UNSC

THE NEED FOR STRONGER COUNTER-PIRACY MEASURES IN THE INDIAN OCEAN

BACKGROUND GUIDE

SAIMUN 2021

Letter from the Chair

Distinguished delegates;

Kindly receive our warmest regards. It is our pleasure to welcome you to the Security Council in the Sub-Saharan International Model United Nations conference this year 2021.

The Security Council is a high standing committee in the UN and for that reason, delegates are expected to have good mastery of content and their country's position to enable them advance intelligent arguments. In addition, all statements made during the discussions should be founded on relevant and accurate authorities which should include inter alia; statistics, laws, scholarly writings, and published reports.

It is my plea to all delegates to ensure that they are conversant with the Rules of Procedure and the flow of debate in order to facilitate vibrant simulations. Vibrancy is, however, secondary to knowledge so thorough research is expected of all delegates first and foremost.

Kind regards,

UNSC Chair.

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INTRODUCTION TO THE COMMITTEE

The Security Council consists of 15 members—five permanent members (the Republic of China [Taiwan], France, the Soviet Union, the United Kingdom, and the United States) and 10 non-permanent members elected by the UN General Assembly for two-year terms. The non-permanent members are generally chosen to achieve equitable representation among geographic regions, with three members from Africa, two from Asia, one from Eastern Europe, two from Latin America, and two from Western Europe or other areas. Five of the 10 non-permanent members are elected each year by the General Assembly for two-year terms, and five retire each year. The presidency is held by each member in rotation for a period of one month.

Each member has one vote. On all "procedural" matters—the definition of which is sometimes in dispute—decisions by the council are made by an affirmative vote of any nine of its members. Substantive matters, such as the investigation of a dispute or the application of sanctions, also require nine affirmative votes, including those of the five permanent members holding veto power. In practice, however, a permanent member may abstain without impairing the validity of the decision. A vote on whether a matter is procedural or substantive is itself a substantive question. The Security Council is required to function continuously thus each member is represented at all times at the United Nations headquarters in New York City.

Any state—even if it is not a member of the UN—may bring a dispute to which it is a party to the attention of the Security Council. When there is a complaint, the council first explores the possibility of a peaceful resolution. International peacekeeping forces may be authorized to keep warring parties apart pending further negotiations. If the council finds that there is a real threat to the peace, a breach of the peace, or an act of aggression as defined by Article 39 of the UN Charter, it may call upon UN members to apply diplomatic or economic sanctions. If these methods prove inadequate, the UN Charter allows the Security Council to take military action against the offending nation.

In addition to several standing and ad hoc committees, the work of the council is facilitated by the Military Staff Committee, Sanctions Committees for each of the states under sanctions, Peacekeeping Forces Committees, and an International Tribunals Committee.

BACKGROUND TO THE PROBLEM.

Maritime piracy is generally understood to be acts of violence, detention or depredation committed for private ends by the crew or passengers of a private ship against another ship, including its persons or property on the high seas.

Piracy in the Indian Ocean has been seen to be a threat to international transport and trade since pirates hijack major routes thus causing countries to incur major losses and therefore reduce international trade significantly. This is majorly seen in the horn of Africa in The Federal Republic of Somalia.

After the collapse of their government in 1991, fierce civil war, and the birth of the inefficient new government, the country of Somalia became birthplace of the new age of piracy. Set on a strategic point on the Horn of Africa, Somalian-fisherman and ex-militia raid the shipping lanes through the narrow channel by the Gulf of Aden.

As piracy off the Horn of Africa reached alarming rates in 2007-2008, the United Nations decided through a series of resolutions beginning in 2011 to put up an international response through deployment of multilateral naval forces to conduct counter-piracy patrols in the Indian Ocean region; securing a safe transit corridor for vessels and responding to piracy attacks or reports of suspicious activity on the high seas. There has been numerous discussions and agreements put out

to counter piracy in the region especially through the use of the United Nations Convention on Law of the Sea which has an extensive framework to deal with matters piracy.

Past and Ongoing UN Actions

The United Nations Convention on Law of the Sea.

The 1982 United Nations Convention on the Law of the Sea (UNCLOS) provides the framework for the repression of piracy under international law, in particular in its articles 100 to 107 and 110. The Security Council has repeatedly reaffirmed "that international law, as reflected in the United Nations Convention on the Law of the Sea of 10 December 1982 ('The Convention'), sets out the legal framework applicable to combating piracy and armed robbery at sea, as well as other ocean activities" (Security Council resolution 1897 (2009), adopted on 30 November 2009). Article 100 of UNCLOS provides that "all States shall cooperate to the fullest possible extent in the repression of piracy on the high seas or in any other place outside the jurisdiction of any State."

The General Assembly has also repeatedly encouraged States to cooperate to address piracy and armed robbery at sea in its resolutions on oceans and the law of the sea. For example, in its resolution 64/71 of 4 December 2009, the General Assembly recognized "the crucial role of international cooperation at the global, regional, sub regional and bilateral levels in combating, in accordance with international law, threats to maritime security, including piracy".

 The Maritime Crime Programme.

This Programme assists states in the Indian Ocean region to enhance and coordinate their efforts to combat maritime crime, with a focus on criminal justice capacity building. It has been successful in carrying out its mandate in Kenya, Mauritius and Seychelles through the successful capture and prosecution of over 1000 suspected pirates.

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

Since the use of the Maritime Crime Programme, the number of attacks and hijackings has dropped. Recent incidents have however raised concerns over the long-term sustainability of counter-piracy measures and whether enough is being done on land to increase the resilience of Somali communities and prevent a resurgence of piracy.

On 16th October 2018, four men attempted to board the bulk carrier MV KSL Sydney around 340 nautical miles (630km) off the coast of Mogadishu, opening fire on the ship. The pirates aborted the attack after private security guards on board returned fire. The European Union Naval Force, as part of Operation Atlanta, tracked down and destroyed a whaler ship believed to have been that of the attackers. Despite these short-term successes, the international community's attempts to address the root causes of piracy in Somalia itself, are not yet effective enough.

The long-term success of counter-piracy measures depends on stable and unified states. At the core of the problem is countries dependency on the presence of foreign navies and international support for stability and security. Countries don't have the capacity to handle issues without foreign help. Comprehensive counter-piracy efforts must keep the pressure on pirate groups while addressing the root causes that enable these networks to emerge.

There is need for capacity building, poverty eradication and severing of all remaining piracy networks.
Puntland has been successfully fighting piracy since 2008. Once a centre of pirate activity, the federal state has taken proactive and effective counter-piracy measures – like establishing a maritime police force to drive away pirate groups and secure the coast. This has driven the network to the nearby autonomous region of Galmudug.

Puntland's success story may help shape and define a country specific approach to counter-piracy. But long-term achievements depend on a stable and unified state. As long as the root causes of pirate groups are not addressed, the threat of a resurgence in piracy will hover on the horizon.

QUESTIONS A RESOLUTION MUST ANSWER

1. What is the role and efficacy of United Nations Convention on Law of the Sea in countering piracy in the Indian ocean?

2. What efforts have been made to counter piracy efforts in the Indian Ocean?

3. What prevents these past efforts from combatting piracy activities in the Indian Ocean?

4. Are there best practices and frameworks that can be used to combat piracy in the Indian Ocean?

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