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Eighth Plenary Session of the Contact Group on Piracy off the Coast of Somalia

BUREAU OF POLITICAL-MILITARY AFFAIRS

March 22, 2011

The Contact Group on Piracy off the Coast of Somalia met at United Nations Headquarters in New York on March 21, 2011, and agreed upon the following statement:

Begin Text:

The Contact Group on Piracy off the Coast of Somalia (CGPCS) held its eighth meeting in New York on 21 March 2011, under the chairmanship of Turkey.

Summary:

The 8th Plenary of the Contact Group agreed on 21 March to the following points:

- There is an urgent need to build on the substantial work of the international community to date and pursue more forcefully, with the necessary resources, a comprehensive approach to combating piracy and the conditions from which it arises, through efforts on land as well as at sea, combining military, law enforcement, and development activity.
- The international community must actively pursue multiple approaches as recognized in the "Lang Report" to expand the capacity of the international community to prosecute and incarcerate pirates, and their leaders and financiers, through national prosecutions and innovative additional mechanisms, as well as the development and sharing of information on enabling networks.
- The international community, including industry, must expand the resource base available to build the capacity of regional countries, including Somalia, to combat piracy, in particular through contributions to the UN Trust Fund Supporting Initiatives of States Combating Piracy off the Coast of Somalia.
- It is critical that ship owners and operators implement Best Management Practices to discourage attacks and prevent boardings. It is an appropriate step for participating states to consider taking action on the issue of seafarers in captivity.
- There is an urgent need for a continuous robust military response to more aggressive and widespread pirate activity, as well as the need to provide sufficient military capability to sustain counter piracy operations.
- Participants took note of the critical role in this effort of Somalia itself, and called upon Somali authorities to take the necessary steps to pass and implement anti-piracy legislation upon which the international community can help Somalia build enforcement capacity in the context of the rule of law.

The CGPCS noted with concern that the scourge of piracy and armed robbery off the coast of Somalia continues to be a serious threat to international maritime safety, in particular to seafarers and international trade as well as to the security and prosperity of the regional countries. According to the EU Naval Force Somalia, in 2010 alone pirates captured 1,181 sailors aboard 53 vessels and a number of the captives died or were killed while under the control of pirates. The CGPCS recognized that piracy is no longer restricted to the Gulf of Aden but has spread to the larger Indian Ocean.

The CGPCS strongly condemned the recent killing of 4 U.S. citizens aboard the *SV Quest* as well as a Filipino seafarer on the *MV Beluga Nomination* and expressed its sympathies to the families of the victims. The Contact Group deplored the increasing use of violence against seafarers during attacks and while in captivity, including reports of significant abuse.

The CGPCS recognized the importance of keeping the next of kin and/or families of seafarers and others being held hostage by pirates fully informed of their status. The flag state should take responsibility to establish a protocol to follow in such events with companies operating on their registries so that the information is effectively disseminated to substantially interested states.

The CGPCS believed that notwithstanding the deepening and widening international cooperation to address the issue, a lasting solution to the problem can only be found if anti-piracy efforts are supported and complemented by additional

concrete policies and measures that will contribute to the establishment of law and order in Somalia as well as sustained economic development in the region. The CGPCS underscored the need for the international community to further solidify the implementation of broadly-based yet cohesive strategies and actions in the face of this multi-faceted scourge. The Contact Group, in this regard, called for closer cooperation with all Somali authorities in dealing with the underlying causes of piracy and armed robbery at sea, as the solution to the symptoms of piracy and armed robbery at sea lies in curing the illness of long-term instability on land.

The CGPCS reiterated that the effective arrest, prosecution and incarceration of pirates and armed robbers are important components in securing freedom and safety of navigation on the high seas. Lack of technical, legal and structural capacity in the region remains a stumbling block. The CGPCS underlined the importance of existing, ongoing and interlinked work by Working Groups 1 and 2, the Trust Fund and the UN Office on Drugs and Crime in supporting the development of regional prosecution and prison capacity.

The CGPCS expressed its strong gratitude and support to the military personnel engaged in counter-piracy operations and congratulated them on their success in responding effectively to the threat of piracy.

The CGPCS recognized the increasing use by pirates of hijacked vessels with hostages aboard as "mother ships," as a strategic threat to national and international interests, especially as this enables pirates to operate at extended range and in all weathers/sea states. The CGPCS encouraged the most resolute and determined action possible by Governments, military forces, the shipping industry and by all other means in response to this key threat, while accepting that it presents particular risks to the hostages and challenges which will require national political decisions.

The CGPCS highlighted the need for greater political will for decisive action against pirates. In this regard, recent action taken by Indian naval forces in neutralizing three vessels being used by pirates in the Indian ocean was mentioned, which resulted in rescue of 57 hostages and capture of 104 pirates who are being prosecuted in India.

The CGPCS called for concerted action to shift the risk/reward ratio for pirates through a coordinated and comprehensive combined military and cross-Government and industry response to disrupt the piracy business model, at sea and on land throughout the region.

The CGPCS highlighted the importance of monitoring and disrupting illicit funds that finance piracy attacks. As regards those financial flows, upon the recommendation of the Group, the United States held an Ad Hoc meeting in Washington DC on 1 March and reported on that meeting.

The Ad Hoc meeting identified several areas requiring further action, including enhancing information sharing and coordination, developing prosecutable evidence, fostering regional capacity, and strengthening governments' partnerships with the private sector. The CGPCS emphasized the urgency of addressing these issues in a systematic, sustained and targeted fashion and of developing an agreed strategy for undercutting piracy-related financial networks. It welcomed the offer of the Government of Italy to lead such efforts. The Group also welcomed the announcement by the Republic of Korea to host a follow-on ad hoc meeting on the financial aspects of Somali piracy before the end of the year. Fostering international cooperation to disrupt, deter and dismantle the financial networks that fuel piracy is a key objective of the CGPCS.

The CGPCS noted the importance of coordinating counter-piracy efforts with the work of the Security Council Committee pursuant to resolutions 751 (1992) and 1907 (2009) concerning Somalia and Eritrea.

The Transitional Federal Government (TFG) of Somalia addressed the CGPCS plenary and expressed its concern, together with the international community, and particularly the countries of the region, at the chronic and growing scourge of piracy and armed robbery off the coast of Somalia. The TFG agreed that piracy was a symptom of protracted insecurity on land. The TFG urgently called for a comprehensive approach for the realization of peace and security in Somalia, including in combating the scourge of piracy with greatest emphasis on land in Somalia. The TFG expressed support for the "Somalization" of the response, and stressed the importance of assisting Somalis in building and strengthening their economic, security, judicial and development capacity throughout the country as recommended in the Lang Report.

On behalf of the United Nations, the Department of Political Affairs addressed the CGPCS plenary and emphasized the importance of fighting piracy simultaneously on three fronts: deterrence; security and the rule of law; and development.

The CGPCS welcomed the reinvigoration of the Kampala Process under the leadership of the Secretary-General's Special Representative Mahiga. The Contact Group was encouraged that representatives of the Transitional Federal Government (TFG), and the regional authorities of "Somaliland", "Puntland" and "Galmudug", agreed to continue joint discussions on counter piracy efforts at the technical level later in the spring.

The report of the former Adviser to the Secretary-General on Legal Issues Related to Piracy off the Coast of Somalia, Mr. Jack Lang, (also known as the "Lang Report") has the potential to increase momentum for international support for land-based counter piracy efforts in Somalia and the region. It rightly stresses that Somalia should be at the centre of counter piracy efforts. The Contact Group noted that many of the proposals are already being implemented and welcomed the readiness of the United Nations to support key initiatives proposed.

The Contact Group is encouraged by the results achieved by its Trust Fund to Support Initiatives of States Countering Piracy off the Coast of Somalia, administered by the United Nations. During its first year, the Trust Fund Board has approved 12 projects totaling \$4.2 million dollars out of total contributions of \$6.2 million dollars. The CGPCS called on its Members and the private sector to urgently and generously contribute to the Trust Fund.

The CGPCS welcomed the initiative of the United Nations and the United Arab Emirates to co-chair a fund-raising event for the Trust Fund in the margins of a high-level, public/private conference on piracy organized by the United Arab

Emirates from 18 to 19 April 2011 in Dubai. The Group called on its Members to actively participate in this meeting.

The CGPCS recalled that the Security Council had, in its resolution 1950 (2010) called upon all States to criminalize piracy under their domestic law. In this regard, it noted with appreciation the efforts being undertaken by the Division for Ocean Affairs and the Law of the Sea (DOALOS) of the United Nations Office of Legal Affairs, IMO and UNODC to assist States in the review of their national legislation on piracy.

The CGPCS strongly believed that coordination and cooperation among the CGPCS participants and the United Nations is of paramount importance and expressed its intention to continue working closely with the UN.

The United Kingdom reported on the Working Group 1 meeting held in London on 17 February.

The CGPCS reiterated the importance of continuing close dialogue, cooperation and coordinated action between military operation commanders, governments, international organizations and the shipping industry in response to the threat of piracy off the coast of Somalia - this multi-faceted partnership remains central to effective counter-piracy action. The CGPCS underlined the continued critical importance of military protection of merchant shipping transiting through the Gulf of Aden. The CGPCS welcomed the continued work of the Shared Awareness and Deconfliction (SHADE) mechanism in coordinating military operations in the region, including its productive relationship with the navies of countries operating outside the framework of multinational operations. The CGPCS welcomed the continued significant contribution of these independent deployers, and welcomed work to increase co-ordination of convoys to maximize military support to industry.

The CGPCS expressed strong concern at the continued gaps in the capabilities required by the military operations to combat piracy effectively, including especially maritime surveillance aircraft, oil tankers and medical facilities as well as the need for the necessary number of warships required. The CGPCS called on all CGPCS partners to consider meeting these requirements through either military or civil/commercial means, as well as provide increased basing support in the region.

The CGPCS agreed on the importance of increased use of military Vessel Protection Detachments as another means of effective military protection, as well as freeing up warships for other tasks. It encouraged all CGPCS countries to provide such a contribution, especially partners unable to provide warships or other types of military contribution, and encouraged all Flag States to conclude universal Vessel Protection Detachment agreements with the military operations as soon as possible.

Recalling the importance of effective coordination of international support for regional capability development through Working Group 1, the CGPCS welcomed the progress being made in several key areas:

- The commitment of Somali Ministers to act against piracy in a transparent and coordinated manner with international partners, including notably through the Kampala Process and the Regional Plan of Action;
- The action being taken by regional countries and organizations to implement the Djibouti Code of Conduct, the Regional Plan of Action on piracy and maritime security in the Eastern and Southern Africa – Indian Ocean region, and the need for all partners to support implementation of the Plan, including the related continued and coordinated work of the IMO and the European Commission with regional countries in the implementation of the Djibouti Code of Conduct;

Taking account of progress in these areas, the CGPCS noted the updated Working Group 1 capability development matrix, underlining its ongoing critical function in ensuring transparency and non-duplication in regional maritime security capability development activity, and continued to encourage all partners to provide updates to the matrix to that end. The CGPCS also reaffirmed the key priorities agreed by the CGPCS in January 2010, updating them in the light of developments, as follows:

- Support penal/judicial programs, including in "Puntland" and "Somaliland";
- Support implementation of the Djibouti Code of Conduct;
- Support for prioritized counter-piracy/maritime security capabilities of regional coastguard/maritime police and military forces in accordance with the Regional Plan of Action on piracy and maritime security in the Eastern and Southern Africa – Indian Ocean region and the Working Group 1 needs assessment matrix;
- Support for comprehensive/cross-sector counter-piracy/maritime security action led by the UN in Somalia, especially through the Kampala Process, and including UN Rule of Law and Security Sector Reform programs within Somalia, including work linked to maritime police/coastguard activity and planning.

The CGPCS tasked Working Group 1 to continue its work in conformity with the conclusions of the Chairman.

Denmark reported from the Working Group 2 meeting held in Copenhagen on 3 – 4 March 2011.

The CGPCS noted the continued progress in the establishment of relevant national legislation and procedures and an increase in the number of national piracy trials. An overview provided by the UNODC and IGAD showed that approximately 850 Somali pirates are currently either incarcerated or being prosecuted in 16 countries. At the same time the CGPCS noted the need to take decisive action to ensure an increase in the number of suspected pirates being prosecuted. The CGPCS underlined that all possible models for prosecution should be pursued. This includes national prosecution by States both outside and in the region. The CGPCS underlined the importance of continuing to support national prosecutions and incarcerations in the region, including in Somalia when possible.

On the issue of additional mechanisms for prosecution the CGPCS warmly welcomed the report of Mr. Jack Lang, noting that the report had contributed to narrowing down the possible models for a special mechanism to secure prosecution of pirates. The CGPCS called for swift implementation of most of the proposals in the report, noting the work already undertaken by CGPCS, including by Working Group 2 and other actors, and that future discussions on the legal aspects of ensuring prosecution, including in regard to the report, could take place in Working Group 2. The CGPCS noted that the Lang report provides the basis for ongoing consultations in New York at the United Nations Security Council. The CGPCS called for the adoption of a Plan of Action on steps towards implementation of the models of the report.

The CGPCS noted that the lack of sufficient facilities for incarceration of convicted pirates was one of the most acute issues to be addressed in order to ensure an increased number of prosecutions, including in the region. The CGPCS therefore welcomed the work of the Working Group 2 in ensuring the necessary legal basis for a post trial transfer system, noting that the post trial agreement between the TFG and the Seychelles, and the expected further arrangements with "Puntland" and "Somaliland," were in conformity with the previous established legal conditions and could serve as model for future post trial transfer arrangement. The CGPCS called on Working Group 2 and its Chairman to ensure further progress in this field and underlined the need for all affected States and organizations to contribute to this process, including through funding for the construction of prison facilities in Somalia.

The CGPCS also took note of the discussions in the Working Group on a number of specific legal issues, including on the collection of evidence, air transfer of detained or convicted pirates, decision-making procedures when apprehending suspected pirates, and legal aspects of posting private armed security on commercial vessels.

The CGPCS tasked Working Group 2 to continue its work in conformity with the conclusions of the Chairman.

The United States presented the report from the Working Group 3.

On 28 February 2011, 140 participants met for a Working Group 3 meeting in Washington, DC which included 40 delegations and 23 international and industry organizations. With the recent escalation of violence shown by pirates off the Horn of Africa, including the killing of American citizens aboard the *S/V Quest* and the killing of a Filipino seafarer on the *MV Beluga Nomination*, the CGPCS discussions took on even greater urgency regarding the protection of shipping and seafarers from the threat of piracy.

The CGPCS noted that pirate tactics are changing in response to naval and industry counter-piracy actions. Significant among those tactics is the increasing use of "motherships" which have hostages onboard and which allows an extended range of activity outside the reach of patrolling naval forces. Working Group 3 continues to monitor findings in coordination with Working Group 1 regarding the effectiveness of Best Management Practices (BMPs), and more needs to be done. The use of BMPs has been continuously demonstrated to reduce the likelihood of a successful attack.

The Working Group remains concerned about vessels that are not following BMPs and other counter piracy guidance. In view of the increasing monetary levels of ransom payments and the recent escalation of violence by pirate gangs, Working Group 3 is urging flag-states to increase their own efforts to enforce the use of industry compliance with anti-piracy BMPs. The CGPCS noted the working group's interest in the need to leverage economic mechanisms to provide potential incentives for increased use of BMPs. For example, though insurance organizations have endorsed BMPs, underwriters have been challenged to seek ways to maximize compliance with self-protection measures among their clients. Also, Industry Groups and the Seamen's Church Institute will continue to develop and refine guidance for Company Security Officers (CSOs) to prepare for the contingency of an attack, and for post-incident care of affected seafarers, respectively. Working Group 3 will continue to monitor the extent and the effectiveness of BMPs and other counter-piracy guidance, and to refine and adapt them appropriately.

Moving forward, an intersessional working group will address further implementation of BMPs by nations with the potential use of the International Ship and Port Facility (ISPS) Code, the International Safety Management (ISM) Code, or other mechanisms. In recognition of further use of armed and unarmed security teams as part vessel defense, a second intersessional group of interested states and NGOs will address the consequences of the use of those teams with a view to examining the feasibility of elaborating guidelines. Conceptual papers will be developed to form the basis of discussion by each of the intersessional groups.

Working Group 3 tentatively plans its next meeting to be held at the International Maritime Organization on 14 September in London, UK.

Egypt briefed on the activities of Working Group 4 and stressed that in light of the recent political upheavals that struck the region over the past few months, which did not assist UNPOS and Working Group 4 chairmanship to hold the agreed upon Working Group 4 meeting in the region, the Chair of Working Group 4 resorted to close consultations with different Working Group 4 members and which resulted in the following:

- Invite all interested UN agencies (such as UNODC and IMO for example) to work closely with UNPOS and Working Group 4 to propose and implement projects of Working Group 4;
- Invite the United Nations to elaborate proposals and receive proposals from partners on the implementation of the communication and media strategy. The United Nations can submit proposals to the CGPCS Trust Fund and other donors;
- That the implementation of the communication strategy of the CGPCS should be both strategic and comprehensive;
- That the Chair of Working Group 4 should participate in activities and the coordination meeting of UNPOS in

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Nairobi;

- That the Chairman of Working Group 4, together with the Chairmen of Working Groups 1, 2 and 3, and representatives of interested states, visits the region to promote the CGPCS and its trust fund in coordination with UN relevant entities.

The Contact Group welcomed the presentation by the Republic of Korea on a new public website for the Contact Group. This website will serve to inform the international public on the work of national governments, international organizations and industry to combat piracy on land and at sea. The Contact Group encourages the Republic of Korea to act with all dispatch to make this valuable resource available to Contact Group participants and urges contributors to provide both content and financial support to this important contribution.

The CGPCS welcomed Maldives and Mozambique as new participants in the CGPCS and looked forward to their contributions to countering piracy.

The 9th plenary session will be held under the leadership of Singapore in July 2011.

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