

Contact Group on Piracy off the Coast of Somalia

Strategic Planning Steering Group

TERMS OF REFERENCE

Comments/inputs received from Member Countries as at 23 September 2019

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Background

1. The establishment of the Contact Group on Piracy off the Coast of Somalia (CGPCS) in 2009 was motivated by the need to establish a mechanism to coordinate the international fight against piracy off the coast of Somalia as called for in UN Security Council Resolution 1851 (2008), which encouraged “all States and regional organizations fighting piracy and armed robbery at sea off the coast of Somalia 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 Somalia’s coast.” While the work of the CGPCS is linked in multiple ways to the UN system and its agencies, the group is not formally a UN body and maintains no formal relationship with the UN Security Council or other UN decision making bodies.
2. The CGPCS held its 22nd Plenary Session in Balaclava, Republic of Mauritius, on 20 June 2019. In attendance were the following 31 countries: Australia, China, Denmark, Egypt, France, Germany, Greece, India, Italy, Japan, Kenya, Madagascar, Mauritius, Netherlands, Norway, Pakistan, Panama, Portugal, Qatar, Russia, Saudi Arabia, Seychelles, South Korea, Spain, Sri Lanka, Sweden, Tanzania, Turkey, United Arab Emirates, United Kingdom, United States and representatives from “Somaliland”. Representatives of over twenty international entities also participated, including representatives from international organizations, non-governmental organizations, the transport industry and academia.
3. The Plenary acknowledged, as reported in its Final Communique, that piracy has been suppressed but not eliminated, and that solving causes of piracy has to take place ashore (paragraph 18). The Plenary agreed “on the need to ensure that the CGPCS remains an agile mechanism and that more efforts are required to ensure a holistic approach for the region, better coordination, increased efficiency and that the CGPCS is embedded in a long-term strategy for the region” (paragraph 22). The Plenary further highlighted that “more attention is required to ensure adequate coordination of different responses to maritime crimes in the region thus bringing coherence, avoiding duplication and overlaps and achieving synergies” (paragraph 25).
4. Citing duplicative efforts with other organizations conducting similar consultations, the Plenary agreed to close the CGPCS Working Group on Operations at Sea, and the CGPCS Regional Capacity Building Working Group.

5. The Plenary also took note of the recommendation to close the Trust Fund to Support Initiatives of States Countering Piracy off the Coast of Somalia (“the Counter Piracy Trust Fund”) by 31 December, if the Trust Fund continues to not meet the United Nations Development Group threshold requirement of USD 2 million in yearly contributions by the end of 2019 and there is no commitment from donors to meet the threshold in 2020. The Trust Fund Board and CGPCS Plenary noted the added value of the Trust Fund projects in promoting maritime security in the region, called for renewed and sustained contributions to avoid its closure, and acknowledged the importance of exploring other funding mechanisms from the private sector, including shipping industries [Australia] given the important political purpose of the Trust Fund in countering piracy off the coast of Somalia. [Kenya] The mechanism of developing and strengthening of the Trust Fund needs to be clearly prescribed.

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6. The Plenary agreed to a proposal from the United States, and seconded by the Republic of Korea, to form a steering group to develop a strategic plan to map out future CGPCS priorities, including activities that might be funded through the Counter Piracy Trust Fund or other funding mechanism. The Final Communique of the Plenary, paragraph 29, states, “The Plenary agreed to the proposal by the US to establish a Steering Committee to look into a strategic plan for the CGPCS, including the Trust Fund, and requested a Member State to take the lead.”

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Establishment of the Strategic Planning Steering Group

7. The steering committee shall be called the “Strategic Planning Steering Group,” or SPSG.
8. The purpose of the SPSG is to develop a draft “CGPCS Strategic Plan” for consideration and approval by the Plenary Session of the CGPCS, and to maintain and update the Strategic Plan and any derivative support plans periodically or as conditions warrant as may be directed by the CGPCS Chair or Plenary.
9. All CGPCS participating states and participating international entities may join (or resign from) the SPSG at any time. There are no term limits to membership. To become a dynamic, deliberative body, broad functional and regional representation is encouraged, and representatives should be knowledgeable, competent experts authorized by their superiors to take action. [Portugal] “All CGCPS participating states and participating international entities may join (or resign from) the SPSG at any time.” and that “There are no term limits to membership.” Arguably, this may raise a situation where it is not entirely clear which members of the SPSG take part in the decision-making process (and only if in meetings or outside them?), in particular whether the decision would have to be taken by at least a two-thirds majority of the members present at the meeting or of all the members of the SPSG. Moreover, as is, abstentions would in practice count as negative votes because they do not contribute to the 2/3 majority. The fact that members are free to join and leave

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the SPSG at any time adds to the difficulty in determining who is to vote and how to determine the majority levels.

Governance and Operational Arrangements of the Steering Group

10. SPSG members, upon convening for the first time, will nominate and confirm a Chair for a term of two years. The first term shall expire on December 31, 2021. [Kenya] The process of holding a SPSG Meeting and nomination of its Chair for the period from 1 Jan 20 to 31 Dec 21 should be done in consultation between the Outgoing and Incoming Chair of the CGPCS.

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11. The SPSG Chair or his/her designee is responsible for calling meetings of the SPSG, drafting their agendas, and chairing each meeting. The SPSG Chair will report directly to the CGPCS Chair and be supported by the CGPCS Secretariat as resources permit.

~~12. The SPSG will meet at least quarterly at a mutually and reasonably convenient location, or virtually by videoconference if necessary. The SPSG will meet preferably virtually, by means of video conference/other means (email etc) as well as physical meetings, as and when required, at mutually and reasonably convenient location. [India]~~

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13. A draft SPSG Terms of Reference shall be placed on the agenda of every SPSG meeting until consensus is reached on its final form, or anytime at the discretion of the SPSG Chair. : The sought comment pertains to "Terms of Reference" of SPSG. Therefore, the mentions of placing ToRs on the agenda every SPSG meeting until consensus is reached on its form, is not understood and needs clarification. [India]

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14. The SPSG Chair and CGPCS Secretariat will ensure draft materials and final documents submitted to or by the SPSG are distributed to all SPSG members.

15. Minutes will be recorded for each formal meeting of the SPSG and forwarded to the CGPCS Chair for at his/her discretion, [India] distribution to CGPCS members.

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16. In its in-person or virtual meetings, [Portugal] (The Steering Group will reach agreement on the basis of consensus as much as possible. Should consensus not be attainable, a two-thirds majority of the members taking part in the meeting and voting [Portugal] shall make final recommendations, with dissenting recommendations noted in the recommendations.

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~~16. The CGPCS works on the principle consensus and hence SPSG should also work on the principle of consensus. The provision of two-thirds majority for making final recommendation be reconsidered. [India]~~

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Development of a CGPCS Strategic Plan

17. The SPSG shall take advantage of the current suppression of piracy to think strategically for the purpose of potentially realigning the focus of the CGPCS.

18. The SPSG will develop a strategic vision and draw the primary objectives of the Strategic Plan from the final communiques and joint press declarations of prior CGPCS Plenaries, giving priority to the most recent releases. **[Kenya]** -The proposal for the Draft Strategic Plan to be developed by the SPSG and to be approved by the Plenary session of the CGPCS in Jun/Jul 20 implies that the interim period will lack focus. We propose that the Strategic Plan to be approved earlier through the Friends of the Chair forum.

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19. The purpose of the SPSG and Strategic Plan is to share information and identify synergies in program delivery on ongoing and planned national and international activities.

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20. The SPSG should assume a proactive posture in setting priorities and encouraging specific programs and activities. The Strategic Plan should identify specific activities linked to objectives that require immediate prioritization and focus.

21. The Strategic Plan should review and potentially:

- a. Recommend an enhanced CGPCS focus on root causes. There is consensus that past CGPCS and Counter Piracy Trust Fund activities contributed to the suppression of piracy by focusing largely on ship security and building regional capacity to conduct law enforcement, including prosecution and incarceration. Widespread recognition also exists that the threat remains and more durable solutions would address root causes and drivers of piracy, including criminal kingpins and underlying security and economic conditions.
- b. Identify singular activities that would target interconnected capabilities employed by organized criminal networks to conduct piracy as well as other maritime crime such as smuggling, human trafficking, and illegal fishing. **[Japan]** Explanation on the intent of this article; especially what "singular activities that would target interconnected capabilities" means (which kind of activities could be supposed to be categorized in the activities?)
- c. Target the key links between piracy and land-based criminal operations such as money laundering.
- d. Offer objectives and strategic direction that could be assumed by the Law Enforcement Task Force, Maritime Security Coordination Committee, or Virtual Legal Forum.
- e. Recommend activities that would qualify as good candidates for funding through the UN Counter Piracy Trust Fund or another mechanism/entity, mindful that the Trust Fund has been an effective funding and implementation mechanism for the CGPCS, especially in terms of promoting collective, international efforts to counter piracy, and covering short-term prosecution-related expenses associated with suspected pirates in the region.

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- f. Review and recommend activities the CGPCS could discuss or undertake in collaboration with other institutions and forums that work on maritime security in the Western Indian Ocean region.
22. The Strategic Plan should include a communications strategy that comprises, where appropriate, press statements as well as other forms of messaging, as agreed with the CGPCS Chair.
23. The Strategic Plan should include indicators by which relative success in attaining objectives can be measured.
24. For guidance, the SPSG should consult “Towards a Maritime Security Architecture for the Western Indian Ocean; A Strategic Review for the Contact Group on Piracy off the Coast of Somalia (CGPCS)” (University of Copenhagen, May 2019); and the “Strategic Review of the Trust Fund to Support Initiatives of States Countering Piracy off the Coast of Somalia” (Bauman Global, November 2016).

General Comments:

Mauritius:

1. Define attainable strategic goals.
2. Define the basis to carry out gap analysis on maritime security in the region.
3. Explore collaboration strategies with other entities (Governmental bodies, Private partners, NGOs working on root causes and other international/ regional bodies).
4. Develop a strategic approach to harmonize regulatory and legal framework in the region.

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