

Building on Existing Codes of Conduct to Promote Regional Cooperation for all Aspects of Maritime Development – An Opportunity Not to be Missed

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Introduction

When the ‘Code of conduct concerning the repression of piracy and armed robbery against ships in the Western Indian Ocean and the Gulf of Aden’ was agreed in Djibouti in January 2009 it brought together 21 regional states into a non-binding framework in which they agreed to cooperate to the fullest possible extent in the repression of piracy and armed robbery against ships. The Djibouti Code of Conduct, as it is more commonly called, continues to offer these states the opportunity to work together towards a common aim: countering-piracy. But could the Djibouti Code of Conduct also be used to deliver a more comprehensive outcome and assist the region in economic development?

Background

The Djibouti Code of Conduct grew from the IMO and regional states sharing their concerns about endemic maritime criminality such as the smuggling of goods, people, and arms as well as illegal, unlawful, and unregulated fishing. This endemic criminality had created pockets of conflict within dwindling inshore fishing grounds, and increased threat to energy supplies and shipping from terrorist attacks. The region experienced its first such attacks in 2000 and 2002, with the USS Cole in Aden and the *MV Limburg* off the south coast of Yemen, respectively.

In light of these shared concerns, a long dialogue developed between the IMO and an increasing number of regional states. Meetings in Sana’a (2005), Muscat (2006), and Dar es Salaam (2008) all served to bring the region closer together to address some of these threats to maritime trade and prosperity. By 2009, however, Somali piracy was having such a strong impact that the region chose to concentrate its efforts solely on the repression of piracy and armed robbery of ships – and so the Djibouti Code of Conduct was born.

Implementation

When considering how to implement the Djibouti Code of Conduct, the UN Convention of the Law of the Sea (UNCLOS) provided an excellent basis for establishing a cooperative framework between states. Article 100 of UNCLOS makes a simple statement that: *‘All States shall co-operate to the fullest possible extent in the repression of piracy on the high seas or in any other place outside the jurisdiction of any State’*. Additionally, the Regional Cooperation Agreement on Combating Piracy and Armed Robbery against Ships in Asia (ReCAAP) had established what could be done when states worked together in an agreed framework with shared responsibilities, and so drawing on the experience of ReCAAP, Djibouti Code of Conduct member states and IMO agreed to focus on four achievable action areas:

- Information sharing;
- Enhanced regional training;
- Reviewing national legislation; and
- Capacity building.

Through these key achievable action areas IMO sought to increase regional capabilities through cooperation and coordination to repress piracy.

Since then, a combination of international naval forces working in close cooperation with the shipping industry, which enhanced its self-defence measures through the use of guidelines in the Best Management Practice, has suppressed acts of piracy to a degree where the international community can now turn its attention to dealing with the root causes of piracy ashore within Somalia.

Alongside action to defend against and stop piracy attacks at sea, capacity building work has continued across the region, developing national and regional skills so that member states acquire the capability of doing this work in the future. A cooperative training system has been established with a mechanism for states to highlight their training needs. Also, an Information Sharing Network (ISN) has been established and is in regular use delivering piracy reports across the whole region through the Information Sharing Centres in Sana’a, Mombasa, and Dar es Salaam. This ISN is also linked to the international naval forces, enabling information exchange and enhanced cooperation when incidents occur.

The region's lack of long-range sensors has meant that initial reports on the ISN have most frequently been generated by the navies. Whether the source of initial reports is navy or merchant marine, the network created by the Djibouti Code of Conduct ensures that information is relayed in a prioritized and standardized manner, using a regional sharing system that will continue to operate even after the international navies have gone home.

This is what capacity building is all about, whether it is training, information sharing or reviewing legislation under the Djibouti Code of Conduct it is about leaving something better behind. In the case of the Djibouti Code of Conduct, capacity building could be summed up as *efforts enabling the region to better handle the conditions that led to the spike in regional maritime criminal activity that is Somali piracy.*

By this definition capacity building work always lags behind the operations necessary to suppress pirate attacks at sea. But this does not mean that capacity building programs are unnecessary. Capacity building is just one of the many factors creating the conditions whereby piracy is declining in the region. Operations may suppress piracy attacks at sea, but improving Djibouti Code of Conduct member states' capabilities will leave mechanisms in place for cooperation and coordination to repress any future growth in piracy – mechanisms which can be used on a corporate, collegiate basis to counter any threat to the region's maritime safety, security and prosperity. There have already been instances, for example, when the ISN has been used to exchange information about Search and Rescue incidents, and whilst the written focus of the Djibouti Code of Conduct is the repression of piracy, the outcomes of implementation are not confined to this criminal activity alone.

In a show of solidarity with the work of the IMO, during regional meetings held in 2012, member states gave a very positive 'thumbs-up' to the implementation work that had been delivered under the Code of Conduct but chose at that stage not to expand its scope. However, some regional states have been more than happy to utilize equipment and training to deal with issues other than piracy, while wanting the Djibouti Code of Conduct to remain focused on piracy as a single issue. This is an area for exploration as there remain many other threats to the region's maritime equilibrium which the Djibouti Code of Conduct is well established to address. In its present form, however, it does not.

That the current range of activity and investment could be broadened without radically changing the spirit and format of the Djibouti Code of Conduct is evident in another Code

agreed earlier this year. The 2013 Code for West Africa, which is modelled on the Djibouti Code of Conduct, addresses piracy but also includes mechanisms to address the issues of regional maritime security, maritime environment, and maritime safety. It is an example of how the Djibouti Code of Conduct, could be further developed to address wider issues impacting the region.

There are other factors to consider and the anticipated signing by heads of state of the '2050: Africa's Integrated Maritime Strategy', expected in early 2014, will provide a clear African focus for creating regional frameworks to address maritime issues in an overarching continental strategy. In the Djibouti Code of Conduct and the West African Code of Conduct there already exist agreed frameworks capable of addressing the issues of protecting Africa's maritime spaces in order to allow development of the 'blue economy'. These should be drawn on widely. Additionally, given the Djibouti Code of Conduct's reach across the Gulf of Aden into the Arabian peninsula, there is scope to create an inter-continental mechanism for the protection of shipping and trade in the Gulf of Aden, with benefits not only to shipping but also to coastal economies through the better management of resources such as oil and fisheries, and greater focus on environmental protection.

When the Codes of Conduct are used to address these broader issues of maritime security and safety then real regional capacity is created which will support economic development; this has been the approach of the Somali authorities when drafting their Maritime Resource and Security Strategy, and is also the basis of much of the '2050: Africa's Integrated Maritime Strategy.'

Conclusion

Regional states' individual and collaborative reaction to Somali piracy may prove to be the egg that hatches the need for better policed and managed regional waters, in turn enabling regional states to reap the full benefits offered by their maritime resources. Can the Codes of Conduct be used to improve this outcome still further, to enable the whole to become greater than the sum of its parts? The Djibouti Code of Conduct already provides the framework for cooperation, coordination, and enhanced legislation that will allow the region to take the next steps towards improving the continent's blue economy, and the West African Code of Conduct is an example of how that might be achieved.

There is now a window of opportunity for aligning the existing Codes of Conduct in support of the continental strategy to protect the blue economy. It is an opportunity that should not be missed. IMO remains committed to delivering capacity building through both Codes of Conduct and their technical cooperation mechanisms and these Codes of Conduct are ready to become the foundations for the wider implementation of the ‘2050: Africa’s Integrated Maritime Strategy’.

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