

## CONTRIBUTION FROM INTERPOL TO THE CGPCS (WG1) REPORT

### Introduction

INTERPOL has been asked to provide any input regarding the Needs Assessment Report prepared by the Working Group 1, especially on annex D of the said report (titled: Regional counter-piracy capability development needs assessment and prioritisation mission to east Africa and the gulf of Aden – 7-13 September 2009 / dated 20 October 2009).

This report includes a range of proposals concerning: Judicial /penal sectors – Coastguard and Naval / Military structures – alternative livelihoods – Communication strategies. And this for Somalia, Puntland, Somaliland – Djibouti – Kenya – Ethiopia – Yemen – Seychelles – Tanzania.

These proposals concern several kinds of measures such as: support the implementation of a national constitution to clarify issues of sovereignty including control of the seas, institute prisoner transfer agreements, create coastal monitoring fisheries protection capabilities, provide proposals for a Somalia coastguard that could be actionable by the donor community, etc.

It also identifies the specific role for different UN organizations:

- UNPOS (political office for Somalia)
- UNODC / EC
- UNDP
- CGPCS (contact group on piracy off the coasts of Somalia)

Despite the efforts undertaken by INTERPOL to underline, in the framework of its participation in the different meetings, whether it be the CGPCS Working Groups, the IMO meetings, the SWG meetings, the SHADE meetings, etc., that a strong law enforcement component is a vital aspect in an effective and sustainable strategy against maritime piracy, and that this was not taken sufficiently into account in the discussions, the Organization's concerns seem not have been fully understood or taken into account.

### Preserving the Law Enforcement Option:

The international community has correctly concluded that it is necessary to adopt a “holistic approach” to combating maritime piracy.

This effort requires a multidisciplinary approach and requires close coordination between the military on one hand and the law enforcement community/judicial authorities on the other. Since the military is currently the primary collectors of piracy information and is usually the first responder to a piracy attack, it must be sensitized to the need to preserve the law enforcement option. In all critical aspects, the military is performing a law enforcement function in apprehending pirates on the high-seas, not by choice but by necessity.

INTERPOL has to be considered as a key partner in all the efforts undertaken by the international community to curb maritime piracy. Law enforcement is a major actor in the fight against maritime piracy, as it is a regular type of organized crime, and INTERPOL as the world's largest police organization with 188 member countries, hence with bridges built with the law enforcement agencies of 188 countries needs to be considered more effectively.

There is a major gap in the strategies developed by the different stakeholders involved. This gap is the law enforcement intervention.

Information sharing among relevant law enforcement agencies is crucial to establish links between cases, to facilitate the apprehension of potential suspects and to support the prosecution. This work is facilitated through the use of secured communication channels developed by INTERPOL that link all of its 188 member countries.

From recent cases, it appears that some of the suspected pirates that had been apprehended were released for lack of evidence. Competent, basic police investigation could avoid a repeat of such incidents.

The operational needs of effective law enforcement need to be considered in a comprehensive approach to combating maritime piracy. INTERPOL's role in this regard is two-fold:

- to increase the exchange of intelligence;
- to build regional police capacity;

a) Increased information exchange

INTERPOL provides investigative and operational police support on an ongoing basis to all member countries affected by maritime piracy off the coast of Somalia. In this regard, the exchange of information is carried out between the INTERPOL General Secretariat and the Organization's 188 member countries via the INTERPOL secure global police communications network (I-24/7) and with the support of INTERPOL Command and Coordination Centre (CCC), which plays a central role in coordinating and facilitating the exchange of intelligence and information relative to police operations and investigations involving multiple countries, 24 hours/day. INTERPOL is also working with UNPOS, UNDP, UNODC, DPKO, WFP and the CGPCS to broaden the exchange of information between all key players affected by piracy.

In September 2009 INTERPOL organized an operational working group meeting which gathered investigators from affected countries in order to: establish a network of dedicated experts on maritime piracy; exchange relevant investigative information and intelligence on maritime piracy cases to improve the analytical assessments; identify the means to increase the operational support that INTERPOL can provide to affected countries and; increase the scope of Project BADA (name of INTERPOL project on maritime piracy).

Working together with the co-drivers from the US State Department and the UK Foreign and Commonwealth Office, INTERPOL will host a meeting on maritime piracy financing in January 2010. The objective is to provide a forum for financial investigation experts and policy makers to enhance cooperation, experience and information sharing with a view to tackle maritime piracy problems through tracing the money trails.

b) Regional Capacity Building

INTERPOL is aware that many Organizations are currently undertaking capacity building initiatives which aim at strengthening the judiciary in the region and does not intend to duplicate these existing efforts. Therefore, INTERPOL efforts are primarily focused on providing direct assistance to law enforcement. Although not directed at the judiciary, the assistance delivered by INTERPOL to law enforcement will in turn greatly facilitate the prosecution of offenders.

INTERPOL current activities include capacity building for law enforcement in the Horn of Africa, targeting in particular those countries in Eastern Africa where piracy suspects are currently being detained and awaiting trial (i.e. Seychelles and Kenya).

In addition to investigative and operational police support provided on an ongoing basis to all affected member countries, INTERPOL is currently carrying out the following capacity building and training activities:

- **Kenya:** INTERPOL provided direct assistance to the Kenyan authorities to extend access to INTERPOL information and communication tools beyond the INTERPOL National Central Bureau (NCB) in Nairobi to Mombasa where investigations on maritime piracy are being carried out. This extension will enable the connection of a strategic location in Mombasa (adjacent to the office of the Kenyan Criminal Investigation Department) to INTERPOL I-24/7 network. Establishing this NCB annex in Mombasa is of crucial importance in facilitating the timely collection, centralization, and transfer of investigative information, including identifying information on potential suspects, between Nairobi and Mombasa as well as between Kenya and INTERPOL 187 other member countries. Kenyan Police should benefit from these investigation tools (fingerprint device, sim-card readers, etc.) in order to make further investigations and prosecution easier and more effectively. Kenyan police are also involved in the police working groups and will be represented in the next anti-piracy workshop organized by INTERPOL. Moreover, ad hoc Incident Response Teams can be deployed in Mombasa to help the local police in identification and crime scene analysis.
- **Somalia:** INTERPOL endeavors to revitalize the NCB in Mogadishu including reconnecting the NCB to the I-24/7 network which has been interrupted due to the lack of a reliable power supply. Due to instability in the region, INTERPOL is working to provide remote assistance to local authorities in order to solve the technical problems related to the connection. Once connected, the Somalia Police Force would technically be capable of sharing information and intelligence, of potentially great consequence to the fight against maritime piracy in the region, with law enforcement all over the world. The

refurbishing and re-equipment of buildings for Somali Police will also be evaluated. Once the I-24/7 connection is revitalized in Mogadishu, INTERPOL will assess, in cooperation with the different regional authorities, the feasibility of extending its NCB Mogadishu to Puntland.

Crime scene investigation plays a crucial role in crime prosecution. Criminal Police investigation, including forensics, witness interviews, development of a criminal prosecution is an indispensable element to successful prosecution.

The purpose of crime scene investigation is to help establish (because only a court will “establish”) what happened (crime scene reconstruction) and to identify responsible persons. This is done by carefully documenting the conditions at a crime scene and recognizing all relevant sources of evidence. The ability to recognize and properly collect physical evidence is critical to both solving and prosecuting crimes.

It is no exaggeration to say that in the majority of cases, the law enforcement officer who protects and searches a crime scene plays a critical role in determining whether sources of evidence will be used in solving or prosecuting crimes.

The maritime piracy crime scene occurs in high seas (by definition). It is a very difficult environment for a crime scene investigation. International Navy is the major player to approach the crime scene and there is no substitute for a careful and thoughtful approach.

Despite traditional channels to exchange maritime piracy information and intelligence between INTERPOL’s General Secretariat and the 188 member countries, this unique nature of maritime piracy, which entails military actions at the high sea, must result in an active cooperation between INTERPOL and the naval forces operating in the area of interest, thus improving information-sharing between the military and police forces.

INTERPOL’s goal in supporting international efforts against maritime piracy is to provide support to the global law enforcement community in following up on international leads and help ensure that important investigative and identifying information on the offenders and cases are made available to the global law enforcement community, through INTERPOL channels and databases.

INTERPOL is in a unique position to connect naval efforts and prosecutions.

Only through this basic (rather important) effort, can INTERPOL enrich and populate its global databases (Criminals, Fingerprints, Ballistics, DNA, Stolen and Lost Travel Document, Photos, telephone subscribers, etc) provide guidelines for correct evidence, gather, enhance intelligence exchange, provide operational support and coordinate investigative efforts of the law enforcement agencies, and issue INTERPOL Notices, diffusions, alerts, etc.

All countries in the region are members of INTERPOL. Police entities can share sensitive information through the INTERPOL I-24/7 global secure communications network. Of particular interest is to evaluate whether the legal framework for I-24/7 contains

modalities that enable the sharing of information for law-enforcement purposes with other entities operating in the anti-piracy field such as naval vessels.

Prevention, identification and arrest of pirates; investigations and prosecutions; tracing and seizing ransom monies and disrupt criminal networks are all achievable results through 2 of the main INTERPOL core functions, namely “Secure global police communications services” and “Operational data Services and databases for police”.

One of the additional causes of maritime piracy is due to environmental crime and the shortage of available fish in the seas of the Gulf of Aden. As indicated in the assessment report by the CGPCS, the increased volume of traffic in the region and reckless activity by pirates increases the risk of a pollution incident. Djibouti has indicated its interest in establishing an anti-pollution unit. INTERPOL, through its Environmental Crime Programme is eager to assist in such a development by providing expertise and training. INTERPOL is also supporting the improvement of the enforcement of the fishery legislation.

Accordingly, INTERPOL and the various naval forces that patrol the waters off the coast of Somalia and which are involved in the apprehension of suspected pirates, should develop a joint initiative to target piracy in the Gulf of Aden and beyond *through information sharing*. The focus should be on obtaining and sharing information among the INTERPOL member countries on all aspects of collected pirate information, from names to biographic and biometric details to ship information.

Although information-sharing alone will not stop the attacks, it may lead to the development of critical information needed to develop a law enforcement strategy among partner nations to target the problem from the point of origin and enhance the law enforcement community’s situational awareness. The sharing of information will also enable INTERPOL to provide analytical support to address issues such as criminal networks involved with piracy and their modus operandi.

INTERPOL has already proved its value to the U.S. military, NATO forces and partner nations’ law enforcement entities, for example, through projects Vennlig (using INTERPOL channels to share with affected member states terrorist-related information collected on the battlefields in Iraq) and Hamah (using INTERPOL channels to share with affected member states terrorist-related information collected on the battlefields in Afghanistan). Thus, the use of INTERPOL channels to share information collected from military forces with affected member states, in accordance with INTERPOL’s rules, will be familiar to the naval forces and will ease concerns associated with sharing military information with the law enforcement community. In the end, the military fully understands that the law enforcement option may be the best option for addressing this “classic” criminal act and should therefore be preserved.

INTERPOL is also working closely with the European Naval Forces (EUNAVFOR). A military officer will join the INTERPOL maritime piracy team. He will assist INTERPOL in enhancing the cooperation and collaboration already initiated between the law enforcement and the military in the fight against maritime piracy.

Finally, INTERPOL is currently assisting EUNAFVOR in the purchase of fingerprints portable devices that can be used on naval ships so that the naval forces can instantly collect and compare the fingerprints and identification details of suspected pirates against the INTERPOL global databases. This again will further enhance the links among cases.

Recommendations:

- INTERPOL should work closely with the naval forces involved in combating maritime piracy; provide training to them of how to preserve the evidence for use by the law enforcement community, the INTERPOL tools available to ensure a wide distribution of such information to law enforcement entities world-wide.
- INTERPOL should enhance cooperation with other leading actors in the field, most notably with UNODC, IMO, UNDP, and UNDPA. Such cooperation will ensure INTERPOL's participation in key future initiatives such as future country-assessment missions in the region.
- Use future of meetings of SHADE to present this information sharing concept to the various naval forces patrolling the waters off the coast of Somalia. (Already, the NCB in Washington is sharing information collected from the US Navy, and the NCB in London is similarly sharing with affected INTERPOL member states pirate-related information (fingerprints, photos, names of suspected pirates apprehended at seas) collected by EU Naval Forces. The other naval forces operating in the region should be urged to do the same and INTERPOL can be the key broker in this effort).
- Currently, connection to the I-24/7 network is frequently limited to the INTERPOL National Central Bureau itself. In accordance with the Organization's Rules and Regulations, INTERPOL is working with national authorities to expand connection to the I-24/7 network so that all relevant law enforcement agencies can remotely access INTERPOL's information and communication tools in those countries in Eastern Africa that are affected by piracy.
- As remote connections are authorized and established, INTERPOL will conduct training sessions for local law enforcement officers to ensure that they are in a position to make optimal use of the I-24/7 system.
- NCBs are encouraged to circulate and share the information in their possession on cases of maritime piracy. In particular, they are invited to send INTERPOL information which could be entered in the Organization's databases (nominal data, fingerprints, photographs, DNA, telephone data, etc.), thus allowing the sharing of information on an ongoing basis under the existing legal framework.
- The co-operation mechanisms between the military and the police forces involved in combating maritime piracy need to be enhanced; all appropriate steps to achieve that will be taken.

- The participating countries and organizations will appoint contact points in the context of Project BADA. INTERPOL will organize regular operational and strategic international working groups on maritime piracy.
- INTERPOL is working with the US and the UK, and will host a conference in January 2010, on maritime piracy financial investigations
- An Analytical report for the first months of 2009 will be ready as soon as the last intelligence gaps will be filled in by the countries. The report will be distributed to the countries and kept updated by the BADA working group. This document will also be available for the whole community via INTERPOL secure website.
- INTERPOL best practices and procedures for the piracy crime scene investigation. Due to the lack of technical and investigation knowledge in some national operational units operating in the fields, INTERPOL will seek from member countries' (BADA working group) help to draft a code of practice and procedures for the investigation of crimes of piracy and armed robbery against ships. The possibility to review a similar code drafted by IMO will be evaluated.
- Maritime Piracy "BADA" international contact points. As an outcome of the latest meeting of Project "BADA" working group, a contact point list will be drafted in order to stimulate intelligence sharing and closer investigative cooperation among members of the group.
- Given its law enforcement expertise it would be of benefit to the international community if INTERPOL would be invited to participate in future assessment missions to be carried out by the CGPCS.