



UNODC

United Nations Office on Drugs and Crime



COUNTER-PIRACY PROGRAMME

Support to the Trial and Related
Treatment of Piracy Suspects

Issue Four: October 2010

Project Part Funded by the EU





Dutch EUNAVFOR personnel boarding MV Taipan, under attack from pirates

I. Introduction

The UNODC Counter-Piracy Strategy recognises two fundamental facts. First that the only viable long-term solution to solving the Somali piracy problem lies in the restoration of law and order in Somalia (including its waters). Second, that that solution is some years off.

The European Commission and UNODC launched this joint programme in 2009 to enhance criminal justice capacity among Somalia's neighbours and ensure that the trial and imprisonment of suspected pirates passed to them is humane and efficient and take place within a sound rule of law framework. UNODC is also investing in the long-term solution: the restoration of the rule of law in Somalia.

The Programme operates from UNODC's Regional Office for East Africa in Nairobi and maintains close ties with the navies who carry out the enforcement operations (notably the EU forces conducting Operation ATALANTA), the donor community and the criminal justice authorities in those states who are playing a part in the fight against piracy. The Programme employs experts in the full range of criminal justice disciplines who have developed expertise in piracy cases. The Programme also draws on other specialist staff within UNODC ROEA and from HQ in Vienna.

II. Programme Strategy

The UNODC Counter-Piracy Programme has three objectives:

Objective One: Fair and Efficient Trials and Imprisonment in Regional Countries

Few regional states have an effective deep water naval capability and they therefore rely on foreign navies to act against piracy or at least to assist their own forces with long range detection. Those foreign navies require access to regional states that can deliver fair and efficient prosecutions and imprisonment if the effect of their naval operations is to be

maximized. When requested, UNODC visits regional states to assess their preparedness to deal with piracy cases (whether the result of arrests by domestic law enforcement authorities or by foreign navies) and to advise them on measures they might take to improve their readiness. UNODC has donor funding to assist regional states to improve their capability to prosecute piracy, particularly where the state agrees to take suspects arrested by foreign navies for trial.

Although UNODC support to the regional countries prosecuting pirates concentrates on improving capacity for piracy trials, the delivery strategy ensures that this investment benefits the criminal justice system as a whole through access to training, introduction of improved practices and infrastructure investment.

Diagram1: Counter Piracy Strategic Plan



Objective Two: Humane and Secure Imprisonment in Somalia

UNODC seeks to improve the correction regimes in Somalia for two reasons. First, to ensure secure and humane imprisonment for those sentenced by local Somali courts. Second, improvement to the imprisonment regimes offers the possibility that those convicted of piracy in regional states may be transferred back to Somalia to serve their sentences.



Berbera Court, Somaliland



Refurbished gates and tower at Hargeisa Prison, Somaliland

Objective Three: Fair and Efficient Trials in Somalia

In the long term, Somalia's recovery will require the establishment of an effective rule of law framework. Currently, many areas of Somalia have no functioning criminal justice system. However, there are areas where UN initiatives have delivered marked improvements in the quality and delivery of justice. In conjunction with other UN agencies, UNODC will build upon recent successes to improve the performance of the criminal justice system.

III. Cooperation with the Contact Group on Piracy off the Coast of Somalia

UNODC has welcomed and supported the establishment of the CGPCS, a model of effective international cooperation in response to a complex regional security issue.

UNODC works closely with Working Groups I (Capacity Building) and II (Legal Issues) to support a coherent response in the region.

IV. Funding

The Programme was launched in May 2009 with initial funding from France and Germany. Substantial EC funding followed and the EU/UNODC programme, supplemented by German funding, remains the backbone of UNODC's counter-piracy effort. Its demonstrated capacity for delivery has attracted additional funding from Australia, Canada, the Netherlands and the United States of America.

The rate of programme delivery has been high and in accordance with donor and UNODC regulations. As a result of the early success of the Programme, additional funding is anticipated for further programming in Kenya, Seychelles, Somalia and other countries in the region.

The Programme has made a number of applications to the International Trust Fund, resulting in additional funding for Kenya, Seychelles and Somalia.

V. Delivery - Kenya

Since its inception, the Counter-Piracy Programme has achieved the following key outputs in Kenya:

Police

- Delivered training in modern investigatory procedures
- Drafted handover guidance to assist navies in ensuring that evidence complies with Kenyan law
- Reconditioned police vehicles to support the transportation of exhibits for forensic examination
- Renovated police buildings, supplied office and investigative equipment
- Refitted exhibit room and facilities to ensure secure stowage of firearms
- Delivered specialist training in the handling of piracy cases
- Delivered a learning exchange on experiences with piracy cases for police officers from Kenya, Seychelles, Mauritius, Tanzania and Maldives
- Assisted Kenyan Police with the handover of piracy-suspects from EUNAVFOR in Mombasa
- Delivered specialist training in handling of exhibits
- Provided cameras, computers and forensic equipment.

Prosecutors

- Delivered training in the law of the sea, naval operations, advocacy and evidential issues
- Arranged travel for prosecutors to Mombasa courts to conduct trials
- Supplied legal research resources
- Supplied office and communications equipment
- Purchased and delivered a car to Mombasa prosecutors
- Delivered extended training opportunities through attendance at international piracy conferences
- Equipped office in Mombasa
- Equipped office in Nairobi.

Courts

- In partnership with the Chief Magistrate of Mombasa and the Officer in Charge of Shimo La Tewa prison, completed a successful review of remand cases, identifying 517 individuals that were released immediately
- Ensured 100% attendance of witnesses from overseas to give evidence at piracy trials
- Supplied office equipment
- Provided courtroom guarding
- Provided online legal resources
- Provided interpretation into Somali to ensure that the suspects can follow court proceedings



Police learning exchange, September 2010 in Mombasa

- Provided interpretation for Spanish and French witnesses giving evidence
- Provided defence lawyers in cases where piracy suspects lack legal representation
- Introduced computers to Mombasa courtroom to improve case management
- Provided facilities to allow video evidence to be viewed in Mombasa courtroom
- Trained judicial officers in the law of the sea and specific piracy evidential issues
- Supported work to amend legislation related to piracy
- Completed renovation of Shimo La Tewa Court and equipped to modern standards appropriate for serious criminal trials. This court has a secure dock, separate witness entrance and waiting area, and a full technology fit. It was opened by the Minister of Justice on 24 June 2010

- Completed the renovation of Mombasa Court Centre, including installation of emergency lighting, ventilation, sanitation equipment and fire fighting equipment.

Corrections

- Improved medical facilities and care for all inmates and staff at Shimo La Tewa Prison, Mombasa
- Doubled the supply of water for drinking and washing
- Doubled sewage capacity
- Undertook a complete kitchen rebuild
- Cleaned and repainted the prison
- Introduced welfare service for prisoners to provide suspected pirates with basic necessities



Refurbishment of Mombasa court holding cells (pictures taken March 2010 and October 2010)

- Constructed staff housing, medical facilities, recreational facilities and amenities for female prisoners and their children
- Re-equipped prison office
- Created recreational space
- Provided educational facilities
- Commenced the basic refurbishments of five additional prisons where convicted pirates will be held including increasing the capacity of water and sanitation and the delivery of educational and sports equipment
- Provision of mattresses and blankets to prisoners and the provision of sports and educational materials

- Arranged for senior prison staff to undertake a study tour to the UK
- Refurbished prison vehicles

VI. Delivery – Seychelles

The Joint EU/UNODC Programme in Seychelles commenced in January 2010. The Programme has delivered the following key outputs in Seychelles:

Police and Coast Guard

- Delivered specialist training in the handling of piracy cases
- Delivered specialist training in evidence handling
- Agreed the design and site of a major incident room



Sign board created by grateful prisoners

- Completed joint assessment of police training needs with INTERPOL
- Provided radio and tactical information equipment for coast guard
- Provided a dedicated Police Training Coordinator to ensure international assistance is focused on needs identified by Seychelles Police
- Assisted in the repatriation of nine Somali illegal immigrants

Prosecutors

- Delivered training covering the law of the sea, advocacy and evidential issues
- Provided first additional prosecutor to the Attorney General's Office and agreed the provision of a second
- Commenced the upgrading of office equipment and legal resources

Courts

- Delivered training in the law of the sea and evidential issues
- Provided interpreters to court proceedings
- Ensured attendance of witnesses from UK, Spain and Senegal
- Supported legislative amendments
- Supplied legal research resources
- Supplied office and transcription equipment
- Delivered extended training opportunities through attendance at international judicial training
- Provided funding through legal aid system for defence lawyers.



Police Junior Leaders Training funded by UNODC

Corrections

- Assisted with drafting prison routines
- Commenced the training of parole staff
- Trained senior staff overseas
- Agreed on the provision of prison mentor
- Provided emergency training for prison staff
- Agreed and commenced construction of new block
- Agreed renovation of existing block.

VII. Delivery – Somalia

The UNODC programme commenced in January 2010 in Somalia and delivers support towards improved imprisonment arrangements and to courts through law reform and training of prosecutors.

Corrections

- Completed assessments of Somaliland and Puntland prisons
- Provided uniforms to Somaliland prisoners for first time in 30 years
- Refurbished Hargeisa prison, opening first new prison in Somaliland for 30 years
- Agreed and commenced refurbishment of Bosaso prison
- Introduced Standing Orders for Somaliland Custodial Service
- Delivered training in prisoner categorization to the Somaliland Corrections Service to ensure that prisoners are properly managed through their sentences

Law Reform

- Reached agreement with Somalia's three authorities to work together on piracy related issues with other Nairobi based UN agencies
- Commenced law reform process with all three Somalia authorities
- Drafted piracy law which has been passed to all three authorities for implementation

VIII. Regional Expansion

The international community hopes that more states will prosecute those suspected of piracy while work continues to re-establish an effective court system in Somalia.

UNODC has completed assessments of the capacity to prosecute piracy in a number of states in the region at the request of governments. States have requested UNODC's assistance in preparing themselves for the prosecution of pirates either arrested by their own forces or following transfer from regional states.

IX. Piracy Prisoner Transfer Programme

This Programme forms part of the UNODC Counter Piracy Programme Strategy.

The proposed programme delivery concentrates on six related areas. To succeed in transfer of prisoners and re-building the wider criminal justice sector delivery in all areas is necessary, but timelines and delivery pace will differ in each area, according to the availability of funds, the capacity of the Somali counterparts to absorb support and timing of certain essential milestones.

Area 1 Personnel and Training

- Recruitment, training of local prison staff
- Recruitment and payment of international mentors
- Establishment independent prison oversight committee
- Identification and training of associated judges and prosecutors

Area 2 Construction, Refurbishment and Procurement

- Construction of two prisons at separate locations and procurement of equipment and vehicles in support of prison operations
- Construction of two associated prison farms to support the prison and staff and assist in the development of alternative livelihoods



Construction of water storage tank underway at Hargeisa Prison, Somaliland

- Construction of two associated courtrooms adjacent but outside the prisons for hearings related to high security prisoners whose movement presents a substantial security risk

Area 3 Operations

- Support for operations in existing prisons where pirates are held
- Operation of the new prisons
- Operation of the prison farms
- Support to and expansion of rehabilitation programmes
- Support to associated judicial hearings

Area 4 Law Reform

- Expansion of the law reform programme to support prisons and transfers

Area 5 Monitoring

- Monitoring of the prison to ensure that it is being run in accordance with international standards and that transferred prisoners are being held for the appropriate term

Area 6 Prisoner Transfers

- Assisting regional states with the organisation and funding of flights to transfer prisoners from regional states to Somalia

Associated Legal Issues

Prisoner Transfers are governed by the domestic laws of the sending and receiving states and (often) by bilateral treaties. Certain international human rights instruments may also apply. In addition, some of the transfer arrangements between arresting states require the prosecuting state to seek the agreement of the arresting state before transferring convicted pirates to Somalia.

UNODC is working with the TFG and the regional authorities of Somalia to help them draft and implement appropriate domestic law provisions. This work is being done in cooperation with Working Group II of the Contact Group on Piracy off the Coast of Somalia.

Possible Early Prisoner Transfers

UNODC will engage with the relevant authorities to try and identify more immediate solutions to prisoner transfers to Somalia.



M. Jack Lang, Special Advisor to the Secretary General on Piracy Legal Issues visiting the new courtroom at Shimo La Tewa prison, Mombasa, October 2010



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CONTACTS

If you would like to know more about the work that UNODC is doing in support of piracy prosecutions, please see www.unodc.org/unodc/en/piracy/index.html

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