

NOTES ON THE EXPERT LEVEL VIRTUAL DISCUSSION GROUP (VDG) MEETING

COMBINED LAW ENFORCEMENT
COOPERATION WITH INTERNATIONAL
PARTNERS AND EFFECTIVE
PARTICIPATION WITH INDUSTRY

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INTERNATIONAL
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1. INTRODUCTION

When 25 countries from West and Central Africa came together in June 2013 to sign the Yaoundé Code of Conduct (YCoC), this established a first-ever regional commitment to repress all forms of maritime crime through cooperation and coordination in the Gulf of Guinea. Among the most significant provisions of the YCoC are directives urging signatory countries to take internal steps and changes to foster increased maritime security, rule of law, and governance. These recommendations call for countries to – develop domestic laws and regulations which criminalize piracy and armed robbery at sea; craft a regional framework (including information-sharing and operational coordination mechanisms) to counter piracy and armed robbery at sea in the region; and review and strengthen domestic laws and regulations, as appropriate, to implement relevant international agreements which address the safety and security of navigation in accordance with international law.

The dramatic increase in piracy and other maritime crimes against ships in recent times has spurred interest in assessing the extent to which the provisions of the YCoC are being realized by the signatory states. The Gulf of Guinea piracy phenomenon requires an approach that uniquely addresses the complex legal challenges present in a diverse, multilingual region in which countries' use different legal frameworks. As a result, there is a need for a unified legal framework that states in the Gulf of Guinea may all use to effectively prosecute maritime criminality.

The second expert level Virtual Discussion Group (VDG) meeting, which forms part of a special VDG series supported by the International Maritime Organization (IMO) to assess implementation efforts of the YCoC to date in the GoG, was focused on the topic, 'Combined Law Enforcement Cooperation with International Partners and Effective Participation with Industry.' The meeting, hosted by the Gulf of Guinea Maritime Institute, brought together 28 experts with diverse stakes in marine security in the Gulf of Guinea (GoG), to deliberate on vital aspects of cooperation and enforcement and to make viable recommendations to the Heads of States of the YCoC member states. Participants were separated into three focus groups to deliberate on the following sub-topics: Information Sharing; Combined Law Enforcement and Aerial Surveillance; and Legal Provisions and Terms of Reference. The guiding principles and recommendations outlined by each of the expert groups are presented below.

2. FOCUS GROUP DISCUSSIONS

Group A: INFORMATION SHARING

Guiding Principles:

1. COORDINATION AND INFORMATION SHARING – Discussions outlined successes and failures in facilitating coordination, emphasizing effective and timely information sharing among signatories. It was agreed by the experts that consistent with the purpose and scope of the Code of Conduct, effective coordination and timely information sharing should be reinforced.

Expert's Proposed Next Steps:

- a. Information Fusion Centres should be properly resourced at all levels across the YCoC Architecture in the Gulf of Guinea Region.
- b. Focal Points and Piracy Information Centres should be designated by each country to provide capability in receiving and responding to alerts and requests for information and assistance.
- c. Recommend International partners share/provide tactical and operational information to improve response of the navies and other maritime authorities.
- d. Standard Operating Procedures for communication should be developed and implemented to improve information sharing within the YCoC Architecture.
- e. Enhance interoperability of communication equipment and leverage new technology.
- f. Develop information sharing capacity utilizing research institutions, NGOs and other relevant resources.

Group B: COMBINED LAW ENFORCEMENT AND AERIAL SURVEILLANCE

Guiding Principles:

1. MULTINATIONAL COMBINED LEGAL ENFORCEMENT OPERATIONS – In light of the rising number of piracy cases in the Gulf of Guinea, and the YCoC directive for ECOWAS, ECCAS and GGC member states to cooperate regionally, Zonal Combined Law Enforcement Operations should be prioritized. The experts proposed two “pilot” Task Force (TF) programs: One in ECOWAS Zone E (TF ECHO) and one in ECCAS Zone D (TF DELTA) in which a Combined Task Force organization would be established that will comprise vessels from ECOWAS Zone E and ECCAS Zone D member States, as well as Maritime Patrol Aircraft assigned to both Zones. The “pilot” TFs will have an agreed upon command and control as well as established information sharing protocols.

Expert's Proposed Next Steps:

- a. Respective Zone E and Zone D directors should host an initial Operations Planning Meeting at MMCC headquarters for Zone Operations Officers (Navy and Coast Guards)

and select agencies from the Zone's Member States to discuss the organization, logistics, funding and mission of the proposed Task Forces.

Issues to address:

- Method for Multinational Task Forces in Zones E and D to be operationalized in the shortest time possible.
- Command structure (for example, an African-led command) and the duration of the Task Force;
- Logistics (vessels and aircraft);
- At least one capable OPV to be assigned to the Task Force;
- Maritime Patrol Aircraft: Terms of Reference (ToR) for provision of a Ready Aircraft (manned and/or unmanned) that will conduct daily patrols of the Zone MMCC's AOR;
- Funding of TF operations (Fuel, Provisions, etc.), including the level of support of international navies and industry;
- Information management and sharing for operations to include information from external partners;
- ToR for adjudicating suspected piracy cases based on capability and capacity of member states;
- Inclusion of other ECOWAS and ECCAS Navies and Coast Guards if feasible;
- Role and TOR of International navies into the TF commanded by an African Naval or Coast Guard Commander subject to the consensus of all member states of Zones D and E; and
- Provision of adequate communications (including SATCOM capability) for the duration of the TF.

2. INCLUSION OF CIVILIAN MARITIME SAFETY AND SECURITY AGENCIES IN OPERATIONS AND OPERATIONAL PLANNING – In light of the range of Agencies involved in Maritime Security, and the fact that the YCoC does not just address counter piracy, efforts should be prioritized for civilian Agencies to be included in TF planning, monitoring, and possibly, joint boarding teams (for operations other than anti-piracy and anti-armed robbery at sea) as well as the YCoC architecture from the tactical to strategic level (MOCs to ICC).

Expert's Proposed Next Steps:

- a. ECOWAS, ECCAS and GGC member states request their respective Economic communities fund participation in the YCOOC Architecture.

3. BOARDING TEAM CAPACITY BUILDING – Counter Piracy (Special Operations Team), IUU Fisheries and other law enforcement boarding require boarding teams to be prepared for opposed, non-compliant, unopposed and compliant boarding on the high seas at night. Training

and exercises should be organized to enhance practise in the operating conditions of the GoG. ICC should assume a role in standardizing training and exercises across member states in order to enable more effective combined operations.

Expert's Proposed Next Steps:

- a. During exercise planning conferences, prioritize required boarding team training and exercises during annual international partner exercise planning.
- b. Emphasize YCoC requirement to include civilian agencies in Combined Operations and Exercises.
- c. YCoC Member states should emphasize to international partners the need to include maritime industry representatives as observers of Exercises and Training.
- d. YCoC Member States should reinforce the need for international partners to provide seaworthy vessels, capable aircraft (manned and unmanned) and related equipment.
- e. ICC should develop a regional training program which will then allow participants to embed regional practices and coordination into the operations of individual countries in the GoG.

4. EMPASIZE THE NEED FOR SHARED NIGHT AND DAY AERIAL SURVEILANCE (MANNED AND UNMANNED) AMONG ECOWAS, ECCAS AND GGC MEMBER STATES – Criminals operate at night over a large area as observed from recent hijacking cases. An Operations Advisory Group (OAG) chaired by ICC should meet regularly to provide Operational Advice to the YCoC Architecture based on the best law enforcement advice and available technology.

Expert's Proposed Next Steps:

- a. ICC should consider establishing the OAG.
- b. Members of the OAG should be experts drawn from the Region and external partners.

Group C: LEGAL PROVISIONS AND TERMS OF REFERENCE

Guiding Principles:

1. ADOPT CLEAR LEGAL PROVISIONS IN NATIONAL LEGAL SYSTEMS FOR PROSECUTING PIRACY AND OTHER ILLICIT ACTIVITIES CONDUCTED AT SEA – Recounting the provision of the YCoC for signatory states to develop domestic laws and regulations which criminalize piracy and armed robbery at sea and following the example of Nigeria's recent anti-piracy legislation, Member States are urged to adopt clear laws which cover prosecution of maritime crimes in their jurisdiction.

Expert's Proposed next steps:

- a. In the short term, conduct a legal review which compares the different penal provisions for piracy in the various Member States to design a harmonized system which can be incorporated in each country's legal system. ECOWAS, ECCAS, GGC, and ICC should facilitate such an assessment, drawing on similar assessments being conducted by UNODC and other organizations.
- b. Establish a system in which at least one member state within each Zone would have the legal status to adjudicate cases of piracy as agreed by Signatory States.
- c. In the long term, consider the provisions of the United Nations Convention on the Law of the Sea (UNCLOS) to design a tailored, harmonized Gulf of Guinea Law of the Sea to govern activities in the Region.

2. COMPLETE THE PROCESS OF TRANSFORMATION OF THE CODE OF CONDUCT INTO A MULTI-LATERAL LEGALLY BINDING DOCUMENT – The YCoC was always envisioned as the first step to a binding, multi-lateral agreement. A binding agreement is imperative for YCoC to be financially and regionally sustainable and to allow for effective cooperation by member states. Signatories should be committed to the provisions so that non-compliance can be addressed with adequate measures.

Expert's Proposed next steps:

- a. ECOWAS, ECCAS and GGC member states should support the transition process with input from ICC.
- b. Member States should be encouraged to increase their commitment to abide by the provisions in the Architecture.
- c. Strategic communication plans should be considered in member states to facilitate this process.

3. ENHANCE LEGAL CAPACITY BUILDING – Build high-level capacity to develop country-specific laws to repress illicit activities at sea.

Expert's Proposed next steps:

- a. Conduct a legal capacity needs assessment at the national level to understand capacity gaps.
- b. Look for shared interests between international partners and member states.

4. INSTITUTIONALIZE INDUSTRY BEST MANAGEMENT PRACTICES FOR SHIPS – Drawing from the industry's best management practices designed for ships, develop consistent procedures that will be available to all vessels in the Gulf of Guinea Region.

Expert's Proposed Next Steps:

- a. Make local emergency contact details available and accessible to mariners. Centralize reporting and response.
- b. Mandate all vessels calling at Member States' ports to have safety and security equipment (such as AIS) on board.
- c. Equip vessels with rules and regulations as well as procedures for reporting suspicious activities at sea.
- d. Develop outreach programs to industry that build awareness, and therefore confidence in, this new infrastructure among vessels operating in the GoG.

5. SUPPORT ZONE MMCCs TO ACQUIRE DEDICATED RESOURCES UNDER THEIR CONTROL FOR EFFECTIVE RESPONSE – In support of improving the response capacity of MMCCs.

Proposed Next Steps:

- a. Member States may constitute an Architecture at the Zonal level where they take turns to avail their resources to the MMCCs to use for defined periods of time. (Refer to the resource mobilization strategy in Annex 1 of the YCoC.)
- b. Set up a Task Force with a protocol for Member States to agree on the details for effective response.
- c. International partners should be encouraged to support MMCCs to acquire assets to enhance their operations.