



BAUMAN GLOBAL

**Strategic Review of the Trust Fund to Support Initiatives of
States Countering Piracy off the Coast of Somalia**

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Prepared by Peter Bauman¹ and Sarah Hanssen

¹ Peter Bauman, Founder & CEO, Bauman Global LLC
Email: peter@baumanglobal.com
Phone: 770-329-5588

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INTRODUCTION

In response to the escalation of piracy and armed robbery off the coast of Somalia, the growing threat to commercial vessels and those delivering humanitarian aid, and the inability of the Transitional Federal Government of Somalia to interdict and prosecute pirates and patrol and secure its territorial waters and international sea-lanes, the Security Council passed resolution 1851 (2008)². That resolution “Encourages all States and regional organizations... to establish an international cooperation mechanism to act as a common point of contact between and among States, regional and international organizations on all aspects of combating piracy and armed robbery at sea off of Somalia’s coast.” In accordance with this resolution, the Contact Group on Piracy off the Coast of Somalia (“Contact Group”) was established. In 2010 the Trust Fund to Support Initiatives of States Countering Piracy off the Coast of Somalia (TF) came into being to underwrite these initiatives.³

The purpose of the TF is “to help defray the expenses associated with prosecution of suspected pirates, as well as other activities related to implementing the Contact Group’s objectives.”⁴ More specifically, the TF was designed to “expand the current possibilities available to both States and the private sector to make tangible contributions to combat piracy off the coast of Somalia; permit the payment of expenses associated with prosecution and detention of suspected pirates; provide for an expedited distribution mechanism to allow for the payment or reimbursement of short-term prosecution related expenses; and support relevant legal capacity-building activities.” The TF includes two windows: (A) *Prosecution and Detention* and (B) *Other Priority Activities* related to implementing Contact Group objectives regarding combating piracy in all its aspects, including public communication initiatives.

PURPOSE AND SCOPE OF STRATEGIC REVIEW

Since the formation of the Contact Group and TF, the context has changed. No successful hijacking of a major commercial vessel has occurred since 2012. However, the root causes of piracy persist and the threat of a resurgence remains. In parallel with discussions on the future of the Contact Group, the UNDPA, the Trust Fund board, and other stakeholders decided to take stock of the TF in relation to the current context. The TF was set up when piracy was at its height warranting sea-based interdiction, arrests and prosecutions. Therefore, projects largely focused on building regional capacity to conduct prosecutions and trials, building and improving prison conditions, hostage support and debriefing, and building government law enforcement capacity. Five years later, there is consensus that these initiatives contributed to the suppression of piracy. Widespread recognition also exists that the threat remains and more durable solutions are needed to address root causes. In addition to analyzing contextual changes, board members noted the importance of identifying potential linkages between the TF and the five Peacebuilding and State Building Goals, the Somalia UN MPTF, Somalia National Development Plan (NDP), and Somalia Maritime Resource and Security Strategy (SMRSS), which includes the Maritime Security Coordination Committee (MSCC). To take stock of TF achievements and provide recommendations for its future this review includes 6 components:

- 1) An updated context analysis of the root causes and drivers of piracy that continue to serve as threats.
- 2) An assessment to determine if the root causes and drivers are being addressed by the Somali New Deal Compact, national development priorities, and bi-lateral and multilateral actors such as the World Bank and UN partners.
- 3) Contextualize this with evolving discussions on the future role and scope of the Contact Group and TF.

² <https://www.treasury.gov/resource-center/sanctions/Documents/1851.pdf>

³ In 2012, the TOR for the Trust Fund was revised resulting in the transfer of the administrative role from UNODC to UNDP’s MPTF office.

⁴ <http://mdtf.undp.org/document/download/10486>

- 4) Make recommendations to the Board on how to improve synergies between the TF and other initiatives including the SMRSS.
- 5) Review TF projects and determine if they are aligned with the changed context, identify programmatic gaps, and determine if and how the TF or other actors are situated.
- 6) Provide a range of options for the future of the TF.

METHODOLOGY

The strategic review took place between April and September 2016. The methodology included an extensive literature review including a taxonomy of all of the TF projects funded to date, Skype/phone and in-person interviews and focus group discussions with over 160 stakeholders including: representatives of UN agencies and other bi-lateral and multi-lateral donors, INGOs and contractors, national and local NGOs, civil society actors, traditional and religious leaders, representatives of the FGS and officials from regional governments including Puntland, Somaliland, Jubaland, and Galmudug. A range of global experts were consulted and representatives of the TF board and members of the Contact Group were interviewed. In addition, direct interviews were conducted with incarcerated pirates and their family members. Field visits included:

- *New York City* (April 26 - 29, 2016) - Interviewed representatives of UN agencies, MPTF office, UN agencies, and official missions to the UN.
- *Seychelles* (May 31 - June 3, 2016) – Attended the Contact Group’s 19th Plenary Session and observed the general assembly and working group meetings. Conducted consultations with members of the Contact Group, FGS, regional governments, civil society, and representatives of the shipping industry and foreign navy’s. Visited the TF supported court house and prison and interviewed the prison director, translator, and incarcerated pirates. Observed the TF’s board meeting and presented the methodology of the Strategic Review. Several discussions were also conducted with the Assistant Secretary-General for Political Affairs, Tayé-Brook Zerihoun.
- *Kenya and Somalia* (July 4 – August 3, 2016) – Interviewed stakeholders in Nairobi, Mogadishu, Hargeisa, and Garowe; visited the Hargeisa prison, interviewed prison mentors, the prison director, incarcerated pirates and their family members.
- *New York City* (August 21 - 23, 2016) – Debriefed the UNDPA Somalia team, TF Secretariat Deputy Director of Political Affairs Samba Sane and Under-Secretary-General Jeffrey Feltman.

Once interviews and observations were completed, the data was consolidated and analyzed. When possible, information was triangulated using a combination of interviews, literature, and observations. Although this was a very comprehensive strategic review, some limitations should be noted. First, due to security precautions and time constraints it was not possible to visit coastal towns and urban centers where piracy once thrived. This limited the capacity to collect primary data and restricted the ability to review the quality and impact of many TF projects. Second, most of the TF projects did not undergo external reviews or evaluations. Third, many of the TF projects lacked rigorous reporting. This combined with staff turn-over resulted in limited institutional memory of the TF projects, their objectives, outcomes, impact, relevance, and lessons learned. Despite these constraints, this strategic review provides ample data and analysis to assist the board and the Contact Group as well as UNDPA to take stock of achievements and determine next steps in relation to the current context.

1. CONTEXT ANALYSIS AND CURRENT TRENDS

1.1 Emergence of Piracy

Although sea robbery and other activities of ocean-going militia have a long history in Somalia, the first recorded “piracy” incident in modern Somalia occurred on January 12, 1991, when the Jeddah-bound cargo ship, *MV Naviluck* was captured off the coastal town of Haafuun (Cape Guardafui). The ship was looted and destroyed and three Filipino crew members were killed. Weeks later Mohamed Siad Barre, President of the Somali Democratic Republic (1969-91), was ousted. A power struggle ensued between clan warlords resulting in a protracted civil war and state collapse. Exploiting the security vacuum, opportunists including militiamen, fisherman, and former soldiers began targeting foreign fishing vessels/dhows. This paved the way for the first wave of Somali pirates.

1.2 First wave of pirates (1991 – 2003)

With a variety of narratives, the most common thread is that foreign fishing vessels/dhows exploited Somalia’s ungoverned waters by extracting fish and lobster using techniques that destroyed the reefs where they reproduced. To retaliate and take advantage of the opportunity “The hodgepodge of rebel groups, militias, and warlords that had inherited chunks of the Somali state (along with remnants of its navy) began to arrest foreign fishing vessels and extort “fines” for their release.”⁵ In some cases these groups remained armed robbers at sea, while others formed unofficial “coast guards”.⁶ For instance, in 1993, Colonel Abdullahi Yusuf, leader of the Somali Salvation Democratic Front (SSDF), instructed Abdiwahid Mahamed Hersi (Joaar), the owner of a small-scale lobster fishing company in Eyl, to “end illegal fishing by foreign fleets off SSDF-controlled territory.”⁷ Even though the government had collapsed and statutory laws did not exist, customary laws such as *xeer* legitimized the taxing of foreign fishing and commercial vessels in Somalia’s territorial waters. In response, foreign fishing vessels hired Somali militiamen as armed guards squelching initial attempts to regulate illegal fishing. This deterred some of the original “coast guards”, but others, such as Adullahi Abshir (Boyah), started targeting commercial vessels. Once the business model proved lucrative, it attracted a cadre of investors and desperate youth willing to risk their lives to make a living. The original pirate tactics were primitive and attacks occurred mostly within Puntland’s territorial waters. Nonetheless, they produced a cadre of skilled pirates and provided “proof of concept” for a successful business model. Within a short period of time, the desolate coastal town of Eyl became the first piracy hub.

1.3 Second wave of pirates (2003 – 2007)

Differing from the first wave of pirates, many of the new kingpins were political entrepreneurs and businessmen with strong clan networks. For instance, Mohamed Abdi Hassan (Afweyne) was a former civil servant from Harardheere, who harnessed the grievance of illegal fishing to gain support from his community and sub-clan, *Hawiye - Habir Gedir*, to form the Somali Marines. This transformed the coastal towns of Harardheere and Hobyo into epicenters of piracy. By “employing a military style hierarchy with titles such as fleet admiral, admiral, vice admiral, and head of financial operations... [They] exhibited an operational sophistication that matched their corporate professionalism, employing motherships that extended their attack radius hundreds of kilometers from the coast.”⁸ Boyah and Afweyne’s success attracted other kingpins including Garaad Mohammed who was made famous by the hijacking of the *MV Maersk Alabama*. Originally a fisherman from Eyl, Garaad was trained by private

⁵ Bahadur, 31

⁶ The term “pirate” does not exist in Somali. The closest term, *burcad badeed*, translates to “ocean robber.” However, most Somalis even those incarcerated in prison dismiss the term “pirate.” Instead, they use *badaadinta badah*, which roughly translates to “saviors of the sea” or, in Western terms, the coast guard. (Bahadur, 15)

⁷ Bahadur, 31

⁸ Bahadur, 33

security companies to target illegal fishing vessels. He later trained Afweyne's Somali Marines in Harardheere before starting the National Volunteer Coast Guard (NVCG) in Kismaayo. Because his father belonged to the Isse Mahamoud sub-clan of Eyl and his mother was a member of the Habir Gedir subclan of Harardheere, he provided the perfect interface for cooperation between the pirate networks of Eyl, Harardheere, and Kismaayo. By the end of 2007 two main pirate networks operated in Puntland and the northern coast of Central Somalia:⁹

- *Central Somalia piracy network* (Hobyo-Harardheere network) operated from the Harardheere district under the leadership of 'Afweyne' prior to 2008. In 2010 the network evolved into several operationally independent groups in Hobyo and Harardheere areas led principally by Garfanje and Afweyne's son, Abdulkadir Mohamed.
- *Puntland piracy network* under the leadership of Boyah from around 2007 and involving other kingpins including Abdi Garaad and Ciise Mohamoud Yusuf 'Ciise Yulux'. This network initially had its main hub in Eyl, but shifted in 2009 to Gara'ad and Laasqoray in response to counter-piracy operations and local pressure.¹⁰ It also operated from Bossaso, Aluula, Haafun, Bayla, Qandala, and Bargaal.

Several factors impacted the evolution and escalation of piracy during the first two waves including:

- Private coast guards and illegal licensing (1999 – 2010) The Puntland government contracted private security companies to help build its coast guard. Many of these companies became involved in illegal licensing and protection of commercial trawlers for a fee. Some also participated in piracy and armed robbery at sea. Each time a security company left and the staff's salaries ended, a new cadre of skilled seaman became pirates. Their skills augmented the pirates' capabilities to conduct complex operations.
- Prolonged drought (2002 – 2004) accelerated by climate change negatively affected pastoralist livelihoods resulting in increased urban migration and resettlement in coastal towns.
- Tsunami (2004) damaged coastal livelihoods and exposed toxic dumping thus compounding the grievance of illegal fishing.
- Hyperinflation (2006 – 2008) in Puntland exacerbated the dire socio-economic situation resulting in unpaid salaries of the army and police.
- Destruction of the Islamic Courts Union (ICU) (2007) eliminated an indigenous, community driven, ideological opponent to piracy and the formation of Al Shabaab (2006) inhibited the government's ability to police its territory and provided semi-secure spaces for pirate kingpins to operate with impunity.

1.4 Third Wave 2008 – 2012

By 2008 piracy had evolved into a sophisticated business that posed a major threat to the shipping industry. The original kingpins perfected their craft and fine-tuned their operations at an unprecedented scale. They reinvested capital, mobilized a network of investors, and prepared the on-land operations enough to sustain protracted ransom negotiations. They also attracted disaffected youth from throughout Somalia as well as highly trained members of the coast guard, police, and army whose salaries were either unpaid or not commensurate with the potential opportunity that piracy presented. This transformed the piracy networks from relatively disorganized ocean-going militias to heavily armed syndicates employing hundreds of people.¹¹ The number of individuals estimated to be involved in piracy grew from a few

⁹ See Hansen (2009), Palmer (2014) for discussions of the origins, evolution and leaders of these two cartels. The leaders of these two cartels had important alliances. 'Afweyne', a native of Harardheere, recruited pirate leaders from Puntland to train his group. See also SEMG (2008) and (2010).

¹⁰ SEMG (2010).

¹¹ SEMG (2008)

dozen in 2006 to approximately 3000 in 2012.¹² Pirates also extended their operations farther away from the coast. In 2005 the International Maritime Bureau (IMB) warned vessels to avoid sailing within 100 nautical miles of the Somali coast. By early 2009, pirates had expanded their operations away from the Gulf of Aden to the Indian Ocean¹³, with some attacks occurring as far as 1000 nautical miles off the coast.¹⁴ Pirates also began using increasingly sophisticated tactics, communications and navigation equipment and they began launching attacks from ‘mother ships’ capable of carrying several skiffs (speedboats) as well as weapons including rocket propelled grenade launchers and anti-tank launchers.¹⁵

Just as piracy operations became increasingly sophisticated, the business model became more professional involving investors, financiers, and other shareholders within Somalia, across the region, and internationally. Roles of different actors increased in specialization (e.g. translators, negotiators, money counters, etc.) and secondary coastal businesses made significant profits by supplying pirate operations (e.g. with food, fuel, khat, women, and alcohol).¹⁶ In addition, the international business of dealing with ransom negotiations and payments involving lawyers, private security companies, consultants, and insurance companies grew in size and sophistication. According to the World Bank, pirates carried out 1,068 attacks between 2005 and 2012 resulting in the hijacking of 218 ships, the abduction of at least 3,741 crew members, and the payment of an estimated \$315 million to \$385 million in ransoms.¹⁷ The estimated cost of piracy at its peak was between \$7 and \$18 billion per year due to additional security and precautionary measures (e.g. re-routing, private security), insurance premiums, ransoms, and other impacts on international trade.¹⁸

1.5 2012 to present

The number of successful hijackings fell in 2011, and, by 2013, incidents of piracy were largely contained. Although the number of attempted attacks reached its peak of around 237 in 2011,¹⁹ pirates’ success rates began to plummet after April 2011.²⁰ As success rates declined, pirates made fewer attempts and incidents were increasingly focused on fishing dhows that were much softer targets. In 2012, there were 75 attempted attacks and 15 successful hijackings,²¹ of which 9 were fishing dhows.²² While hijackings of fishing dhows continue to date,²³ the capture of the Greek-owned oil tanker “MT Smyrni” off the coast of Oman in May 2012, marked the last successful hijacking of a commercial vessel by Somali pirates.²⁴

Although piracy has been contained by heightened security at sea, conditions onshore remain intact and a resurgence of piracy is likely if security measures are relaxed. Commentators point to the following trends:

¹² World Bank (2013a), pp. 89-90.

¹³ UNODC (2010), p 135.

¹⁴ This shift is partially attributed to the pirate’s reaction to international naval patrols in the Gulf of Aden (SEMG, 2010)

¹⁵ UNODC (2013), p 198. See also SEMG (2008).

¹⁶ World Bank (2013b), p 30.

¹⁷ World Bank (2013a), p 1.

¹⁸ World Bank (2013a), p 15-16.

¹⁹ SEMG (2013).

²⁰ UNODC (2013), p 40.

²¹ UNODC (2013), p 50. Data are derived from UNODC/World Bank database. Although there were only 15 hijackings in 2012, pirates were still receiving ransoms from ships hijacked in previous years.

²² SEMG (2013), p 20.

²³ In 2013 there were 15 attempted attacks and two hijackings of dhows/fishing vessels (a Yemeni dhow whose crew was ultimately released and the brief hijacking of another dhow that was rescued. SEMG (2013) and SEMG (2014).

²⁴ Per UN Security Council Report S/2013/623, the MT Smyrni and its crew were released at the beginning of 2013 for a ransom of approximately \$13 million USD.

- Armed robbery and hijackings of foreign fishing vessels within Somalia’s EEZ continue. In 2015 two Iranian fishing dhows were hijacked by groups linked to Garfanje.²⁵
- Foreign fishing vessels are returning due to the drop in piracy, which has revived conflict between alleged IUU fishing vessels that typically employ private armed guards, local fishermen, and militias.²⁶
- Pirate kingpins and financiers remain at large and appear to enjoy protection from prosecution due to a combination of clan linkages, power, and politics.²⁷ Many kingpins remain active and in a position to reinvest their assets into piracy if the conditions become favorable again.
- Security measures at sea are costly, and, as a result of reduced incidents of successful hijackings, there is a trend toward relaxing security measures. International resources are being diverted to address migration issues. Reports also note that the shipping industry is relaxing the implementation of the Best Management Practices (BMP), and commercial vessels are employing fewer private security guards.

1.6 Key components of counter-piracy operations

Security operations at sea. The international response to piracy focused on establishing a security architecture at sea, which includes three major components:

- *Best Management Practices (BMP).*²⁸ The shipping industry (insurers and shipping companies) have introduced and promoted BMP for commercial vessels sailing in high-risk areas including: sailing farther away from shore, moving in groups, sailing at higher speed, zig-zagging, razor wire, and fire hoses.
- *Armed guards on ships.* The shipping industry began employing private security guards on commercial vessels.
- *International naval patrols.* This has involved the coordinated efforts of several multinational forces – the Combined Maritime Forces (CMF) Combined Task Force 151 (CTF 151)²⁹, North Atlantic Treaty Organization (NATO) Operation Ocean Shield,³⁰ and the European Union Naval Force Somalia (EUNAVFOR)³¹ as well as independently deployed naval ships to patrol the Internationally Recommended Transit Corridor (IRTC).³²

Security operations onshore. As previously indicated, the number of successful hijackings declined beginning in April 2011, although attempted attacks continued. Heightened security at sea may have initially pushed pirates to become more sophisticated in their tactics and go farther out at sea. In 2012, counter-piracy forces began pursuing increasingly aggressive tactics to disrupt piracy operations onshore, including air attacks targeting supplies.³³

²⁵ SEMG (2015)

²⁶ SEMG (2015), OBP Report.

²⁷ In 2015, the SEMG expressed concern that Gafanje continued to carry out attacks (on 2 Iranian dhows) and appeared to have high-level access to FGS officials who took no action to prosecute him. SEMG (2015)

²⁸ http://www.mschoa.org/docs/public-documents/bmp4-low-res_sept_5_2011.pdf?sfvrsn=0

²⁹ <https://combinedmaritimeforces.com/ctf-151-counter-piracy/>. This is a US-led naval coalition of about 27 countries that are not part of NATO or the EU. Three Combined Task Forces operate in the region, but CTF 151 was established with a specific mission to run counter-piracy operations.

³⁰ <http://www.mc.nato.int/ops/Pages/OOS.aspx>

³¹ <http://eunavfor.eu>

³² Until the UN Security Council passed a resolution that allowed foreign navies to enter Somali waters, it was illegal per international law for foreign military ships to enter Somalia’s territorial waters. Thus, international actors found it legally challenging to arrest pirates. As Bahadur (22) states, “foreign navies tended to give pirates a slap on the wrist; their weapons and boats were impounded or destroyed, and they were released.”

³³ More aggressive tactics by anti-piracy forces on the ground made it increasingly difficult for pirates to secure their supply-lines onshore. In 2012, EUNAVOR operations were extended to include Somali coastal territory and internal waters, and it launched air attacks targeting pirate suppliers in coastal areas. This included destroying pirate fuel stockpiles that were critical to pirate operations.

Strengthening Somali security, governance, and rule of law capacities. The international community supported varied initiatives to strengthen Somali capacities to counter-piracy on land. The goal was largely stabilization rather than addressing the conditions onshore that enabled piracy to thrive. Major focus was placed on strengthening Somali capacities to “bring a legal finish” to counter-piracy operations so that pirates could ultimately be prosecuted and detained in Somalia. The international community also supported important first steps toward developing Somalia’s capacity to protect, manage, and develop its territorial waters and maritime resources. However, little was done to shift the socio-economic and political incentives and disincentives of key actors (kingpins, political elite, foot soldiers, and coastal communities). Discussed in more detail below, security responses appear to have reduced the profitability of piracy enough to push kingpins into other businesses. Now that the business has been temporarily shut down with the heavy use of ‘sticks’, a key question is whether ‘carrots’ should be offered to help prevent a resurgence of piracy as security measures are relaxed.

1.7 Other factors contributing to the fall in piracy incidents since 2012

Two broad schools of thought exist on the reasons behind the fall in piracy incidents. The first view prioritizes the heightened security at sea as the main cause of the decline. The majority of interviewees concluded that if any of these three interventions [naval patrols, BMP, private security guards] is reduced, piracy will likely return. The alternative view stresses that internal dynamics onshore, including a change in tolerance for piracy by politicians, clan elders and religious leaders, and the coastal communities, contributed to the reduction in piracy. The picture that emerges is of an inter-play between the two: counter-piracy operations made the business of piracy riskier and less profitable shifting the balance of incentives for political elites and coastal communities.

More specifically, interventions at sea forced pirates to extend their ranges as high value ships moved farther away from the coast. This, combined with increased defenses and private security guards, meant that a growing number of pirates were lost at sea or arrested.³⁴ Simultaneously, the costs of guarding ships, supporting hostages and crew, and ensuring tolerance by coastal authorities and communities increased, while pay-offs appear to have reduced, become more protracted, and less certain.³⁵ Declining support from coastal communities made it more difficult for pirates to find secure anchorages and access to supplies.

There are accounts of some coastal communities, elders, and religious leaders pushing out pirates for several reasons including: (1) Secondary businesses (i.e. suppliers) became less profitable or riskier as ransom negotiations became more protracted/uncertain and counter-piracy forces began targeting pirate supply lines; (2) The piracy business became increasingly de-linked from protection from illegal fishing and toxic dumping reducing the ideological justification; (3) Elders/clan leaders resisted elements of piracy that were in conflict with religious and clan values; (4) Communities became more aware of the negative side effects of piracy including: influx of outsiders, prostitution, adultery, alcohol and drugs, inflation, local crime, and competition.

At the same time, piracy began to threaten international trade with Somalia, so the FGS and regional governments became less supportive. Also, political elites, particularly those from Puntland and Somaliland, became interested in being seen as viable autonomous or independent states so they decided to put a stop to piracy to increase their legitimacy. If the government was unable to clamp down on piracy, the international community was far less likely to be supportive of autonomy, independence, and

³⁴ UNODC (2013), p 36.

³⁵ Between 2005 and 2010 the average length of time from hijacking to payment of ransom increased from 38 to 152 days. The reasons for this are not entirely clear, but it may have reflected a decline in the willingness of ship owners to pay out, significant increases in the amount demanded, and the interests of professional ransom negotiators. UNODC (2013), p 36.

international aid. Last, shifts in local security and power dynamics related to the wider conflict with Al Shabaab pushed out clans/authorities supportive of piracy in certain areas resulting in levels of insecurity not conducive for informal and illicit economic activities such as the business of piracy.

1.8 KEY ACTORS AND DYNAMICS

A. How was piracy organized?

At its peak, the main piracy networks hosted a large number of pirate groups of varying sizes. While these networks were fluid and modes of operation varied, they appear to follow general patterns including:

Kingpins. A small number of kingpins have been the principal organizers behind piracy operations. They either directly fund or raise funds from investors to launch operations. Many of them have formed “maritime militias” consisting of hundreds of pirates. They identify commanders to lead specific attacks. Individual kingpins have been responsible for instigating multiple hijackings – for example Boyah’s militia was responsible for between 25 and 60 successful hijackings.³⁶ The majority of these kingpins, who remain at-large, are well-known to Somali authorities and the international community.

Financiers. Just over one hundred alleged pirate financiers have been identified.³⁷ The majority are located within Somalia and include former police and military officers, fishermen, businessmen, khat dealers, civil servants, and successful pirates who became financiers.³⁸ Some financiers are known to be located abroad, however there is limited data about them and their investments.³⁹ The financiers utilize different approaches to financing. In some instances, investors buy shares,⁴⁰ in others, relatives or groups pool resources, and in some instances, key individuals are responsible for a large proportion of the investment.⁴¹ Investment can be in the form of money or supplies such as boats and arms. Investors are entitled to a share of the ransom - about 30 percent but up to 75 percent - if the operation is successful, reportedly. Existing data shows that financiers are involved in a range of business activities including smuggling, khat trade, transport, hotels/restaurants/real estate, farming and retail food, financial services, import/export, etc. They also invest in private militias and political influence.⁴²

Seamen (commanders and ‘foot-soldiers’). Pirate commanders are usually former successful pirates. They are responsible for recruiting their own crew. Low-level pirates are believed to supply their own guns while investors provide heavier weapons. Once a ransom is received, the pirates who carry out the attack reportedly get paid between \$30,000 to \$75,000.⁴³ Pirate foot soldiers typically receive khat and other supplies on credit during an operation, which is then deducted from their payment after a ransom is ultimately paid. Low-level pirates reported spending a considerable portion of their payments on ‘leisure’ including trafficked girls/prostitutes, khat, alcohol, and cars that drove many pirates to return to sea.⁴⁴ Originally the foot-soldiers mostly came from small coastal towns. However, as news spread, many began migrated from urban centers.

Ground security. Once a vessel is anchored, clan-based militia (sometimes distinct from the seamen that carry out the hijacking) guards it while the ransom is negotiated. Typically, the vessel is placed under the control of a ground commander and a team of around 50 guards who secure the vessel against rescue missions or rival gangs.⁴⁵

³⁶ SEMG (2010)

³⁷ World Bank (2013b), p. 22. UNODC data set from 2012 includes data on 107 alleged pirate financiers.

³⁸ Ibid, p 59.

³⁹ Ibid, p 60. Apparently one reason for the reluctance to report on this is the confidentiality of ongoing investigations.

⁴⁰ SEMG (2011). Apparently typically sold in \$10,000 blocks

⁴¹ World Bank (2013b) describes and models different financing strategies.

⁴² World Bank (2013b), pp 61-62.

⁴³ World Bank (2013b), p 45.

⁴⁴ World Bank (2013b), p 46.

⁴⁵ World Bank (2013a).

Negotiators. It became increasingly common for pirate groups to use specialist negotiators who speak English and are familiar with the process (some of whom are based in London). The negotiations are usually opened with the ship owner, who typically involves its insurance company, a specialized law firm, and a private security company. Negotiations are typically overseen by a committee (usually composed of the instigator, key financiers, and the sea and ground commander). Between 2005 and 2011 negotiations became increasingly lengthy and ransoms increased in size.⁴⁶

Suppliers. As discussed in more detail below, onshore suppliers and businesses who provide a range of services to anchored ships and hostages support piracy.

It is important to note that the only link in this piracy infrastructure that has been addressed is the prosecution and incarceration of a limited number of foot soldiers and a few kingpins, all of who are easily replaced by new kingpins and a cadre of desperate unemployed and idle youth, and underpaid, unemployed, and disgruntled soldiers, police, and coast guard employees. If the cost/benefit equation shifts and the business model for piracy becomes attractive, it would not be difficult for piracy to return on a large scale.

B. What is the role of “Land-side’ Stakeholders?

Political elites and clan leaders - Piracy operations were conducted with the goal of obtaining a ransom in exchange for the release of the crew and cargo. This required pirates to safely anchor and resupply a large commercial vessel a short distance from the coast while undertaking lengthy negotiations.⁴⁷ Pirates therefore relied on alliances with local elites – politicians, local authorities, and clan leaders – to ensure protection of the hijacked ship and supplies, which provided substantial income to ‘land-side’ stakeholders through anchorage fees, taxes on suppliers, and militia employment.⁴⁸ Piracy financiers invested heavily in establishing their own militias as well as in political influence, especially in areas north of Galkayo.⁴⁹

With few exceptions, piracy anchorages and launch sites were concentrated in Puntland and Central Somalia. This is explained by the political economy of these areas: piracy is only viable in areas with intermediate levels of political fragmentation characterized by weak or corrupt central or regional authority and informal institutions revolving around the clan. Southern Somalia was too violent and fragmented for piracy operations to be viable, and in Somaliland power was too concentrated to be conducive to piracy.⁵⁰ The majority of interviews support the literature in terms of the role of political elites and clan leaders in their capacity to promote, protect, and deter piracy depending on their cost-benefit analysis. Experts contend that local elites accepted pirates in areas where there was little alternative taxable economic activity. In contrast, pirates were excluded from areas producing export goods and along trade routes because political elites in these areas profited more from protecting and taxing trade.⁵¹ In addition, they argue that piracy intensified in areas when political elites were threatened by territorial and political competition, for example, due to elections, inter-clan conflict, and incursions from ideological/religious militias such as Al Shabaab, because this made it imperative for them to raise funds for defense. They also show cases in which elites moved away from protecting piracy to protecting trade when economic incentives shifted.⁵²

⁴⁶ In 2011 the average ransom was US 5.04 million, a 140 percent increase from 2009. World Bank (2013a), pp 95-96.

⁴⁷ World Bank (2013a), pp 95-96.

⁴⁸ World Bank data suggest up to 86 percent of ransoms went to ‘land-side’ stakeholders as opposed to investors and men in the boats. World Bank (2013a).

⁴⁹ World Bank (2013b), pp 62-63.

⁵⁰ World Bank (2013a), pp.140-150.

⁵¹ Shortland and Varese (2014).

⁵² Shortland & Varese (2014).

Coastal communities – Community support was largely financially motivated. Piracy brought revenue to communities that had few other taxable economic activities. An entire economy emerged to supply and provide services to captured ships. This included cooking for the hostages and crew and providing prostitutes, drugs, alcohol, and khat. Local businessmen provided these services on credit to pirates at high interest rates and got reimbursed when the ransom was paid.⁵³ As ransom negotiations became lengthier and the payoffs more uncertain, this may have strained the credit systems, undermined support from suppliers, and left foot soldiers in debt. Piracy also distorted local economies and caused inflation and competition in largely egalitarian communities. It also crowded out artisanal fisherman and other livelihood options resulting in increased dependence on piracy.⁵⁴ However, interviewees noted that the negative effects of piracy on the coastal fishing industry was limited because fishing was already undeveloped.⁵⁵

Ideological incentives - The popular narrative is that pirates protect the coastline and the interests of Somali fishermen from overfishing and exploitation by foreign vessels. This is rooted in a sense of injustice over Somali fishermen's disadvantage relative to foreign vessels and economic marginalization. It also legitimizes a system of taxation/extraction of fines from foreign vessels as a form of compensation for exploitation of Somali resources. However, many believe that this narrative has been debunked because Somali fishermen and foreign vessels do not directly compete for the same fish stocks. Furthermore, the pirates that emerged in 2005, mostly targeted large commercial vessels.

Current level of community support - Surveys have been conducted to determine the local mood of coastal communities towards piracy. At the individual level, most respondents thought piracy was illegal/*Haram*. However, they believed that their communities would tolerate it due to a lack of alternative economic opportunities, illegal fishing, and no law enforcement on land or at sea. For many, piracy is a better alternative and safer than migrating away from their ancestral homes. In one survey, 97% of respondents said that they would tolerate piracy because it does not affect Somalis – it is not a problem to them. Elaborating on the role and interest of coastal communities in supporting and benefiting from piracy, respondents noted that there is a misconception that pirates are from coastal towns. Rather, many of them live in-land and use the coastal people to carry out their work. One interviewee stated, “when piracy was in its heyday pirates hijacked a ship carrying goats and livestock to Saudi Arabia for the Haj. Within a few hours the locals killed all the pirates involved in that operation... If the locals do not want piracy they can stop it... It is completely dependent on the coastal communities to protect and run the entire operation. Political networks and financing networks are hard to address, but the coastal communities are the ones that provide the food, water, and land to support piracy. There are only a few communities that can do this.” Interventions aimed at preventing a resurgence in piracy should target these coastal communities.

C. Connection between kingpins, piracy networks, and clans

The clan system is very complex. There are many layers of sub-clans and allegiances can be fluid based on threats and interests. Therefore, it is important to take a degree of caution when attempting to understand connections between kingpins, networks, clans, and communities. But, knowledge of these connections can help to understand the business of piracy and can be used to better target and inform current and future interventions aimed at preventing a resurgence in piracy. The following information is

⁵³ World Bank (2013b), p 46-47.

⁵⁴ Hansen (2009).

⁵⁵ World Bank (2013b), pp. 57-63.

based on UNODC's⁵⁶ research, knowledge of clan lines and dynamics, interviews with 350 detainees, and information provided by hostages via the hostage support program.

Puntland – Approximately 30% of detained pirates are from Puntland the majority of which come from the Darod clan. More specifically, they came from a division of the Marjerdeen sub clan known as the Mohamud clans, which includes three clans - Omar Mohamud, Issa Mohamud and Osman Mohamud. The famous kingpins, Abdi Mohamed Mahamoud Hussein (Garad) and Abshir (Boyah) are from the Issa Mohamud clan. Originally these clans belong to the Mudug region and in the past funded the Sultanate of Hobyo. The Puntland pirates were originally from Eyl, Gacad, Xaafuun, and Bossaso. As the word spread, new pirates started to come from the inland town of North Galkayo. During the decline, piracy networks were centralized to the tip of the horn around the Galgala mountains and the coastal towns of Qandala and Caluula. This movement helps to understand the type of environment needed for piracy to work. For instance, Al Shabaab's presence in the Galgala mountains and Qandala and Caluula provided enough protection from law enforcement to launch operations and hold vessels and hostages during lengthy negotiations. This also shows that law enforcement on-land can be an effective deterrent to piracy, which should justify continued investment in building law enforcement capacity in targeted locations.

Galmudug and Himman and Hebb – Approximately 60% of detained pirates are from this region, which has two primary clan lines. Pirates from Galmudug emanate from the Hawiye clan. More specifically, they come from a division of the Habargadir sub-clan. Within this clan system the Saad are the most dominant player. Pirates from Himman and Hebb come from some of the same lines as Galmudug. However, they are divided into the Suleman sub-clan, which has been one of the most active sub-clans involved in piracy. Mohamed Abdi Hassan (Afweyne), the kingpin arrested and sentenced in Belgium is from the Suleman sub-clan. During the height of piracy, the inland capital cities of South Galkayo and Addado served as administrative centers and the coastal towns of Hobyo and Xardheere were the last major pirate strongholds. The last commercial shipping vessels were held by pirates off the coast of Xardheere and most of the hostages that were brought inland were held in this area. The village of Amara (Caamara) is another important town where most hostages were either held or passed through on their way to other holding cells. These inland and coastal towns remain insecure and fairly inaccessible to the government and international actors making them conducive environments for ongoing criminal activity including piracy.

South Central - Mogadishu – A very small percentage (10%) of detained pirates are from Mogadishu. Pirates from this region are a mix of Darod and Hawiye with a few from Ogaden. According to UNODC staff, many of the pirates who request to be transferred or repatriated to Mogadishu are not from there. While there is no evidence for this, it could illustrate the limited economic opportunities in their home towns and the breakdown of the family/clan system due to migration to cities.

D. Women and piracy

Some women were against piracy, others tolerated for economic benefits, and some directly supported it. As one interviewee stated, "A poor woman would jump at the opportunity. A father can't give up his daughter without camels in return. So he says to his daughter, do whatever you need to do to get them. In addition, Somali's practice polygamy and there is a very strong 'love' culture meaning that when you love someone and you can't get them... you get sick." This was an added incentive for male youth to take the risk of piracy. Sources also noted that piracy resulted in increased adultery and nikah misyar (short-term traveler's marriages). But, once the pirates spent their money, were caught or incarcerated, or disappeared, these women were left with nothing. Piracy also resulted in increased prostitution,

⁵⁶ The information provided in this section was provided by UNODC, and much of the language was paraphrased or directly quoted from the author. To protect the identity of the author, it has not been attributed to any individual.

trafficking, and sexual violence including gang rape in places like Galkayo, which became R&R venues for pirates. In addition, the large population of unemployed men increased pressure on women to be financially self-reliant. Because they lack alternatives or more competitive livelihoods, many women depend on the Khat trade. Piracy increased sale of Khat significantly so, even if women were against piracy ideologically, economic benefits overcame their qualms. Another cultural aspect of Somali society that influenced women's culpability is ragganimo (machismo or bravery). Parents and women expect Somali men to display ragganimo. Since Somali women are acculturated to being attracted to this quality and fishing is not considered a macho livelihood, piracy was one of the only attractive alternatives. An interviewee noted, "Fishing is not seen as a very attractive career. Piracy provided respect, power, and money... hijacking one ship could change an entire family and clan's lifestyle." This is important to keep in mind when considering investing in the fishing sector. While investments in infrastructure, capacity building, and the formation of value chains are important, if efforts are not made to change Somali's perception of fishing, these investments are likely to have limited buy-in and impact.

E. Relationship between pirates and other organized criminal activities

At its peak, pirate kingpins and financiers invested ransom proceeds in a range of legitimate and criminal businesses. With the decline in the profitability and viability of piracy, many kingpins converted their assets and networks into human, arms, and drug trafficking and human smuggling.⁵⁷ These networks involve prominent businessmen operating out of Puntland, Somaliland, and a number of Gulf States, with connections to Iranian businesses.⁵⁸ Pirates also created a market for trafficking women and girls, who become sex workers or sex slaves.⁵⁹ There have also been multiple incidents of kidnapping on land for ransom involving pirates, although this has not yet escalated into a major trend.⁶⁰ Reports also noted that some pirate groups have become involved in providing private security to unlicensed fishing vessels, which allegedly provides cover for weapons smuggling to al-Shabaab.⁶¹ Pirate assets and networks are easily converted to these activities, which involve the movement of small boats across the Gulf of Aden. These activities are also supported by the same socio-economic, political, and institutional conditions as piracy. As one interviewee observed, "If you stop piracy without providing alternatives... they will get involved in other illegal activities... These might be issues that that international community cares less about, because [in the case of piracy] the shipping industry put a lot of pressure on member states to do something."

F. What was/is the relationship between piracy networks and terrorist groups?

The relationship between pirate groups and al-Shabaab has ranged from violent conflict to mutually beneficial cooperation, to direct operational coordination.⁶² Pirates and al-Shabaab (and previously Hizbul Islam and the ICU) have had violent clashes over the control of coastal areas in Central Somalia. They have also clashed when pirates hijacked ships linked with al-Shabaab financiers, suppliers, or other interests. An expert noted that a history of antagonism has existed between pirates and militant Islamists (particularly the ICU), and counter-terrorism has at times been at odds with counter-piracy.

The ICU, which was started by Hassan Oweys instated *Sharia* in Mogadishu. Oweys had a rivalry with Yusuf in Puntland who was sponsoring piracy. This could explain why Oweys put an end to piracy and the ICU declared piracy *Haram*. In 2006, [when the ICU controlled Mogadishu] there were no piracy attacks. Research findings show a 50% percent reduction in the rate of piracy

⁵⁷ World Bank (2013b), p 66.

⁵⁸ SEMG (2008), p 32.

⁵⁹ Interview with Stig Hansen, based upon research for UNODC report on human trafficking.

⁶⁰ SEMG (2013). Several kidnap incidents involving pirates occurred in 2011 and 2012, including the kidnapping of American journalist Michael Moore Scott and multiple international aid workers.

⁶¹ SENG (2013), p 22.

⁶² World Bank (2013a).

when a port is controlled by militant Islamists... Yusuf went to Ethiopia to attack the ICU with US support. Operation Enduring Freedom successfully destroyed the ICU by January 2007. At this moment, Al Shabab was born. The ICU split into radical and moderate factions - Oweys started Hisbol Islam and split from al Shabaab. Later they fought and al Shabaab won and allied with AQ in 2012. Yusuf moved into the presidential palace in Mogadishu and piracy exploded by 1000%. Islamists and pirates are rivals... when Islamists take over a port... piracy goes down.

In other instances, al Shabaab has accommodated and benefitted financially from pirates operating in areas it controls by taxing or receiving a share of ransom in exchange for non-interference or protection.⁶³ For the most part, this appears to have been pragmatic rather than based upon a merging of strategic interests and ideological ties.⁶⁴ Reportedly, one pirate kingpin (Ciise Yulux) has directly supported al-Shabaab operations by facilitating the movements of jihad fighters, which highlights the potential threat of direct cooperation in operations between piracy financiers and senior al-Shabaab figures.⁶⁵ In addition, as described above, SEMG has documented the role of one pirate network in smuggling arms, explosives, and contraband to al-Shabaab from Yemen. According to the SEMG, this pirate network shares clan connections to al-Shabaab in Puntland and is involved in providing security to foreign fishing vessels that provide a cover for other smuggling activities.⁶⁶

Some Somali experts discount many of these claims due to insufficient evidence of the link between al-Shabaab and pirate groups. They suppose that there may have been connections with individuals at the fringes of al-Shabaab, but not at the leadership level. Sources also point to the fundamental tension between the motives and ideologies of al-Shabaab and other Islamist groups and pirate networks. While both thrive in the context of weak central government and may benefit from some cooperation, their ultimate aims are not aligned. Piracy is driven by profit rather than political, religious, or ideological motives. Therefore, it is unlikely that piracy would transform into ideologically motivated terrorism.⁶⁷ If pirates were directly connected to terrorist organizations, they could not negotiate ransoms from most Western countries. However, some sources point out the risk of terrorist groups mimicking piracy tactics.

Increasing pressure on both al-Shabaab and pirate networks as well as internal dynamics within al-Shabaab appear to be affecting this relationship although it is not clear exactly how. Interviewees expressed the following views:

- Currently al-Shabaab is going through an internal crisis to either be part of ISIS or AQ. Those that support AQ have executed or kicked out those that want to join ISIS; those that want to join ISIS are moving north to Puntland. Trading arms likely provides a major relationship between the pirates and al-Shabaab.
- In the past no established link existed. Piracy is considered un-Islamic, which prevented al-Shabaab from partnering with pirates. This has changed as al-Shabaab comes under increasing pressure. But, as the benefits of piracy have decreased, al-Shabaab has less to gain.
- Recently, a pirate kingpin rented ships to al-Shabaab to launch an attack. This was the first real connection between pirates and al Shabaab... smuggling is rife along this coast. If there are no other alternatives, al Shabaab is an option for former pirates.

⁶³ In 2010, when al-Shabaab gained control over the major pirate port, Haradhere, it allegedly moved to tax the pirates at a rate of 15 to 20 percent. Consequently, several pirate leaders relocated to Hobiyo. Hansen (2013).

⁶⁴ Ibid.

⁶⁵ World Bank (2013b), p 64-65.

⁶⁶ SEMG (2013).

⁶⁷ World Bank (2013a).

Al Qaeda and Yemen Experts expressed concern that piracy could shift to Yemen's coast, observing that 50% of Yemen's coastline is controlled by AQ, and many commercial vessels navigate very close to the coast. The war in Yemen has also expanded the insecure zone into the Gulf of Aden. One interviewee noted that "Somalis went to Yemen to escape war. Now they are returning to Somalia. The challenge is regulating the migrants to ensure that they are not AQ. Somalia's biggest concern is terrorism, but piracy can be used as a tool and AQ can recruit former pirates. By joining Al Shabaab they would become born again Muslims."

1.9 DRIVERS AND ENABLING CONDITIONS FOR PIRACY

What conditions enabled piracy to thrive? Have these conditions been addressed?

State Collapse resulted in the inability of the central government to secure its land and sea. It also resulted in unpaid security actors and pushed the mostly Darod clans-people into Puntland adding to the already frustrated and unemployed population. The government's capacity to police its land and sea remains low particularly in the areas most susceptible to piracy.

Location. Isolated, ungoverned, and relatively secure coastal towns such as Eyl, Harardheer, and Hobyo were strategically positioned along the bottleneck between the Gulf of Aden and the Indian Ocean. Buffered from the south's warlords, gangs, and Islamic extremists, these towns served as piracy incubators. With some exceptions, the local conditions in coastal areas that harbored pirates appear largely unchanged.

Supply of easy target vessels. Piracy is attractive when there is a high volume of easy, high-value targets such as slow moving cargo ships. Perhaps the biggest shift has been in the supply of easy targets as a result of the self-protection measures, BMP, and international naval patrols. However, these measures are costly resulting in a relaxation in security and precautionary measures including the reduction of the high-risk area. Ships are traveling at slower speeds, hiring less private security guards, and travelling closer to shore.

Environmental factors. Somalia suffers from the effects of climate change and desertification, which has had a major impact on the largely nomadic pastoral population, 70 per cent of whom are under the age of 18. Due to lack of alternative livelihoods, these youth migrated to urban centers where economic opportunities are limited. The 2002-2004 drought escalated the situation and the December 2004 Tsunami damaged coastal livelihoods and exposed toxic dumping, which heightened the level of desperation and compounded grievances related to illegal fishing. Somalia's resilience to climate change and environmental shocks has not improved, and the grievances against illegal fishing and toxic dumping remains misunderstood, under investigated, and unaddressed.

Economic adversity. From 2006 to 2008 Puntland's economy hyper-inflated, which further accelerated the aforementioned socio-economic factors. For instance, from 2006 to 2008 the salaries of Puntland's soldiers and policeman dropped from over \$70 USD in 2006 to under \$30 USD. By 2008, the Puntland government stopped paying these salaries leaving coastal towns and urban centers poor and lawless. Lacking economic alternatives, unpaid soldiers and police often turned to criminal activities. This coincided with the escalation of piracy attacks in 2008. None of the above has been resolved in a sustainable manner. The current Somali police, coast guard, fisherman, and soldiers being trained by international actors could be the next pirates if the economy is not improved and salaries and stipends remain inadequate or go unpaid.

Socio-economic disparity. Many Somali youth, who remained throughout the war, lack access to practical education, business opportunities, and government jobs. They cannot compete with the more educated and worldly expats that returned after the war. Piracy provided a fast-track up the socio-economic ladder and the ability to compete. These divisions remain high, and the desire socio-economic advancement is strong.

Private coast guards and illegal licensing. In 1999, the Puntland government began contracting private security companies to help build its coast guard including: Hart Security (1999-2002); Somali-Canadian Coast Guard (SomCan) (2002 – 2005 and 2008); Al-Habiibi (2005-2007); and, Saracen International (2010). Many of these companies became involved in illegal licensing and protection of commercial trawlers for a fee. Some of the private coast guards were also complicit to and directly engaged in armed robbery at sea and piracy. When the private firms left for various reasons, the Puntland government was unable to continue paying competitive salaries. As a result, many of the highly trained ex-coast guard recruits turned to piracy. Highly equipped with skills in sharpshooting, maritime navigation, engineering and boat mechanics, and boarding and seizure operations, this new cadre of pirates was capable of conducting complex piracy attacks far from Somalia’s shores. Although many current discussions continue concerning the formation of Somalia’s coast guard, the issues of salaries and the potential for members of the coast guard to engage in illegal licensing, protection of illegal fishing for a fee, and acts of piracy remain unaddressed.

Clan System and clan law. For the majority of Somalis, loyalty to one’s clan and obedience to clan law supersedes any formal government or national identity. The clan system that sourced Somalia’s civil war also preserves a semblance of order particularly in the regional states. This patronage system initially enabled piracy networks to form among specific sub clans and challenged the regional government’s motivation and capacity to denounce piracy, capture and prosecute pirates, and target kingpins. Lack of legitimate sources of revenue pushed political elites to support piracy in order to maintain their patronage system. The clan system remains the primary source of rule of law throughout Somalia. Any onshore interventions, particularly those focused on the use of statutory law, must take customary laws and clan dynamics into account. Anecdotal evidence suggests that constructive engagement with clan elders and religious leaders helped to curb piracy. Greater understanding is needed to determine if and how they could be engaged to prevent a resurgence.

Kingpins, investors, and networks with capabilities and assets. Somali’s ability to mobilize human resources and transfer funds across a range of individuals and geographies in an efficient, effective, and clandestine manner enabled kingpins to quickly turn piracy into a viable and lucrative business. These capacities have been enhanced, and the networks remain intact. Therefore, it is likely that the kingpins will re-enter the piracy business if the potential benefits outweigh the costs. An interviewee noted, there is a large mafia base in Galmudug so it is really easy to move money quickly. The criminal network system remains intact in this area and only a few kingpins have been arrested and convicted. The most notorious is Mohamed Abdi Hassan ‘Afweyne’ and his business partner Mohamed Abdullahi Moalim-Aden ‘Tiiceey’. Ticeey, a naturalized US Citizen from Minnesota with a Master’s degree in public administration from Minnesota State University, was the former regional governor of the self-declared autonomous region of Himan and Heeb. Both men are currently serving sentences in Belgium. Their arrest provoked protest and criticism among Somalis – showing the extent to which they were seen as businessmen benefitting their communities and clans rather than criminals.⁶⁸ A piracy expert noted that Kingpins are embedded in their clans, they invest in their communities and have militias, arms, and established networks. Furthermore, pirate kingpins enjoy protection from the authorities. For example, in 2014 Gafanje was arrested in Mogadishu, but was released after senior clan leaders from Harardhere protested and threatened the FGS. As one interviewee stated, “the release of Gafanje was a major mistake, because it confirms the level of impunity that permeates society for certain individuals.” Puntland authorities also arrested and jailed Abshir Boyah, but sentenced him to only 5 years, and other leaders have not been targeted.⁶⁹

⁶⁸ SEMG (2014)

⁶⁹ <http://www.reuters.com/article/us-somalia-un-piracy-idUSBRE86G0ZN20120717> citing a 2012 report of the SEMG

A piracy expert asserted that, government officials, police, and other actors are hesitant to arrest kingpins due to the potential personal repercussions and the possibility of causing inter-clan conflict. Other interviewees noted that political will existed at the federal level to capture the kingpins, but not at the regional level. Also, many of the police chiefs are in the same clan as pirates so they have to be careful which kingpin they target as they have superior strength and financial capital to either pay off politicians, military and police or fight against them. The police are also terrified of al-Shabaab, and they either do not get paid or receive little pay. Thus there is little incentive for them to go after kingpins. In the past, in some instances political elites attempted to address piracy. For example, when Abdirahman Farole became President of Puntland, he attempted to crack down on Puntland-based pirate networks in Eyl. However, the pirates simply moved their operations outside of Puntland to the port of Garacad.⁷⁰ It is unclear if and how current political leaders at the national and regional level would react if there was a resurgence, and it does not appear that any incentives or disincentives are being provided to encourage them to prevent a resurgence.

Local political institutions. A commonly held view is that coastal areas were conducive to piracy because they were largely ‘ungoverned’. However, experts⁷¹ show that this diverts attention from the dynamics of local institutions that were major factors in determining whether piracy was enabled or constrained. Piracy hubs actually were confined to areas of Puntland and Central Somalia characterized by strong, clan-based institutions and resistance to central government authority, but not disorder and violence.⁷² Local political elites protected piracy in areas isolated from trade that had few other taxable economic activities because it provided them with alternative means to generate revenue and maintain their patronage system.⁷³ By implication, changes in political leadership in areas conducive to piracy do not necessarily lead to a change in their approach to piracy. For instance, al-Shabaab began taxing pirates when it took control of Haradeere despite the conflict with its ideological doctrine. In addition, changes in economic incentives might lead political leaders to change their approach. For instance, when bans on livestock were lifted in Eyl, the government became less tolerant of piracy. Hansen argues that piracy is a product of weakened local institutions rather than the absence of the central state. He traces the 2008 surge in piracy in Puntland to the crisis of Puntland’s institutions, which included, among other factors, the collapse and co-optation of its police and security forces due to a failure to pay them. He argues that building stable local Somali institutions and supporting existing power centers and structures near pirate hubs that can be allies in fighting piracy are the keys to curtailing piracy. He offers an alternative approach to state building focused on regional institutions, rather than building the central government from the top down.

Gaps in maritime security, legal frameworks, and law enforcement capacity. Somalia’s capacity to enforce maritime laws and police its waters remains extremely limited. Therefore, it is difficult for security actors to arrest, prosecute, and adjudicate violators of maritime law including illegal fishing. The roles and responsibilities of various law enforcement and security agencies at the federal, state, and local level lack clarity, and federal, regional, and traditional laws fail to harmonize. For instance, the FGS does not have an anti-piracy law, although some exist on the regional government level. One legal expert noted, “What role will the FGS have vis-à-vis the state level government and what is their interest and capacity to fulfill their roles? What is the appropriate type and level of communication necessary between them? Several actors are working at the federal (macro) level on the national security architecture, but who will fund and equip state and local level capacities?”

Paying ransoms, transferring, storing money. The business model of piracy relies on international actors paying ransoms, a process that involves numerous stakeholders, including insurance companies,

⁷⁰ Abdiqafar Abdi Hussein (Hukun), a major financier and organizer is from Garacad.

⁷¹ Hansen (2009), World Bank (2013a), Varese & Shortland (2014) and Hastings & Philips (2015)

⁷² Shortland and Varese (2014)

⁷³ The World Bank (2013a)

international lawyers representing the shipping companies, and private security companies who typically assume responsibility to pay ransoms in cash and orchestrate hostage releases. A significant proportion of ransoms remain in Somalia and are distributed to the pirates are used to pay for goods, services, and leisure as well as pay-offs for local stakeholders. The World Bank estimates that financiers receive about 30 to 75 percent of ransom payments. Most pirate financiers are based in Somalia, and their investments are in dealings with Somali businesses and politicians. Some financiers also have substantial deposits in bank accounts abroad.⁷⁴ A preliminary investigation by the SEMG into pirate finances in 2014 showed significant sums of money circulating both inside and outside of Somalia. It also provided evidence of money laundering in Dubai and UAE and of various bank accounts held in Djibouti.⁷⁵⁷⁶ The World Bank provides details on how the proceeds of piracy are moved internationally, including through trade-based money laundering, Djibouti and Dubai-based financial institutions, value transfer services, and cross-border cash smuggling. A piracy expert noted, “If no one paid ransom, piracy would have ended a long time ago, but governments were not interested in getting involved with private companies paying ransoms, so the money is still there for the pirates to access if they can get past the security barriers. Some work has been done on tracing funds, but to very limited effect and no money has been seized and returned to anyone.”

Desperate and frustrated young men with guns and demand for money, power, and love - According to a World Bank study in which over 30 former pirate crewmen were interviewed, individuals reported that they became involved in piracy for money. Initially, piracy attracted unemployed and struggling youth who had few other opportunities and whose economic hardship became even more severe as the growth in piracy began to distort the local economy and security environment.⁷⁷ While legitimate and legal economic opportunities remain scarce, what appears to have changed is the perception that piracy is riskier and that it is more difficult to profit as more pirates have been lost at sea and fewer attacks were successful. In addition, due to the system of supporting foot soldiers on credit until ransoms were paid, many appear to have gotten into a cycle of ‘leisure’ spending and debt. While some interviewees cited fear of being prosecuted and put in jail as a deterrent, many countered this claim stating that if the cost-benefit analysis shifted, a large cohort of young Somali men would likely take the risk. A common analogy used was that if someone is willing to risk their life to migrate to Europe, prison is not a strong deterrent. Some efforts are afoot to provide livelihood opportunities, but this is a very long term, complex, and challenging endeavor that encompasses far more than simple vocational training and micro grants. A long time and significant investments are essential to create a viable and productive coastal economy that employs a significant percentage of the population. Also, the potential short - term reward is very limited in comparison to the investment, so there is little incentive to engage in legitimate and legal livelihood activities. Also, it is very difficult to develop livelihoods without security, and the areas that need livelihood - related work the most are the ones where there is no security. As a Somalia expert states, “these kids have grown up in a state of war... When they have an opportunity to earn as little as \$1000 USD for a successful hijacking this is three times the amount of the average annual income... Have we done anything durable to change the situation ashore? Is there more security and rule of law? Are there livelihood opportunities? If we end piracy what is the population going to do? We may be pushing them into terrorism or other forms of criminality. None of the interventions are durable until Somalia is a viable state or a state that is not rife with terrorism, violence, corruption, and poverty.”

Illegal, Unreported and Unregulated (IUU) Fishing and toxic dumping. Even as piracy evolved into a profitable business that primarily targeted merchant ships, the narrative that pirates were informal coast guards defending the Somali coast against illegal fishing remained a powerful justification for piracy. This message helped to mobilize clan elders, religious leaders, politicians and communities upon whom

⁷⁴ World Bank (2013b)

⁷⁵ SEMG (2014)

⁷⁶ Interpol global database cited in World Bank (2013b)

⁷⁷ World Bank (2013b), pp 11, 27-28.

the piracy business relies. Many of the incarcerated pirates still claim to be coast guard members protecting their waters from foreign exploitation.⁷⁸ Conversations with a wide spectrum of Somalis signals that this narrative is still very much alive. Hence, the issue of IUU fishing, which remains misunderstood and unresolved, is increasingly important as foreign fishing fleets are returning to Somali waters, commercial vessels and foreign navies are relaxing their defensive tactics, and the socio-economic, political, and security conditions on the ground have not changed in the target communities since the emergence of piracy.⁷⁹ Despite its importance, IUU and toxic dumping remain politically sensitive topics, which limits entry points for empirical research, constructive discourse, and sincere policy and legal formation and enforcement. It is recommended that members of the Contact Group, representatives of the FGS, and regional governments support all three of the aforementioned activities. A few of the controversial issues that should be disaggregated, researched, and discussed include the following:

- 1) *Illegal or extra-legal licensing* – Interviewees noted that despite the narrative that pirates are combating illegal fishing, their relationship with foreign vessels has been more opportunistic – including selling licenses for fishing or transit, protecting licensed vessels and attacking unlicensed violators, and even providing private security services to foreign fishing vessels in some instances.⁸⁰ Also, according to SEMG reports and interviews, the FGS and Puntland authorities have been implicated in the sale of fishing licenses and protection of IUU fishing to serve their own personal, clan, or political interests. Coastal defense forces as well as private security firms⁸¹ also play a role in enforcing this licensing scheme. Thus, the mismanagement of maritime resources and potential to extract revenue from the protection of IUU fishing may be contributing to the proliferation of ocean-going militias with the capacity to escalate their activities to hijacking for ransom.
- 2) *Lack of adequate legal frameworks and limited capacity and political will to enforce laws.* Interviewees noted that IUU fishing is a component of establishing the necessary governance framework to enable the development of the Somali fishing industry, which, in the long term, is the main potential alternative source of revenue and income for coastal communities. Establishing a legitimate licensing scheme would help promote the sustainable management of Somali fisheries, the development of the Somali fishing sector, and provide a source of government revenue. However, the corrupt licensing scheme that benefits key actors provides an obstacle to addressing IUU. Stated by a maritime expert, “The narrative that illegal fishing vessels are exploiting Somali waters is not really true. All of the fishing boats have some form of agreement with Somali officials. It is difficult to determine who has a legal license and who has a piece of paper that they bribed someone for. The more support we can get from donors to get the government to adopt a transparent licensing system for Somalia, the faster we can stop illegal fishing.”
- 3) *Allegations of the international community and foreign navies protecting IUU fishing.* Nearly every Somali interviewed noted that the foreign navies are only concerned with protecting international interests including foreign fishing vessels. In-line with this grievance, one interviewee stated, “neighboring countries that are expected to deliver the solutions for piracy are a part of the problem, because they either engage directly in illegal fishing or they accept illegal and illegitimate fishing licenses. They also serve as landing stations for illegally caught fish.” National and international experts empathized with this sentiment noting that “substantial damage is being done by the foreign

⁷⁸ Interviews with pirates cited by Stig Hansen (2009).

⁷⁹ OBP Report.

⁸⁰ SEMG (2013) provides details of the use of unregulated private Somali security guards to provide armed protection onboard foreign vessels involved in trade and fishing activities in both Mogadishu and Puntland. In Puntland, this is linked with the protection of illegal fishing and smuggling and to groups involved in piracy. SEMG (2015) finds this trend continuing and expanding to include contracting out of coast guarding services including sale of fishing licenses to private security firms. See also Hastings & Philips (2015) pp 556.

⁸¹ Local authorities have apparently entered partnerships with private security firms both to provide coast-guarding services and to sell fishing licenses. SEMG (2015). OBP Report.

trawlers and it is very clear who is doing this.” These experts also noted that this is an excuse for piracy. “The foreign trawlers are not in competition with the local fisherman. They target different fish from different locations. So ending IUU fishing is good, but it will not shift the cost-benefit equation of piracy, nor will it improve the lives of the fisher people and coastal populations. The entire value chain for fishing (refrigeration, processing, access to markets, etc.) would have to be established for fishing to become sufficiently profitable to deter piracy and other criminal economic activities.”

1.10 How do recent dynamics in Somalia and the region effect the threat of piracy and the context for prevention and response?

Alignment of international support with the FGS and tensions with state authorities

In 2012, Somalia adopted a new constitution and parliament and elected a new president of the FGS, Hassan Sheikh Mohamud. International partners including the US, EU, UK and World Bank recognized or normalized relations with the Somali government for the first time in over two decades. One important shift in the context for the TF support to counter-piracy since 2012 has been alignment of international partner support behind FGS priorities. The overarching framework for international support has been the Somalia Compact – to be taken over by the National Development Plan (discussed in greater detail below). Ongoing tensions between the FGS and state authorities are an obstacle to action in piracy-prone areas as well as policy formation and passage of legislation. For instance, the FGS and states have not resolved issues related to revenue sharing and organization of security forces, and the FGS has at times blocked international support to Puntland and other piracy-prone areas. While efforts are being made including the potential integration of part of the Puntland’s Darwish army into the Somalia National Army (SNA), divisions, clannism, and power struggles inhibit cooperation between the FGS and regional states.

Wider focus of international community on al-Shabaab and deteriorating security situation

The international community and FGS remain focused on fighting al-Shabaab, which they consider a far higher priority and greater threat than piracy.⁸² The military efforts of AMISOM and other forces have constrained the presence of al-Shabaab in Southern Somalia. However, al-Shabaab still maintains significant control in these areas and most interviewees expressed the belief that the security situation was worsening despite AMISOM’s presence. The international community is preparing the ground for an AMISOM withdrawal, but there have been problems of cooptation of AMISOM forces and its presence has become controversial. The US and UK are supporting the development of an integrated Somalia National Army (SNA) as an alternative. However, the SNA remains fragmented and incapable of confronting al-Shabaab or holding territory when the latter withdraws. Moreover, al-Shabaab is expanding its influence in Somaliland and Puntland where the FGS has no legitimacy. Although less of an immediate concern, Al Qaeda and ISIS also have a presence in Somalia. In the context of these security concerns, investment by the FGS and the international community in maritime security is not a top priority.

Upcoming elections

The international community and Somali authorities are focused on the upcoming elections. The situation is already fragile with targeted assassinations of politicians, IUD attacks, and drive-by shootings mainly in South-Central Somalia. Making progress on legal or governance issues related to counter-piracy in the context of uncertainty over elections poses significant additional difficulties. Several Somalia experts explained that allegations of corruption and manipulation have already started; the timetable is not yet fixed; the process has yet to be defined; and no budget has been established. In addition, the parliament’s

⁸² See Annex 3 for detailed excerpts from interviews related to al Shabaab and the security situation

mandate ended on August 26, but it extended itself until the elections, and the president's term ended on Sept 10. Nothing in the constitution mentions an extension. In addition, these will be clan-based elections with seats distributed among the 4.5 clans. The majority clans get 1 seat each and the minority clans receive half a seat. The 275 seats will be divided based on this formula. Elections are supposed to take place in 6 regional capitals and Mogadishu, and an electoral college of approximately 14,000 people will vote. The locations for voting will be limited to where AMISOM has a strong presence. Thus this will not be a representative vote of the population. An Upper House will also be appointed with 54 seats that will be selected by the Federal Member States. Regional assemblies will elect these seats based on a 6-month consultation. Interviewees expect Al Shabaab to try to stop the elections or make them illegitimate since its objective is to keep the FGS disconnected from the population to maintain support from the population.

Yemen

The international community also voices concern about instability in Yemen and the potential for arms and violent extremists (AQ and ISIS) to enter Somalia's porous borders. Insecurity in Yemen also affects Somali fishermen and coastal communities that have been historically dependent on Yemen fisherman for trade. Although not currently of great concern, if pirates began launching attacks on commercial vessels off the coast of Yemen interdiction would be challenging.

2. RELEVANCE OF CURRENT INTERVENTIONS TO ADDRESSING PIRACY'S CAUSES

2.1 Somali Maritime Resource and Security Strategy (SMRSS)⁸³

In 2013, the FGS, Somaliland, and the Somali regions developed the SMRSS with support from the international community including from the TF. The extensive consultation process resulted in an overarching strategic framework for the development of the Somali maritime sector, including maritime security and marine resource management. The SMRSS has six thematic annexes, which serve as a roadmap for developing Somalia's capacity in maritime governance, maritime law enforcement, maritime security, maritime safety, maritime response and recovery, and maritime economy.⁸⁴ To support the SMRSS, the FGS unveiled a maritime coordination mechanism to the council of ministers, which the council approved on 25 Feb 2016. This includes: (1) The Maritime Security Coordination Committee (MSCC), which is a strategic - level forum co-chaired by the deputy prime minister and IGAD. (2) The National Maritime Coordination Committee (NMCC), which is also chaired by the deputy prime minister. (3) The Maritime Technical Working Group (MTWG), which includes the government, ministries, regional states, etc.

2.2 How relevant and viable are the SMRSS and the emerging maritime security coordination mechanisms to address piracy?

The SMRSS provides a framework to coordinate long-term support to Somali authorities and institutions in areas that are relevant to preventing and countering piracy. It provides a detailed roadmap for support to strengthen the capacities of Somali Maritime Law Enforcement (MLE) agencies as well as to address the IUU issue. It includes a framework for developing the maritime economy - a significant tool to develop alternatives to piracy. Although it provides a comprehensive long-term plan, key issues will be prioritizing and sequencing interventions. A significantly larger investment of human and financial resources than what the TF typically supports is essential. However, the TF could be used to fill gaps that traditional donors are unlikely to support. It could also pilot smaller projects related to the SMRSS to test options and provide proof of concept for larger donor investments.

2.3 Do key stakeholders within Somalia sufficiently support and buy into the SMRSS?

⁸³ http://oceansbeyondpiracy.org/sites/default/files/attachments/SomaliMaritimeStrategyFINAL_0.pdf

⁸⁴ The 6 annexes are available at: <http://oceansbeyondpiracy.org/rmcm-documents-view>

The SMRSS appears to have the buy-in of the FGS, evidenced by the high level involvement of the deputy prime minister. Existing political tensions between the regional governments and the FGS will likely influence the political buy-in and commitment to the implementation of the SMRSS. Implementing the SMRSS will take significant human and financial resources, political will, and cooperation between the FGS and the regional, state, local governments, clan leaders, and communities; factors currently lacking. For instance, a representative of the FGS stated, “The Ministry of Fisheries does not have the capacity. Even if foreign fishing vessels are given licenses and are taxed, there is no way to measure the quantity... if you develop the fishing sector, then we also need the laws and regulations and the government’s capacity to enforce them. For example, a lot of organizations are supporting the Fishing Authority. But, the issue of revenue sharing is blocking everything.”

2.4 How are international partners supporting the SMRSS?

In theory, all of the international stakeholders interviewed agreed on the level of joint-effort put into the design of the SMRSS, the quality and comprehensiveness of the document, and its importance. However, verbal enthusiasm does not always translate into significant or adequate resource allocation. Some components are receiving support from international donors and UN agencies, but the financial investment is minimal relative to the needs outlined in the SMRSS. Given other priorities and interests, it is unlikely that donors will provide the necessary human and financial investment to execute the SMRSS in a coordinated and timely manner. Another challenge is the absorption capacity of Somalia in relation to the timeframes and funding cycles of most international donors. Lack of alignment of needs, resources, and local capacities could easily result in unmet expectations among internationals and Somalis. Furthermore, access to the individuals and communities most susceptible to criminal activities including piracy is limited due to clan and political affiliations in the case of the kingpins, or as a result of insecurity caused by al Shabaab and local clan militias.

2.5 What are the priorities and resources of other donors/funds related to maritime security?

*EUCAP Nestor*⁸⁵ is a civilian maritime security capacity-building mission launched by the EU in July 2012. Initially mandated to work across the Horn of Africa and Western Indian Ocean, the goal was to unite all of the countries’ navies and coast guards in the region to fight piracy. This failed to happen, so in 2015 it began focusing solely on Somalia. The mission aims to strengthen the maritime security capacity of Somalia to effectively govern its territorial waters and reinforce its ability to counter piracy. It is mandated to support the development of MLE agencies in Somalia and the maritime security legal framework. However, in practice, it focuses on building the capacity of the police as part of its strategy to fight piracy onshore.⁸⁶ EUCAP Nestor’s mandate emphasizes maritime security, but its efforts have been limited partially because internal (on-shore) capacity building is necessary before building sea capacity. Therefore, much of EUCAP Nestor’s work has focused on building the capacity of police to deal with organized crime. Limited progress has been made on building the capacity of the coast guard and maritime police. In sum, EUCAP Nestor has relatively small staff and resources, insufficient to support the full development of Somalia’s MLE agencies compared to the enormity of the challenge and Somali’s lack of absorption capacity and political will.

2.6 How should the TF align with the SMRSS and coordinate with other actors involved in maritime security?

⁸⁵ <https://www.eucap-nestor.eu/en/>

⁸⁶ Per EUCAP Nestor’s literature, its approach is to develop capacities along the whole criminal justice chain ‘from crime to court’ starting with the arrest and detention of suspects through to the investigation and prosecution of a crime. Its beneficiaries will be the coast guard, navy, civilian coastal and maritime police, prosecutors and judges. EUCAP Nestor Fact Sheet, April 2016.

All of the TF projects currently being implemented in Somalia align with the SMRSS. Most interviewees including TF Board members agree that if the TF is going to support the strengthening of Somali MLE capacity or to address IUU fishing, these efforts should be aligned with and coordinated through the framework provided by the SMRSS. By aligning with the SMRSS and supporting certain priority areas, the TF could play a role in building the legitimacy of the SMRSS as the key policy framework, mobilizing additional support for the SMRSS, and shaping the direction it takes in its implementation. However, any significant actions taken by the TF to support the SMRSS should be aligned with the Contact Group's level of engagement in on-land interventions that are designed to address the underlying causes of piracy. Also, if the TF supported the SMRSS beyond its currently funded projects, then it would need to be replenished, and its terms of reference would need to be revised and expanded. In addition, donors involved in the SMRSS have varying agendas and the FGS may prioritize topics in the SMRSS that differ from the regions. Thus, there is a strong need to build consensus that the SMRSS is the only document on which to base priorities, and a road map is required to sequence the implementation of the SMRSS. The Contact Group could have a coordination and consensus-building role in this process, but the strategy has to be clearly defined, and an action plan, timeline, and budget should be developed. Prior to any engagement, representatives of the FGS and the regional states (e.g. Puntland, Somaliland, Galmadug, Jubaland, etc.) should agree on their relationship, priorities, and areas of consensus and disagreement. Members of the Contact Group could support these dialogues with support from the TF as needed.

2.7 Somalia National Development Plan, and international cooperation to finance these strategies.

Somalia recently finalized its first National Development Plan (NDP) for 2017 – 2019, which succeeds the Somali Compact⁸⁷ (2014 – 2016) that framed Somalia's priorities around five Peacebuilding and Statebuilding Goals and contained a distinct arrangement for Somaliland, known as the Somaliland Special Arrangement.⁸⁸ The coordination and financing processes set up to support the Somalia Compact will be sustained as the NDP is implemented. This includes the Somali Development and Reconstruction Facility, which brings together four different international funds – the UN Multi-Partner Trust Fund (MPTF), World Bank Multi-Partner Fund, the African Development Bank Fund (AfDB), and the International Monetary Fund (IMF) – under common governance arrangements and provides a monthly forum for coordination between the FGS and donors, as well as the annual High Level Partnership Forum to review progress.

2.8 To what extent does the NDP address the causes of piracy? What are the gaps?

The key challenge to utilizing the NDP and other 'national' development policies and strategies to address piracy is the lack of legitimacy and authority of the FGS in the states/entities where piracy has thrived. The main bases for Somali piracy, with few exceptions, are in Northeastern and Central Somalia, which are self-governed by three states that have sought to maintain their autonomy from a central Somali government – Puntland, Galmudug and the Himaan and Heeb state. The Mogadishu - based FGS exerts little influence or legitimacy in these areas – Puntland has even withdrawn from it – and attempts at intervention would, in general, be seen as an invasion.⁸⁹

The NDP (like its predecessor the Somali Compact) and the SDRF and multi-partner funds set up to implement them are seen as mechanisms to align international partner support behind the FGS and its

⁸⁷ http://eeas.europa.eu/delegations/somalia/documents/press_corner/20130916_the_somali_compact.pdf. The international community and the FGS initiated the process to develop the Compact in 2012, building upon the Busan principles for engagement in fragile states.

⁸⁸ <http://www.pbsbdialogue.org/en/>

⁸⁹ Hansen (2015).

priorities. Yet they lack legitimacy in the states where piracy has flourished. To be successful in addressing piracy, to date, the Contact Group and TF had to engage with non-central government political entities and act at the sub-national level. Hansen argues that the Contact Group managed to do so by engaging technocrats, rather than political leaders, from different regions in various coordination mechanisms and that this process of “technification” was successful in building trust, although it did not create local legitimacy or buy-in, especially at the clan level.⁹⁰

The NDP touches on many thematic issues relevant to preventing piracy. The central issue is whether the NDP can be implemented in a decentralized fashion that is perceived as legitimate in Puntland, Galmudug and Himaan and Heeb states. Many of the regional states have created their own development plans that do not necessarily mesh with the NDP. The NDP builds upon the FGS’s political agenda outlined in its ‘Roadmap 2020’ which includes decentralization as one of three political priorities.⁹¹ It states that the “FGS aims to progressively decentralize powers to subnational levels” and that the “FGS will support the development of local government at the district level, with the aim of establishing (or strengthening) district councils for the 100 or so districts across the 18 regions of Somalia.”⁹² Beyond this broad political commitment, the NDP is vague on how particular sectoral plans would be implemented at the sub-national level or would reflect priorities of different regions or states because it primarily refers to FGS ministries and institutions. Although the NDP states that it has been developed in consultation with regional states, the current draft does not appear to incorporate state priorities. This should be addressed through further consultation at the state level (e.g. to incorporate the state development plans) if regional authorities are to accept the NDP.

Particularly relevant to counter-piracy efforts, the NDP’s approach to security - including maritime security - appears to focus chiefly on strengthening institutions at the federal level. The NDP identifies the newly approved National Security Strategy as guiding all security sector reform efforts and establishes the overarching objective as: “establish unified, capable, accountable and rights based Somali federal security institutions providing basic safety and security for its citizens.” It identifies training of security forces as among its top priorities for year 1, particularly training and equipping the navy and coast guard and ratifying a revised Somali Maritime Code.⁹³ An additional critical priority set by the NDP (this was also a Compact priority) is developing an effective maritime security strategy within the framework of the SMRSS. While strengthening maritime law enforcement capacity is highly relevant to counter-piracy, the NDP appears to focus on strengthening federal security institutions without offering a mechanism to support the Puntland Maritime Police or the Somaliland Coast Guard, key elements to counter-piracy. Supporting an FGS-driven maritime security strategy may even be counter-productive if it alienates Puntland authorities.

The NDP identifies the development of the Somali Police Force as well as the justice and corrections institutions as a priority. However, it is unclear whether or how support at sub-national levels would be prioritized. Nothing explicitly focuses on prosecuting, detaining, and rehabilitating pirates, and it is unlikely that the central government - driven process to develop the police, justice, and corrections institutions will prioritize Puntland and the remote coastal areas affected by piracy.

The NDP also contains plans to develop Somalia’s productive sectors and physical infrastructure, including a fisheries plan, and roads improvement and ports upgrading programs – all of which are highly relevant to developing legitimate trade and fishing livelihoods in coastal areas. However, as with the other sectors, the NDP is unclear on how these programs and plans will be implemented at

⁹⁰ Ibid.

⁹¹ Roadmap 2020 has three main components: (1) Democratization (2) Finalizing the Constitution (3) Decentralization.

⁹² National Development Plan, p 15.

⁹³ National Development Plan, p 16-17.

the sub-national level.

As discussed in the context section of this report, evidence suggests that political authorities allow piracy to thrive in areas that are cut off from trade (because there are no opportunities for them to protect/tax trade). If the implementation of these programs can be influenced so the regions where piracy has thrived are prioritized and so that authorities in these regions can develop alternative ways to generate revenue (e.g. by taxing trade or licensing fishing) then this could help prevent piracy from becoming an attractive alternative by minimizing one of its underpinnings.

Lastly, the NDP does not mention mechanisms for achieving its aims. Moreover, it fails to address challenges to implementation including: limited human and financial resources, low absorption capacities, clannism, corruption, and political gamesmanship, as well access to insecure and difficult to reach locations, which tend to be the areas where pirate, criminal, and terrorist groups thrive.

2.9 How should the TF relate to the NDP and complement support from other donors and funds aligned with it including the UN Somalia Trust Fund?

UN Somalia Trust Fund - Greater clarity is required concerning the need for a separate UN trust fund for counter-piracy or whether counter-piracy interventions on-land are being addressed by other TFs and bi-lateral funding mechanisms including the UN MPTF for Somalia, which focuses on the Somali Compact priorities. Several respondents believed strongly that counter-piracy efforts on land should be incorporated into larger UN MPTF for Somalia. To summarize, the major rationale for this consolidation was that the issue of piracy cannot be isolated from the issue of Somalia as a whole. Therefore, the majority of on-land counter-piracy interventions aimed at addressing the root causes of piracy are part of much larger socio-economic and political challenges. Counter arguments for ending the counter-piracy TF or incorporating it into the larger Somalia TF include the following:

- The added value of the piracy fund resided in its specific focus and goal... the Contact Group and TF were able to determine their relevance and advance the counter-piracy agenda at the policy and practical levels. With other competing issues and interests, it could easily get swallowed up by the larger TF, which covers a number of sectors with many implementing partners and advisors involved.
- Piracy is just another form of organized crime that affects multiple regional states and the international community because of the shipping routes. Therefore, the focus should be directed away from Somalia exclusively. If the piracy fund was eliminated, the larger Somalia TF would not have the jurisdiction to support important regional and international interventions.
- The Somalia TF fund has a smaller constituency of actors and is based in Kenya and largely linked to the New Deal. In its extensiveness it attracts a wave of donors, while the smaller piracy fund has a much more focused set of donors with expertise in topics related to counter-piracy.
- The piracy TF is also the only fund that includes countries like Saudi Arabia, Qatar, Kuwait, and UAE, so there is diplomatic value in maintaining the piracy fund. The fund maintains a club - like feeling with individuals from different countries that share a common interest.
- The piracy fund is smaller, more easily managed, and therefore more flexible and adaptable.
- The piracy fund should not touch livelihoods, but should rather fill gaps that donors would not fund.
- Beyond the money, the influence of the Contact Group and the piracy fund is significant. The board is an important political tool and the piracy TF adds weight to the Contact Group that should not be underrated.

To harness the strength of both funds, one option is to formulate a strategy to complement the work of the counter-piracy TF with the larger Somalia TF.⁹⁴ The larger fund could be used to scale up initiatives piloted through the piracy fund as well as to provide greater sustainability to existing projects that were initially supported by the piracy fund. For instance, the Somalia TF could scale up successful efforts like the FAO livelihood program. The larger vehicle could also finance expensive infrastructure including boats for the coast guard and improving or building prisons.

MASE, “is an EU-funded counter-piracy program designed to “strengthen the capacity of the ESA-IO region in the implementation of the regional strategy and Action Plan against Piracy and Maritime Security. FAO’s €5.3 (USD 6.0m) 30-month project, “No Piracy: Alternatives for Youth Living in Coastal Communities of Puntland, Galmudug and Mogadishu” was developed within the MASE Programme to specifically contribute to MASE Result 1: Alternative livelihoods through vocational development initiatives and advocacy against piracy are supported. The action will ensure complementarities with the ongoing UNODC’s Counter Piracy Programme, as well as with the EUCAP Nestor mission particularly in Somalia and with the EU Law Enforcement Programmes (CRIMLea I and II) run by INTERPOL. This project will contribute to the creation of sustainable, skilled employment among the youth of Somalia’s Indian Ocean coastal communities based on access to currently untapped marine fishery resources and livestock value chain trade. The foreseen impact is improved livelihoods through the provision of employment opportunities to youth at risk of recruitment into piracy.”

GEEL, USAID’s \$74 million USD maximum ceiling is a Growth, Enterprise, Employment and Livelihoods program. GEEL’s goal is to improve production, employment, and incomes in select sectors, improve the business environment through access to finance and support to policy and regulation, promote enterprise development through business development services, and increase participation of women and youth in the economy as employers, employees and entrepreneurs. This program could address economic and livelihood issues related to counter-piracy work, but the nature of the funding mechanism will create challenges to target individuals and communities vulnerable to piracy. Two major reasons appear for this. First, the implementers may not be able to get security clearance to access places like Hobyo. Second, the program will match USG funds with private sector funds to promote job creation in the fishery sector. Therefore, targeting of participants will be focused on easily accessible areas and high probabilities of success. USAID had two additional projects including: Strengthening Somali Governance (SSG) and Transition Initiatives for Stabilization + (TIS+) although neither program will directly address counter-piracy issues.

The Multi-Partner Fund (MPF), administered by the World Bank, is designed to support the Somali Compact by providing “a platform for coordinated financing for sustainable reconstruction and development in Somalia. Administered by the World Bank, the 10-year MPF operates as a window within the Somalia Development and Reconstruction Facility (SDRF), the framework guiding implementation of the Somali Compact.”⁹⁵ The MPF does not directly target counter-piracy issues. In addition to this MPF, the World Bank cannot currently make large investments in Somalia as a consequence of the lack of IFI normalization. The FGS should go through the HIPC process to relieve its debt, which it has defaulted on. In the absence of this, other donors will have to support major on-shore developments. They will not likely be willing to invest the amount necessary for large-scale infrastructure projects like roads that are paramount for harnessing Somalia’s blue economy and accessing coastal communities most vulnerable to piracy. In the absence of donors willing to make such large investments, the World Bank is trying to focus on public-private partnerships to develop Somalia’s ports.

Private sector development/livelihoods programs have been designed to stimulate economic development. For instance, DFID is providing 13m pounds over three years through the Promoting

⁹⁴ As of May 2016, the counter-piracy TF had \$1.3 million USD of unused funds while the Somalia TF had \$160 million USD over two years.

⁹⁵ <https://www.somaliampf.org/sites/smpf/files/MPF%20Progress%20Report%203%20FINAL.pdf>

Inclusive Markets in Somalia (PIMS) Program, which supports market development in six value chains (livestock, fisheries, poultry, food crops, construction, and light manufacturing). DANIDA is co-funding this program with 2.4m over four years, and SIDA may also contribute. The World Bank, through the Supporting Economic Recovery in Somalia (SERS) program, is attempting to improve the business environment and putting in place a portfolio of public investments to support long-term economic recovery. Smaller interventions by other donors focus on direct agricultural support.⁹⁶ While these and other programs focus on economic development, they do not target populations or locations vulnerable to piracy. Additionally, they are not likely to yield short-term incentives to compete with opportunities that piracy and other illicit activities present. Also, a large portion of development funding in Somalia is focused on the South-Central region and neglects individuals and communities that have temporarily halted piracy activities at sea, but remain without viable and legal economic alternatives.

UN Peacebuilding Fund supports the Community Recovery and Extension of State Authority / Accountability (CRESTA) program, which is a stabilization-focused program that will not directly address issues related to piracy or the primary locations where piracy was prevalent.

Somaliland Development Fund - managed by MOTT MacDonald and funded by DANIDA, Norway, Netherlands, and UKAID, this fund was designed to support the FGS to implement the National Development Plan. It does not address counter-piracy issues.

Somalia Stability Fund - supported by the Netherlands, UK, Sweden, Denmark, Norway, EU, and Germany, will invest a minimum of \$60 million USD over 3 years. Phase I will include a youth center in Bosaso, but no work is planned for the smaller coastal towns. In Puntland work may include rehabilitation and construction of police stations, community security work, water for peace, solar lights, etc. According to a program representative, “Puntland has fairly strong local governance so more focus will be on peacebuilding including youth and jobs.” Phase II will be focused on local governance and peacebuilding.

⁹⁶ PIMS Program Core Script, September 2015.

3. ASSESSMENT OF TRUST FUND PROJECT OUTCOMES AND IMPACTS

3.1 What is the original purpose of the TF?

The overall purpose of the TF is “to help defray the expenses associated with prosecution of suspected pirates, as well as other activities related to implementing the Contact Group’s objectives regarding combating piracy in all its aspects.”⁹⁷ In short, member states recognized that due to gaps in international and maritime law it would not be possible to address piracy through normal diplomatic channels. The security-focused response by international navies and private security companies resulted in the arrest of pirates at sea, but ambiguities in international law and gaps in prosecution capacity led to a ‘catch and release’ policy. The TF was established to address the obstacles to prosecuting pirates in the region and to end the sense of impunity.

3.2 How has the TF added value as a mechanism for coordinating support to counter-piracy efforts?

A summary of the TF’s added value includes the following: (See annex 1 for a thorough SWOT analysis)

- Reduces political risk of action on sensitive topics that bi-lateral donors may not directly support.
- Mobilizes political support and funds for counter-piracy efforts from countries that may not prioritize the issue.
- Creates an effective mechanism for high-level cooperation between actors (industry, countries, regional bodies, donors, and militaries) with different geopolitical, regional, and national interests.
- Provides the Contact Group with agency.
- Fills gaps and targets very specific work in a flexible and timely manner.

3.3 How were decisions made on funding priorities? Was there a strategy for decision-making? Were technical experts and Somalis consulted meaningfully in the decision making process?

Per the TF’s terms of reference, proposals are submitted by UN agencies annually and reviewed during the Contact Group’s annual plenary. An expedited facility is also available for UN agencies to present urgent needs to the TF board for approval throughout the year. The board is comprised of the director of the Department of Political Affairs, who chairs the Board and a maximum of ten members of the Contact Group determined by the Contact Group; three Recipient UN Organizations (UNODC, IMO and UNPOS) and the Trust Fund Administrator. The UNDP MPTF Office, which administers the fund, serves as an ex-officio member of the board. Board members from the UN system only serve in an advisory role to assist in ensuring coherence in programming and thus are nonvoting members. The board aspires to make recommendations by consensus as much as possible. However, a two-thirds plurality makes final recommendations when consensus is not attained.

When piracy was at its height it appears that many of the proposals were very targeted, particularly those related to prosecutions, prisons, transfers, hostage debriefs, policy development. As piracy declined, the TF began to lose some focus partially because it lacked a framework for prioritizing and sequencing initiatives that would have helped UN agencies guide proposal development and assist the board with the vetting process. As a board member observed, “Currently projects are very erratic... there is no larger strategy or prioritization for what is funded and not funded... Projects are not a means in themselves, they

⁹⁷ <http://mdtf.undp.org/document/download/10486>

are an instrument to achieve certain objectives... currently we are only seeing the instruments... Do the proposals show a linkage with a larger effort? Do they show how it will compliment a policy or larger initiative? I have never seen a gap analysis explaining why this activity cannot be funded by another fund?"

Board members encouraged the following to better target proposals and assist in decision making:

- Develop a larger strategy that will help prioritize the board's decision - making process.
- Enhance the level of rigor that goes into writing and reviewing proposals.
- Build in greater flexibility in terms of when proposals are submitted and when decisions are made.
- Consider increasing the role of regional actors on the board.
- UN Agencies and others submitting proposals should include a brief synopsis of the political-economy and level of buy-in of the relevant Somali stakeholders into the proposal or during the verbal introduction of the project to the board.
- Include a section in the proposal template that includes the potential obstacles, likelihood of sustainability, and the expected long-term effects of the proposed project. Proposals should also include a brief section on conflict sensitivity and risk analysis.
- Include a section in the proposal template that lists the UN Agency and the sub-contractor's (implementer) past performance and current ability to implement the project effectively.

3.4 Were the projects aligned with the ToR of the TF?

The Trust Fund was established with two windows: (A) prosecution and detention-related activities, and (B): other priority activities. The majority of the projects funded by the TF were focused on window A, which is highly aligned with the primary goal of the Contact Group. See Annex 1 for the breakdown of TF initiatives by theme, location, agency, and program.

3.5 Did TF projects contribute to the desired outcomes?

3.5.1 Creation of a regional mechanism for prosecution and detention of pirates

The TF's most significant impact has been the establishment of a regional mechanism for the prosecution and detention of suspected pirates. More than half of the funds were allocated to projects related to developing capacity in Somalia and regional states (primarily Seychelles and Kenya) to prosecute and detain pirates (20% to regional prosecution and detention, 24% to Somali prisons, 16% to Somali judicial capacity). These TF projects have enabled arrested pirates to be tried in the region primarily in Seychelles and Kenya and for prison facilities to be constructed so that convicted pirates could ultimately serve their sentences in Somalia. Overall, this work proved critical to enabling 'a legal finish' for counter-piracy operations at sea. It provided a solution to the dilemma of the 'catch and release' policy at sea, which was not effective in deterring piracy. It also helped to overcome the political challenge faced by members of the international naval coalition that did not want to prosecute or imprison pirates in their home countries. These projects provided a legal mechanism that enabled navy ships to handover arrested pirates to Somali or regional states with the knowledge that they would be dealt with according to international standards.

A consensus exists that providing ongoing support to the prison sector is very relevant and needs to be maintained either via the TF or bi-lateral funding to enable continued mentoring, operations, vocational training and other support to the management of prisons. That said, important questions remain

concerning the overall impact and continued relevance of the prosecution and detention focus. Key questions include:

- *Is the threat of prosecution and prison a major deterrent?* Some argue that the main deterrent was the increased threat of dying at sea and lower chances of success (related to military reinforcement on boats and heightened security at sea). Some go even farther to argue that pirates saw a benefit to being captured and imprisoned abroad as a way to gain asylum and escape the poor conditions in Somalia. This illustrates the importance of transferring convicted pirates back to Somalia to serve their sentences.⁹⁸ However, it also illuminates the pirate's level of desperation. A 2015 survey of 66 pirates held in prison in Somaliland, Puntland, and Seychelles found that the threat of imprisonment was an important deterrent and that prisoners cited fear of jail time as a reason they would not return to piracy. Overall, the results suggest that the combined effect of security at sea and the threat of death or arrest created effective deterrence – in other words, the threat of arrest and imprisonment reinforced the deterrent effect of naval patrols.⁹⁹
- *Is the impact of prosecution and imprisonment limited because focus has mostly been on low-level foot soldiers while, higher-level kingpins, financiers, and facilitators remain at large?*¹⁰⁰ The rationale for this argument is that low-level foot soldiers are easily replaced and that prosecutions do little to disrupt pirate networks if pirate leaders continue to enjoy impunity. That said, the kingpins have been the focus of international law enforcement efforts and the arrest and recent conviction in Belgium of Afweyne does send an important message. Although 'Gafanje' and other key figures remain free and appear to enjoy some protection from Somali authorities, they are closely watched, and their movements outside of Somalia are constrained.¹⁰¹
- *Are Somali pirates a high priority for Somali authorities?* Somali authorities consider pirates to be a low level threat compared with al-Shabaab and other prisoners and they do not prioritize them in the prisons or the criminal justice system generally. On the one hand, this points to the need for a counter-piracy focus to ensure the pirates continue to receive attention in the criminal justice system. On the other, criminal justice and corrections reform should be addressed in a manner that integrates Somali priorities and acknowledges the range of serious crimes and security threats in Somalia – not only piracy.
- *How can progress made in developing a functioning corrections system be improved and sustained?* Currently, pirates' security in prisons and international human rights standards are only maintained with monitoring by international actors. Prisons remain porous and corrupt, and prison staff receive very low pay.¹⁰² Therefore, continued monitoring by UNODC and prison mentors (Norway and Sweden bilateral support) is necessary to ensure pirates serve their sentences, maintain security and human rights standards, and prevent pirates from bribing or coercing their way out of prison. The mentors question both technical, organizational, legal, and human rights issues. For example, when the Al Shabaab youth were brought to the prison they were placed with the general population. The mentors made them

⁹⁸ In some contexts, conditions were likely better for pirates in prison abroad than they would have been at home; in other cases, there has been controversy over the substandard conditions of pirates held abroad (e.g. death of one pirate imprisoned in India). In either case, this is one reason why it was important that pirates be transferred to Somalia to serve their sentences. Both the Somali authorities and the states prosecuting pirates wanted convicted pirates to be transferred back to Somalia.

⁹⁹ UNODC & OBP (2015). Pirates reported naval patrols were the most significant deterrent at sea, but did not necessarily distinguish this from the threat of arrest/imprisonment.

¹⁰⁰ See for example, Scott (2013)

¹⁰¹ Mohamed Abdi Hassan 'Afweyne' was arrested in Belgium in 2013 and was sentenced 20 years in 2016. He is the first 'kingpin' to have been convicted internationally. Puntland pirate kingpin Boyah has been imprisoned in Puntland but other Puntland leaders remain free. There have been a small number of convictions of mid-level negotiators. Attempts by the FGS and Puntland authorities to prosecute and convict kingpins have ended in their release or to short sentences. Approximately 1,200 pirates have been prosecuted, primarily in Somalia, Kenya, Yemen and Seychelles. Scott (2013).

¹⁰² Prison staff are only paid \$65 USD a month. They need \$200 a month to live on. So they have to get money from somewhere else to survive. Some get other jobs – other smuggle things into the prison for extra cash.

separate the Al Shabaab adolescents from the general population. But, pirates currently are not separated from al-Shabaab and others convicted of serious crimes. This should be addressed to prevent prisons from becoming a location where pirates are inadvertently radicalized or Al Shabaab are drawn into piracy. International mentors recommended increasing the prison mentors to 3 people per prison. For security purposes, one mentor cannot be at the prison alone, so every time the mentors go on leave a risk arises. The program would have greater and more sustainable impact if two mentors were consistently at the prison to supervise the staff and hold them accountable. All of the above begs the question of sustainability and the ultimate end game for the TF and bilateral support. Developing the Somali corrections system is a long-term endeavor. Support provided as part of counter-piracy efforts has had positive ‘spillovers’. For instance, the prison infrastructure and reforms established help to address other issues, including al-Shabaab and separate facility for minors. If the TF is to reduce its support, then it will be important to consider how progress will be sustained.

- *Are pirate cases reviewed once incarcerated?* Once in Somali prisons, it does not appear that pirates have access to legal aid and risk becoming stuck in the prison system. In some cases imprisoned pirates may not pose a continued threat or are being held for clan-related reasons.¹⁰³ This could be addressed with an internationally supported, case review process that might include interviews and psychological assessment of imprisoned pirates to determine if they are fit to be released. This could also alleviate overcrowding and make space for the transfer of additional prisoners. For instance, there is concern over the conditions in which pirates are being held overseas. They should be transferred to Somalia, which may require further support including potentially further expansion of prison facilities in Somalia. In addition, support may be required to assist Somali’s released abroad to be repatriated.¹⁰⁴
- *What happens after pirates are released from prison?* UNODC has promised vocational training and education to incarcerated pirates in some prisons it has not been delivered, leading to threats against the international mentors. Even if vocational training is provided, it is unclear how the inmates would apply it upon their release. Currently no programs exist to follow-up with pirates after their release (e.g. monitoring, counseling, probation, etc.). This is a challenging issue for several reasons. First, providing resources and support to convicted pirates and not to other young men and women who did not engage in piracy could send the wrong message. Second, and perhaps more difficult to overcome, is the issue of access. The areas where pirates often go after prison are not accessible to the UN and many international and government actors. Therefore, Somali NGOs would have to be engaged for follow-up work. The majority of those with access to these areas cannot comply with donor financial rules and it would be very difficult to monitor this work.

3.5.2 Somali legal and judicial capacity to address piracy

The TF supported several projects designed to revise Somali laws to enable prosecution of piracy cases in Somalia as well as to strengthen the capacity of the courts to try piracy cases. This included support to UNDP’s access to justice program to develop the judiciary and legal aid services as well as to revise key legislation related to piracy in Puntland and Somaliland (projects 24, 32). The TF also supported a joint UNDP/UNODC project in South Central Somalia to renovate Benadir Court Complex and develop the judiciary’s capacity for piracy trials (project 47). Lastly, the TF supported several DOALOS, UNDP, and UNODC projects aimed at strengthening capacity of Somali legislators and judges (projects 31, 61, 4).

¹⁰³ For example, pirates in prison may be those from the weaker clans or less important individuals from the same clan who serve sentences in exchange for key clan members.

¹⁰⁴ For example, on 11 August 2016, the 12 Somalis convicted of piracy offences in Mauritius received 5 year sentences. Given their time served while on remand and during their appeal, and considering remission for good behavior, the Somalis were released from prison into police custody and will be held under police supervision until the time of their repatriation to Somalia, which will be facilitated by UNODC.

These projects are aligned with the TF's overall strategy of supporting piracy prosecutions, and some progress was made.¹⁰⁵ However, it was unrealistic to expect that Somalia could develop the legal and judicial capacity to conduct piracy trials given the current capacity of its rule of law institutions. The TF's initial efforts focused on creating separate court sections for piracy trials and using technical experts to close gaps in laws relevant to piracy. However, actually passing legislation and creating a separate legal track for pirates proved to be more complicated in practice for a host of reasons. Therefore, UNDP and DOALOS shifted their focus to longer-term issues related to developing general judicial capacity, as these were precursors to developing capacity to prosecute pirates. Important over the long-term, the potential to enable immediate trials in Somalia (rather than Seychelles or other states in the region) was limited and the scale of TF support was insufficient to address the challenges in the sector.

For example, The FGS has ratified the International Law of the Sea, but it lacks the capacity to implement it and struggles to have the legitimacy to incorporate it into the national, regional, and local policies and laws necessary for enforcement. The FGS requested DOALOS to assist in implementing the legal framework resulting in project 61, which included three parts: (1) Awareness-raising in parliament about the legal regime for oceans; (2) Detailed training in Somalia at the constitutional level; and, (3) Gap analysis of existing legal regime. A challenge for this program is that Somalia does not have many national laws in place, and general awareness and capacities remain low. Therefore, the training program had to be broadened to include all parliamentarians so they understood the issues enough to analyze them critically and draft and pass legislation accordingly. Major lessons from this project include the needs for better contextual analysis prior to designing proposals and the sequencing of interventions.

An additional challenge is the compatibility of western statutory laws and customary systems – “Prosecutions and capacity building of legal systems are fine, but there are multiple and incompatible legal systems and western laws do not have a history or an influence in the region... These tribal/customary/clan laws differ depending on the specific location in Somalia so one system of laws across all of Somalia may not be feasible. For instance, in the north many clans adhere to *xeer* and in the south, *Sharia* law is more prominent. In many places both are applied. [In addition], legal systems rely heavily on customary laws derived from pastoral laws for trading. The latter involve retributive forms of justice, with substantially greater strength than western courts. Consequently, traditional elders undertake the real work through traditional forms of negotiation.” For instance, anecdotal evidence suggests that in Puntland, “Often it was not even the people who commit the crimes that are serving the sentences. Quite often the clan would intervene and swap pirates who were important to clan for less important people – e.g. the guy's brother.” Furthermore, “piracy covers two very different areas with two very different governments [Puntland & Galmudug]. But, the population moves very easily between these regions so the focus cannot be on one region while ignoring the other. A more holistic approach to Somalia is needed.”

Given the above discourse, it is unclear if the TF should continue to focus on building Somali legal and judicial capacity to address piracy, because this cannot be disaggregated from building Somalia's general capacity in this area. For instance, it is important to build the capacity of the Criminal Investigation Department (CID) for many reasons, not just piracy. While this is important work, there are other funds focused on institutional capacity development that should cover such long-term institutional building work.

3.5.3 Support to develop Somali Maritime Law Enforcement (MLE) capacity

¹⁰⁵ “Somali justice systems have been strengthened and able to deliver services that were inaccessible a year ago. For instance, the Attorney General Office was barely functioning, but during the last year it has been able to open offices in districts in remote areas and established a unit to target specific crimes.”

The TF has supported UNODC in several small projects that contribute to developing Somali MLE capacity including: Support to the Maritime Police in Mogadishu, the Bossaso Port Police in Puntland, and the Somaliland Coast Guard (project 57). The TF also supported the development of the SMRSS and the policy and legal framework underpinning maritime policing (project 50). Finally, the TF supported IMO to assist the FGS in drafting a Maritime Code that will provide a legal framework for maritime security (project 76).

These projects are broadly aligned with the TF's strategy and goals. For instance, support to develop the SMRSS appears to have been valuable. However, the level of buy-in to the process at the sub-national level, the mechanisms and follow-up process to implement it, and the availability of human and financial resources remain undetermined. Implementing the SMRSS requires a long-term process that addresses many of the root causes, but it is unlikely to deter a resurgence of piracy in the short-to-medium term. Therefore, it does not relieve the need for deterrents at sea.

In addition, project 57 does not appear to have been targeted or strategic especially given limited resources. The support provided is small in relation to the need, and it is unclear how it fits within a wider strategy to develop the MLE agencies or why particular agencies and areas of support were prioritized. It is also not clear that TF project 76, which supports IMO to assist the FGS to develop a Maritime Code, is strategic. While a legal framework for maritime security is necessary, the issue of sequencing remains significant – other broader governance and legal issues should be resolved (e.g. elections, federal structure) before it makes sense to support the FGS to develop maritime laws, and it is not clear that support at FGS level will have any impact in piracy affected areas.

Stated by a Somalia expert, “currently there is very limited to no authority, policy, or coordination for maritime security so there needs to be a framework to spearhead this.” Therefore, if the Contact Group and TF are going to support the development of Somalia's MLE capacity, then a strategy must be in place, rather than a series of ad-hoc programs lacking sequenced or linkage with other necessary processes. In addition, this cannot be forced on the FGS and the sub-national governments. This requires substantial political will and cooperation among the various internal stakeholders. Without these elements, providing external human and financial resources will not likely yield significant or sustainable results.

3.5.4 Support to security onshore (UNDP Civilian Police Project)

The TF provided some support to UNDP to strengthen the capacity of the police to counter piracy onshore in Puntland. The UNDP civilian police project helped develop central police structures in Puntland as well as rehabilitating stations in piracy hubs in remote coastal areas. This focus on developing police structures at the state level was relevant to the long-term project of developing Puntland police. However, other funds/donors have not been interested/willing to support Puntland. Moreover, an impact on Puntland police ability to conduct piracy investigations remains unclear. The expectation that functioning structures could be established in remote coastal areas was highly unrealistic given the security challenges and the lack of central police and general infrastructures (e.g. roads). Because of the scale and long-term nature of the support required, it would be better if police development were undertaken as part of wider development programming. However, the challenge is lack of political will, limited absorption capacities, and access. As an interviewee stated,

If UNDP hadn't had to justify the piracy link, we would have chosen very different locations to build police stations. Eyl and Bandar Byla are extremely remote. Getting there is a huge task and lots of security issues. We were being told to build police stations in a context in which central police capacity was extremely limited. We can't just stick police in a fancy new building in a remote location with no central command capacity. Only really two things that could happen: Either they will try to do their job and be killed or they will be co-opted. What we tried to do is get as much of TF money to contribute to central capacity building of police and justice system in

Puntland. This is because what we really needed was to build up the central structures that the stations plug into. Building stations in Eyl and Bandar Byla was a waste of money.

Experts engaged in onshore security recommended more of a state-level approach to developing police and MLE agencies in piracy prone areas in Puntland and Galmadug. However, the TF support would not be of the scale required to address the challenges, so the board and members of the Contact Group should advocate in behalf of significant bi-lateral support for this type of project at the sub-national level. Apparently, numerous actors are already involved in coastal onshore security, which requires substantially more work and resources. Per an interviewee, “the Joint Rule of Law Work Plan – PSG3 – focused on justice and corrections is spending a huge number of funds, so there is no need for the Contact Group to dribble funds into this.” However, other interviewees noted, “The larger Somalia Trust Fund is not doing this work. It has an overwhelming focus on support to the national government and South Central Somalia. There is very little being spent in Puntland. Puntland will continue to be marginalized because geo-politically it is not interesting to donors.” Beyond resources, access and security issues, another challenge for long-term engagement in Somalia is staff turnover. The UNDP staff that worked on the above project have since left resulting in a lack of institutional memory.

3.5.5 Tackling kingpins: Gathering Intelligence and Tracing Financial Flows

Two of the major areas of unfinished business are capturing and prosecuting the kingpins and other major actors in the piracy business and tracking and confiscating their assets. The Contact Group has been active in this area, and a working group focuses on international law enforcement issues. The TF supported a UNODC project emphasizing the strengthening of regional capacities to investigate and counter illicit financial flows linked with piracy. This terminated when two UNODC staff were assassinated while investigating pirate assets and tracing illicit financial flows in Galkayo (project #56).

The TF is also currently supporting Interpol’s efforts to debrief hostages to gather intelligence on piracy operations, thus expanding Interpol’s global database. Currently over 1,200 seafarers were kidnapped and released. Because some of those seafarers were held captive for months and even years Interpol has reasonable grounds to expect a wealth of useful information from this source. Via the Hostage Debriefing project #59, INTERPOL has to date identified and placed in its database approximately 1000 debriefs from these individuals providing intel from six member states between 2008 and 2015. These debriefs included: 299 hostages from India, 134 from Indonesia, 38 from Malaysia, 521 from Philippines, 45 from Sri Lanka, and 40 from Vietnam. Based on lessons learned, to ensure that Interpol has a comprehensive analytical package, it deemed it prudent not to limit the geographic locations of debriefs to the aforementioned six countries. Thus, Interpol’s follow-on (project # 77) will debrief hostages from any country.

The debriefs provide a wealth of invaluable information on pirates’ networks and their modus operandi. Based on the interviews and obtained information, Interpol analysts compiled 15 intelligence reports that were distributed to authorized authorities in countries with a known connection to those cases (i.e. flag state, owner, crew, investigating countries, etc.).

Interpol’s Maritime Security Unit takes a holistic approach to its program partly by addressing the funds generated by maritime piracy and the necessity to target the leaders, organizers, and other individuals profiting from piracy. The project’s overall objective is to contribute to the maritime and land security of COMESA member countries and Somalia, by reinforcing the capacity of relevant national stakeholders to effectively investigate illicit financial flows derived from piracy. The COMESA project and Hostage Debriefing Initiative are expected to be mutually beneficial. For instance, Interpol has information on several alleged kingpins, but this is part of ongoing investigations and therefore cannot be disclosed. A top 11 list of key Somalia pirate actors includes kingpins, financiers/investors, negotiators, commanders, and pirates. These individuals, regardless of their role, represent high value targets for law enforcement in

multiple jurisdictions.

Interviewees explained that the hostage debriefings are a very practical use of the TF. Without this funding, Interpol would not have been able to cover the same number of seafarers. Due to their widespread locations and the nomadic lifestyles, it is very challenging to arrange for the seafarers and the de-briefers to come to one place and put together the package statements in a short time interval. Interpol could not have achieved this without TF support and assistance from UN agencies and Contact Group member states.

Rather an investigative agency, Interpol supports countries in the region through training and use of its analytical database. It also assists naval vessels that have been attacked to do a proper crime scene investigation and enhance their analytical capabilities to conduct these investigations. Due to limitations in Interpol's mandate and limited human and financial resource capacity, it is unable to utilize its vast amount of data and analysis to inform interventions. Interpol also does not have the predictive tools necessary to fully capitalize on its data and analysis. In addition, once the piracy debriefs for Somalia are complete, Interpol will likely phase out beyond the maintenance of its global database. Therefore, it will be important for this information to be transferred and used by the appropriate UN agencies and other stakeholders. It is unclear if and how UN agencies and other actors who are privy to Interpol's analytical reports have used or intend to use this information for current and future interventions. The combination of Interpol's analytical reports and UNODC's data from incarcerated pirates provides a comprehensive data set that could be applied more rigorously.

Several member states are engaged on this issue bi-laterally via their law enforcement agencies. For example, the United States Department of Justice's legal enforcement task force is working on this topic. However, it is unclear how intensive their efforts are and if they are cooperating and exchanging information with other actors including Interpol. An interviewee who is directly involved noted,

A lot of information is held by various players, but I am not sure that we are exchanging information about key players living in the region who have not been brought to justice. We have to develop a plan to really go after the key players and prosecute them and follow the financial trails. I don't see any focus on this. Trials seem to be ad-hoc. There is not a joined up consensus on the way forward... if these guys are not seen to be actively pursued and prosecuted it sends a bad message. Obviously some are connected with the government and focused on peace, but what message does this send. We could also go after the financial side and trace the money. The longer you leave the money trail the harder it is to track. The network of key players is still in the region and everyone knows who they are. No coherent game plan on how to deal with this. We fight the little battles, but not the big ones.

An Interpol representative also explained that as time passes it becomes challenging to trace financial flows especially since a large percentage was distributed in cash and Kingpins tend to invest in property. But, without the political will and capacity to investigate these cases nothing can be done. Also, tackling kingpins 4 to 5 years after a successful hijacking adds difficulty because of the paucity of evidence. Interpol could undertake the financial investigations, but currently lacks the necessary human and financial resources. It also requires resources to build the capacity of counterparts on the ground.

Several experts warned against targeting kingpins. They expressed concern that targeting kingpins could be counter-productive and provoke inter-clan conflict, because they are so tied to the political elite. As one interviewee stated, "It would be a much higher cost than it would be worth for the government – they could arrest them, but not without igniting clan warfare so it is best to leave it alone." Another stated: "removing the kingpins does not do much because they are easily replaced. No one really understands the clan system and how going after the kingpins would affect the balance of power. Everyone is related to someone in Somalia." Somalis candidly remarked, "We have the names but the government can't do

anything because it could trigger clan conflict. Many of the financiers are still in Somalia. They have armed militias and are protected by communities and politicians... Dubai was the hub for a lot of the financial transactions – the TF could focus on freezing these accounts.” Several interviewees noted that the police are the sole institution that can capture the kingpins since they live with the people. Nonetheless, “we know who they are, there is no capacity to intervene. The Kingpins have militias that are stronger than the security forces. But, police can only do so much... if the people do not have jobs, food, money then they will be desperate.”

How and where trials would take place if kingpins are capture remains another issue. The FGS would likely want the trials to take place in Somalia, whereas the international community would probably prefer Europe or the United States in fear that the kingpins would coerce or bribe their way out of Somali prison. It may be prudent for members of the Contact Group to begin having these discussions with the appropriate Somali officials so that preparations can be made in advance.

3.5.6 Hostage support

The TF also addressed gaps in hostage support. For example, it supported UNODC to assist with negotiating their release and facilitating their repatriation, as well as improving their humanitarian situation while in captivity and on release wherever possible (Projects 45, 58 & 71). Interviewees claimed that these programs were a “huge success” and a great illustration of effective use of limited resources to yield significant results. In addition, the TF supported hostage transfers after their release. These are highly political, timely, and sensitive interactions that most bi-lateral donors would not directly support. The TF helped to facilitate these interactions quickly and discreetly. Currently, the Hostage Support Project (HSP) is supported by UNODC, coordinated by OBP, and funded in part by the Trust Fund. According to the 2016 Report of the Secretary-General on the situation with respect to piracy and armed robbery at sea off the coast of Somalia, to date, the HSP has provided assistance to over 120 victims of Somali Piracy held ashore in Somalia. As of 2016, Somali pirates in the Mudug region have released only one hostage. Not a seafarer, this Kenyan man was kidnapped with a Kenyan woman and traded to Somali pirates. The woman remains in captivity. Of twenty-six crew members from the Omani fishing vessel FV Naham, 3 also remain in captivity since 2012. Ten remaining Iranian crew of the FV Siraj are also still in pirate hands, as are four other Kenyans who were abducted on land and traded to pirates. Three Yemeni crew of the FV Abdi Khan are unaccounted for since 2011. On May 14, 2014 the Contact Group adopted the objective of zero ships and zero seafarers in the hands of Somali pirates. If and when the remaining hostages are released, UNODC has an existing budget to facilitate their repatriation.

3.5.7 Awareness-raising at community level

Two early TF - funded projects supported awareness-raising campaigns (project 5 & 37) in Puntland and refugee settlements in Kenya. With no external evaluations conducted of these projects available, it is difficult to determine their impact and any lessons learned that could be transferred to future programming. The absence of current TF projects focused on awareness - raising could be relevant for future TF support. For instance, Somalis widely perceive that the naval ships are protecting illegal fishing boats. This feeds into their grievance, which is used by pirates to justify their behavior and gain community support. Apparently, nothing significant is being done to counter this perception.

3.5.8 Alternative livelihoods

TF has supported a few small, narrowly focused projects to provide vocational training to former pirates and at-risk youth. Vocational training has also been built into UNODC’s prison work. However, in some locations, delivery has been delayed, and programming to follow/rehabilitate/integrate pirates after release is lacking. The TF has also provided support to several projects that address governance and security issues relevant to developing the blue economy and tackling illegal fishing including: (1) to FAO

to register fisherman and vessels in Puntland, Somaliland, Galmudug and Jubbaland; (2) to UNODC in a new project focused on fisheries crime; and, (3) to a joint UNODC, IMO, UNPOS project that contributed to the development of the SMRSS. These projects are relevant but also small, isolated interventions that do not appear to be part of an overall strategy. If the Contact Group and TF decide to engage in this area, it should focus on maritime governance and security issues that affect the maritime economy and coastal communities while other actors focus on developing livelihoods and the maritime economy. This might include tackling the issue of IUU fishing and illegal licensing as it is connected to counter-piracy.

Currently several donors and international actors focus on the livelihoods component. However, the investments are insufficient to have a lasting impact and may not target the right communities and populations. For example, FAO is just beginning a coastal livelihoods program emphasizing counter-piracy that employs a holistic approach to develop the entire value chain. A representative of FAO explained, Somali fisherman only fish in-shore species that they can catch easily. Therefore, FAO is providing fishery devices to aggregate off - shore tuna, making it easier for Somali fisherman to catch them. FAO also has a boat building/fleet renewal project in Bosaso and Mogadishu and it is conducting training in new fishing techniques, fish processing, engine and boat repair, and solar power refrigerators. To achieve positive outcomes, FAO works through ministries and establishes steering committees in each community and uses text-messaging services and newsletters that are distributed to the steering committee, which exerts significant influence on what FAO does and how it does it. While the resources, timeframe, and reach are relatively small, if this project provides proof of concept it could be expanded pending additional funding.

The majority of interviewees emphasized that creating alternative livelihoods is a very challenging, complex, and long term issue that requires substantial investment not just in individual capacity building, but also legal frameworks, infrastructure, and, perhaps most important and difficult, attitude and behavior change. An international expert stated, “The extent to which a young man is going to give up piracy to use a welding torch is overly simplistic. They are criminals and making a huge amount of money. Some pirates will be happy with a small job, but others will say life is short and I want to make a lot of money and have a good time.” Fishing is not seen as an attractive livelihood option to the majority of the population who do not eat fish. If attitudes are not altered, then it is unlikely that the sector will develop regardless of the amount of external investment. Another Somali fisheries expert concluded, “Somalis are starting to appreciate fish, but we need a major communications campaign to get the population to appreciate coastal livelihoods. The culture of the people is to carry a gun... not a fishing rod. But, they are very entrepreneurial so if they see a lucrative business opportunity they might engage in it. But, right now – fishing is not a lucrative business model.”

The business model is constrained by several factors some of which include the lack of a demand from domestic markets, lack of infrastructure including roads and electricity, and the inability to process or export fish to Europe because of inspections and licenses. Given the high level of competition against much easier livelihoods in other sectors, developing fishing as an attractive alternative will be difficult. Currently, the private sector sends fish to the UAE that is then rebranded and sent to Europe. Apparently, the World Bank and Oxfam are exerting some effort on quality control and trying to get regulations to export fish legally, and some fish are being sold to Djibouti. A Somalia fisheries expert elaborated on these obstacles:

In the coastal areas people eat fish, but currently fish is more expensive than meat because there is no way to freeze it. Cool storage facilities in the 6 landing sites along the coastal areas are required; then there can be a consistent supply of fish to the local market. Without this, the fish rot before they reach the shore because the fishermen lack ice or freezers on their boats. The challenge of cold - storage is compounded by the lack of a good energy sector, which makes it very expensive to keep freezers running. Therefore, for fishing to become a significant livelihood,

the entire value chain should be developed. Currently, it is a lot easier to sell khat, charcoal, and sugar.

For the fishing sector to flourish, the Somali private sector would have to become involved in processing, canning, and exporting fish. USAID GEEL is focused on working with the private sector. However, this will not likely affect the remote coastal towns that are vulnerable to a resurgence of piracy. In fact, these efforts could have the opposite effect on these communities.

The Ministry of Fisheries in the current NDP has three priorities: (1) investing in infrastructure – landing sites and storage in a cost effective way; (2) regulatory system - data collection of fisheries – analyzing and disseminating – base line for the quantity of fish there are and the amount that can be fished; and, (3) onshore processing and factories that will receive foreign vessels to satisfy both domestic and international markets. Achieving these priorities faces several challenges: (1) the insignificant amount of human and financial resources allocated for this work in relation to the need; (2) Somalia’s absorption capacity remains extremely low; (3) the corruption in this sector increases the need for transparent and public licensing.

FAO has a two-fold approach to increasing the fishing sector: (1) promote coastal livelihoods (fishing); and, (2) promote governance via resource management and management of fisheries coupled with the ability of ministries to properly manage licensing, reporting, and surveillance. This is challenging because ministers provide licenses to anyone for short-term gain; the legal framework around the coastal economy is lacking especially in regard to the fishing fleet, which is totally unregulated; and financial resources and access to key communities as a consequence of security concerns are limited. The value and impact of these livelihoods programs will be reduced considerably if the governance and transparency components are not improved. The Contact Group possesses the political strength to improve governance and transparency issues, so the TF could target these to compliment the livelihoods - related efforts. Also classic donors do not typically invest in governance and transparency - related issues with a specific focus on maritime issues and coastal communities, so the TF could help fill this gap in donor interest and funding.

Member states have already encouraged the FGS and regional governments to move forward with developing and applying a practical and transparent licensing system so that Somalia can benefit from the potential value of off-shore tuna fishing. The EU has even provided incentives for government officials to stop taking bribes in exchange for illegal licenses such as bringing in 20 EU fishing boats. These efforts have yet to materialize into government action. Another challenge and complexity related to IUU and illegal licensing is Somali fisherman’s relationship with Yemen. As a fisheries expert noted, “in Puntland – the key market is Yemen – traders swap fuel and ice to fisherman for fish.”¹⁰⁶

3.6 Relevance of ongoing projects to the current context

From a security and law enforcement perspective, a key question is whether to focus on developing Somali law enforcement capacity onshore or their maritime law enforcement capacity and, by implication, which agencies to support (e.g. coast guard, maritime police, army, police) and at what level (federal, state, local). Clearly, Somali security and law enforcement agencies cannot ‘replace’ the deterrent

¹⁰⁶ “The isolated regions along the Somaliland coast have interacted with Yemeni fisherman for years. This is an ingrained arrangement along the Somaliland coast. It takes over two days of driving to reach Hargeisa and over five hours to drive down a dangerous mountain road to the nearest town with banking. Therefore, the Somali fisherman are dependent on Yemenis for ice and fuel in exchange for fish. Yemenis also provide canned foods and other commodities, so Somalis allow the Yemenis to fish illegally in their waters. Now, however, Yemenis have stopped coming due to problems in Yemen and the fisherman are becoming challenged without their support.”

provided by the international naval patrols. Nonetheless, if supported in the right ways and if certain challenges can be overcome, local law enforcement agencies have the potential to curtail piracy. This requires somewhat different thinking about how these agencies operate and relate to local communities and the incentives and disincentives that are provided to these communities to support or deter piracy.

The international counter-piracy approach tends to focus on the need for a security and law enforcement response of deterring or arresting pirates. Another way of looking at the issue is that pirates have justified themselves, and, at times also functioned as vigilante coastal defense forces, representing the financial, political, and security interests of different clans and political elites onshore. From this vantage point, creating legitimate local maritime security agencies representative of the clans in the area would organize and bring these vigilante forces under state control. It would also reduce the legitimacy of pirates operating outside this framework. The Somaliland Coast Guard provides an example. Although with limited capacity to patrol offshore, it has been effective in countering piracy because it has the right connections to local clans and the ability to stop piracy onshore.

To be effective, the inter-linked issues of securing sources of government revenue, paying local law enforcement personnel, developing a legitimate fishing license scheme, establishing taxation of trade or other economic activities need to be addressed simultaneously. Pirates or coastal militia currently play a role in ‘licensing’ or ‘taxing’ fishing as well as imposing fines or taxes on other transit and trade in some cases. Replacing this with a legitimate licensing scheme would be critical to addressing anger over IUU fishing and would provide a source of government revenue. Local institutions and law enforcement agencies require a stable source of revenue to pay salaries and prevent co-optation by criminal elements - a major challenge to date in the police and security sector more generally.

The international community’s focus on building the central government’s security apparatus from the top-down is unlikely to create institutions with the capacity or legitimacy to counter-piracy. Piracy is a localized problem and the institutions that protect it and have the potential to counter it are principally at the state level. Interviewees noted that training of the coast guard and police has been extensive, but maritime police and law enforcement actors retain a very basic, low capacity and overall command and control between the police stations and between the police and coast guard is lacking. There are neither communications nor coordination between the stations in Barbera, Bosasso, Hobyso (not constructed), Mogadishu and Kismayo. The great need to reach the ports in between remains unfilled. Police stations to stop sanctuaries for criminals and to stop boats going to sea with bad intentions are also required as are a link between the on land police and the coast guard and for policing in the small, remote coastal communities. “Somalia has the largest coastline in Africa, but it lacks the capacity to police what comes in and what goes out. The Police do not even have uniforms – how can we expect communities to trust and respect them? We really need to work on this.” Given the need, there is very little investment in this sector, and the international actors working on maritime security are not properly coordinated in their efforts. Moreover, Kenya and Tanzania do not sufficiently share maritime security. Stated by a maritime security expert,

It would take 10 years to develop a real maritime security capacity. Nothing is sustainable – everything is focused on workshops and trainings, but the coast guard does not possess boats or fuel. Thus, all training is theoretical. It is not clear what the Somali government’s annual budget is for maritime security. The FGS has a lack of ability for basic planning. People in senior positions and elders fail to understand the planning process or formation of maritime security. When the elders say, “stop;” everything stops. In this fashion, the international community is held at ransom until the elders agree to participate. But, in 2 years an elder could still halt everything. The younger generation sees the opportunities, but the youth cannot do anything because of cultural challenges, so they get frustrated and leave thereby creating a major brain-drain. In

Somaliland, the blue print for the coast guard is in place but awaits execution. Getting the Somalis on board is difficult.

To be effective in counter-piracy response, the police and maritime law enforcement agencies must be supported within a decentralized framework, with the main focus on tackling piracy in Puntland and piracy-prone states, as well as, to some degree, reinforcing Somaliland's effective counter-piracy efforts. The Puntland Maritime Police Force (PMPF) has been described by some as the most capable in Somalia, with 8 bases in Puntland including in Eyl, observational capacity, and the ability to mobilize and rescue ships. The Somaliland Coast Guard is functional although its capacity to patrol offshore is limited. These institutions can provide the building blocks for a sub-national approach. Nonetheless, a key challenge is that the FGS resists decentralization and limits external support at the sub-national level, a position that has been reinforced by some donors. Somaliland has included maritime security in its National Development Plan but international support is conditional on the FGS. Similarly, the PMPF is not seen as legitimate by the FGS or the international community and currently only receives support from the UAE.

In addition to the above and the lack of human and financial resources two major obstacles remain:

- *Indecision on the placement of the coast guard* under the jurisdiction of the Ministry of Defense or the Ministry of Interior. Currently there are two maritime security actors [at FGS level]: (1) The Somali Navy Coast Guard, which is under the Ministry of Defense and (2) Maritime Police Unit, which is under the Ministry of Internal Security. Stated by a maritime security expert, “UNODC is building the capacity of the Maritime Police Unit and there is a train and equip plan (not funded) for the Navy Coast Guard, but everything remains in draft form until the FGS decides what to do with the Coast Guard.” Given the difficulty of undertaking training in the absence of institutions, challenges are posed to advise ministries, police, and provide operational training (police, prosecutors, investigation).
- *Lack of interest and political will* to secure the Somali Coast. Maritime security is a very divisive topic, because there are so many vested interests and so much gained from lack of security and regulation. With the threat of Al Shabaab and elections on the horizon, maritime security is not a top priority for the FGS or parliament. For example, the FGS has a Somali Prisoner Procedure Code, which gives justification to this police unit to visit, board, search, and seizure operations (VBSS). But, the Navy Coast guard does not have legislative backing for this. UNSOM has been working with EUCAP Nestor to develop Somali Coast Guard Bill, which made it through the Council of Ministers, but not parliament.

Even if these institutions existed, roles and responsibilities were clearly defined, and political interest and will was strong - access to most of the regions including Mogadishu is problematic for the FGS and international actors.

Currently, the Contact Group and a few donors provide limited external support for Somali MLE, but no larger funds offer the MLE financing. The Contact Group and member states should consider focusing on this area via the SMRSS, but large-scale assistance in this area is probably beyond the FT's current mandate. Nonetheless, interviewees noted that the TF is positioned to take the risk, demonstrate success, and then advocate with other donors¹⁰⁷ to accept this responsibility over the long term.¹⁰⁸ Member states of the Contact Group could also take an advocacy role to provide incentive and disincentive to increase the FGS's interest and political will to engage sincerely in building Somalia's maritime security capacity. This should include more effective engagement with Somaliland, Puntland and other regional states.

¹⁰⁷ Financial support for MLE including the coast guard could also be mobilized from the shipping industry and other private sector actors. The costs of piracy to the shipping industry are enormous, but it has not invested in any on-shore interventions. Many fishing and commercial vessels that would benefit from MLE are members of the Contact Group. Therefore, these member states are in good positions to work through the Contact Group to leverage this investment.

¹⁰⁸ This model was used successfully to pilot and expand UNODC's successful work.

3.7 What onshore security interventions would help prevent a resurgence of piracy?

As discussed above, a key question is the extent to which onshore versus offshore security should be prioritized in efforts to develop the capacity of Somali security and law enforcement agencies to counter-piracy. Probably the most relevant focus is on developing the police and the coast guard/maritime police and the operational links between them at the state-level in Puntland and the piracy-prone areas of Central Somalia. Critical are the necessities to develop the capacities of law enforcement agencies at state-level (necessary before local structures in remote coastal areas can be effective) and ensure that police structures and staffing are representative of different clans. The issue of payment of salaries must be taken seriously; without addressing this, police will be co-opted and become a source of insecurity by involving themselves in piracy and other criminal activities on land and at sea.

Some experts see the Somalia National Army (SNA) as having the potential to play a positive role in counter-piracy operations. SNA, supported by the UK and the US, is supposed to play a role in internal security as AMISOM's presence decreases. It is being developed as an integrated force that will be representative of different states/regions, including incorporating 3000 members of the Darwish army considered to be Puntland's army. The creation of such an integrated national army could have a stabilizing effect if the challenges of ensuring representation from the different states/regions/clans as well as paying salaries are addressed. However, SNA intervention in local security issues has the potential to cause conflict if they are seen as an external force without an understanding of community and clan dynamics, whereas the potential strength of the police is in their local intelligence and legitimacy with local clans.

3.8 Are there viable economic or livelihoods alternatives to piracy? Are there interventions that would incentivize a shift from piracy to legitimate activities?

Numerous different actors gained financially from piracy – financiers/investors, young men who acted as foot soldiers, local suppliers of hijacked ships, elites who extract taxes or used revenues to build up local militias and power-bases, and women who sold khat, provided food, sex workers, etc. Discussions of alternative livelihoods have tended to focus either on alternative employment of young men, who are potential recruits or former pirates, and on alternative livelihoods – primarily fishing – for coastal communities that directly and indirectly support pirate activities. Although these priorities are relevant, the challenges associated with developing real alternatives are enormous.

At a micro-level, vocational training targeting former pirates or youth have a limited impact without real employment opportunities related to the skills provided (e.g. carpentry, etc.), which is the case in the remote, subsistence-based, pastoralist and fishing communities that became piracy hubs. Few opportunities outside of other organized criminal activities will be as lucrative.¹⁰⁹

At a micro-level, the kind of change required to develop the fishing industry and change conditions for coastal communities is long-term and multifaceted. It requires major investment in infrastructure well beyond what international donors are willing or able to provide as well as an appropriate regulatory system for licensing fishing, and tackling corrupt licensing, which currently lacks political support from the relevant government authorities. It would also require a change in the attitude of Somali's towards eating fish as well as its attractiveness as a potential livelihood.

¹⁰⁹ The Fair Fishing Project (<http://fairfishing.org/whyfishinginsomaliland>), which is funded by the Danish government and the private sector is a good example of effective livelihood development in the fishing sector that could be modeled and expanded. They brought in 5 containers of gear and turned the containers into a depot – installed an ice-machine and a complete fish processing unit. The entire program over 3 years cost less than 300K.

Inhibitors to developing a viable and attractive fishing economy include:

- a) No cold storage and high electricity prices.
- b) Competition with Djibouti and Kenya due to lower cost of electricity, more security, and better infrastructure.
- c) Limited coast guard capacity to Monitor, Control, and Surveillance (MCS) the Somaliland Coast discourages investment from banks, donors, and the private sector into the blue economy.
- d) Corruption discourages investment (e.g. vehicles are purchased for the government and half go missing).
- e) Lack of a legal framework for the fishing economy, which also discourages banks from providing loans and inhibits the government from collecting taxes legally.
- f) Discouraged private sector due to government interference and lack of security.
- g) Lack of interest of youth Somalis from engaging in the fishing sector.
- h) Limited domestic demand for eating fish and limited markets for selling fish for a profit.

Given the obstacles and timeframe for developing coastal livelihoods, much less emphasis has been placed on how to incentivize or provide alternatives to the key enablers and organizers of piracy: political and clan elites that protect and earn revenue from the business and pirate leaders and financiers. Focusing on the incentives and motivations of these groups may be a better starting point for developing alternatives. Research¹¹⁰ suggests that a major motivation for political elite protection of piracy is revenue generation in areas that are cut off from trade routes and in which there is little other scope for local taxation. This would suggest that, working in consultation with local authorities, developing alternative, legitimate sources of taxation or revenue (possibly include, for example, road construction to improve access to trade routes and enable taxation of trade or developing a legitimate system for taxing and licensing the fishing industry) is critical to piracy prevention.

Another focus should be on incentivizing pirate leaders and financiers to shift from criminal to legitimate businesses, rather than on punishing them. Beyond their role in a range of organized criminal activities, many are involved in a broad range of legitimate businesses including real estate, the airline industry, renewable energy technology, car export and import, and fishing.¹¹¹ Pirate leaders have diverse business and political interests and have been resourceful in converting their assets and human resources from piracy to other criminal (e.g. human trafficking) and legitimate businesses. This begs the question of how a shift from illicit to legitimate business activities could be incentivized. For example, former pirates with international and regional business interests may be less likely to return to piracy if they fear that this would impact negatively on their other investments and relationships abroad.

In addition, the FGS and the regional states have an interest in being perceived as legitimate actors. As a Somalia expert noted, “If piracy were to return it would shame the Puntland government, which is trying to be a legitimate government in the eyes of the international community.” Senior UN officials and representatives of key member states could subtly provide a message and package of incentives and disincentives to senior political figures to encourage them to deter a resurgence of piracy.

3.9 How should the IUU fishing issue be tackled?

IUU fishing is a very powerful tool to mobilize the population and gain community support for piracy, which is considered, *Haram*. To address links between IUU and piracy, the issue has to be tackled from several directions:

¹¹⁰ Shortland and Varese (2015)

¹¹¹ SEMG (2014).

- The idea that pirates are protecting the coast from illegal fishing and that international naval patrols are protecting illegal fishing vessels should be countered. This may be achievable through a carefully designed public awareness campaign to ensure the message came from the right local actors and should involve some community outreach from the naval patrols.
- The corrupt licensing scheme, which pirates appear to have a role in enforcing in some cases, should be replaced with a legitimate licensing scheme. This should improve clarity on what is actually considered illegal.¹¹² This is easier said than done because of the clearly vested interests in corrupt licensing, and establishing a legitimate system would open up the issue of revenue-sharing between states and the FGS.¹¹³ To succeed, the approach should build local support for a legitimate system by ensuring the provision of stable sources of revenue to state/local authorities. Support should also be based on the concept that the appropriate regulatory framework would provide the basis for developing a more profitable local fishing industry.
- Review the mandates of international navies including EUNAVFOR in patrolling for IUU fishing to enable them to play a stronger role.¹¹⁴ Perhaps most importantly, this would send a clear message that the international community sees IUU fishing as a crime and counter perceptions of their complicity.
- Member states and the commercial fishing industry should take strong action to self-regulate fishing vessels operating in Somali waters and to deter them from paying for illegitimate licenses. A system to differentiate between illegitimate and legitimate licenses should be created in cooperation with Somali authorities and MLE agencies especially at the state level (i.e. Puntland Maritime Police). State-level MLE agencies would also require support in order to replace vigilante/private coast guarding services involved in issuing and enforcing illegitimate licenses.
- Conduct research on legal and illegal fishing off the coast of Somalia. This would assist in differentiating between fact and fiction. For instance, one expert stated, “In the absence of fish catch data, discussing IUU fishing is problematic. Many reports on IUU fishing estimate 300 million USD in illegal fishing annually. Nonetheless, Somalilanders are not seafaring people. Perhaps 2000 are fishermen in contrast to Yemen’s over 40,000.” In addition, “Boats from 30 different countries fish along the coast. The eastern portion of Somaliland offers the richest fishing grounds including along several islands and some reefs. In Somaliland, however, a narrow continental shelf limits fishing. Thus coastal fishing is negligible. Also, most foreign fishing vessels are interested in pelagic fish which are farther off-shore. Somalis only have 6 or 7 meter boats, so they can not pursue these pelagic fish.

3.10 Are there other interventions that would strengthen resilience of coastal communities? Could women have a greater role in preventing piracy?

Three main approaches to counter-piracy have been utilized including:

- (1) Security approaches focused on creating down-stream deterrents at sea supported by prosecutions. Numerous resources have been invested in these interventions that have been largely effective in suppressing piracy. However, given their excessive costs, they are not sustainable.
- (2) On-land interventions have emphasized the formation and enforcement of legislation and development of a functional and effective Somali coast guard and other maritime law enforcement capacities including on-land police. This requires major investments of human and financial resources

¹¹² Current laws do not specify what can and cannot happen in Somalia’s EEZ and there is no transparent, enforceable, and agreed upon licensing system in place.

¹¹³ Per a representative of the EUNAVFOR, most of the ships that are stopped have licenses, but there is no system set up to track the licenses or the revenues from the licenses.

¹¹⁴ EUNAVFOR has accumulated substantial data on IUU since 2009, but it can only provide this information to the EU. The EU reports to the Indian Ocean Tuna Committee (IOC), a regional body responsible for fishing in the Indian Ocean. It is unclear what is done with the data after it is released to the EU and the IOC.

as well as significant political will and engagement of Somali stakeholders at every level. Even if these capacities are built, it does not guarantee that the coast guard and police would prevent or deter piracy. In the past, many underpaid and unpaid coast guard and police have engaged in piracy.

- (3) Developing the blue economy and supporting alternative livelihoods including the fishing industry also requires significant human and financial resources. A communications program is necessary to increase the populations' interest in fishing and other coastal livelihoods as respectable and lucrative ways to earn an honest income.

Other interventions that could potentially strengthen the resilience of coastal communities to piracy are focused on attitude and behavior change via strategic communication and influence campaigns. As one interviewee stated, "We need to reduce tolerance by creating an ideological argument that can counter the economic incentive. This cannot come from an external actor. It must come from within the Elders and Imams... Another entry point is women... piracy spoiled many Somali women... Their parents do not want to see their daughters going into prostitution or marrying or getting pregnant by a pirate who could end up dead or in jail. This argument needs to be made to the families." Upstream interventions focused on attitude and behavior change have received limited investment, and, therefore, have not been properly tested. The majority of Somalis believe that piracy is *Haram* and the communities affected by piracy are well aware of the negative consequences of it. Family and community pressure appears to have played some role in convincing some young men to quit piracy as it became riskier. Many accounts suggest that traditional leaders, Imams, women, and entire communities turned against piracy once it demonstrated negative effects including prostitution, drugs, inflation, crime, and the influx of outsiders.

A 2015 survey of pirates in prison in Somaliland, Hargeisa, and Seychelles found that some pirates quit when families applied pressure on young men not to go to sea as family members became more fearful of losing them to arrest, imprisonment, and death at sea.¹¹⁵ While family members may have been a way into piracy for some individuals and family members may have benefited, some informants also described fear of family disapproval of their activities.¹¹⁶ These individuals moved from home and hid their income derived from piracy from family members. Families were also important for providing for ex-pirates when they had no other income.¹¹⁷ Possibly community and family messages related to the dangers of piracy could be supported as part of local awareness programs. Another key area to explore is the role of families and communities in the rehabilitation of pirates released from prison. Mothers, wives, and girlfriends of pirates might also have a potential role in both prevention and rehabilitation. More research is needed to understand traditional and religious leaders and women's positive/negative attitudes to piracy and their channels of influence (within family, clan, other structures) in order to develop an effective strategy.

M&C Saatchi World Services is engaged in upstream activities to understand and undermine the appeal of piracy. This includes micro-surveys in the hinterland of Galmudug, Cadaado, Galkayo, and Galinsor. It has also facilitated awareness - raising and influence campaigns using a combination of in-person conversations led by Imams and elders as well as through FM radio shows, mobile telephone networks (calls and SMS text messaging), visual art (murals, billboards and posters) and social media. However, to design and scale effective awareness-raising and influence campaigns, more research should be conducted at the local level. This research should explore social factors that underpin community tolerance and engagement including the drivers of and barriers to piracy. Based on this research, strategic

¹¹⁵ UNODC & OBP (2015)

¹¹⁶ A 2012 study based on interviews of 16 pirates found that family and community objection was a key reason for leaving piracy in about half of the cases.

¹¹⁷ Gjelsvik & Bjørgo (2012).

communications and influence campaigns could be designed, piloted, and expanded if they illustrate positive results.

Norwegian Church Aid (NCA) provides an example of a potential counter-piracy program using community engagement. Beginning in May 2010 NCA initiated a program focused on piracy prevention and alternative options for youth. The agency identified some local leaders that had organized to halt piracy. Per the request of Puntland's president, NCA conducted a survey of the communities that demonstrated that the main driver of piracy was poverty and lack of legitimate economic opportunities. Consequently, NCA began working with the religious leaders to define piracy as *Haram*. This provided their entry point into the communities. Then, NCA, in collaboration with local leaders (particularly religious officials), created community structures for awareness campaigns and conducted community outreach programs. NCA also used the elders to support the *Imams* and used the media for awareness - raising to denounce piracy. Next, NCA investigated alternative livelihoods. The youth from coastal towns were brought to Garowe for a 3-month vocational training program (masonry, electricity, carpentry, etc.). The trainees built the vocational training centers as part of their training. Then, NCA assisted with job placement. NCA also gave women, who had provided logistical support, food, shelter and prostitution to the pirates, with cash grants for to launch small businesses. 600 youth graduated from the program in the last 2 years. As a result of the decline in piracy, the program likely will not receive further funding. A representative of NCA maintained, "when piracy was at its height, the money was coming in, but now it is drying up, but the root causes were never addressed. So we might be going back to piracy."

Beyond the above approaches, an additional option that has not been tested is related to the desire for State Legitimacy. Currently, political elites in the FGS, Somaliland, and the regional states including Puntland, Galmadug, Jubaland, etc. depend on international assistance. They are also interested in being seen as legitimate entities worthy of receiving public and private investment. Appropriate and well-placed individuals could provide a combination of incentives and disincentives that would encourage political elites to discourage pirate kingpins and community leaders to help prevent a resurgence of piracy. Present levels of support, investment, and engagement with political elites and communities that are prone to piracy are minimal, since most attention is being placed on the FGS and the fight against Al Shabaab.

4. FUTURE ROLE AND SCOPE OF THE TRUST FUND

4.1 Areas of consensus

A key question for the Board is whether there is a continued need for the TF. A general consensus suggests that it would be premature to end the Contact Group and the TF for several reasons: (1) The conditions for piracy remain and current trends point to a potential resurgence as security measures at sea are relaxed. (2) The Contact Group and TF serve an important political function in demonstrating that the international community continues to take piracy seriously. (3) The work started is not complete. Therefore, it would be imprudent to depart prematurely without an exit strategy and proper handover. The TF Board and other stakeholders also largely agree on a reduced role for the Contact Group and the TF for three main reasons: (1) the immediate threat has been largely addressed; (2) practical challenges remain in terms of political will and resource mobilization; and (3) most of the interventions could be funded bilaterally.

4.2 Areas of disagreement

The views of the TF board and other stakeholders differ on whether the Contact Group and TF should develop a stronger focus on preventing a resurgence of piracy. Many view the Contact Group and TF's goal as responding to attacks and stabilizing the security situation for commercial vessels. They see its work as largely completed and would support continued deterrence and monitoring to ensure that piracy remains contained, but they do not believe the TF should venture too far into prevention related work on

shore. As one board member stated, “the TF should support interventions related to targeting kingpins, tracing the money, hostages. It gives the message... that we still take piracy seriously. The TF should not look at illegal fishing... It is necessary to have projects focused on IUU (FAO licensing, etc.), but not primary for the TF to support... If we fund illegal fishing, then we could say that the TF should support livelihoods, etc. The TF is not meant to address the underlying causes of piracy.” Others believe the TF has only suppressed the symptoms and that it should refocus on prevention. If the TF is to continue with a new strategic focus, key questions and potential areas of disagreement include:

- Should the TF continue developing the capacities of regional states (i.e. Seychelles, Kenya) or focus primarily on Somalia?
- Should the TF begin to address the causes of piracy onshore?
- Should the TF expand its main programmatic focus beyond the prosecution and detention of pirates, and, if so, which areas should it focus on?
- If the TF increases its focus on Somalia, how should it relate to existing strategies, funds and coordination mechanisms?
- How should the TF engage with the FGS and the States (Puntland, Jubaland, Galmadug, Somaliland, etc.)? Should these have equal representations on the TF Board?

4.3 OPTIONS AND IMPLICATIONS

This section examines the three broadly different schools of thought/options concerning the future of the TF and explores the implications of each.

Option 1: Wind down the Trust Fund, which has achieved its initial objective, but still:

- i. Fund legacy projects that other bi-lateral funds will not support
- ii. Encourage international cooperation against kingpins
- iii. Encourage other Somalia development mechanisms (NDP) to target programs for piracy prevention.

The CG should continue in a political and monitoring role, and the TF should wind down and maintain a narrow focus on critical support to maintain a functioning regional prosecution and detention chain, repatriate remaining hostages, and nurture international cooperation to address outstanding law enforcement issues (e.g. kingpins/assets).

Rationale:

- Piracy has been contained, and, although the conditions for piracy remain, the TF should not attempt to engage in preventative actions.
- The TF largely achieved its objectives: establish a regional mechanism to prosecute pirates.
- Given diminishing interest in piracy, the TF should remain focused on the most critical issues “to finish the work that was started” especially in areas that other donors are unlikely to support. Legacy projects include: prisons in Kenya, Seychelles and Somalia where pirates are detained, negotiating the release of remaining hostages, debriefing hostages, maintaining the databased for working group 3, supporting the work of the law enforcement task force related to catching and prosecuting kingpins, and finding and confiscating assets, etc. Some also recommended that the TF support the administration of the Contract Group via the Seychelles, but this is a larger discussion that may go beyond the TF Board level.
- The TF should remain open in the medium term in case there is a resurgence of incidents, but should eventually wind down rather than taking on a new programmatic focus. Other donors and funds should

address new issues. In this case, the TF Board could take on an advisory and advocacy role to ensure that donors are aware of the funding gaps and vigilant in filling them.

- Option 1 would take minimal additional investment in the TF since the majority of the current projects are already funded. (See Annex 3)

Risks and potential implications:

- Piracy is being contained by three expensive deterrents (naval patrols, private guards on ships, and BMP). As they are reduced and relaxed the likelihood of a resurgence significantly increases.
- Traditional donors may not be willing or able to address the longer-term issues required to prevent a resurgence of piracy (e.g. maritime security, etc.). Thus the TF may need to support initial preventative interventions and then advocate for other donors to assume them once proof of concept, evidence of political will, and enough momentum to warrant increased investment become available.
- Perceptions that the Contact Group is less active or that the TF will be dismantled potentially sends a message to pirates that the international community is not watching and has lost interest. Therefore, any drawdown of the Contact Group and TF will need to be carefully managed, and, at a minimum, the Contact Group and TF board should continue in a monitoring role and maintain structures that could be quickly re-activated.
- Sustainability and credibility of TF work to date could be threatened if it fails to receive continued political and financial support to finish the work that was started (e.g. if high risk pirates are released or escape from prison and efforts to prosecute kingpins are relaxed it damages credibility of the Contact Group's efforts to end impunity). This could recalibrate the cost-benefit analysis of kingpins and their potential foot soldiers - currently a major component of the deterrent.

Option 2: Moderate/targeted shift in focus - the Trust Fund plays a more strategic/catalytic role in piracy prevention with a focus on vulnerable regions of Somalia. Option 1 PLUS:

- i. Support research, analysis and monitoring/evaluation (M&E) to establish most effective piracy prevention approaches;
- ii. Fund small pilot projects in neglected or under-served areas in regions such as Himan/Heeb and Galmudug. The Pilot projects should be designed in close collaboration with local actors to avoid backlash and ensure a path to hand-over and sustainability. Thematic areas might include community engagement, strategic communications, MLE, etc.
- iii. Step up the Contact Group / Trust Fund Board's advocacy role. It would be useful to explore the possibility of the Contact Group taking the lead advocacy role, and also of the Trust Fund implementing this through the committees. Also, build partnerships with larger funds and donor initiatives (Somalia MPTF, etc) to advance piracy prevention as a priority within wider livelihoods and rule of law/governance efforts.

In addition to ensuring the completion and sustainability of legacy programs, the TF should begin to focus on developing Somalia's Maritime Law Enforcement (MLE) capacity to secure the coastline in piracy-prone areas and address the governance issues required for maritime security.

Rationale:

- In order for international naval patrols and other expensive deterrents to be relaxed and for piracy to be prevented, the Somali law enforcement agencies need capacity to counter piracy onshore and at sea and address other related maritime security issues such as IUU and armed robbery at sea.

- The CG and TF have demonstrated success and established an efficient coordination and funding mechanism to address the prosecution issue. Now that this work has been largely completed, the CG and TF should shift focus toward a new strategic issue.
- The TF should focus on maritime security especially at the state level in piracy-prone areas (Puntland, Galmudug, and Himan/Heeb) since these issues and areas are not receiving sufficient attention from other donors and funds.
- Without MLE, Somalia will not be able to regulate, tax, and enforce money from its blue economy.

Risks and implications:

- Developing Somalia’s MLE capacity is a long-term challenge, and funding requirement extend beyond the scope of the TF. The fund should focus on key issues where it can have an impact and demonstrate success, and then coordinate and work to mobilize additional resources from other donors.
- Somali authorities may not have the political will to counter piracy, and existing institutions/systems may be too weak or corrupt to provide a foundation for developing effective MLE agencies (e.g. financial management to ensure salaries are paid). Therefore, building MLE capacity would require sustained engagement with local authorities to provide incentives and address political and institutional challenges.
- Before engaging in capacity building activities, the legal frameworks for MLE and security have to be in place so that the capacity building activities are targeted.
- Donors have invested significant resources into on-shore activities including building the capacity of the police. These efforts have not yielded significant results. Thus taking on a much larger endeavor like building MLE capacity may be unrealistic with current levels of investment, capacity, and political will.
- The FGS may resist international support to state-level governments, so this would need to be managed politically within an appropriate decentralized framework.
- Al-Shabaab is a greater threat than piracy to the FGS. Most Somalis see piracy as a problem for the international community that is also more focused on counter-terrorism. Therefore, political will and investment of human and financial resources for building MLE capacity may be insufficient at this time.

Option 3: Maximum expansion of focus - the TF scales up to offer greater capacity for piracy prevention programmes; Option 2 PLUS:

- i. Seek to design and fund a strategic multi-year programme to tackle underlying drivers of piracy in the region, including by tackling MLE capacity and addressing maritime governance issues and supporting development of the “blue economy”.

The TF should expand its programmatic focus to address the underlying causes of piracy. This should extend beyond developing MLE capacity (as in option 2), by supporting the development of the blue economy including addressing maritime governance issues that are key to tackling IUU and providing the foundation for the development of the fishing industry as a source of livelihoods for coastal communities.

Rationale:

- Now that the threat of piracy has been contained, the TF should address the causes of piracy onshore in order to prevent a resurgence of piracy in a more sustainable fashion.
- The TF should focus on addressing the factors that have made certain coastal areas conducive to piracy – including developing MLE capacity, developing a scheme for legitimate licensing and management of fisheries to address IUU fishing, and creating a framework to nurture OR foster – your choice the fishing industry. This should include engagement with local authorities to provide incentives and disincentives to deter communities from supporting piracy including alternative sources of revenue.

- Major donors and funds do not sufficiently address the security, governance, and developmental challenges in coastal communities that have made them conducive to piracy and it is unlikely that they will become a priority in the near future. Therefore, TF should focus on these areas at least to provide proof of concept and build sufficient momentum and confidence for other donors to become engaged.

Risks and implications:

- Given many actors dealing with socio-economic and livelihoods issues in Somalia, the TF would need to be highly focused on maritime governance - related issues most relevant to counter-piracy efforts without straying into mainstream, coastal livelihoods work.
- Given the scale and long-term nature of the developmental and security challenges in coastal communities and the relatively small size of the TF, it is unrealistic to expect the TF to have an impact. Therefore, the TF would have to be highly focused geographically and on certain critical issues, and to coordinate with and mobilize resources from other donors/funds to ensure effective impact and sustainability.
- The board may not be interested in addressing these issues, and some issues may be too sensitive in its current configuration.
- Unless Somali entrepreneurs and youth see legitimate and competitive business opportunities stemming from the blue economy, they are unlikely to invest in it. Therefore, prior to investing large assets in coastal livelihoods, substantial work has to be undertaken in raising awareness and promoting the economic benefits. Currently, most young Somalis are not enthusiastic about becoming fisherman.

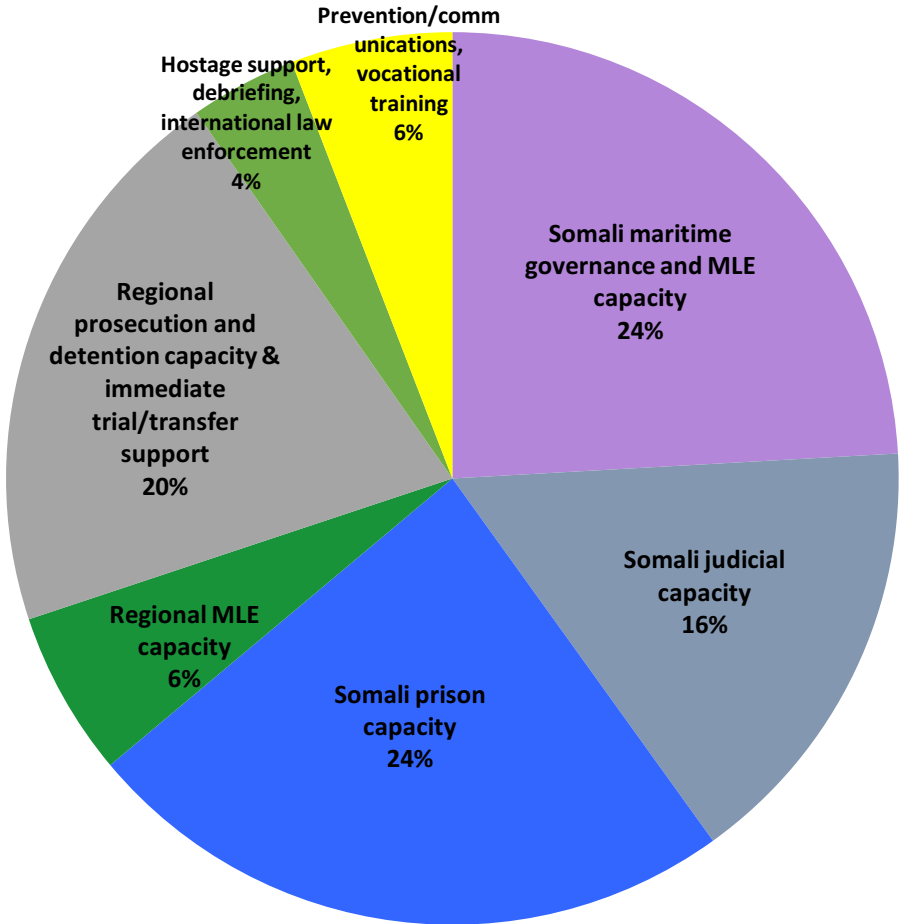
5. RECOMMENDATIONS AND TOPICS FOR FURTHER DISCUSSION

- 5.1 *Ensure continuity of ongoing programs* either by continuing TF support or ensuring other bi-lateral funds are allocated accordingly.
- 5.2 *Maintain a regular channel of revenue into the TF* so that, when immediate and important issues arise, funds can be transferred without delay to fill any significant gaps.
- 5.3 Determine new priorities and maintain a focused approach to tackling a few critical issues.
- 5.4 *Develop a strategic framework that identifies priorities based on the current context.* Rather than reacting to proposals from UN agencies annually and occasionally based on special requests throughout the year, the TF Board could work with members of the Contact Group, UN Agencies, and Somali and piracy experts to develop a 3-year strategy with annual benchmarks. Then, the UN agencies could draft proposals in relation to these priorities to fill gaps that other funds are not supporting. If, on occasion, immediate funds are needed that are outside of this strategy, the TF board could convene remotely on an ad-hoc basis to make rapid decisions and rapidly disperse the funds. Annual board meetings would then serve the purpose of reviewing progress of existing funds and programs and refining the 3-year strategy and allocation of funds. This would assist UN agencies to target proposals to the board, rather than guessing what will and will not be funded. These procedural changes will save time and resources.
- 5.5 *Fund agencies; not individual projects.* The TF traditionally supports several small projects for the same agency. Rather than providing numerous small, project-based grants to the same agency, UN agencies could present overall program strategies for funding and identify key gaps for TF and bilateral contributions. Then, the agencies could report on their entire program. This would enable the board to put smaller projects in context and visualize the added value of the fund. Lastly, understanding agencies larger strategy will enable board members to advocate for bi-lateral funding for significant projects that transcend the TF's mandate.

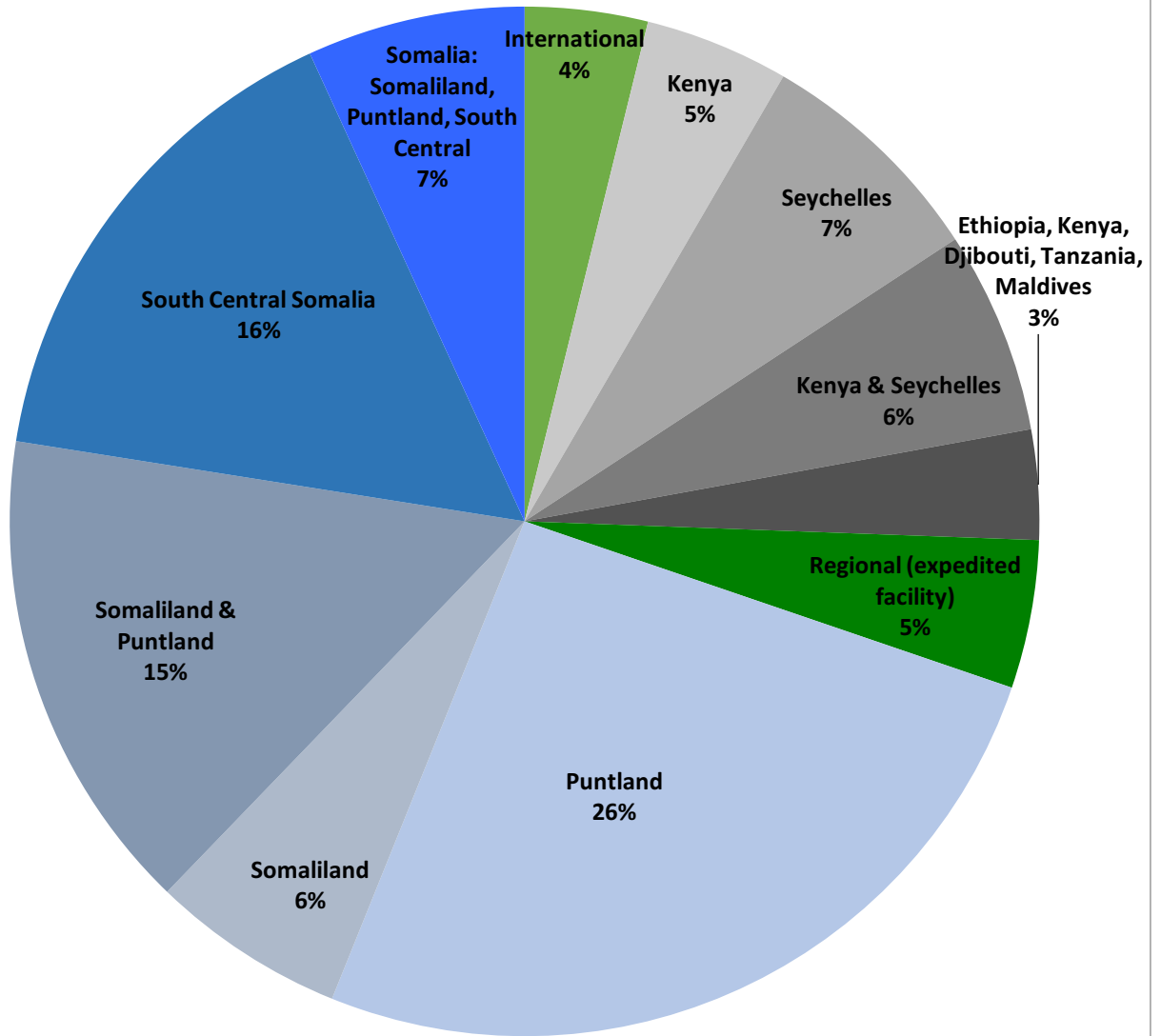
- 5.6 *Encourage an environment for more critical and candid appraisals of proposals.* To maintain a high standard and ensure that limited resources are utilized efficiently and effectively, the board may benefit from a more rigorous approach to the technical assessments of proposals including greater contextualization of proposed projects. Several board members observed that proposals should be assessed to ensure, among other things: the implementing agency has the capacity to deliver within the timeframe and budget; clear identification of risks and obstacles; alignment with the TF's overarching strategy; rationale for why the TF is best placed to fund the project; explanation of how TF funding complements other donor's funds; clear, specific, realistic, and achievable objectives based on context; monitoring plans for tracking progress, setbacks, and measuring impact; realistic exit strategies including plans for transference and sustainability.
- 5.7 *Enhance Monitoring, Evaluation, and Reporting.* One strength of the TF is the low level of administrative and reporting requirements. This approach has pros and cons. A more rigorous monitoring, evaluation, and reporting system may enhance results. One option would be for individual agencies to produce one consolidated report on their counter-piracy work (rather than multiple project reports) highlighting specific TF-funded components to reduce the burden on all sides. Another option is to track and measure actual impact to determine what has worked and what has not. Currently, follow up on lessons learned from all of the projects is limited. This approach would help to take stock, guide further programming, and prioritize new projects. Better M&E and reporting would also improve coordination and synergies, enhance transparency and accountability, and assist in identifying progress, challenges, and gaps in programming.
- 5.8 *Encourage open channels of communication and regular updates* from UN agencies and other partners to assist the board in making strategic decisions. Some agencies like UNODC already do this on a regular basis. However, these updates focus on project updates and lack analysis of achievements in relation to the larger context. Quarterly or bi-annual updates on achievements, gaps, and challenges at the project and wider contextual levels would enable the board to understand the bigger picture, make recommendations, and inject TF resources or bi-lateral funds to fill gaps and enhance impact.
- 5.9 *Establish a knowledge management system and enhance external communications.* Balance funding between external security and prosecutorial capacity building outside of Somalia with investments in internal capacity building including Somalia's judicial system and community security.
- 5.10 *Consider expanding the membership of the TF board to non-state actors* or create a technical advisory board to increase transparency and benefit from their expertise, research, and local knowledge. There are pros and cons to expanding the board. One of its strengths is the intimate relationship between the members and their ability to have candid conversations about politically sensitive topics. Another strength is the board's ability to make decisions quickly.
- 5.11 *Consider funding non-UN agencies or create channels to transfer funds* to organizations with greater access and complimentary expertise. Currently, the TF can only receive proposals from UN agencies. UN agencies have funded other institutions (i.e. Interpol), but this is not the norm.

ANNEX 1: Breakdown of TF initiatives by theme, location, agency, and program.

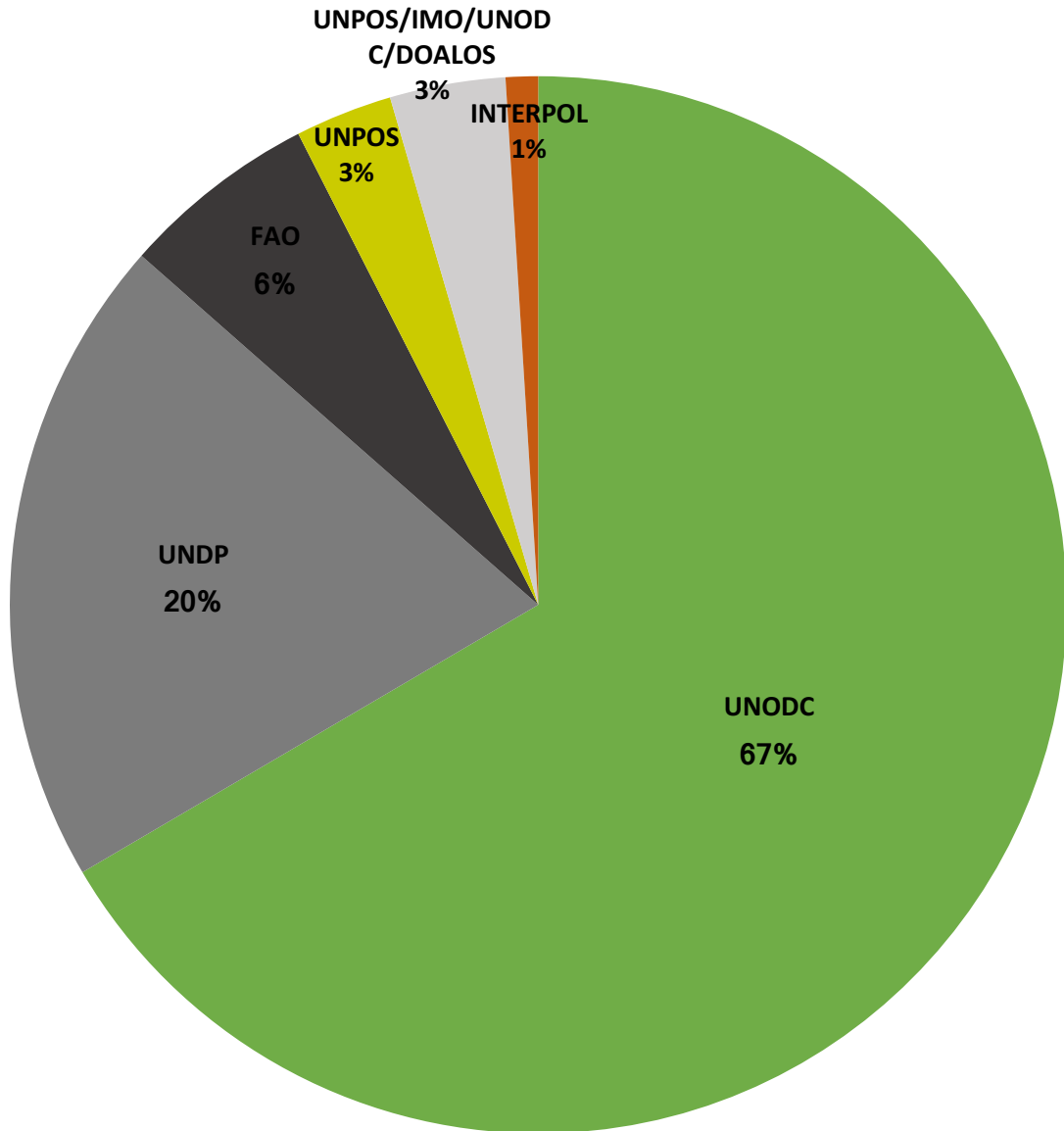
Trust Fund project allocations by theme



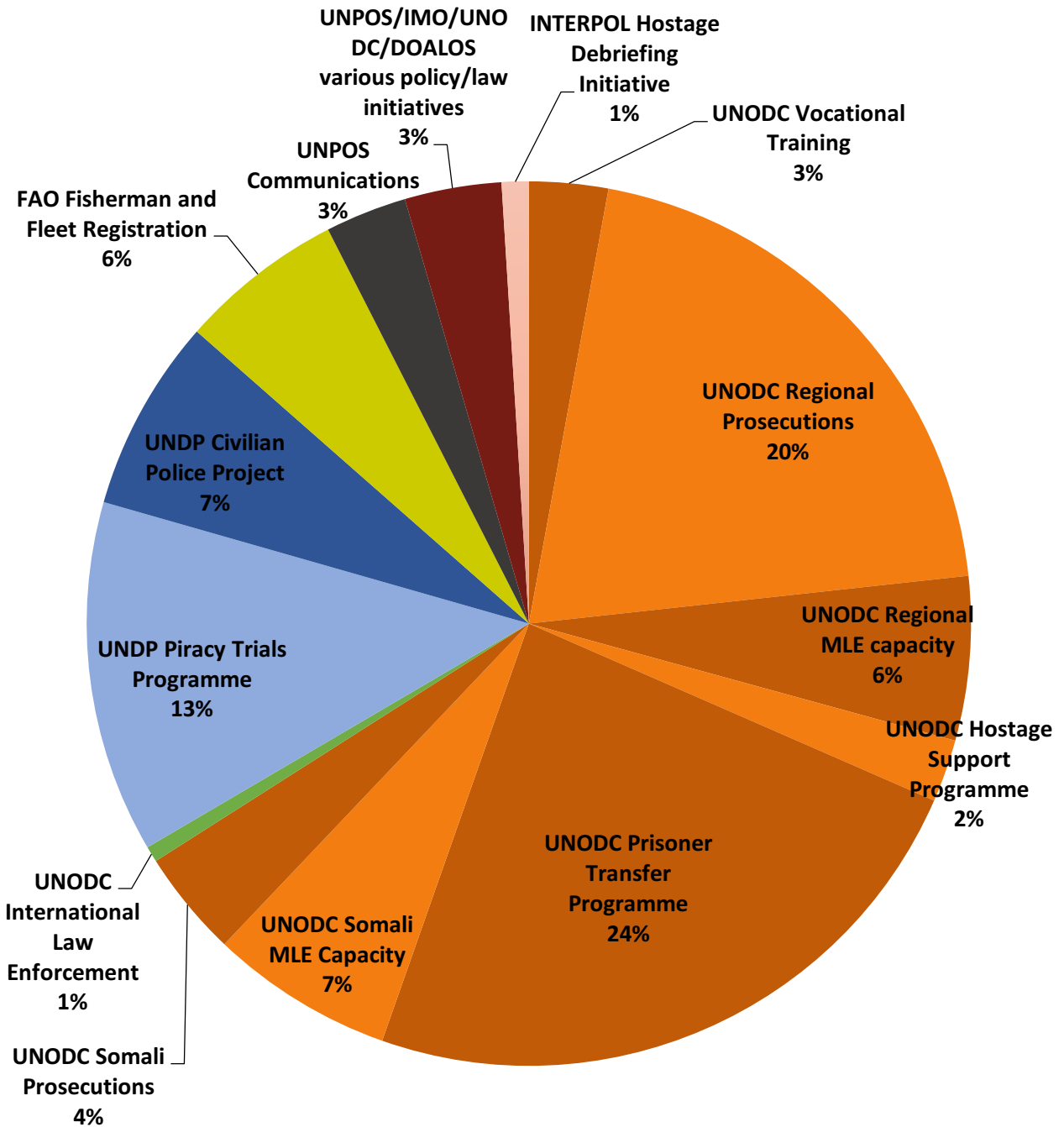
Trust Fund project allocations by location



Trust Fund project allocations by agency



Trust Fund project allocations by agency programme



ANNEX 2: SWOT Analysis of Trust Fund

STRENGTHS

- Enables the Contact Group to take action via an effective funding and implementation mechanism.
- Promotes a collective effort of a broad range of knowledgeable and committed stakeholders with diverse expertise willing to collaborate across disciplines and political constraints.
- Creates opportunities for multilateral engagement on politically sensitive topics and encourages joint advocacy and funding for shared interests at the global, regional, bi-lateral, and national level.
- Equips appropriate agencies with resources to address key gaps that may not receive funding.
- Provides efficient financial management and oversight without unnecessary bureaucracy and reporting.
- Disperses funds in a flexible, agile, and targeted manner.
- Provides a political mechanism that keeps States engaged with the piracy issue.
- Demonstrates a high-level of political commitment to addressing piracy.

WEAKNESSES

- Lack of critical debate on the context and project proposals on a substantive level and tendency for group think.
- The Secretariat and board appeared to be reactive to submitted proposals rather than proactive in setting priorities and encouraging specific programs and activities.
- Lack of transparency and effective information sharing about the TF between UN Agencies, with board members and non-board members including Somalis.
- Limited human and financial resources for the UNDPA secretariat to effectively coordinate, monitor, and report on a regular basis resulting in missed opportunities for shared learning and the identification of gaps.
- Lack of funding for sight visits and convening the secretariat and other related stakeholders.
- Limited oversight and accountability beyond self-reporting.
- Inadequate measures of progress and impact in relation to larger goals.
- Lack of communication from TF recipients on set-backs, threats, and obstacles to implementation.
- Limited non-security, on-shore related programming.
- Inadequate knowledge management system.

OPPORTUNITIES

- Ongoing engagement and information sharing between international stakeholders and regional member states creates a space for bi-lateral actors to discuss topics of shared interest and for diplomacy on topics beyond piracy.
- Provides ongoing flexible funds that enables action on matters without major political or bureaucratic constraints.
- Board members are knowledgeable, competent, dedicated, trusted, and often authorized by their host governments to take action. This results in a high level of political credibility and influence.
- The current lull in piracy creates an opportunity for the board to think strategically to realign the focus of the TF to continue existing projects and identify new gaps not be supported by other funds.

THREATS

- Reductions in incidents of piracy could result in complacency and a reduction in defensive measures that, in turn, could alter the cost-benefit analysis of kingpins.
- Kingpins remain at large; investors remain interested, arms in abundance, a cadre of idle unemployed youth available, and skilled and unpaid or underpaid police, soldiers, and private security actors seeking more lucrative economic opportunities.
- The narrative of illegal fishing remains strong, and economic development in coastal communities remains low.
- Lack of support for pirates upon release from prison may push them into illicit economic activities.
- Incidents of piracy have diminished and the threat of Al Shabaab, AQ, and ISIS have accelerated diverting attention and funding to counterterrorism related work.
- Lack of interest in or ability to work in locations that are difficult to access due to geopolitical obstacles and security concerns dissuades donors and organizations from working in locations vulnerable to piracy.
- High levels of corruption, clannism, and insecurity inhibit the ability to address piracy and IUU in a sustainable fashion. Judges, guards, politicians, police, soldiers, marines, elders, and Imams can be bribed, coerced, or killed.
- Lack of human, financial, and technical capacity and inadequate infrastructure inhibit economic development.
- Unrealistic programmatic budgets and timeframes in relation to expectations for change can result in disillusionment with the FGS, regional governments, and the international community.
- Somalia and the region's ability to secure its entire coast up to 12 nautical miles is unrealistic in the short-to-medium term, and contingency plans are inadequate and limited.

ANNEX 3: Excerpts from interviews regarding Al Shabaab and the security situation.

- “The idea that al-Shabaab is in retreat is not accurate. If you go 5km outside of any city al Shabaab has control... there is no freedom of movement... Al-Shabaab maintains control across South Central. We are seeing a slow deterioration of the security situation. So, we must maintain the 22,000 plus AMISOM force and maybe continue the US-drone attacks as a deterrent for a long time. But, AMISOM is fed-up, many troops are not being paid, and have set a withdrawal for 2 years. Also, there are reports of a lot of SNA defectors joining al-Shabaab. AMISOM is complaining that the SNA is supposed to hold territory after AMISOM clears out al-Shabaab. But, SNA can't hold territory and AMISOM is not designed to do this. So usually what happens is that there is no confrontation with al-Shabaab. When AMISOM moves in the SNA hides and then returns after they leave. The population does not trust the SNA because most are from the Hawia clan. Also, SNA runs away from al-Shabaab, which makes them illegitimate to the population. The FGS has very little credibility with the population – They are traveling all over the world without and trickle down of resources to the people. The FGS does very little outreach, which further causes the distrust.”
- “The SNA is a fragmented force. There is no agreement on the composition of the SNA and police forces. Regional forces have been more effective. A lot of investment have gone into security forces, but still the capacity is very low and AMISOM is getting tired and many are not being paid. Capacity building efforts are not coordinated and are incoherent because the internationals are focused on their individual interests. For instance, the USA is training the DONAP battalion in MOG; UAE is training 4th Battalion – but we don't know what the graduates are doing and where they are. Turkey and the EU also don't know where their graduates are. Or, they don't tell us.”
- “AMISOM - financed to the tune of 100s of millions of dollars - has been completely ineffective. So, the Somalia watchers have long been skeptical of this approach because Somalia has never been a state. Many argue that AMISOM has become a part of the problem as much as it is a solution, but the money keeps rolling in.”
- “Currently there are a myriad of local level conflict at various levels. Some are over land, clan rivalry – the culture is an eye-for-an-eye so the cycles of revenge and retribution are never ending. Unless these conflicts can be managed Somalia is the perfect breeding ground for criminal activity and violent extremism. Clan militias are the source of governance for the population. In a sense the presence of AMISOM and USA and other foreigners (Kenya and Ethiopia) feeds al Shabaab. Drone attacks may have short term gains but they may embolden al-Shabaab in the long term by gaining community sympathy and support. It is also an open secret that Kenya and other military actors in Somalia engage with al-Shabaab for financial transactions, but no one is willing to confront Ethiopia and Kenya forces because they are also responsible for the short-term military gains... There are deep animosities between Kenyans, Ethiopians, and Somalis. Also, Kenya and Ethiopia have forces deployed in Somalia that are outside of AMISOM. No one regulates their activity.”
- “A lot of revenue for al-Shabaab comes from local sources – this is probably in the form of taxation. ... UNSOM and the government military can't provide long-term security or employment. So, the local population calculates the cost-benefit of who they support in terms of security, rule of law, livelihoods. The rule of law is *sharia* due to the absence of an alternative. Widespread perception of nepotism and corruption amongst political elite who engage with the business leaders and monopolize the resources. They come from a small number of clans and the others are left out. The foot soldiers of al-Shabaab are from the minority clans. Al-Shabaab uses media to orchestrate that the government and UNSOM are corrupt ... corruption, injustice, human rights abuses are areas that al-Shabaab mobilizes.”
- “The quagmire is that if you provide livelihoods to the community along the coast without security then they will likely be taxed by al-Shabaab – so you are feeding the insurgency. But, if you don't provide livelihoods then those populations will engage in illicit and criminal activities.”

- “Kismayu – major port where charcoal and sugar is traded – causing al-Shabaab to retreat. To avoid losing control – al-Shabaab created a cartel to continue this business model. The regional government and the Kenya military are all involved in this trade. So, everyone acts in their own interests when it is convenient... Somalia charcoal is the best in the world so it is one of the largest sources of livelihoods. This could be used to provide a viable alternative to al-Shabaab and piracy. Currently, if a woman has many children and no means to support them, then al-Shabaab is one of the only viable alternatives. The population often sees the FGS and the Kenyan soldiers as predators not security providers. So, they go to al-Shabaab for human security due to lack of an alternative for a predictable source of governance. Even if al-Shabaab is brutal at least they are predictable.”
- “Al Shabab is recruiting Somalilanders – the recent plane bombing was a Somalilander and many of the senior leaders of Al Shabab are from Somaliland.”
- “Most of the senior al Shabaab leaders are from Somaliland including their current leader. Some al Shabaab are trained in bases near Burco on the Eastern border of Somaliland in the Sanaag and Togdheer region. Between Burco and Ceerigaabo is a no-mans-land. There is no active government in the area. So, al Shabaab uses this as a breeding ground. Also, the people of Somaliland support al Shabaab – if they did not have this support they could not survive.”
- “Al-Shabaab is also getting more active in the regions (Puntland and Somaliland). They are trying to expand their operations and the security institutions are very weak. So the population has two options... government or al-Shabaab – neither is a good option. And, the government presence is unpredictable and for people to support is difficult without fear of repercussions. But, the population is used to this. They have never had a strong presence of any government, which is why they revert to the clan system. Outside of the regional capitals the clan militias run everything.”
- “Al Shabaab, ISIS & AQ are all in Puntland – ISIS came into Puntland from the Gulf of Aden via Yemen and Pakistan. They enter easily through the porous coast line. They also come from South-Central (Xardhere). Al Shabaab and ISIS are joining in some cases. The boundary between al Shabbab and ISIS is Bossasso. Al Shabaab is in the West and ISIS is in the East. Puntland can only control the north-south road from Bossasso and Puntland Marine Forces are in Xaafun, Bandarbeyla, and Eyl. Al Shabaab and ISIS have no local support from the population, which inhibits their ability to control territory so they go where there is weakness. Darwish Army has intelligence cells in the entire areas and they raise awareness of the communities so they don’t support IS or al Shabaab.”
- “3,000 soldiers [Darwish army] are being integrated into the SNA command – if this does not happen it will be hard to maintain the fight against al Shabaab and ISIS in Puntland. 2,000 paramilitary force for Puntland. Constitutionally we are the Puntland armed forces. Operations are limited to Puntland territory – we help the SNA as needed. We do not receive foreign assistance. Funding comes from Puntland budget, but very limited. FGS does not support us, which is why we are integrating 3,000 soldiers into the SNA so they can get paid. Our duty is to secure the borders of Puntland. We have no other job but Puntland security and defense of the government of Puntland. Intelligence unit is focused on al Shabaab, pirates, and other threats... A major challenge is that the Darwish army cannot cross over the borders so al Shabaab just goes across the border into the other regions like Galmadug that don’t have strong security. Xardheere is a hub of al Shabaab and they can use the coast to move.”