

KAMPALA PROCESS:

A DRAFT SOMALI MARITIME STRATEGY - COMMUNIQUE NO 2 (LEGAL ISSUES)

1. The members of the Somali Contact Group on Counter Piracy (The Kampala Process) (consisting of the Federal Government of Somalia, Puntland, Galmudug and Somaliland) met in Addis Ababa (under the facilitation of UNPOS, UNODC, IMO, and FAO, supported by Oceans Beyond Piracy and EUCAP NESTOR) from the 16 -18th of March 2013. The aim of this meeting was to develop, in a spirit of co-operation, a plan for law reform action to accompany the draft Somali Maritime Strategy.
2. As with our work on a draft Somali Maritime Strategy, we agreed at the outset to approach the issues at a technical level and consciously undertook to place the political context aside. We worked to achieve concrete outcomes and to establish a realistic framework addressing the legal issues that accompany the development and implementation of a Somali Maritime Strategy.
3. In a wide ranging and detailed discussion we have agreed the outlines of a legal work plan as part of the draft Somali Maritime Strategy. We have agreed that our legal work plan must immediately progress in three areas: jurisdiction; maritime resources, particularly fishing; and Maritime Police / Coast Guard organisation and powers.
4. This legal work plan in support of the draft Somali Maritime Strategy, and our proposed initial implementation goals, are a Somali initiative, and focussed on Somalis. We call upon the International Community to support us in this work, and we ask that the focus of the International Community be always upon assisting Somalis to develop legal solutions that are sensitive to, and sustainable within, the Somali context.

Jurisdiction

5. Many existing Somali maritime laws relate to the Law of the Sea Convention 1982. There is some uncertainty as to the consequences of Presidential Decree Number 14 of 9th February 1989 upon the Law of 1972. There is some uncertainty as to whether the 1988 Law of the Somali Sea is in force. However, we have determined that:
 - a. In 1989 Somalia ratified the Law of the Sea Convention 1982;
 - b. That the law drafted in 1988 was in line with our commitment, indicated by Somalia signing and ratifying the Law of the Sea Convention 1982, to bring our law into coherence with the Convention; and
 - c. That the Official Somali Bulletin of 1989 (for example pages 85 and 90) confirms that the Law of the Sea Convention 1982 was effective in Somali Law as of the date of that Bulletin.
6. We will seek to confirm the status of these laws with our Parliaments. However, now that there is significant clarity regarding the Somali maritime domain, we call upon international naval forces, in accordance with relevant UNSC resolutions, to assist in the protection of our maritime domain.
7. We have also determined, as technical experts, that we must progress our work on a number of related jurisdictional issues. We are resolved to cooperate in defining our maritime

domain. We will seek to ensure that the jurisdictional reach of our Courts and our Maritime Police / Coast Guard are properly considered as a component of Somali law reform activities.

Resources, in particular fishing

8. Enforcement is an integral part of fisheries management. We recognise that our legal and institutional frameworks for fisheries management need to be strengthened, including by incorporating best practices and obligations deriving from international instruments. We have many aspects of this management structure and associated laws in place, but we need to update what currently exists and to fill the gaps we find as we do this. We seek coordinated International Community support in this task.

9. We request that the International Community support us in strengthening Somali frameworks and capacities to effectively collect fisheries and fisheries-related data, and to develop fisheries infrastructure in the coastal areas, so that we can undertake informed fisheries planning and management.

10. A central requirement for our progress is enhancing the legal authorities and operational capabilities of our Maritime Police / Coast Guard. We will endeavour to enhance coordination and cooperation between our Maritime Police / Coast Guard forces and our fisheries and resources management structures, including by ensuring the presence of fisheries inspectors / observers during fisheries enforcement operations.

Maritime Police / Coast Guard organisation and powers

10. We recognise that an effective maritime law enforcement capability, based on a firm legal foundation, is central to our Somali Maritime Strategy. In order to protect and police the Somali maritime domain we must enhance the legal authorities of existing maritime law enforcement bodies for the Federal Government, Somaliland, and Puntland, and establish such authorities in support of a new maritime law enforcement body for Galmudug.

11. We will seek to develop clear roles, mandates, structures and organizations for our different law enforcement bodies. As an immediate step along this path, we will seek to finalize our matrix of relevant laws which are in force over the next two months. On the basis of common interests and, where possible, common laws, we will seek to develop mechanisms to cooperate and coordinate between these bodies, and to share information with other national agencies and international bodies. We will seek to progress this issue as a central component of our Somali Maritime Strategy.

Immediate Next Steps

12. We resolve to meet again within two months to review our progress in addressing our maritime jurisdictional issues with our Parliaments, and to further refine and progress our legal work plan as a component of the draft Somali Maritime Strategy. We ask UNPOS, IMO and UNODC to continue to assist us by providing the Secretariat for, and leading the co-ordination of, this activity under the Kampala Process.

Addis Ababa, 18 March 2013