2022 Strategic Framework: Re-envisioning the CGPCS as Platform for Strategic Dialogue on Maritime Crime in the Western Indian Ocean

Report of the Chair of the Strategic Planning Steering Group for consideration at the 24th plenary of the Contact Group on Piracy off the Coast of Somalia.

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Executive Summary

At the 23rd Plenary held in December 2020, the Contact Group on Piracy off the Coast of Somalia (CGPCS) established and tasked the Strategic Planning Steering Group (SPSG) to develop a strategic plan that would ensure the CGPCS remains an "agile mechanism […] embedded in a long-term strategy for the region".[1] The Plenary adopted a Terms of Reference that directed the SPSG to map out future CGPCS priorities, including activities that might need funding. At the inaugural meeting of the SPSG, held on February 11th 2021, SPSG participants designated the Republic of Seychelles as Chair of the SPSG. The SPSG held seven meetings in 2021.

Based on the SPSG discussions, this report by the SPSG Chair establishes a new strategic framework and sets out the key conclusions and recommendations to be considered by the 24th Plenary. The SPSG recommends that the CGPCS Plenary agrees as follows:

To build on the CGPCS as a **highly successful agile platform for international strategic dialogue by expanding its focus to key maritime crime challenges in the Western Indian Ocean region.** This implies to open up discussion to other concerns then the threat of piracy in the region (Recommendation 4.1)

To ensure that the CGPCS continues to focus on its key strengths (recommendation 4.2), that is to:

a. Provide a **forum for high-level information exchange** concerning criminal threats and issues in the maritime domain that require political attention and responses for adoption by regional and international actors (e.g., through capacity building programming, naval operations);

b. Serve as an **ongoing platform for mid-level diplomatic representatives** to share interpretations of the security situation, discuss strategic options for responses, identify gaps in current approaches, and feed decisions into high-level decision-making fora (e.g., UN Security Council, European Union, NATO, G7, G77);

c. Be **inclusive** and provide opportunity for **government exchanges with the maritime industry, non-governmental organizations, and academia**;

d. Ensure that **countering piracy off the coast of Somalia** remains a core pursuit and provide a **rapid response mechanism should piracy in the region resurface** as a major threat to international transport, including the potential for establishing a rapid funding mechanism, such as a UN Trust Fund.

e. Ensure that the CGPCS **does not duplicate other efforts** and instead is additive as a key focal point for strategic dialogue integrating ongoing international and regional programmes and initiatives; and

f. Continue its **efforts to harmonize legal provisions and coordinate prosecution** efforts on maritime crime in the region.

g. Consider, as necessary, replacing the UN Counter Piracy Trust Fund with a new **rapid response mechanism should piracy in the region resurface** as a major threat to international transport.

To **change the name of the CGPCS to reflect the renewed focus of the Contact Group** (Recommendation 4.3). This should entail replacing the issue denominator (piracy) as well as the regional reference (off the coast of Somalia).

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[1] 23rd Communique of the CGPCS, para 8.

1. The Work of the SPSG

The Strategic Planning Steering Group (SPSG) was established by the 22nd plenary of the Contact Group on Piracy off the Coast of Somalia (CGPCS), held in June 2019.[2] At the 23rd plenary of the CGPCS, held in December 2020 the importance of establishing the group was reconfirmed and its Terms of Reference (ToR) adopted.[3]

According to the ToR, the primary objectives of the SPSG are to:

- "develop a strategic vision" (18)
- "share information and identify synergies in program delivery on ongoing and planned national and international activities" (19)
- "setting priorities and encouraging specific programs and activities" (20)
- "focus on root causes" (21a)
- "identify responses and projects" to target criminal networks, land-sea nexus, including money laundering (21b, c)
- "offer objectives and strategic direction" for Law Enforcement Task Force, Maritime Security Coordination Committee, or Virtual Legal Forum (21d)
- To discuss "Counter Piracy Trust Fund or other funding mechanisms" (21e)
- Review and recommend activities for "collaboration with agencies, institutions or forums that work on maritime security in the Western Indian Ocean region" (21f)[4]

At the constitutive meeting of the SPSG in February 2021, the importance of the TOR objectives was reconfirmed and the Republic of Seychelles was declared to become the Chair of the group. Subsequently, the SPSG held 6 virtual meetings in 2021.

The 2nd SPSG meeting was a discussion of the outline of a draft strategy and the initial identification of priorities. At the 3rd SPSG meeting, it was agreed that the group needs to focus on key priority issues and should proceed through meetings on strategic themes led by SPSG participants.

At the 4th SPSG meeting, which was led by SafeSeas, the SPSG discussed the relation of the CGPCS to other maritime security bodies in the region (responding to para 21f of the ToR). It was recognized that maritime security issues are on the agenda of a substantial numbers of regional institutions and that the CGPCS operates in a complex environment which entails a high risk of its work duplicating other efforts. It was agreed that the CGPCS must carefully consider its relationships to other bodies (in particular, the Shared Awareness and Deconfliction (SHADE) mechanism's role in coordination military responses, as well as the Djibouti Code of Conduct's efforts in capacity building coordination).

The 5th SPSG meeting was led by the United States and focused on the theme of gaps in law enforcement, in particular prosecuting the kingpins and financiers of piracy operations (responding to 21b and c of the ToR). It was noted that the chief organizers of piracy operations in the region have still not been brought to justice and that this should continue to be one of the priority areas of the CGPCS. In particular, additional efforts are needed to ensure exchanges of information and criminal evidence, but also efforts geared at the harmonization of legal provisions and transfer mechanisms.

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[2] 22nd Communique of the CGPCS, para 29.
[3] 23rd Communique of the CGPCS, para 8-11.
[4] Contact Group on Piracy off the Coast of Somalia Strategic Planning Steering Group, Terms of Reference, adopted at the 23rd Plenary of the CGPCS, 18th of December 2020.

The 6th SPSG meeting, led by the Republic of Kenya and the UN Office on Drugs and Crime's Global Maritime Crime Programme, discussed the overall mandate of the CGPCS. It was agreed that piracy continues to be a concern as it "has been suppressed but not eliminated"; yet, the key priority issues in the region lie elsewhere. It was discussed that the CGPCS should hence broaden its focus and consider these other issues. While participants agreed with opening the focus of the CGPCS, no agreement was immediately reached concerning which particular issues should be discussed within the agenda. Smuggling of narcotics, illegal fishery and environmental crimes at sea were highlighted as potential issues. Participants agreed that the CGPCS should make efforts in opening up the aperture of maritime crime and that this should be reflected in the name of the group. It was recommended that the Plenary adopt a new name.

The 7th SPSG meeting aimed at consolidating progress and laying out gaps that the SPSG, in the context of its ToR, wants to address. It was agreed to present the key results of the SPSG discussion to the Plenary in the form of a report of the chair. Participants highlighted that the SPSG should discuss in the future (a) the role of the CGPCS in capacity building coordination (i.e., whether this role is sufficiently fulfilled by DCoC or there are notable gaps in current programming such as root causes that the CGPCS could help to fill); and (b) the internal structure of the CGPCS concerning the role of specialized working groups and the future role and funding of the secretariat in providing administrative functions, monitoring of progress and in external communications.

2. The Contact Group and Maritime Crime in the Western Indian Ocean

The Western Indian Ocean hosts a broad range of maritime security threats. These were first recognized in the 1990s. Key attention to maritime insecurity was initially sparked by concerns over the activities of extremist groups in the region, in light of the 2000 attack on the USS Cole. From 2008, it was piracy off the coast of Somalia that became the core concern and was addressed in a broad international response. The creation of the CGPCS was a direct reaction to this threat.

2.1 Piracy

Piracy has progressively been suppressed since 2012, with a minor spike of pirate activities observed in 2017. The last confirmed piracy attack occurred in April 2019. It is recognized that criminal actors and pirate kingpins in Somalia remain at large and maintain the intent and capability to act. Considering the efforts of regional states, the presence of military counter-piracy forces and protection measures applied by the shipping industry, criminal actors in Somalia have diversified their activities beyond piracy and are involved in other illicit maritime activities.

2.2 Other Maritime Threats

Overall, maritime threats are transnational in nature. Of particular concern in the region are smuggling activities, in the form of narcotics, arms, and humans, and sanction violations, but also environmental crimes, in particular concerns over illegal fishing activities. In the past 5 years there has also been a growing concern over extremist spill over to the sea, linked to the civil war in Yemen and the outbreak of violence in Northern Mozambique.

2.3 The CGPCS in the Region

The CGPCS has a mandate, as recognized by numerous United Nations Security Council resolutions and agreed in CGPCS communiques, to work for the benefit of the region. With the changing threat of piracy, the question arises as to what future role the CGPCS should play in the region.

The CGPCS is an important multilateral security mechanism in the region, given that it brings high-level government representatives, military officials, international organization representatives, industry leaders, non-governmental organizations participants, and independent experts together and uniquely combines a discussion between international donor interests and regional interests.

The 2018 review by the University of Copenhagen documented that the CGPCS is one of the strongest informal multilateral mechanisms in the region, but that there is a significant range of other mechanisms that addresses maritime security.[5]

3. The Working Structure of the CGPCS

The CGPCS was created in 2009. It is an informal governance body. It is a voluntary commitment by the participating actors. It does not have a formal legal status outside the consent of its participants formalized in communiques adopted at Plenary meetings.

3.1 Principles

The Contact Group has, as its core principles, no membership per se and no voting procedures. In its terms of reference, the first communique of 2009 established that the CGPCS "offers participation to any nation or international organization making a tangible contribution to the counter-piracy effort, or any country significantly affected by piracy off the coast of Somalia". The 2nd communique of the CGPCS established that "decisions would be taken by consensus", and that the chairmanship should rotate. Later communiques specified that the chair should come from the region and have a "mandate lasting one term of no less than 2 years"[6], and that plenaries should take place annually.

3.2 Legitimacy and UN Security Council

The primary legitimacy of the CGPCS has historically been functional; that it makes a significant and recognizable contribution to the reduction and containment of piracy off the coast of Somalia.

While the CGPCS has no formal legal relation to the UN Security Council (UNSC) or is a body of the United Nations, the legitimacy of the CGPCS is partially derived from multiple resolutions passed by the UNSC that have recognized and endorsed CGPCS activities. Given that the UNSC recurrently relies on the CGPCS for actions and results, it is sometimes viewed that the CGPCS has a mandate from the UNSC under customary international law. This carries the implications that any substantial revision of the CGPCS mandate might need to be recognized by the UNSC in a statement or

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[5] University of Copenhagen. 2019. Towards a Maritime Security Architecture for the Western Indian Ocean. A strategic review for the Contact Group on Piracy off the Coast of Somalia (CGPCS). Prepared for consideration at the 22nd CGPCS Plenary in Balaclava, Mauritius, 20th of June 2019, available at http://bueger.info/wp-content/uploads/2022/01/Strategic-Review-for-CGPCS-final-June-2019.pdf
[6] 20th Communique of the CGPCS, para 52 and 53.

resolution. This could imply that the CGPCS chair invites the UNSC Presidency to place the issue on the agenda and to comment on the work of the CGPCS.

3.3 Adaption and Current Working Configurations

As the 2019 University of Copenhagen analysis documented,[7] the CGPCS has been quite adaptive to changing situations, and has revised its institutional structure and working procedures recurrently; for instance, by changing the focus area of working groups, starting and ending working groups or supplementing them through ad hoc groups such as the Friends of the Chair meeting or the SPSG. As of the 22nd plenary (2019), the CGPCS works with the following configurations:

Plenary. An annual one-day plenary that includes "a threat briefing, a general exchange on the piracy situation and briefings from other regional maritime security mechanisms to ensure synergies".[8] The plenary has as its main outcome a concluding communique commenting on the current state of piracy in the region, reviewing current and planned activities and programmes to contain piracy and build counter-piracy capacities, and identifying gaps and needs, as well as issuing a press statement publicized in a press conference.

CGPCS Chair & Secretariat: The CGPCS Chair, supported by a (voluntary) Secretariat, organizes plenary meetings, issues press statements on recent developments and incidents, maintains the CGPCS network and list of contacts, ensures internal as well as external communication and is responsible for securing the legacy of the group including the document archive. The Chair has a mandate of no less than two years and preferably should come from the region.

Friends of the Chair: A meeting that prepares the CGPCS plenary and is comprised of a threat briefing, reports from stakeholders and associated groups.

Strategic Planning Steering Group: A group tasked with developing a strategic plan for the CGPCS.

Technical Groups: Two technical groups are linked to the CGPCS and report to the plenary. They are sub-groups from former official working groups of the CGPCS.

> The **Law Enforcement Task Force** (LETF) is tasked with the exchange of intelligence in order to contribute to the arrest and prosecution of piracy kingpins.

> The **Virtual Legal Forum** (VLF) is tasked with maintaining the network of legal experts of the CGPCS. It operates a website at http://www.piracylegalforum.org/

3.4 External Relations and Partnerships

At present, the CGPCS has strong relations with a number of other regional coordination bodies and processes:

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[7] University of Copenhagen. 2019. Towards a Maritime Security Architecture for the Western Indian Ocean. A strategic review for the Contact Group on Piracy off the Coast of Somalia (CGPCS). Prepared for consideration at the 22nd CGPCS Plenary in Balaclava, Mauritius, 20th of June 2019, available at http://bueger.info/wp-content/uploads/2022/01/Strategic-Review-for-CGPCS-final-June-2019.pdf, p. 9-12.

[8] 22nd Communique of the CGPCS, para 23

Djibouti Code of Conduct. A regional capacity building and information sharing arrangement supported by the International Maritime Organization to which the CGPCS has delegated the coordination of capacity building work in 2019.

EU MASE project. An information sharing and capacity building arrangement funded by the European Union that currently provides resources for the CGPCS secretariat.

Indian Ocean Commission has served as the secretariat of the CGPCS since 2018. A number of CGPCS meetings were aligned with IOC meetings;

Shared Awareness and Deconfliction (SHADE) mechanism that coordinates naval activities (patrolling, surveillance, interception) in the Western Indian Ocean and provides threat updates to the CGPCS plenary. In line with the Communique of the 22nd CGPCS Plenary and the closure of the CGPCS Operations at Sea Working Group, SHADE invited the secretariat and CGPCS participants to its meetings to streamline situational awareness.

Indian Ocean Forum on Maritime Crime (IOFMC). A regional coordination mechanism on maritime crime led by the UN Office on Drugs and Crime Global Maritime Crime Programme focused on sanction violations and narcotic smuggling in the region in the frame of agreements such as the Southern Route Partnership.

The Maritime Security Coordination Committee (MSCC) took over the coordination of capacity building in Somalia from the Capacity Building Coordination Group in 2017 and has been invited to report to the Plenary.

Other regional mechanisms working on maritime security in the Western Indian Ocean do not have established relations with the CGPCS, including the Indian Ocean Rim Association, the African Union, the Southern African Development Community and the Indian Ocean Naval Symposium.

4. Key Recommendations and Questions

The Chair of the SPSG on the basis of the discussion among members in the group recommends that the plenary takes note of and considers the following recommendations and open questions.

4.1 Opening up

The CGPCS needs to **re-establish itself as an agile platform for problem driven strategic dialogue on the key maritime security challenges in the Western Indian Ocean region.**

The current state of the **piracy risk does not justify the resources** needed for maintaining the CGPCS in its own right. This implies to open up discussion to other concerns than the threat of piracy in the region.

It is **unlikely that the participants in the CGPCS will reach an agreement on what particular issues** should be standing items on the plenary agenda. It is therefore recommended that the **CGPCS chair invites proposals from participating states and organizations for concrete issues to be discussed in the plenary.** The chair should consult with CGPCS participants (e.g. through a continued version of the SPSG or the FoC) to discuss proposed items before they are included in the plenary agenda.

4.2 Preserving the key strengths of the CGPCS

The CGPCS must ensure that it continues to focus on its key strengths, that is to

a. provide a **forum for high level information exchange concerning threats and issues in the maritime domain that require political attention** and the responses adopted by regional and international actors (e.g. through capacity building programming or naval operations), as well as

b. to serve as a platform for mid-level **diplomatic representatives to agree on shared interpretations of the security situation**, discuss strategic options for responses, identify gaps, and feed decisions into high-level decision-making fora (e.g. UN Security Council, European Union, NATO, G7, G77)

c. to be inclusive and provide an opportunity for an **exchange with the maritime industry, non-governmental organizations, as well as academia**, and

d. to provide a **rapid response mechanism** should piracy in the region resurface as a major threat to international transport.

e. to continue its efforts in **harmonizing legal provisions** and coordinating prosecution efforts on maritime crime in the region.

f. to ensure that the **CGPCS does not duplicate other efforts** and instead is the key focal point for strategic dialogue integrating ongoing programmes and initiatives.

4.3 Reconsidering the name of the CGPCS.

To reflect a renewed focus of the group as "agile platform for problem driven strategic dialogue on the key maritime security challenges in the Western Indian Ocean region" the name of **the CGPCS should change its names.**

This should entail to replace the issue denominator (piracy) as well as the regional reference (off the coast of Somalia).

> **"Piracy" could be replaced by "maritime security, "maritime crime", "blue crime".**

> **"Off the coast of Somalia" could be replaced by "Western Indian Ocean".**

> The implications and connotations of each of these terms should be carefully considered.

Any change in name must go along with a strategic communication campaign that sends the message that the international community stays alert concerning the piracy threat.

4.3 Working Configurations: Plenary is the key instrument of the CGPCS

The plenary is the key instrument of the CGPCS. Even under a widened agenda the CGPCS should **avoid to establish new technical subgroups** unless absolutely necessary. Future plenary agendas must be carefully designed.

The CGPCS should consider whether and how subgroups and meetings such as the FoC meeting, the SPSG, and the VLF are functional or whether the Secretariat could fulfill these roles with the support of ad hoc meetings when necessary.

The question when and how the CGPCS should work with digital methods vis a vis physical meeting needs to be carefully considered.

4.4 Ensuring strong regional links

Other regional instruments and configurations, including those that have standing relations to the CGPCS such as SHADE, DCoC, IOC, Indian Ocean Forum on Maritime Crime, but also those where there are no strong working relations so far (e.g. AU, IOTC, IONS, IORA) should be invited to provide updates in future plenaries.

The chair should consider to hold plenaries back-to-back with other ongoing related regional meetings to reduce costs and emissions.

4.5 Monitoring gaps

The CGPCS Chair, Secretariat and Plenary must continue to monitor whether the former tasks of the CGPCS, including the coordination of capacity building and operations at sea, are adequately addressed in other configurations and whether gaps arise that the CGPCS should fill.

4.6 Experimenting and the uniqueness of the CGPCS

As an international contact group, the CGPCS is unique in its format and the way it has experimented with different set ups in the past. It is recommended to continue this path.

This might imply to investigate in what way other formats could provide role models for the CGPCS. This could be the working practices of the G groups (G7, G20) or of meetings such as the Munich Security Conference, or the Sangri La Dialogue.

4.7 Develop scenarios for the work of the Secretariat.

For the CGPCS to become a key platform for strategic dialogue in the region and to continue to focus on its core strengths requires a capable and professional secretariat which can support the chair in organizing meetings and in external communications.

If it was prior practice that the chair also provides the secretariat, since 2018, the Indian Ocean Commission provides a de facto standing secretariat. This has the benefits of continuation, less costs linked to rotation, and professional attendance to communication.

In changing the focus of the group, implications for the secretariat and its financial sustainability must be considered. This might imply to establish a formal standing secretariat.