UK, France, China and other countries that have sent naval forces in the area to protect the ships sailing through those waters.

Mr. Chairman,

The number of piracy incidents, if not restrained, is projected to grow. Piracy is no longer confined to the Gulf of Aden but has extended to the wider Indian Ocean. Buoyed by their initial successes and, in some cases, impunity from prosecution, the Somali pirates have converted their crude activities into a highly lucrative industry.

Piracy is a grave threat to international security and the damages and disruptions caused by pirates to international shipping and trade as well as the danger posed by pirates to the safety and well-being of merchant mariners have far-reaching negative impact and potential catastrophic effects.

The international community must not cease in its effort in combating and eradicating piracy. Pirates must be brought to justice to the extent possible. By uniting our efforts and intensifying our cooperation, we could make the Gulf of Aden and the wider Indian Ocean safe again for navigation. In this regard, the Philippines stands ready to cooperate with the United Nations, like-minded states and other partners to find long-lasting solutions to the problem of piracy and to extinguish its root causes.

Thank you.

INTERVENTION OF SINGAPORE

Singapore thanks the President of the General Assembly for this timely initiative. The fight against piracy is a concern of all Member States of the UN.

As a major maritime nation, Singapore remains deeply concerned about the piracy situation in the Gulf of Aden (GoA), and remains firmly committed to working with the international community to help to secure the GoA. Singapore recently completed a three-month command of the CTF151 in Apr 2010, which followed the deployment of a Singapore Armed Forces Task Group under the ambit of the CTF 151 from April to July 2009. We plan to deploy another Task Group from June to October 2010, as well as a Fokker 50 Maritime Patrol Aircraft later this year to assist in surveillance operations in the GoA.

My delegation commends ReCAAP ISC for its excellent work and reaffirms Singapore's commitment to the ReCAAP. The efforts by the ReCAAP ISC, along with cooperation among the littoral states through other initiatives such as the Malacca Straits Patrols, have resulted in a significant decline in piracy in the Straits of Malacca and Singapore and improved the regional maritime security situation. Still, Singapore remains vigilant and will continue to cooperate with Malaysia and Indonesia, and the rest of the international community, on maritime security in the Straits.

Singapore welcomes the Netherlands on board the ReCAAP. We also welcome Denmark's formal notification to accede to the ReCAAP. ReCAAP's growing membership reflects the consensus that international cooperation is

necessary to effectively address the problems of piracy and armed robbery against ships.

In addition to international and regional cooperation, it is also crucial for flag States to work closely with their shipping communities. The conclusions of the CGPCS WG1 meeting held in London on 10 May 2010 had highlighted the importance of adherence to Best Management Practices (BMP) to risk minimisation, that the identity of Flag States bears no correlation to the risk of attack by pirates, and that all Flag States should be pressed equally to ensure that shipping under their Flag adopts the BMP.

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Statement by

Adv. D. Mashabane
Deputy Permanent Representative
of the Republic of South Africa to the United Nations

General Assembly
Informal Meeting on Piracy

14 May 2010

Mr. Moderator

Let me from the outset thank the President of the General Assembly for organizing this important meeting today.

Mr. Moderator, my delegation welcomes the presence of the Secretary General of the United Nations, His Excellency Sheik Abdikadir Ali Omar, Interior Minister of Somalia, H.E. Mr. Amos Kimunya, Minister of Trade of Kenya and the distinguished panelists that introduced this important topic.

Mr. Moderator

As many speakers have pointed out before me, piracy has a dire effect on the political, social, economic and humanitarian situation in Somalia.

From the onset, we wish to underscore that South Africa believes that Somalia continues to face instability and conflict due to total neglect by the international community to help address its deep-seated political, security, economic and humanitarian challenges. The problem of piracy in Somali waters, must therefore be located in the context of the peace challenges facing it and its solution will ultimately be found by searching for holistic solutions to all the problems facing Somalia to put to an end the current conflict.

On the 16 October 2009, African Ministers adopted the Durban Resolution on Maritime Safety and Security and Protection of the Marine Environment in Africa. In that resolution they condemned and deplored all acts of piracy and armed robbery against vessels in waters off the coast of Somalia and the Gulf of Aden and among others welcomed and encouraged the implementation of the Djibouti Code of Conduct concerning the Repression of Piracy and Armed Robbery against ships off the coast of Somalia and the Gulf of Aden, for those countries that are party to it.

As many have pointed out, Under Article 100 of the UN Convention on the Law of the Sea, all states have a duty to cooperate in the suppression of piracy on the high seas.

Furthermore UNSC Resolutions 1816 and 1838 on piracy are illustrative of international efforts to combat piracy. Important to note though is that

the UNGA resolution on oceans and the law of the sea (63/111) as well as the Security Council Resolutions emphasise that these “apply only to the situations in Somalia and do not affect the rights, obligations and responsibilities of Member States under international law”.

Mr. Moderator

In the context of the above allow me to make the following points with regard combating piracy in Somalia

1. Piracy around the coast of Somalia is but a symptom of a broader challenge. The situation on the sea and high seas can only be addressed in the context of finding peace and security inland. Finding a **political solution** to the conflict in Somalia and establishing peace and security should therefore be the ultimate aim in addressing and finding a durable solution to the challenge posed by piracy.
2. There are several other grievances that have been invoked for these acts of piracy. Pirates have invoked as justification for their action the **illegal fishing** in Somali territorial and exclusive economic zone waters by foreign ships and the **illegal dumping of toxic waste** off the Somali coast. All member states must therefore observe their obligations in conformity with international maritime law and desist from illegally exploiting the natural resources of Somalia and committing illegal dumping activities.
3. This leads me to the third point, namely that the tragic situation in the waters of Somalia needs to be addressed in a **holistic manner**. This should be done by finding an all inclusive political solution and strengthening and extending the authority of the Transitional Federal Government, especially its police and security capacity to deal with the threat of spoilers and ongoing diplomatic efforts to get parties outside the Djibouti process to join the peace process. In this regard the support of the International Community for the Djibouti Peace Process is critical. It is also critical that those who continue to threaten the peace process be denied any success in their ongoing campaign aimed at destabilizing the government. Continued support for AMISOM is therefore indispensable in assisting the government to resist the military challenge which confronts it. However, the Security Council must fulfill its Charter mandated responsibility in the maintenance of international peace and security and we look forward to the deployment of a UN Peacekeeping Mission to eventually take over from the African Union Forces. In this regard the African Union in its most recent Summit held from 31 January-2 February 2010, urged the Security Council to speedily act on

its earlier request for the imposition of a no-fly zone and the blockade of sea ports to prevent the entry into Somalia of foreign elements and the supply of logistical and other support to the insurgency. The Summit also reiterated its call on the Security Council to take the necessary steps for the United Nations to play a role commensurate with the gravity and complexity of the situation on the ground.

4. Whilst arms embargoes, and individual sanctions, and strongly worded piracy resolutions in itself signals the international communities resolve to deal with the instability in Somalia, only a durable political solutions and the meaningful support of the international community will bring about the desired outcome.
5. The International Community has committed billions of dollars in creating an international naval presence in and around Somali waters. Whereas this investment is to be welcomed, it would be important also to invest in establishing a coast guard capacity under the control of the TFG and to empower national law enforcement agencies to perform the policing duties that could act as deterrence to would be pirates.
6. Lastly, creating income generating opportunities in coastal villages, i.e. sea farming and aquaculture could present youth with an alternative to the lucrative income generating opportunity associated with piracy.
7. By way of concluding, Mr. President addressing piracy around Somalia waters in a durable manner would require a combination of political, economic and security strategies to yield the desire effect. Focus exclusively on one without the others is doomed to yield limited success, or at best success in the short term only.

I thank you.



SRI LANKA

Statement

by

H.E. Dr. Palitha T. B. Kohona

Ambassador, Permanent Representative of Sri Lanka to the United Nations

Informal Meeting on Piracy

United Nations, New York.
14th May, 2010

(Please check against delivery)

Madam Chair,

My delegation thanks you for giving me the opportunity to speak on this important subject.

Piracy has a major destabilizing effect on countries, regional and global trade and security. 217 ships were attacked by pirates in 2009, 56 were hijacked. My country, extensively dependent on seaborne trade, is particularly concerned about these developments. Furthermore, a significant portion of world trade passes within 20 kms of Sri Lanka. The stability and safety of international trade is of prime importance to us and to our region. I note with deep concern that a number of Sri Lankan seamen have been the victims of pirates off the Somali coast. We believe that there needs to be a coordinated global approach in dealing with this threat. Ad-hoc approaches or quick fixes will not suffice.

The United Nations Convention on the Law of the Sea and the ILO Maritime Labour Convention are good starting points in addressing this challenge. As the Secretariat paper points out, some initiatives in addressing piracy can be implemented within the framework of the International Maritime Organization in the areas of security and navigation, political and socio economic repercussions of piracy, the necessity for land based initiatives, options to bring perpetrators to justice and cooperation among States. The trade and

political implications of piracy will require the continued attention of the United Nations. We need to ensure that the views of the wider global community are taken into account in addressing this threat to modern seafaring and commerce. It is amazing that one of the oldest threats to civilization is again causing a significant challenge in the globalized and digitized contemporary world. Piracy gave rise to one of the original bases for the development of the principles of universal jurisdiction.

We believe that the most effective mechanism to deal with piracy in its complexity is the United Nations as the only universal organization capable of consolidating international efforts. Cooperation is critical. If it is decided as necessary, we should look into elaborating an additional legal instrument which will take account of gaps in the existing framework of instruments and bodies. We also take the view that there is a need to assist countries affected to strengthen their domestic legal structures and capacities to deal with piracy. It is very clear that people who turn to piracy simply to make a basic living cannot be countered unless alternative livelihoods are provided. Unfortunately, we do not believe that only better courts, better judges and better jails will suffice. Sri Lanka stands ready to work with the international community in addressing these scourges.

Thank you Madam Chair.



2010.es

Permanent Mission of Spain

Delegation of the European Union

INTERVENTION OF SPAIN ON BEHALF OF THE EUROPEAN UNION

Informal Meeting of the General Assembly Plenary on Piracy

Panel 2 “Somalia: A Case Study”

- There is agreement within the international community that the naval action needed today to confront piracy in Somalia will not be sufficient to eradicate it unless a solution is found to its cause: the country's political instability.
- The overall lack of effective political institutions in Somalia, the ongoing armed conflict and the resulting destruction of a coherent economic context have allowed piracy groups all along an extensive coastline to persist, groups whose criminal activity reinforce the lack of a State power as well as economic and social sub-development.
- It is therefore essential to concurrently continue naval action and achieve the political pacification and stabilization of Somalia along with its economic reconstruction which will put an end to the social and humanitarian crisis from which its people are suffering. The full, effective and efficient implementation of the Djibouti Agreement is needed as rapidly as possible.
- In order to achieve this, the diverse actors involved (Transitional Federal Institutions (TFIs), countries in the zone, the AU, UN, EU, the League of Arab States and other members and bodies of the international community) need to responsibly coordinate our contribution to this objective with a multidimensional approach that takes into consideration political and security aspects and the economic-social reconstruction of Somalia.

Political Considerations

- Despite recent progress achieved in some of the provisions of the Djibouti Agreement for the transitory period (TFG Agreement with the AWSJ, MOU with Puntland), its reach is still very limited.

- As a result, what is needed is the fundamental and urgent cohesiveness and firm commitment of members of the TFIs in the development and implementation of a “road map” to comply with the essential political aspects of the Djibouti Agreement before the end of the transitory period.
- This “road map” must have the encouragement and full support of the international community, by means of coordinated and coherent action and an appropriate division of labour based on the respective capacities of each actor.

Security Considerations

- It is a priority that the TFG is provided in the shortest delay as possible security forces (military and law enforcement) that permit it to efficiently confront radical Islamic elements and to establish an effective authority in the country. It is urgent, therefore, to adequately strengthen AMISOM whose support of the TFG is fundamental and will continue to be so in the foreseeable future.
- To accomplish this goal, the TFG as well as the AU and members of the international community need to assume our responsibilities and resolutely manifest our respective contributions.
- In this connection, the EU began on 10 May a year-long Training Mission in Uganda which will include up to 2000 members of the Somali armed forces in collaboration with TFG, AU/AMISOM, Uganda and the United States. This is an effort to outfit these forces with all that is necessary (preparation, equipment, salaries) for their efficient operation.
- In addition to the development of Somali armed forces and law enforcement officials, it is important in the context of the fight against piracy to provide these authorities with the means appropriate to guard and provide surveillance of the coastline, as well as the judicial tools and an adequate penitentiary system to protect its sovereignty over its waters.
- In view of this objective, the GCPCS and the EU have conducted needs assessment surveys in this area, in both the different zones of Somalia and in the countries of the region (in the context of the IMO projects) so that members of the international community can contribute (directly or through the Trust Fund created for this purpose) to the development of respective maritime capacities.
- We hope that the Memorandum of Understanding recently signed by the TFG and Puntland on these questions will significantly contribute to this end in Somalia.

Socio-Economic Considerations

- Economic reconstruction and social reintegration are also key factors in the stabilization of Somalia and are particularly relevant in zones where piracy bases exist.
- Accordingly, local communities which can create alternatives to the existing criminality need to be developed by the realization of viable agricultural and fishing projects as well as by infrastructure, communications and finance projects. Insofar as the TFG can offer the Somali population genuine opportunities towards a dignified and stable life, in conformity with its culture and traditions, the foundations for eradicating piracy will be established.
- Once again, the firm commitment of the TFG, the Somali private sector, in particular that of the Diaspora and of the international community will be determining factors in this process.
- In order to further advance on this path before us, a favourable conclusion to the Istanbul Conference on Somalia which will take place in Istanbul from 22 to 23 May is crucial. It is hoped that the follow-up and furthering of its achievements will materialize in Spain this fall at a ministerial meeting of the International Contact Group on Somalia with a view to establishing an effective “road map” for the fulfilment of the Djibouti Agreement.
- In any case, we need to emphasize that the solution to the critical situation in Somalia lies inevitably in the determined engagement of, first of all, all members of the TFIs as well as in the diverse members of the international community alongside them, to finding a solution in conformity with a realistic strategic plan and to faithfully fulfilling each one of our commitments thereto.

УКРАЇНА



UKRAINE

STATEMENT
by Mr. PAVLO KLIMKIN
Deputy Minister for Foreign Affairs of Ukraine
at the Informal General Assembly Plenary Meeting on Piracy
(14 May 2010)

Mr. Moderator,

Thank you for giving me the floor.

Ukraine is grateful to the President of the GA for bringing the idea of convening the General Assembly meeting on piracy to life.

The President's valuable leadership in bringing all Member States together with the aim of elaborating a unified approach in countering maritime piracy made it possible to address this challenge within the General Assembly, the fully representative body of the United Nations.

We would also like to thank the Office of the President of the GA for the thorough preparation of this session.

Ukraine appreciates all delegations' interest in participating in the discussion. We hope it will be constructive and fruitful.

Mr. Moderator,

Given the multifaceted nature of maritime piracy, particularly its social, economic preconditions and legal complexities as well as safety and security impacts, it is our strong belief that it is vitally important to make good use of the potential of the General Assembly in dealing with this threat.

My delegation strongly believes that the consideration of the problem of piracy by the General Assembly constitutes an integral part of a comprehensive, cohesive and broad-based approach taken by the United Nations in dealing with this challenge. Therefore, our country has taken consistent efforts in addressing piracy within the General Assembly.

Mr. Moderator,

Ukraine believes that in the light of the recent piracy outbreak the issue of crew protection in shipping industry and post-accident treatment for piracy survivors deserves to be a matter of our most serious concern.

We call upon the UN member States, the International Maritime Organization and the International Labour Organization to expedite the implementation of the provisions of the 64th UN General Assembly Resolution «Oceans and the law of the sea» 64/71 of 4 December 2009 concerning elaboration and adoption of possible solutions for the seafarers and fishers who are victims of pirates. Ukraine is committed to contribute to this process in a results-oriented manner.

In order to mitigate the aftermath of modern piracy in a contemporary manner, it seems that the Governments, shipowners, insurers and all other stakeholders in maritime business should

consider seafarers as their true and genuine social partners. It requires a fresh look from those setting the rules into the problems related to the postconflict rehabilitation, compensation for moral damage and material losses as well as renewal of physical and mental strength and health. It seems that in many cases released from the piracy's captivity seafarers remain alone with their problems. Solution depends on different factors such as the quality of seafarers' employment agreements, modalities of justice when it comes to protecting rights of laborers, accessibility and quality of medical and social assistance.

We appreciate all efforts of international organizations to deal with all these issues. In March 2010 the European Commission organized a seminar "Piracy and Armed Robbery at Sea: How Best to Protect Seafarers". Participants had an excellent opportunity to receive a feedback from those who became victims of pirates and to exchange views on various topics of seafarers' social protection.

Later in March the Working Group 3 of the UN Contact Group on Piracy off the Coast of Somalia, which had its meeting at the IMO Headquarters in London, had an opportunity to discuss how to ensure seafarers' welfare in the face of dangers of pirates' captivity and attacks. This work is going to be continued at the 87th session of the IMO Maritime Safety Committee, which takes place in the second half of May this year.

These events proved the approach taken to be correct with regard to the problems of victims of pirates. However, seafarers are awaiting from us sustainable solutions embodied in firm States' obligations and responsible behavior of shipowners and companies. These solutions have to be found with the concerted efforts of the ILO, IMO, Member-States, seafarers' and industry representative organizations.

We also consider that the primary responsibility of the Flag States for ensuring the effective implementation and enforcement of international instruments related to maritime security and safety, in particular the UN Convention on the Law of the Sea, as well as for bringing those guilty of acts of piracy and armed robbery of ships to responsibility requires further strengthening.

It seems indispensable to foster the role of Flag States in preventing the crews to become victims of pirates. A tentative list of the Flag State functions in the event of seafarers' captivity may include the following:

- maintaining control over the company, rendering assistance if necessary – informational and organizational,
- granting support by diplomatic and other means to the measures undertaken by the company,
- ensuring prompt exchange of information and rendering assistance to other interested States,
- coordinating efforts undertaken at the international level, that is – communication and coordination with the IMO, with the organizations which have established links with the agents situated in the territory where the ship is retained,
- rendering assistance and arranging provisioning with water, food and medicines if needed,
- ensuring compliance of the companies in matters related to preparedness of crews to face problems.

It seems to be timely to start thinking of making them mandatory under international conventions and regulations.

It is important to study more carefully all issues related to the prohibition of ransom payment by companies. So far it is the principal way of ensuring captured crews release. If the

prohibition is established without proper consideration of possible negative effects it will influence gravely the fate of those who are held in captivity and who might be hijacked by pirates in the future.

Mr. Moderator,

At present the problem of international maritime piracy has gained a global character. No region of the world is immune from it.

Without any doubt, the Indian Ocean deserves to be a matter of our biggest concern in this regard. We are witnessing piracy to continue its expansion further off coast. The recent attacks have reached the point of 1,200 nautical miles from the sea line of Somalia.

These developments demand a comprehensive approach to dealing with the piracy, above all, through the coherent engagement of the competent UN bodies. Thus, in our view, the division of tasks could be the following: the social and economic implications of piracy could be addressed by the General Assembly, while the security and military ones – by the Security Council, making therefore the full use of comparative advantages of these bodies.

Mr. Moderator,

When a person responsible for acts of piracy enjoys compromises on his impunity undermines anti-piracy efforts taken by the international community. We note with satisfaction recently adopted by the Security Council resolution 1918 (2010) requesting the Secretary General to prepare a report on possible options for ensuring prosecution and incarceration of pirates captured off the coast of Somalia. We would like to give credit to the Contact Group on Piracy off the Coast of Somalia for its efforts to enhance the capacity of the international judicial system in order to give way to bring to justice persons responsible for acts of piracy and armed robbery at the sea.

We believe that the future judicial mechanism created by the international community can play an important role in the process of suppressing piracy and armed robbery in the Gulf of Aden and especially off the Coast of Somalia. We expect that it will make consistent with applicable international human rights law bringing to justice and imprisonment of convicted pirates.

We fully agree that the Secretary-General's report must take into consideration the work of the Contact Group on Piracy off the Coast of Somalia (CGPCS), which has reached a significant progress in fulfilling its mandate.

Mr. Moderator,

In our view, an effective criminal justice is a crucial factor of successful anti-piracy campaign. Ukraine commends the activities of the United Nations Office of Drugs and Crimes to that end, namely its assistance programs in Kenya and Seychelles targeted at ensuring the capability of police, coastguard, prosecutors, courts and prisons to handle the additional challenges of piracy cases.

We welcome the decision taken by Seychelles to establish a regional centre for the prosecution of piracy, which will enable it to accept for prosecution in its courts transferred piracy suspects apprehended by the European Union Naval Force Somalia Operation (EU NAVFOR).

We can not overestimate the need for Member States to share their legislative experience with the view to enhance and update their national anti-piracy regulations. In this regard we

appreciate the efforts of the Division for Ocean Affairs and the Law of the Sea in preparing a compilation of the Member States national legislation on piracy.

Mr. Moderator,

The first ship with the Ukrainians on board was captured by Somali sea pirates on April 4, 2008. Since that time 25 violent attacks on vessels with 129 Ukrainian sailors on board had been carried out. As a result of these attacks two citizens of Ukraine have been killed. The year 2009 witnessed the peak of pirate attacks.

Bearing in mind all these facts Ukraine welcomes the efforts of the European Union, the Russian Federation, USA, China and other countries to help deter, prevent and repress acts of piracy and armed robbery off the Somali coast.

The ships of EUNAVFOR Somalia (operation "Atalanta") repeatedly have provided assistance to ships with Ukrainian sailors on board.

In particular, the security and maintenance assistance was provided for Ariana bulker after its liberation from pirate captivity (the ship was in the hands of maritime criminals more than 7 months).

In order to make its contribution to the international efforts in combating piracy Ukraine has taken a political decision to join the EU NAVFOR Operation Atalanta. On March 29, 2010 we received an official invitation of the European Union to join the Operation Atalanta allowing us to continue further consultations on Ukraine's participation in official format.

Ukraine is considering the possibility of involving into the Operation Atalanta the Special Task Forces personnel – the vessel protection detachments. In this regard, the important task is to obtain permission of the Flag States of vessels delivering humanitarian aid of the UN World Food Programme (WFP) on embarkation of the vessel protection detachments. These negotiations are currently conducted by the European Union.

Being committed to contribute to the efforts of the CGPCS in strengthening shipping self-awareness and other capabilities, Ukraine has taken necessary measures to implement Best management practices to avoid, deter or delay acts of piracy (adopted by the IMO) (BMPs) for self-protection of the industry developed by the Contact Group.

It should be highlighted that during the 87th Session of the IMO Maritime Safety Committee the Ukrainian delegation made suggestions concerning the incorporation of the recommended elements of BMPs into the several mandatory instruments: International Ship and Port Facility Security Code (ISPS) and International Management Code for the Safe Operation of Ships and for Pollution Prevention (ISM). We are of the opinion that these measures will be positive steps in ensuring a minimum level of maritime security, since implementation of the both instruments is controlled by the Flag State and Port State administrations.

Mr. Moderator,

Let me underline that the coherent collaboration between the General Assembly, the Security Council, other relevant institutions and agencies of the United Nations as well as CGPCS would allow us to apply a unified and well-coordinated approach in countering maritime piracy.

Thank you

(As delivered)

GENERAL ASSEMBLY INFORMAL MEETING ON PIRACY

Panel on:

Global character of piracy and the crucial role of the UN and co-operation amongst Member states in combating the scourge

**Statement by Mr. Efthimios E. Mitropoulos,
Secretary-General of the International Maritime Organization**

**United Nations Headquarters, New York
14 May 2010**

Mr. President, Ministers, Excellencies, Distinguished moderators, panellists and delegates, ladies and gentlemen,

It gives me great pleasure to be given the opportunity to address this informal meeting of the General Assembly and moderate this panel session. Congratulations are due to the President of the General Assembly for his initiative to convene this meeting.

As the Secretary-General said this morning, piracy is a global problem, but it is also an old one. Innocent seafarers have faced its dangers since mankind first crossed the oceans. And it is, therefore, a genuine anathema in the 21st century that the threat of acts of piracy and armed robbery against ships is as pernicious, today, as at any time in history.

Piracy has, for many centuries, been regarded as a universal crime – now codified as such in the United Nations Convention on the Law of the Sea – and, while extremely worrying because of the traumatic impact it has on seafarers on board hijacked ships and the consequences on shipping and seaborne trade, it is heartening that its recent escalation has mobilized the international community in a concerted effort to prevent and repress it, wherever it may occur.

In recent years, we have witnessed this scourge in the South China Sea, the Straits of Malacca and Singapore and the Gulf of Guinea. But it is its increasing frequency and ferocity off Somalia and in the Gulf of Aden – now extending into the wider Indian Ocean – that has galvanized public attention and a determined, multilateral response without precedent.

The problem of piracy is damaging on several levels. For those, who find themselves actually subject to attack – typically seafarers, fishermen or passengers – the danger to life, the prospect of captivity and even the stress of having to sail through known hot-spots, are things that no innocent civilian should have to bear during their normal working lives.

On a broader front, the interruption of aid to millions of people in Somalia, for example; the adverse effect of piracy on fishing and tourism in the western Indian Ocean region; the economic damage to the shipping industry; the possibility of disruption to international trade; the threat to energy supplies; the potential for environmental damage; and, perhaps most worryingly of all, the risk that funds generated from ransoms might be used to fuel political unrest and insurgency and, in the worst case, acts of terrorism, are all reasons why this has been recognized as a problem of global concern with ramifications extending beyond the piracy-infested regions.

IMO has addressed the phenomenon for some time, developing guidance for dealing with the threat as long ago as the 1980s and compiling and analyzing statistics, which helped us identify patterns and trends and adapt our guidance to the realities. We have also been promoting regional agreements for the implementation of counter-piracy measures. Indeed,

we will hear shortly about the co-operation that, with IMO support, Asian nations have successfully established to combat piracy and armed robbery in the Straits of Malacca and Singapore; while, in West Africa, we are collaborating with regional States and institutions to create an integrated coast guard function, which will also address the issue.

And, since IMO first brought the situation off Somalia and in the Gulf of Aden to the attention of the Security Council, in 2005, we and the maritime community have appreciated the unequivocal reaction of the Secretary-General, the Security Council and now the General Assembly, to our requests for support and action.

As I advised the Security Council, when addressing it in November 2008, our, IMO's, concerns in this case are threefold:

- **one**, to protect seafarers, fishermen and passengers on ships sailing through the affected waters;
- **two**, to ensure the safe delivery of humanitarian aid to Somalia by ships chartered by the World Food Programme; and
- **three**, to preserve the integrity of the shipping lane through the Gulf of Aden, given its strategic importance and significance to shipping and trade, east and west of the Suez Canal.

In response, the Security Council has, with the consent of the Transitional Federal Government of Somalia, adopted a series of resolutions authorizing significantly important measures to repress piracy and armed robbery against ships off the country's coast, in a manner consistent with international law. The authorizations given in those resolutions have enabled political and defence alliances of States and regional organizations – including the European Union and NATO, in particular – as well as individual nations to dispatch naval forces and military aircraft to patrol the vast area off Somalia, in the Gulf of Aden and in the wider Indian Ocean, and to escort vessels used by WFP to deliver humanitarian relief.

I would ask you to reflect on this, one of the greatest examples of international co-operation of all time, because it is possibly the first time in history that navies from countries so far and wide have converged in one area, joining forces in an unparalleled demonstration of solidarity, of how strongly the international community feels about the modern stigma of piracy, and of its determination to eradicate it. It is a signal achievement of the international community for which we should all pay due tribute.

The Security Council's actions have also led to the creation of the Contact Group on Piracy off the Coast of Somalia, in the various Working Groups of which several UN bodies play an active role.

The Contact Group's work has dovetailed effectively with IMO's own consideration of the piracy problem within our Maritime Safety and Legal Committees while our Assembly recently adopted a Code of Practice for the Investigation of the Crimes of Piracy and Armed Robbery Against Ships – not to mention the mandatory security standards we introduced in the International Convention for the Safety of Life at Sea, most notably the adoption of the International Ship and Port Facility Security Code.

In addition, our Legal Office is co-operating closely with the Contact Group's Judicial Issues Working Group – from whose Chairman, Ambassador Thomas Winkler, we heard this morning – in particular, for the compilation of national legislation on the arrest, prosecution, conviction and imprisonment of suspected pirates and armed robbers, and in providing, with other UN partners, technical assistance to countries to develop such legislation and the necessary judicial capacities.

Building capacity has been at the heart of IMO's work to promote regional co-operation in the western Indian Ocean and the Gulf of Aden. Our efforts culminated, in January 2009, with the formal adoption of the Djibouti Code of Conduct, which now has 14 signatory States, all united in the effort to implement the rule of law at sea and, together, build regional systems and infrastructure for information sharing, training, maritime situational awareness and legislative improvements. These, we expect, will help to reduce substantially the operation of pirates in the region, just as they did in the South China Sea and the Straits of Malacca and Singapore, where the experience gained is now serving as a template for the signatories to the Djibouti Code.

To promote the Code's full and effective implementation, IMO is co-operating with DOALOS, DPA, FAO, UNDP, UNODC and UNPOS from the UN System; the European Commission, EUROPOL, INTERPOL and ReCAAP-ISC at the multilateral level; individual States such as Japan, which has donated US\$13.6 million to our Djibouti Code Trust Fund, as well as France, the Netherlands, Norway and the Republic of Korea, which have provided further contributions; and, last but by no means least, with the Code's signatories, the Transitional Federal Government of Somalia and the local authorities of Puntland and Somaliland.

It emerges from the foregoing that the global character of piracy, and the imperative of combating it, make it essential that States continue establishing effective co-operative mechanisms and that the UN System provides a leading, indeed, coordinating role. And, while we have recently witnessed – indeed, engendered – just such developments, let us not forget that the job is not yet done. As I speak, there are still 21 ships and 442 seafarers being held hostage in Somalia – and the numbers are growing with two ships, a Bulgarian chemical tanker and a Greek bulk carrier, totalling 39 seafarers yesterday reported to have been hijacked off Somalia.

Experience demonstrates that multilateral co-operation arrangements, between and among States, regions and institutions, can provide the means to reduce the risk of unprovoked attacks on innocent ships, including through coordinated patrols in high-risk areas; information sharing and training; intelligence exchange; and hot pursuit, following attacks. Let us maintain and increase our efforts to do so.

It is, of course, acknowledged that the incidence of piracy off the coast of Somalia can only be stemmed when political stability, allowing the country to function as a State once again, is reinstated and the Government is able to exercise its jurisdiction. I am optimistic that the measures taken by the UN System with the Somali authorities, regional organizations and individual States will be successful in moving the political process in the country forward and helping it re-establish stability on land, all of which will, undoubtedly, contribute to the improvement of the situation with regard to piracy off its coast and in the Gulf of Aden.

To conclude: the international community must spare no effort to address the root causes of the problem promptly and comprehensively, involving the Somalis themselves in the first place, so that peace, stability, security and the conditions for sustainable development are re-instated in this much-troubled land, to the benefit of its long-suffering people.

Given the global character and global consequences of piracy, the co-operation of all parties concerned under the auspices of the United Nations is indispensable.

Thank you.

**Informal meeting of the General Assembly on Piracy
14 May 2010
United Nations Headquarters, New York**

**Statement by Ms. Patricia O'Brien
Under-Secretary-General for Legal Affairs
The Legal Counsel**

**Your Excellency, Ambassador Dr. Ali Abdussalam Treki, President of
the General Assembly of the United Nations,
Excellencies,
Distinguished Participants,
Ladies and gentlemen**

My statement today has three objectives: 1) give a broad overview of the legal framework for the repression of piracy under international law; 2) bring to your attention some specific legal issues that have arisen in particular in the context of Somalia; and 3) highlight some of the actions taken by the General Assembly and the Security Council thus far to address piracy, including off the coast of Somalia.

**Excellencies,
Ladies and Gentlemen, (1. *The legal framework*)**

As we all know, acts of piracy and armed robbery at sea have widespread repercussions, including the disruption of international navigation and trade. Such acts also have significant negative impacts on the lives and livelihoods of seafarers, as well as on the security situation in the regions where Piracy is pervasive.

I would like to start out by emphasizing that international law *does* provide an adequate legal framework for addressing the crime of piracy, but it is also clear that more needs to be done to implement this framework, especially at the national, but also at the regional and international levels.

The legal framework for the repression of piracy under international law is based in the 1982 United Nations Convention on the Law of the Sea (UNCLOS), which also reflects customary international law. Other instruments, such as the 1988 SUA (Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation), may also be relevant to combating piracy since some elements of the act of piracy may also constitute offences under such instruments. In addition, for some States, regional and bilateral agreements and arrangements may also be relevant. In the context of Somalia, which I will deal with later, the legal regime is complemented by a number of Security Council resolutions.

It should also be recalled that, in the repression of piracy, States remain bound by other applicable norms of international law. Thus, clearly, apprehension, detention, prosecution and imprisonment must all take place in accordance with a State's international human rights obligations.

Piracy, as defined in UNCLOS, includes any illegal act of violence, detention or depredation committed for private ends by the crew or passengers of a private ship against another ship, or persons or property on board that ship. It is a crime which can only be committed on the high seas or in the Exclusive Economic Zone (EEZ) of a State.

When piratical acts are committed within the territorial waters of a State, they are not qualified as "piracy" under UNCLOS, but are known as "armed robbery at sea" or "armed robbery against ships".

Given that piracy, by definition, can only occur beyond the territorial sea, UNCLOS and customary international law provide for universal jurisdiction over acts of piracy.

Let me take a minute to elaborate on the concept of universal jurisdiction, which is of vital importance in the context of piracy. Universal jurisdiction is criminal jurisdiction *which is* based solely on the nature of the crime (in this case, piracy), and does not have regard to where the crime was committed, nor to the nationality of the alleged or convicted perpetrator, nor to the nationality of the victim, nor does it require any other connection to the State exercising such jurisdiction. Thus, it is the broadest possible legal basis for States to exercise jurisdiction under international law. In the context of piracy, it means that any State may seize a pirate ship or a ship under the control of pirates, any State may arrest the suspects, and any State may prosecute them, pursuant to the provisions of UNCLOS.

Excellencies,

Ladies and Gentlemen, (2. Legal issues that have arisen)

While UNCLOS sets forth a legal framework which allows States wide latitude to take measures against piracy, the responsibility is on States to implement the provisions of UNCLOS within their own national legislation. It is the responsibility of States to ensure that their military and law enforcement officials have the necessary authority under national law to carry out the arrest and prosecution of suspected pirates. It is important, in this regard, to also be aware that under UNCLOS, universal jurisdiction is “permissive”. That is, the exercise of such jurisdiction by States is not an obligation, but a right.

This is not to say that States do not have any firm obligations under UNCLOS in relation to the repression of piracy. In fact, UNCLOS requires that all States “cooperate to the fullest extent possible in the repression of piracy”, (Article 100). This is a broad and meaningful treaty obligation, which States must implement. It is therefore important for States to work together to develop solutions to ensure the criminal accountability of suspected pirates, and the imprisonment of convicted pirates. Some notable examples of such cooperation at the regional level are the ReCAAP Agreement (Regional Cooperation Agreement on Combating Piracy and Armed Robbery against Ships in Asia) and the Djibouti Code of Conduct.

Although the legal basis for the prosecution of pirates under UNCLOS is well-established, some States have encountered substantial practical and legal difficulties in its implementation. These include a lack of national legislation or of updated national legislation, evidentiary issues, coordination issues and a lack of capacity. The Security Council has stated (in resolution 1918) that “the failure to prosecute persons responsible for acts of piracy and armed robbery at sea off the coast of Somalia undermines anti-piracy efforts of the international community”.

One of the factors that has been hindering the effective prosecution of piracy is the fact that many States have either not enacted the national legislation specific to piracy, or their existing legislation is outdated. In that regard, my Office is collaborating with the International Maritime Organization and the United Nations Office on Drugs and Crime in the compilation of national legislation on piracy collected from States. Hopefully, this will serve as a valuable resource for States wishing to review their own national legislation.

Besides national legislation, several other legal issues need to be considered, such as, the procedures for the arrest and detention of suspected pirates at sea, as well as their transfer and extradition to third States where necessary;

the extraterritorial application of human rights obligations to States' naval forces engaged in the repression of piracy and questions related to the use of force where necessary. Additionally, there is the problem of securing the availability of witnesses since most of the victims are seafarers. Coordination amongst States with different legal systems has also posed challenges.

These difficulties are not insurmountable. We have already seen coastal States, seizing States and flag States all undertaking prosecutions.

It goes almost without saying that one of the main impediments to effective legal action against piracy in many parts of the world remains lack of capacity. Many States simply do not have sufficient capacity to apprehend, detain, prosecute and imprison suspected pirates. The United Nations is aware of this and many entities, including the International Maritime Organization (IMO), the United Nations Office on Drugs and Crime (UNODC), the United Nations Development Programme (UNDP), my own office and others are working to assist States to develop their capacity to combat piracy. The Trust Funds established by the Contact Group on Piracy off the Coast of Somalia and by the IMO for the implementation of the Djibouti Code of Conduct can play an important role in this regard.

Excellencies,

Ladies and Gentlemen, *(3. Actions that have been taken by the General Assembly and the Security Council)*

As a principal organ of the United Nations, the General Assembly considers piracy on a yearly basis as part of its discussions under the agenda item: "oceans and law of the sea". The General Assembly has addressed piracy in a number of its resolutions on oceans and the law of the sea, where it has, among other things, urged States to cooperate to suppress this crime as well as to "take appropriate steps under their national law to facilitate the

apprehension and prosecution of those who are alleged to have committed acts of piracy”.

In resolution 64/71 (2009) adopted on 4 December 2009, the General Assembly, recognizing the negative impact that acts of piracy have on seafarers, also invited “all States, the International Maritime Organization and the International Labour Organization to consider possible solutions for the seafarers and fishers who are victims of pirates”. Piracy has also been discussed in depth at two meetings of the United Nations Open-ended Informal Consultative Process on Oceans and the Law of the Sea, in 2001 and 2008.

**Excellencies,
Ladies and Gentlemen,**

More particularly in relation to the situation of piracy off the coast of Somalia, which the next panel will address more fully, I would just like to highlight some of the measures that are being taken by the United Nations, and in particular by the Security Council as this forms a significant element of the legal basis for addressing piracy, in the context of Somalia.

As you are aware, the Security Council of the United Nations has repeatedly expressed its grave concern about this ongoing threat and the attendant dangers to shipping in a number of resolutions which relate specifically to the situation in Somalia, notably resolutions 1816 (2008), 1846 (2008), 1851 (2008) and 1897 (2009). These resolutions determine that piracy and armed robbery off the coast of Somalia exacerbate the situation in Somalia, which constitutes a threat to international peace and security. The resolutions were thus adopted under Chapter VII of the UN Charter. It should be recalled, in this regard, that these resolutions also expressly state that they apply only to

the situation in Somalia and should not be considered as establishing customary international law.

Initially, resolution 1816 (2008), allowed States cooperating with the Transitional Federal Government (TFG), for a period of six months, to enter Somalia's territorial waters and to use "all necessary means" to repress acts of piracy and armed robbery at sea. The resolution makes clear that "all necessary means" are to be used "in a manner consistent with such action permitted on the high seas with respect to piracy under international law". It may be recalled that, pursuant to UNCLOS, anti-piracy operations are considered law enforcement operations. Resolutions 1846 and 1897, respectively extended this authorization for further 12-month periods.

In resolution 1851 (2008) the Security Council went a step further and decided that for the subsequent year, States and regional organizations cooperating in the fight against piracy and armed robbery at sea off Somalia's coast, for which prior notification had been provided by Somalia's TFG to the Secretary-General, could "undertake all necessary measures that are appropriate in Somalia for the purposes of suppressing acts of piracy and armed robbery at sea" in accordance with "applicable international humanitarian and human rights law". The resolution also calls upon States to assist Somalia to strengthen its operational capacity to interdict those using Somali territory to plan, facilitate or undertake such acts.

Most recently, in resolution 1918 (2010), which was adopted on 27 April 2010, the Security Council called upon the Secretary-General to prepare a report on "possible options to further the aim of prosecuting and imprisoning persons responsible for acts of piracy and armed robbery at sea off the coast of Somalia", including in particular, "options for creating a special domestic chambers possibly with international components, a regional tribunal or an international tribunal and corresponding imprisonment arrangements." The

Office of Legal Affairs is working with the Department of Political Affairs, UNODC and other relevant partners in the preparation of the report.

Excellencies,

Ladies and Gentlemen,

To conclude, I wish to recall that the General Assembly has a continuing role in addressing piracy from a global perspective. For example, the General Assembly has consistently urged States (most recently in GA resolution 64/71 paragraph 73) to actively combat piracy and armed robbery at sea by adopting measures, including those relating to bringing the alleged perpetrators to justice, in accordance with international law, and by adopting national legislation.

In the context of piracy off the coast of Somalia, there are a number of issues which remain to be resolved, some of which I have touched upon. Central among these, as also underlined by the Secretary-General, is the need to address the root causes of piracy on land in order to achieve a sustainable long-term solution to the problem of piracy.

The United Nations, including the Office of Legal Affairs, remains committed to supporting the efforts of States in the repression of piracy and has taken a number of actions, as I previously indicated. For example, the Office of Legal Affairs continues to support the work of the General Assembly and the Security Council. It is also assisting Working Group 2 of the Contact Group on Piracy off the Coast of Somalia on legal issues. Going forward, I would like to underscore the continuous need for international cooperation in the repression of piracy.

Thank you. I wish you successful deliberations.



Statement by

**Rear Admiral Peter Hudson CBE
Operation Commander
European Union Naval Force
'Operation ATALANTA'**

**Informal Meeting of the General Assembly
Plenary on Piracy**

**'Global character of Piracy and the crucial role of the UN and Cooperation amongst
Member States in Combating the Scourge.'**

United Nations

New York

14 May 2010

- CHECK AGAINST DELIVERY -

Mr President,

Ambassadors, Sirs, Ladies and Gentlemen good afternoon. Firstly, I would like to take this opportunity to pass the apologies of Mr Van Rompuy who I know regrets not being able to attend this plenary session on piracy. I am extremely grateful for the opportunity to speak at the General Assembly about piracy and the role of the European Union's Naval Operation 'Operation ATALANTA' and its contribution to maintaining freedom of navigation on maritime routes vital for regional and world economy. In doing so I will touch on the theme of co-ordination which is so crucial ashore, and at sea.

Piracy is a threat that knows no boundaries – the country of ownership, flag state or registration is not relevant to these criminals who operate across the high seas – this has lead to increased risk of strategic shock to economies of the world as the life-blood of our nations becomes susceptible to the international threat that is piracy. The economy is only one issue, we must also not lose sight of the human suffering that hundreds of innocent mariners confront as they are held hostage, often for many, many months.

For the EU, and many other countries, these additional threats have added a new urgency and dimension to the traditional tasks conducted by navies, coast guards and other enforcement agencies of ensuring maritime security. Many think piracy, particularly in the Gulf of Aden, is a new threat. It is not. This particular brand of maritime crime has been prevalent since the 18th century, indeed my own Navy was conducting anti piracy and slavery patrols off East Africa 300 years ago. What is new is the heightened level of force and violence shown to mariners, the scale of the criminal activity and enormous area covered by the pirate gangs. It is akin to industrial piracy, well co-ordinated and lucrative.

In 2008 we saw a growing threat to international trade through the strategic shipping routes as piracy off the coast surged; growing difficulties sustaining security for World Food Programme (WFP) shipments into Somalia and a fragmented response to these threats resulted. This prompted swift action by the international community and 4 UN Security Council Resolutions were passed. The EU responded swiftly and EU military units were in theatre just 10 weeks after the formal proposal in September of that year. My mission has, at its heart, the close protection of WFP and African Mission in Somalia (AMISOM) shipments; support, reassurance and protection of vulnerable commercial shipping going about their lawful business in the region – for the EU this is without deference to flag state, crew or national interest. In addition, and subject to resources, I am to detect, disrupt and where possible seek to prosecute suspect pirates. The operation was mandated for one year but this was extended to two and is currently due to terminate in December of this year. However, I have every confidence that this will shortly be extended until 2012.

The attraction of lucrative ransom payments has resulted in a major expansion of activity with attacks routinely seen 1500kilometres from the African Coast – these are now much nearer to India than Africa. The merchant community is correctly avoiding the coastal area and undertakes long detours to reduce risk – the pirates are fearless and undertake lengthy passages in open boats to seek ships to attack, many lose their lives in vast expanse of the Indian Ocean. The risk reward ratio is still perceived, in Somalia, to be in their favour.

EU ships have been in theatre now for 18months and I believe we have made a difference. No ship operating on behalf of the World Food Programme or providing logistic support to

AMISOM has been attacked or pirated – we have delivered lasting security to this essential maritime task. We have worked closely with the IMO to re-define an Internationally Recognised Transit Corridor (IRTC) and, with other military partners, most notably NATO and Combined Maritime Forces operating out of Bahrain established transit procedures for the 30000 ships which use this vital strategic artery every year. Attacks have dramatically reduced from 21 a month this time in 2009, to an average of about 4-5 per month today. 20 ships were seized between September and December of 2008 – only 3 ships have been pirated in the IRTC since June 2009 – sadly the third ship was a Bulgarian vessel seized earlier this week. Key to this has been increasingly intuitive cooperation between the military forces operating in the area; well defined procedures are now established and we fully engage with industry – it is a joint effort. Of course some countries prefer to provide close escort for their own merchant ships which is perfectly understandable and we work closely to ensure we make best use of scarce assets.

The Somali Basin will always be a more difficult area. Its sheer size – 10 times the size of Germany – prevents the tight co-ordination that has been so successful in the Gulf of Aden. Activity levels are highly seasonal and during the most recent inter monsoon period we saw 30 attacks, of which 8 have been successful; several Taiwanese fishing vessels were also seized 250 miles off India which have since been transferred to Somalia. The pirates have been much more aggressive in their operations resulting in swarms of boats putting to sea – maritime forces have intercepted nearly 60 pirate gangs – and processed 400 suspects – it is a major effort but we are collectively making a difference. There are now 19 ships and 409 hostages held off Somalia; the figure would have been significantly higher without our co-ordinated efforts.

As I mentioned, the relationship with industry is absolutely key in seeking to thwart possible pirate opportunities. ATALANTA's relationship with the community is strong and it represents a fundamental component of our success. Industry has been proactive in developing procedures to reduce risk, we have shared with each other best practice and we worked tirelessly to spread the message. Communications lines must remain open to ensure the threat of piracy is understood and measures recommended to mitigate the threat are adopted. Bodies such as the International Maritime Organisation, International Chamber of Shipping and the International Maritime Bureau are important in disseminating, approving and regulating the guidance given to Ships' Masters. The majority of ships adhere to the procedures and it is notable that a high proportion of those ships detained by pirates did not fully adhere with industry advice.

To assist this dialogue we have established the Maritime Security Centre (Horn of Africa), creating a virtual repository of information and data, linking in with the UK Maritime Trade Office in Dubai and the International Maritime Bureau in Kuala Lumpur amongst others. The site is a 2-way flow of information and places a strong onus on Merchant vessels, owners and masters providing information to us. I would stress that military forces will not eliminate piracy but we can help reduce risk significantly.

The EU is not alone in seeking to address these issues and ATALANTA is but one part of the international counter piracy effort. The global response has been substantial. While forces operating in the region have different missions, all have sought to find ways to operate in a manner that is complementary while achieving their respective missions. In order to achieve this careful co-ordination and exchange of plans is required be that on the high seas - through secure chat rooms allowing exchange of priority tactical information - or ashore through monthly meetings at which over 70 international bodies and regional

navies attend. The piracy problem has bridged hitherto insurmountable gaps in levels of military coordination and cooperation which we very much welcome – not just in the battle against piracy but in a wider spirit of maritime understanding and shared experiences. As the European Union's High Representative, Baroness Ashton, said to the UN Security Council on the 4th of May the EU is working closely with both UN and regional partners. Particularly, in respect of ATALANTA which is set within a UN framework of support for the Transitional Federal Government.

The military action taken to date has had a very positive impact but what is clear is that Operation ATALANTA and the wider international military counter piracy efforts will not eradicate the problem. This is a land operation which happens to have a maritime flank – piracy is a symptom whose cause rests inside a fractured and broken country that at present offers few life opportunities to large sectors of its population. The only way to solve this is through a comprehensive approach.

I would suggest the work of the UN Contact Group on Somalia and the International Contact Group on piracy off the coast of Somalia are critical elements in bringing together all interested stakeholders. The latter of which has been a vital forum; allowing partners to share best practice and to better inform the international community on the efforts of those engaged in the fight against piracy. With the development of its four working groups there are opportunities to identify more sustainable solutions including the legal dimension – just what do we do with the hundreds of people we encounter on the high seas? We need to avoid generating an air of impunity towards this international crime.

As part of its comprehensive approach the EU Stability Instrument has supported the strategy adopted by Kenya and the Seychelles to prosecute piracy suspects. This is a

programme developed jointly with the UN Office on Drugs and Crime. In addition the EU is preparing further assistance to the development of maritime capacities of coastal States in the Horn of Africa in line with the Djibouti Code of Conduct.

Additionally, under the 10th European Development Fund (2013/2018), EU programming will include maritime security and counter piracy with specific objectives - namely

- Assistance to regional countries with a view to increasing regional cooperation and ownership of fight against piracy;
- Burden-sharing amongst regional countries prosecuting suspect pirates;
- Complement European Union Operation ATALANTA with a regional response “onshore” which at the moment is centred of training security forces in Uganda and Djibouti;
- Long-term sustainability of capacity building efforts.

The attractiveness of the ATALANTA mission is that it delivers as part of this wider EU comprehensive mission. Security is targeted at the vulnerable ships of the world food programme and Amisom, we are completely integrated with key organisations of the merchant community and - with our military partners from numerous international organisations - we are making progress against the pirate groups at sea. The EU is fully engaged in the international efforts to reconstruct and regenerate Somalia – we will play a full part in the wide spectrum of activity aimed to stabilise the country and rebuild the institutions that will eventually lead to a security situation ashore that will impact on piracy. There is a long haul ahead but progress, however slight, needs to be championed and I believe we, in ATALANTA are playing our part. We are far from complacent, there is much to be done, we are energised by the mission.

Thank you very much.

Antonio Maria Costa
Executive Director

Assisting Somalia to deal with its pirates

Piracy is best fought with development and the law

This statement reviews developments in the Indian Ocean related to piracy and current initiatives to counter it. The assessment is positive, but the sustainability of ongoing efforts is in doubt as conditions, on the ground and at sea, keep evolving.

The statement shows that there is no alternative to assisting Somalia deal with its own pirates, by promoting: (i) development on land; (ii) security at sea, and (iii) the rule of law in parts of Somalia that are less insecure.

These prospects are predicated on three factors: (i) economic assistance is massively increased, (ii) the conditions in, and outside, Somalia that facilitate piracy (trafficking and money-laundering) are addressed; and (iii) the return of the UN.

United Nations General Assembly
New York, 14 May 2010

Mr. President, Ladies and Gentlemen,

Piracy off the Horn of Africa endangers lives, curbs trade, steals food aid, enriches criminals, funds insurgents and perverts the regional economy. What are the results of current measures and the prospects for the future?

1. Commendable anti-piracy efforts so far...

The Contact Group has built a consensus as to the most appropriate anti-piracy measures, while donors have been financing shore-based criminal justice responses, primarily in Kenya and the Seychelles, over the past year. Significant naval cooperation off the Horn of Africa has become an important deterrent.

2. ... with important results

Pirates have been tried in regional criminal courts, rather than released (the outcome in 300 cases in 2009), or worse -- shot on sight (still reported). Assistance programs are improving justice systems in Kenya and Seychelles, by strengthening criminal justice capacity and prison conditions. Both Tanzania and Maldives have manifested their desire to establish piracy prosecution centres; Mauritius is not far behind.

Hence, the current problem is not finding court capacity in regional states, but about making it possible to imprison convicted pirates in Somalia itself – in view of, eventually, moving trials there. A recent UNODC mission has concluded that the construction of adequate detention facilities in Somalia must be expedited to ensure the transfer of prisoners from other countries.

3. Yet, the overall situation is not improving

Naval patrols have reduced the success rate of attacks (1 in 10 attempts succeeds now, compared to 1 in 3 earlier). Yet, the overall number of attacks is still growing (111 in 2008 to 217 in 2009), despite international naval patrolling that has displaced the assaults up to 1000 miles off-shore.

Individual pirate earnings per successful attack have increased (\$15,000 per hit now, compared to \$5,000 earlier). Individual ransoms have increased also: the January '09 record payment of \$2 million for *Sirius Star* has been exceeded repeatedly ever since. Aggregate payments in 2009 have approached the \$100 million mark, with pirates asking money in exchange for people, not only vessels.

Furthermore, a growing number of seized pirates have indicated that they originate from internal (South-Central) parts of Somalia: evidence that poverty, insecurity, social distress and poor health (severe cases of TB were identified) are increasing root causes of the problem.

4. The economic consequences are serious on regional countries

Piracy off Somalia has had a limited impact on rich countries, as insurance rates have increased only marginally. Yet the impact on Eastern Africa has been severe, and growing. Kenya and Seychelles have seen the high-value end of tourism business decimated: Mombasa and Victoria have been particularly affected (tuna fishing is down by 40%; visits by luxury vessels down 90%). The disruption has now moved to Great Lakes states that use East African ports for trade.

5. Anti-piracy measures are facing decreasing returns

At the moment there are +/-500 pirates under detention, about half outside Somalia. Yet, there is a limit to the number of pirates who can be imprisoned outside Somalia (Kenya holds 124 at present, Seychelles 31, even fewer elsewhere). Court proceedings in the countries of seized vessels are an impractical alternative, given the distance and jurisdictional arguments. Also the opportunity cost of patrolling the seas off Somalia is enormous: with the daily running cost of a ship at \$100,000, the annual budget of all 44 vessels operating in the Indian Ocean is \$1,5b against the \$3-5m budget of the Anti-piracy Trust Fund.

6. The contextual factors that facilitate piracy must be neutered

While the improvement of the criminal justice system in the region goes on, key is the engagement in Somalia where anti-piracy work can be conducted without unreasonable risks (Somaliland and Puntland). Basic institutional and logistical infrastructures (coast guards, police and courts) are needed to support Somali high-sea patrolling and Somali law enforcement on land.

At the same time, anti-money laundering measures are needed to take out those who benefit from piracy more than the pirates themselves. Make a simple calculation: a successful hit, involving 2-3 skiffs each manned by a dozen pirates who make \$10-15,000 each, will net the buccaneers \$300-400,000. As ransom payments have reached a million dollars per (successful) hit, the difference (a lot!) accrues to criminal groups that invest in, and sponsor piracy.

Robbery at sea is only part of economic lawlessness in the Horn of Africa, that has become an illicit trafficking zone of arms, fuel, counterfeits, migrants, children, resources and drugs (40t of heroin alone). Piracy cannot be addressed without taking on these other crimes.

7. The only viable long-term solution is to engage Somalia itself

In conclusion, current measures have served an interim purpose: to mark the beginning of fixing Somalia's many problems. Yet, the international response has been constrained by no peace-building and little peace-keeping (the AU force is under-funded and under-equipped).

Following a recent mission in Somalia, I have concluded that sustainable anti-piracy must be part of a larger strategy, including:

- a push towards lasting resolution of Somalia's internal conflict;
- massive development assistance to a population that has suffered so tragically, for so long;
- engagement with community leaders in the provinces where pirates come from, to create jobs targeted on (vulnerable) youth;
- establishment of criminal justice institutions able to pursue in Somalia its own pirates and their sponsors;
- energetic anti-money laundering to confiscate proceeds of crime;
- a specialized Anti-piracy Court in Somalia staffed with well-trained nationals mentored by international experts (see SC resolution 1918.)

Somalia must be assisted to undertake this quantum leap in dealing with its own problems. This is feasible from the budgetary vantage point of rich countries, by re-deploying resources currently spent on the mighty naval force in the Indian Ocean. The United Nations can contribute by expediting the return of its political and development presence in Somalia, starting in the provinces where security is reasonable.



INFORMAL MEETING OF THE GENERAL ASSEMBLY ON PIRACY
UNITED NATIONS

14 May 2010

Douglas B. Stevenson
Director, Center for Seafarers Rights
Seamen's Church Institute

Madame Moderator,

Thank you for giving me the opportunity to speak to this important meeting of the General Assembly on piracy.

Anyone who knows me or the Seamen's Church Institute will be aware of our commitment to advocacy for merchant mariners' professionalism and well-being. I will preface my remarks on why seafarers and shipping are important to everyone.

Maritime commerce is vital to the world's economies and prosperity. Almost everything produced or consumed anywhere in the world depends on shipping. In today's global economy ships carry more than 90% of global trade. Because the well-being of all of the world's citizens relies on shipping, protecting the safe and efficient flow of commerce by sea must be a top priority of all nations. All nations benefit from shipping, therefore all nations must share in the responsibility for maintaining maritime security by countering threats to shipping.

We are here today to discuss one of the threats to maritime security: piracy.

Throughout history, pirates have captured the public's and governments' imagination. The blending of fact, myth, literature, and cinema have created an image in popular culture of pirates as basically good people fighting injustice under a code of honor while unfettered by societal constraints. Popular culture, for the most part, overlooks the reality of pirates' brutality to seafarers on the ships they attacked.

Governments have looked at pirates in a light very different from that of popular culture. To governments, pirates have always been criminal thugs who threatened commerce, political stability, and security. Pirates have attacked commerce for as long as goods have been transported on ships. In response, early rulers created an extraordinary legal

theory unique to piracy. Because piracy was considered a particularly heinous crime, pirates were deemed to be “Hostis Humani Generis,” or enemies of all humanity. Piracy became, as early as in Cicero’s time, a universal crime (meaning that pirates can be prosecuted by any country, irrespective of their nationality or where the act of piracy occurred). This customary maritime law principle is today codified in the United Nations Convention on the Law of the Sea.

The dramatic increase of pirate attacks off the coast of Somalia in 2007 and 2008 rekindled international attention to piracy. Subsequently, government and industry have developed a number of initiatives to address the growing problem. During 2008, the United Nations Security Council adopted five resolutions addressing piracy off the coast of Somalia. A Contact Group on Piracy off the Coast of Somalia, comprised of twenty-four nations, several international organizations and maritime industry representatives, was established to facilitate and coordinate efforts implementing Security Council Resolution 1851. More than 25 countries have sent naval units to patrol waters off Somalia to protect shipping from pirates. The International Maritime Organization has updated its guidelines for flag states and ship operators on preventing and suppressing acts of piracy. The maritime industry has developed “Best Management Practices to Deter Piracy in the Gulf of Aden and Off the Coast of Somalia.”

These are just a few examples of the international responses to the threats of piracy off the coast of Somalia. Almost every week, somewhere in the world, a seminar, conference, or other discussion on piracy takes place. Most of the efforts, however, aim to suppress and deter piracy. These efforts are, of course, necessary because the best approach to piracy is preventing attacks in the first place, and they also help protect seafarers from pirate attacks.

While deterrence and prevention are very important topics, a critical issue now needs greater attention: What happens to merchant mariners who have been threatened or attacked by pirates?

Since 2003, pirates have kidnapped or taken hostage more than 4,000 seafarers, and they have robbed or attacked many more. More than 200,000 seafarers experience the threat of piracy sailing through waters off the coast of Somalia every year.

- What happened to the seafarers after their release or after being attacked?
- Do you know their names or where they are from?
- Did they continue their seafaring careers?
- Are they fit to work on ships?
- Do they need continuing medical attention?
- Do they receive medical attention?
- Where do they get help to deal with the aftermath of surviving a piracy incident?
- What happens to the seafarers’ and their families who have been affected by piracy?

If you don't know the answers to these questions, don't feel alone. I don't know either. No one knows. No one is keeping track of the seafarers held hostage, attacked or otherwise affected by pirates. There is no central resource where seafarers, shipowners, and flag states can go for information on responding to the effects of piracy on seafarers.

Of the five UN Security Council resolutions adopted in 2008 on piracy in Somalia, none cited protecting merchant mariners as a rationale for international efforts to suppress piracy. (The preamble of Res. 1816 mentioned the grave dangers that piracy poses to seafarers¹.)

The current IMO and Contact Group guidance for shipowners and flag states on responding to pirate attacks do contain some guidance on dealing with seafarers after an attack. But, this guidance has, so far, been limited to gathering information for military intelligence or prosecutorial purposes, not for seafarers' well-being.

Last year the International Christian Maritime Association, a world-wide ecumenical organization of church-based seafarers' agencies, submitted a paper to the International Maritime Organization's Marine Safety Committee calling upon governments, international organizations, non-governmental organizations, and the maritime industry to devote more attention to the effects of piracy on seafarers and their families, specifically to:

1. Study the psychological effects of piracy on seafarers.
2. Create guidelines on caring for seafarers and their families affected by piracy.
3. Create a piracy survivors resource center where seafarers, their families, shipowners, and seafarers' assistance organizations find help for dealing with the effects of piracy on seafarers and their families.

In response, the Seamen's Church Institute initiated, in conjunction with the Disaster Psychiatry Outreach at the Mount Sinai School of Medicine and the New York Psychoanalytic Society and Institute, a ground-breaking clinical study to assess the effects of piracy on merchant mariners. Our study will go beyond examining how pirate attacks and hostage-taking affect seafarers. It will also look at the stress of simply traveling through pirate-infested waters. The lessons learned from the study will help us develop advice for merchant mariners, shipowners, flag states, labor supplying states, chaplains, trade unions, first responders, and seafarers' families on dealing with piracy generated stress, how to cope with being held captive, and how to deal with trauma caused by a pirate attack. A critical element of the study will be our gaining access to seafarers affected by pirates or who have experienced a pirate attack – or have endured the stress of transiting pirate-infested waters. The study is being conducted at the highest ethical and scientific levels, scrupulously protecting seafarers' individual privacy. I ask your help in gaining access to seafarers for the study.

¹ Although one Security Council Resolution, Res. 1816, did mention crews in a preamble paragraph "*Deploring* the recent incidents of attacks upon and hijacking of vessels in the territorial waters and on the high seas off the coast of Somalia including attacks upon and hijackings of vessels operated by the World Food Program and numerous commercial vessels and the serious adverse impact of these attacks on the prompt, safe and effective delivery of food aid and other humanitarian assistance to the people of Somalia, and the grave dangers they pose to vessels, crews, passengers, and cargo."

We have prepared preliminary guidelines for the post-piracy care of seafarers and provided them to the maritime industry and to Working Group 3 of the Contact Group. We are very pleased that Working Group 3 has placed preparing guidance to shipowners on caring for seafarers affected by piracy on its agenda. Several shipowner organizations have begun work on guidelines on caring for seafarers. This is a very positive development. Yesterday, I was in London to present our guidelines to the IMO Maritime Safety Committee in London. Caring for seafarers, including these guidelines, is being addressed in the IMO as we speak today. These efforts focusing on addressing seafarers' issues are to be applauded and encouraged.

Why should we care about seafarers? Most of us will agree that is the right thing to do for humanitarian reasons. We must pay much more attention to addressing seafarers' needs in respect to piracy not only for humanitarian purposes, but also for security purposes.

As I mentioned earlier, since all nations depend on shipping for their prosperity, all nations share responsibility for maintaining maritime security. Piracy does not pose the biggest threat to maritime security, although it affects it. Many assume that terrorism the greatest threat to maritime security. It is not. The gravest threat to maritime security is the worldwide crisis of recruiting and retaining sufficient numbers of skilled and responsible men and women for shipboard careers that is required to sustain maritime commerce.

All of us, governments, international organizations, non-governmental organizations, commercial interests, and ordinary citizens need to do what we can to make shipboard careers a more attractive career option for skilled and responsible men and women. The first step is to recognize seafarers' contributions to us and to raise their stature commensurate to their value to our lives and economies.

Unfortunately, perceptions of vulnerability to pirate attacks is just one of the many disincentives for those considering beginning or staying in seagoing careers.

Seafarers are vitally important to the world's commerce and prosperity. We depend upon them and we owe them the assurance that we will do everything we can to protect them from piracy – before, during, and long after an attack.

The international community of nations and the maritime industry has undertaken considerable efforts to prevent, detect, and suppress piracy. This work is very important and must continue.

Governments and the maritime industry must take an active role not only in preventing and suppressing pirate attacks, but also in ensuring that seafarers and the families affected by piracy receive proper care.

Mr. President, before I conclude, I wish to ask one more thing:

As we sit in this special meeting of the United Nations General Assembly, and after we leave this place, please keep in your thoughts and prayers the 371 seafarers from 17 merchant ships, and their families, who are, at this very moment, being held hostage by pirates in Somalia.

Thank you

POST-PIRACY CARE FOR SEAFARERS

PRELIMINARY GUIDELINES



CENTER FOR SEAFARERS' RIGHTS
THE SEAMEN'S CHURCH INSTITUTE

MARCH 4, 2010
VERSION 1.2

PREAMBLE The following guidelines are meant to provide a general structure for the care of seafarers following an incident of piracy. These guidelines are preliminary to an ongoing study designed to develop more specific recommendations forthcoming in the second half of 2010. What follows is culled from a variety of sources in the professional mental health literature. The Seamen's Church Institute (SCI) does not assume any responsibility for the recommendations listed below but welcomes comments from interested parties in our ongoing efforts to develop specific guidelines to address the mental health impact of piracy on seafarers.

1. AT THE FIRST NEWS OF A PIRACY INCIDENT

The news that a vessel has interacted with pirates creates a number of exigencies:

1.1 PROTECTION OF THE CARGO AND VESSEL

This is outside of the purview of this document – relevant guidelines can be found in these documents:
IMO Resolution A.1025(26), A.1026(26), MSC.1/Circ.1333, MSC.1/Circ.1334, MSC.1/Circ.1335.

1.2 THE WELFARE OF THE CREW

Primarily, how to ensure their access to basic needs

How to protect them from death

How to help them react appropriately from the first moment of a piracy incident

How to ensure regular communication between the vessel and its stakeholders including the shipowner, cargo owners, insurance companies, government bodies, and relatives of the besieged crew

2. WHEN A CREW IS BEING HELD

When a vessel is in captivity by pirates, there is often little that can be done to directly address the needs of the crew. However, during this critical time when negotiations are underway, several procedures can begin.

2.1 PREPARING FOR THE CREW'S RELEASE It is important that each crewmember's needs be identified before release. This information should be solicited from the crewmember's corporate medical chart, as well as from family members. It is most important to discern whether the crewmember has a pre-existing condition that may be worsened under captivity. This may include:

A condition that requires medication, which may run out during captivity

A condition that is known to worsen under stress (While most medical and psychiatric conditions worsen under stress, here is a partial list of diagnoses of greater concern: cardiac problems, including histories of arrhythmias, heart attacks [myocardial infarctions]; stroke; asthma, emphysema, or chronic bronchitis; an anxiety disorder; post-traumatic stress disorder)

Anticipating possible reactions among crewmembers based on knowledge of their medical history will facilitate preparations for their release

2.2 PROVIDING TIMELY INFORMATION TO THE CREW'S FAMILIES

Much like the owners of hijacked vessels and others with vested interests, the families of crewmembers will most likely feel powerless and afraid. However, unlike those who may be involved in negotiating, families have no means to access current information. Further, families are often targeted by pirates through harassing telephone calls in order to pressure negotiations. Because of these reasons, contact and coordination with family members is essential.

Since the crewmember will return to his family post-capture, the family plays an integral role in assisting with any recovery needed, including:

Providing a supportive home environment

Identifying lingering symptoms of captivity

Assisting in linking the crewmember with appropriate caregivers (medical centers, behavioral health clinics).

Family members should be updated with information at least once per week and more frequently where possible.

Family members should be contacted even if no new information is available.

Families will be helped if they understand the complexity of the negotiation process.

Explaining the unpredictability of negotiating with pirates will help them make sense of the difficulties involved in producing specific timetables for release.

Families should be required to maintain the confidentiality of all information shared with them (i.e. they should not disclose this information to the media).

Families should be encouraged to report any attempts at communication they receive from pirates and should be encouraged not to respond to these attempts.

Identifying resources to help crewmembers after release

Upon release, crewmembers will need to be assessed medically and psychologically.

In anticipation of release, appropriate resources should be located in both the location where the crew will disembark and where they will return (typically their home country).

This can include establishing contact with practitioners in the home country and keeping them "on call," and

linking practitioners to family members in anticipation of hostage release.

3. WHEN RELEASE IS IMMINENT

3.1 FAMILIES SHOULD BE CONTACTED FREQUENTLY (at least weekly) to update them with a timetable that includes information about approximately when their family member will be released. Families should be encouraged to respect the confidentiality of negotiations and should be prepared for the possibility of modifications to the provided timetable.

Preparations should be made for crewmembers to be provided with telephones as close to release as possible to talk with their loved ones.

3.2 FINAL CHECKS SHOULD BE MADE at this point on medical/mental health resources available at the point of disembarkation.

Doctors at port should be notified.

Doctors in home countries should be notified, and appointments for initial screenings should be established.

4. WHEN THE CREW HAS BEEN RELEASED

4.1 A MEDICAL ASSESSMENT SHOULD BE MADE AS SOON AS POSSIBLE.

When possible, this should precede any debriefing. The information that government/military personnel will receive from a detainee will be less accurate if made in the setting of significant medical or psychological distress.

A complete medical assessment should be made to assess whether urgent care is required.

The assessment should be made by a person who is a licensed medical doctor (M.D.) who is skilled in a full-systems check, including a psychiatric assessment.

The assessment should be summarized in a written document, translated by those competent in medical translations, and given to the crewmember to bring home to his local medical team.

4.2 ONCE THE CREW HAS BEEN CLEARED TO TRAVEL, THE CREW SHOULD BE REPATRIATED with their families or friends following the debriefing period of no more than several days. When crewmembers are unable to leave the point of disembarkation for a period of more than three days, efforts should be made to facilitate family travel to that point to expedite reunification.

Families should be briefed about the status of their family crewmember in a manner that is culturally-appropriate.

Families and crewmembers should be equipped with a list of symptoms of post-traumatic stress disorder.

Two appointments should be scheduled for each crewmember in his home country: an initial appointment upon return to his native country and a follow-up appointment for sixty days post-release.

The professional who sees the crewmember must have training in psychiatric assessment.

A report should be generated and this report should be the property of the seafarer alone to be used to coordinate further treatment.

The employer should only be granted access to the report with the seafarer's written permission.

5. WHEN THE CREW IS TO RETURN TO DUTY

5.1 WHAT IS MOST IMPORTANT IS THAT THE CREW BE CLEARED BEFORE RETURNING.

Clearance includes a full physical examination, but should also include a psychological assessment. It would benefit crewmembers and reduce liability to insurers to engage clinical psychologists to conduct assessments. In areas of the world where psychologists and psychiatrists are more difficult to consult with, a form will be prepared that any physician can complete that will ensure that a basic assessment has been completed (e.g. the Mini International Neuropsychiatric Interview, which has been translated into 40 languages).

5.2 IT IS VERY IMPORTANT TO MONITOR A SEAFARER on his first voyage post-piracy because post-traumatic and other psychiatric symptoms can present themselves when an individual returns to a setting similar to the original incident.

The officer responsible for the medical care of the crew while at sea should be asked to maintain contact with those who are serving for the first time since a piracy incident.

These crewmembers should be asked to report to the officer on their mood, sleep habits, and eating patterns, and also to report anything deemed to be extraordinary.

If the officer hears of symptoms of stress from the crewmember, he should request an assessment when the vessel next calls at a port.

Ship owners, in consultation with P&I Clubs, should maintain a list of qualified individuals to make assessments in each port.

Where possible, assessments should be conducted by a psychologist with a PhD in Clinical Psychology and/or a psychiatrist with an MD or equivalent medical degree.

Disposition of a crew member designated for reassessment will be made by the professional who evaluates him.

ADDENDUM When a crew is not held, but there has been contact with pirates

Simply traveling through a zone of piracy can be stressful for seafarers, especially when there is awareness among crew that a pirate vessel is close by.

Seafarers transiting a zone of piracy may experience clinically-significant symptoms.

Adapting the aforementioned procedure may prove helpful in working with a crewmember who has exhibited distress following transit through a piracy zone.

Professional contact with a psychologist or psychiatrist is advised to arrange an assessment.

CONCLUDING REMARKS

As stated above, this is a preliminary document. As our research continues, the Center for Seafarers' Rights at SCI will update guidelines where appropriate. If you have any questions about this preliminary guide or are in need of consultation, refer to the contact information below.

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FIGHT AGAINST PIRACY

THE LEGAL CHALLENGES

AMBASSADOR THOMAS WINKLER

CHAIRMAN CGPCS WG2 (LEGAL)

LEGAL ADVISER

MINISTRY OF FOREIGN AFFAIRS OF DENMARK





AGENDA

1. CGPCS and WG2
2. WG2 work to date
3. Remaining key legal challenges
 - i. Human rights issues
 - ii. Prosecution
 - i. The basic law
 - ii. Ensuring national prosecution
 - iii. Other mechanisms?
4. Conclusion



CGPCS and WG2

- The need for international cooperation
- UNSCR 1851 > CGPCS
- 4 WG
- WG 2 – legal issues
 - Four meetings
 - Next: 17-18 May in Copenhagen



THE WG2 APPROACH

- Informationsharing
- Discussion of legal issues
- No text-negotiations
- practical, legally sound solutions – to guide States and organisations
- “the legal tool box”



THE SCENARIOS

- Engage?
- Use of force?
- Apprehend?
- Detain?
- Prosecute nationally?
- Transfer?
- Post-prosecution transfer?



WG2 WORK TO DATE

- Legal basis for engaging pirates (UNCLOS, SUA, UNSCR)
 - Little if any unclarity
- Use of force: Fight against piracy is a law enforcement operation conducted by military means
 - Not armed conflict; not IHL, human rights law applies
- Apprehend?: UNCLOS art. 105, shipriders?
 - Little if any unclarity



THE LEGAL TOOL-BOX

- Academic texts – compilation of relevant international law
- Informationssharing e.g. on national counterpiracy legislation
- Check lists e.g. on national prosecution
- Templates: transfer MoUs, shipriders, evidencegathering
- Specific advice: hand over guides

WG2 BASIC CONCLUSION



- Not a lack of international law
- The need to understand and interpret the law
- The implementation into national law



REMAINING KEY LEGAL CHALLENGES

HUMAN RIGHTS ISSUES

- The rights of suspected pirates when apprehended, detained and transferred
- E.g.: legal basis, right to legal process, non-humane treatment, non-refoulement,
- Key issue at next WG2 meeting
 - Necessary to translate administration of justice standards into RoEs
 - Check list



PROSECUTION

THE BASIC LAW

- UNCLOS: Universal jurisdiction
- No express obligation to prosecute
- Clear basis in international law for any State to prosecute if deciding to do so
- Main challenge: national law



ENSURING NATIONAL PROSECUTION

THE APPROACH

- First question: may the apprehending State undertake prosecution?
- If no > second question: may the flag State of attacked commercial vessel undertake prosecution?
- If no – and only then > third question: may a third State undertake prosecution?



THE CHALLENGES

- No universal jurisdiction in national law
- No national procedures in place
- No political will



THE ANSWERS (the WG2 check-list)

All affected States should

- Introduce universal jurisdiction
- Establish national systems to deal with piracy cases
- Actually prosecute



TRANSFER

- Transfer to States willing to prosecute
- Need for arrangement (permanent or ad hoc)
- Need to support States willing to prosecute
- Current practical constraints:
 - few willing States (the Seychelles, Kenya)
 - the burden of imprisonment
- Main legal challenge: post prosecution transfer



ANOTHER MECHANISM?

- WG2 assessment: most feasible model is "dedicated piracy chambers" in one or more States in the region
- National prosecution by national courts based on national law with financial, technical and personnel assistance from the international community.
- Main practical/legal challenge: post prosecution transfer



- Way ahead - UNSCR 1918: a report to the UNSC from the UN Secretary General
- Challenges on e.g. willing host States, need for focused international assistance, evidence gathering, witnesses, post prosecution transfer etc. remain – regardless of chosen system
- More work to do for the WG2



CONCLUSION

- Only long-term solution to be found on land in Somalia
- In the mean-time WG2 will strive to
 - ensure comprehensive and adequate systems for prosecution in all affected States
 - focus international assistance in the legal field to all States willing to prosecute
 - Address remaining legal issues, including on post prosecution transfers



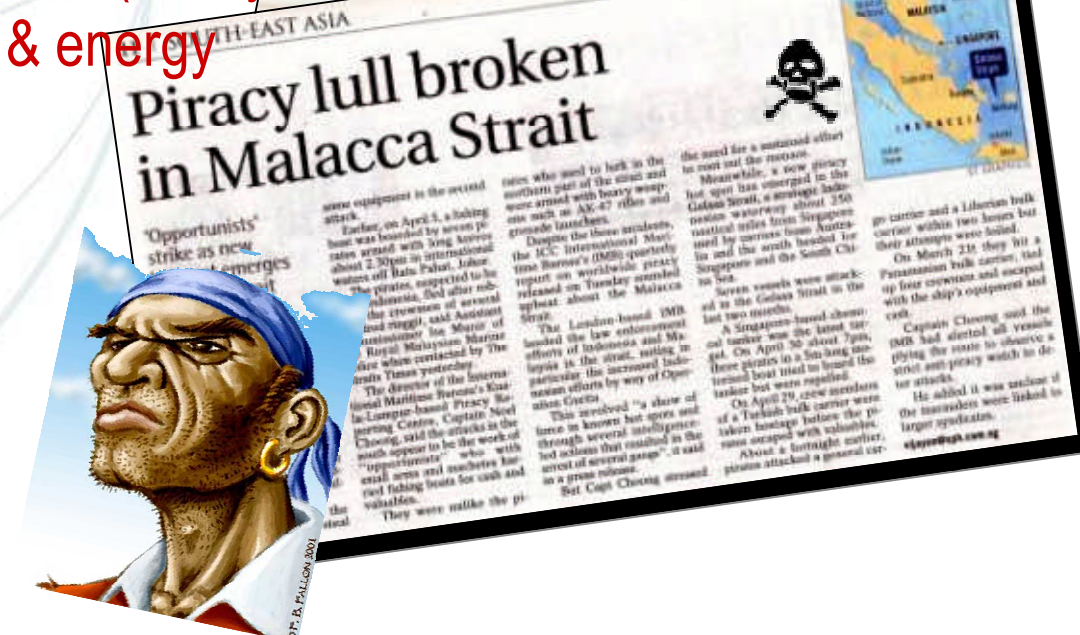
General Assembly Informal Meeting on Piracy Enhancing Regional Cooperation

14 May 2010

Regional Cooperation Agreement on Combating Piracy and Armed Robbery against Ships in Asia

Background / Concerns

- ❑ concerns about piracy and armed robbery against ships since the 1990s – number of incidents once hit over 200 in the early 2000s
- ❑ threats to maritime navigation (safety of life; transport of cargo & energy supplies)
- ❑ economic disruptions.
- ❑ loss of life.
- ❑ rise in operating cost.



History

(from Concept to Reality ...7 yrs)

- ❑ **Response of ASEAN against piracy and armed sea robbery in the region**
 - ❑ Joint communiqué. The 30th ASEAN Ministerial Meeting, Subang Jaya, Malaysia (24-25 Jul 1997)
 - ❑ ASEAN declaration on Transnational Crime, Manila (20 Dec 2000)
- ❑ **At the “Asia Anti-Piracy Challenge 2000” Conference in Tokyo (Apr 2000), 2 documents were promulgated :Tokyo Appeal & The Model Action Plan**
- ❑ **The concept of a regional cooperation agreement was proposed by the former Japanese PM Koizumi at the ASEAN+3 Summit Meeting (Nov 2001).**
- ❑ **The 16 countries (ASEAN+6) started drafting of the Agreement in 2002**





History

- Finalised on **11 Nov 2004** (Tokyo) by 16 countries (ASEAN+6).
- Came into force on **4 Sep 2006**.
- The ReCAAP-ISC was officially launched on **29 Nov 2006** (S'pore)
 - 1st **multilateral government-to-government anti-piracy effort** in the region.
 - ISC to be setup in Singapore as an **International Organisation (IO)** with local staff & overseas secondees.
- 4th Year of Operations. 15 Countries onboard.**



Mr Yoshiaki Ito & Mr Raymond Lim, Minister for Transport / 2nd Minister for Foreign Affairs



- The members of the ReCAAP-ISC are:  of 1 April 2007. 

The Outline

□ 3 Pillars of the Agreement

Information Sharing

Capacity Building

Co-operative Arrangements

ReCAAP ISC

MISSION : To enhance regional co-operation through information sharing, capacity building and cooperative arrangements in combating piracy and armed robbery against ships.

VISION : To be the information hub for combating piracy and armed robbery against Ships in Asia.



Characteristics



- The ReCAAP ISC (also the Secretariat) to be located at Singapore.
- Formation of a Governing Council (1 rep/Contracting Party)
- An International Organisation with foreign staff
- Identification/designation of a **Focal Point** (1 per Contracting Party)
- Funding - voluntary contributions from Contracting Parties.
- Is open for accession by any States.

Governing Council & Secretariat



- ❑ Composed of ONE representative from each Contracting Party and shall meet at least once a year in Singapore, unless otherwise decided by the Governing Council.
 - ❑ Chairperson & Vice-Chairperson elected among the members (2-year term)
 - ❑ Decision(s) by consensus.



- ❑ Secretariat shall be headed by the Executive Director.
 - ❑ The Executive Director shall be chosen/appointed by the Governing Council (The ED is on a 3-year term).

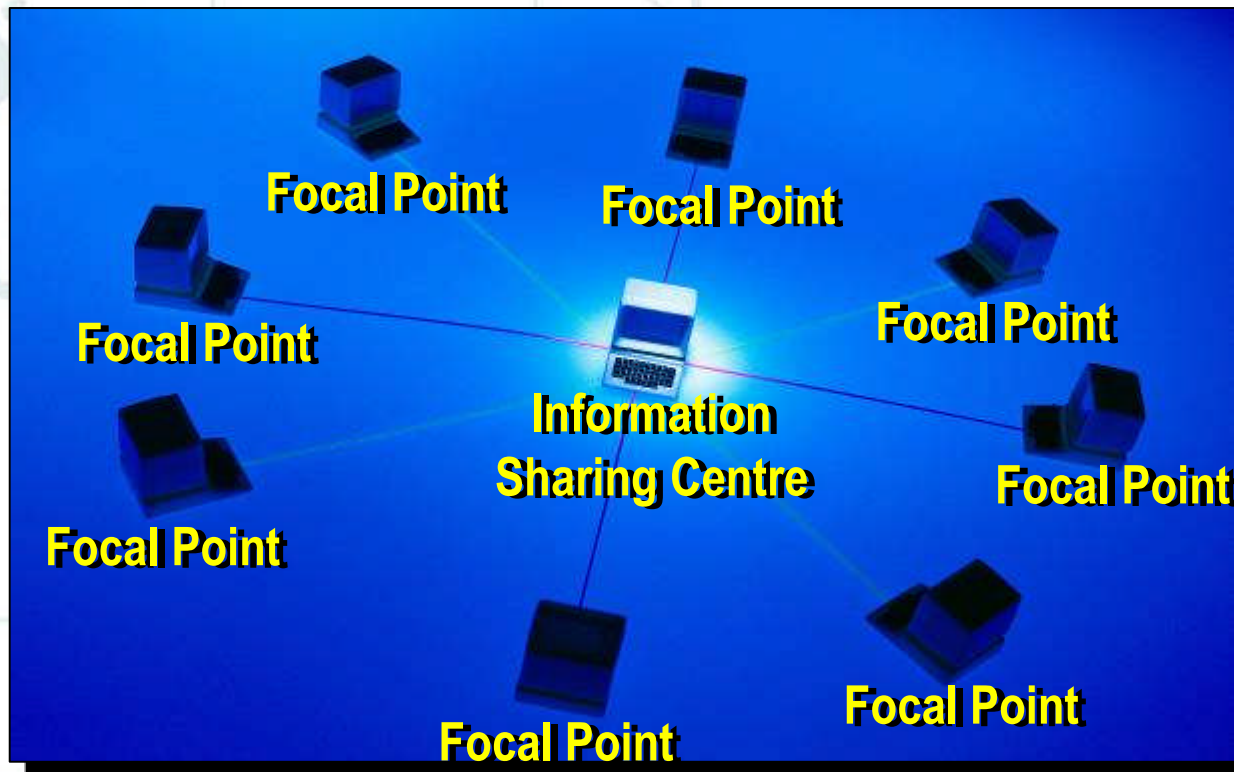
ReCAAP Focal Points



- ❑ each ReCAAP signatory designates a Focal Point
- ❑ roles of a Focal Point include:
 - ❑ **manage** piracy and armed robbery incidents within its territorial waters/within its jurisdiction.
 - ❑ act as **point of information exchange** among the Focal Point Network / ReCAAP ISC
 - ❑ **facilitate its country's law enforcement investigations**
 - ❑ **co-ordinate** surveillance and enforcement for piracy and armed robbery with neighbouring Focal Points

ISC-Focal Point Concept

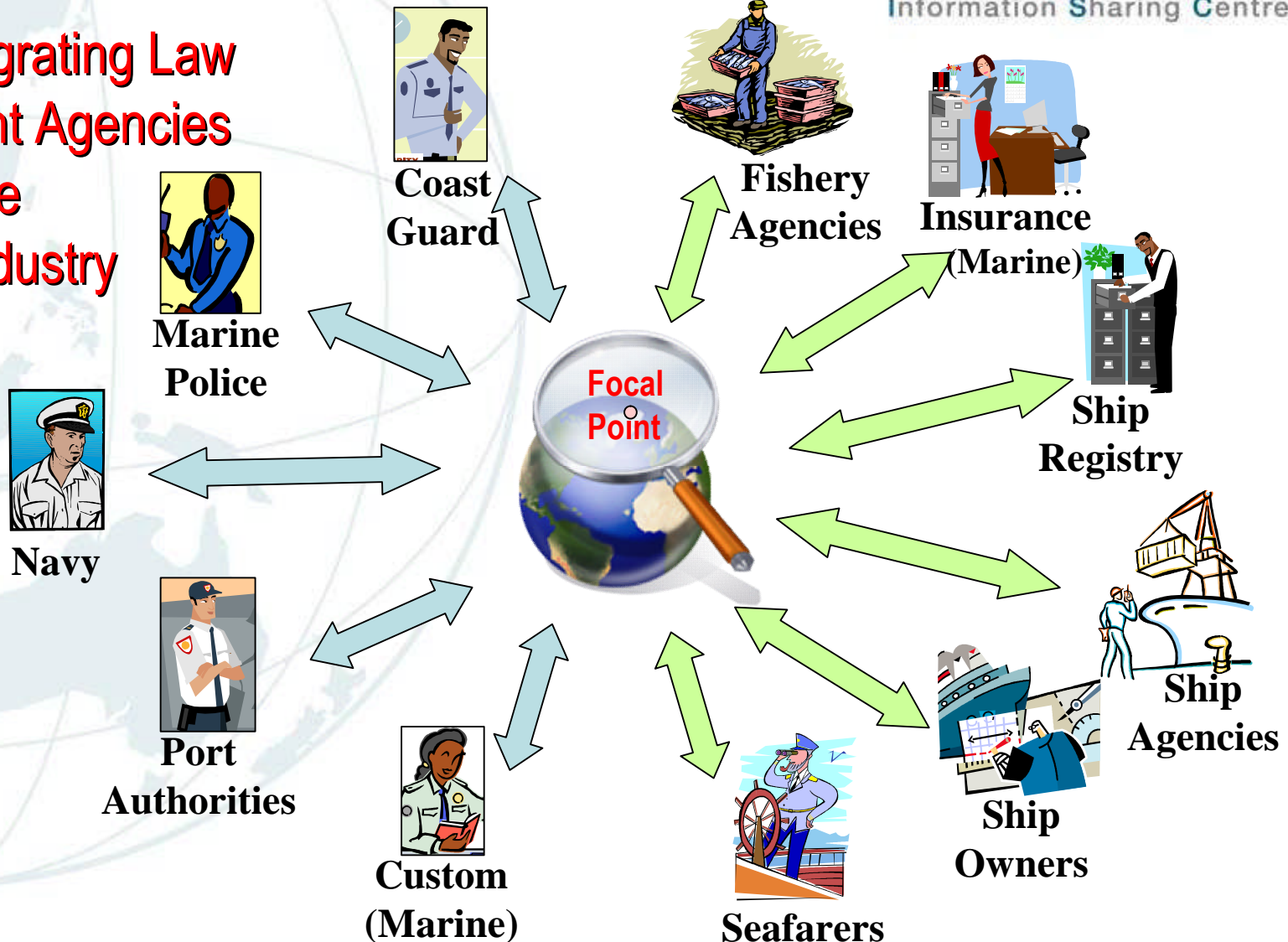
Information Network System



Web based
Secure Network
via SSL & VPN

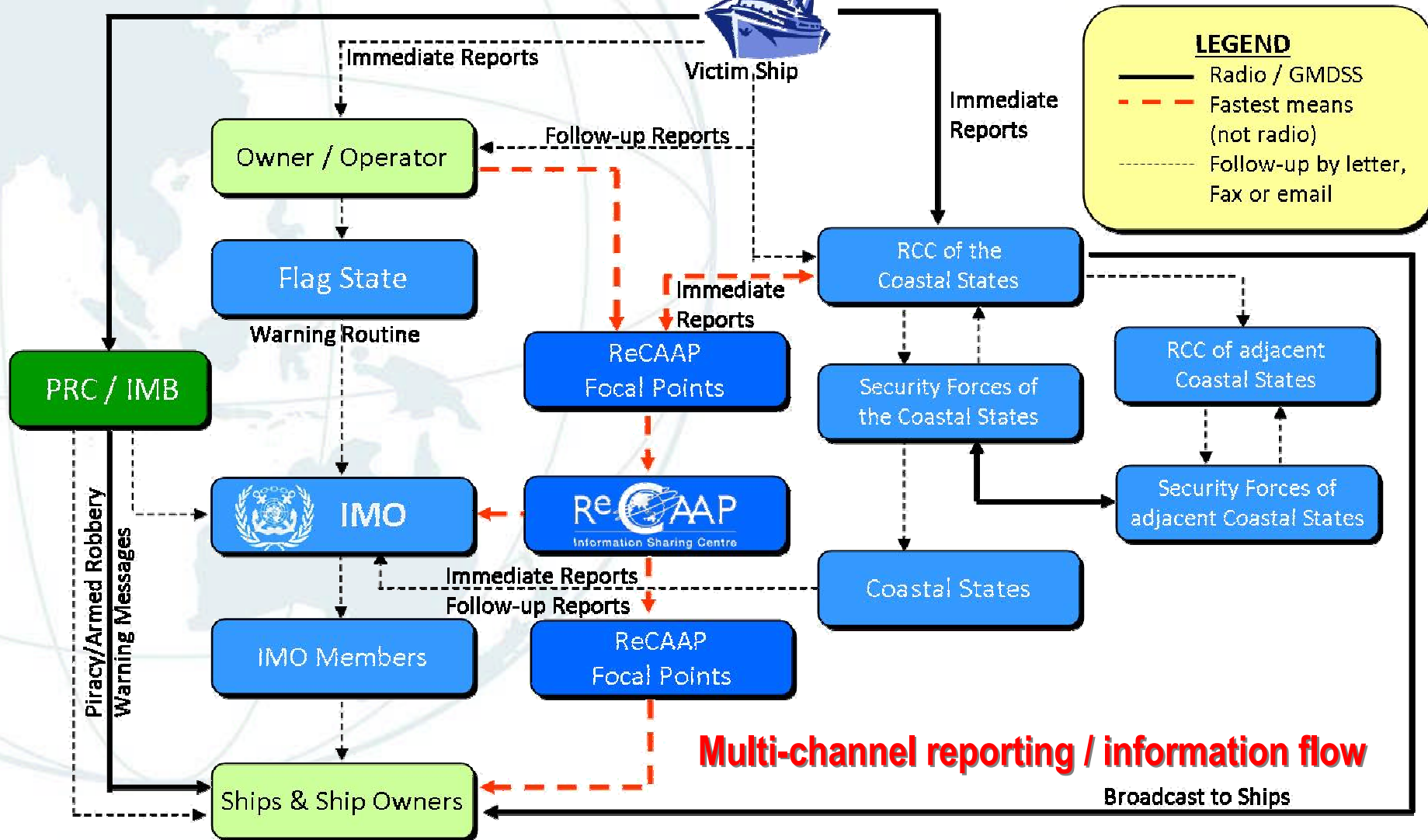
ReCAAP Focal Points

Integrating Law Enforcement Agencies with the Maritime Industry



Flow Chart

(MSC.1/Circ.1334-endorsed @ 86th MSC Meeting)



Research Methodology

Matrix-based assessment of incidents:

- Violence Factor
 - Types of weapons .
 - Treatment of crew.
 - Number of pirates/robbers involved.
- Economic Factor
 - Type of property taken.

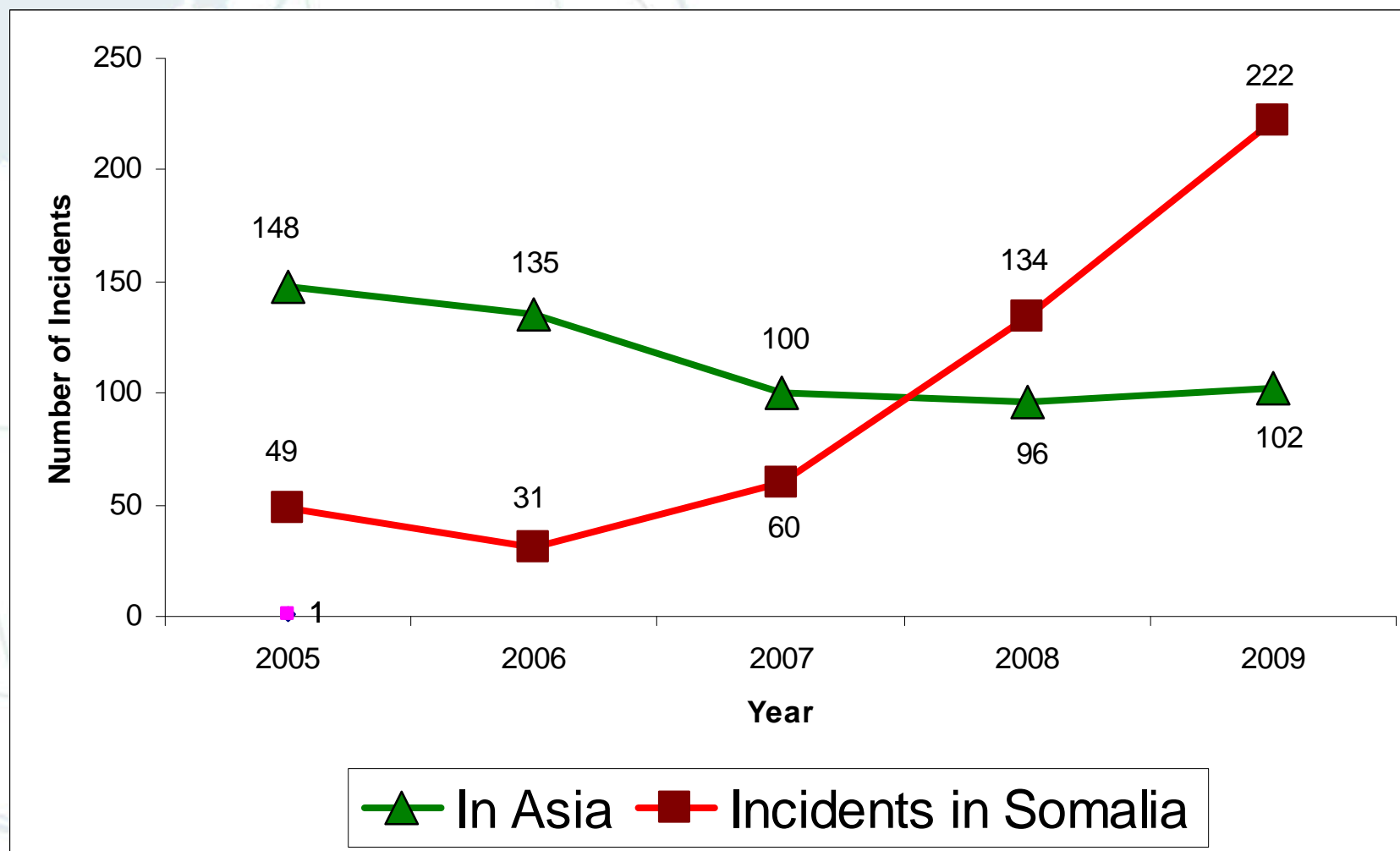
Level of Significance:

- Evaluates the significance of each incident based on its level of violence (V-factor) and the economic loss incurred (E-factor).



Category	Significance of Incident
CAT 1	Very Significant
CAT 2	Moderately Significant
CAT 3	Less Significant

General Trends (2005-2009)



Have a Jolly Good Day !!

<http://www.recaap.org>



14 May 2010

**Statement of H.E. Dr. Ali Abdussalam Treki,
President of the 64th Session of the General Assembly,
at the Closing of the informal meeting of the General Assembly
on International Maritime Piracy**

Excellencies, Distinguished Panelists, Ladies and Gentlemen

I would like to extend my thanks to all of you for your participation in this important meeting. My special thanks go to H.E. Mr. Abdurahman A. Ibrahim, the 1st Deputy Prime Minister of Somalia, H.E. Mr. Amos Kimunya, Minister of Trade of Kenya and H.E. Ms. Stefania Prestigiacomo, Minister of Environment, Land and Sea of Italy. I also thank the Secretary-General for his strong support. Our distinguished panelists have done a wonderful job in leading the discussions and providing critical insights into the subject matter, and I thank them for their important contributions.

I thank all Member states and representatives of Specialized Agencies, Inter-Governmental Organizations and NGOs for responding to my call to discuss the problem of piracy in a comprehensive manner in order to devise a collective and more coordinated response.

Excellencies, Ladies and Gentlemen,

The proceedings today have reaffirmed that if not addressed urgently and effectively, the problem of piracy will spiral out of control and lead to further serious global consequences. Already, the political, social, economic and human rights implications of piracy, and its destabilizing effects on national, regional and international stability and trade are posing significant challenges to the international community.

With regard to Somalia, the discussions today have reaffirmed the urgent need for serious and concerted international efforts to bring peace and stability to the country and to ensure the full respect for Somalia's sovereignty, unity and territorial integrity, as well as the protection of its natural resources. The discussions highlighted that piracy off the coast of Somalia was but one symptom of the complex political, security and humanitarian situation in Somalia, hence the crucial need to help Somalia to effectively address those challenges and bring stability to the country.

Today's deliberations also bear eloquent testimony to the urgent need for stronger and better coordinated strategies, not only to fight piracy at sea, but more importantly to address its complex root causes as part of a comprehensive approach. The role of the United Nations is central in coordinating an effective and holistic response to piracy.

I will, in due course, make available a summary of our deliberations today.

Thank you all. The meeting is adjourned.