

## 'Addressing Non-Traditional Maritime Threats in the Indian Ocean; An Analysis of UNODC for the Last Ten Years'



### **Mr. Shanaka Jayasekara**

Programme Coordinator (Southeast Asia and Pacific), Global Maritime Crime Programme, United Nations Office on Drugs and Crime (UNODC)

On behalf of the Executive Director of UNODC Mr. Yuri Fedotov, let me thank the Sri Lanka Navy and the Government of Sri Lanka for the invitation to UNODC to participate at the Galle Dialogue 2019. It is always a pleasure to visit Sri Lanka and in particular the Galle Dialogue given the exceptional arrangements and organization of the conference. The Galle Dialogue is now a well established premier international maritime conference of the Indian Ocean region. Indeed it is a privilege to present before such a distinguish audience.

The topic assigned to us is, *"Addressing non-traditional maritime threats in the Indian Ocean : The role of UNODC in the last ten years"*. The structure of the presentation will examine maritime crime phenomenon in the Indian Ocean during the period 2009 – 2014, the approaches adopted to respond to such threats and the role of UNODC in making a difference.

The presentation will further examine the period 2014-2019, the maritime crime phenomenon in the Indian Ocean, the approaches adopted to respond to such threats and the role of UNODC.

The presentation will relate the findings to the overall theme of the Galle Dialogue 2019 *"Refining mindset to address transnational maritime threats"*, by presenting new approaches to counter maritime crime.

As most of you are aware the mandate of the United Nations Office on Drugs and Crime (UNODC) is to develop cooperation both at a regional and international level, and build law enforcement capacity among member states to counter transnational organized crime. In so far as crimes associated with the maritime domain are concerned, the Global Maritime Crime Programme (GMCP) has the mandate within UNODC to develop regional cooperation and strengthen capacity of maritime law enforcement agencies.

Focusing on non-traditional maritime threats in the Indian Ocean, in particular maritime crime, the last ten years commencing 2009 is a unique period for maritime criminality in the Indian Ocean.

Before I dive into discussing maritime crime during the period 2009 – 2014, let me

highlight an important factor, the United Nations Convention on the Law of the Sea (UNCLOS) and in particular Article 110 (Right of Visit). As many of you are experts in maritime affairs, I will not get into the details at this point, but would like to refer to this as a jurisdictional advantage. I will come back to this point and compare and contrast the jurisdictional advantage and the jurisdictional limitation.

Around 2009 was when maritime piracy emerged off the coast of Somalia. The disruption to sea lanes of communication on a vital trade route impacted not only the immediate region but also globally. This resulted in an international response with enhanced maritime surveillance off the Somali coast. I list on the screen the naval presence to counter piracy off the coast of Somalia. The enhanced naval presence engaged the pirate attack groups (PAGs), however they adopted a catch and release approach. The improved naval capability lacked the law enforcement elements to offer a legal finish and create an effective deterrent mechanism.

The Global Maritime Crime Programme (GMCP) of UNODC, played a pivotal in developing a regional solution to a regional problem, by facilitating the establishment of four piracy prosecution states in the Indian Ocean, namely Seychelles, Kenya, Tanzania and Mauritius. The process involved the formulation of piracy legislation, the adoption of universal jurisdiction for maritime piracy and the inclusion of a robust piracy prosecution model. The piracy prosecution model included, the handover stage (after foreign navies had detained suspected maritime pirates), investigation stage, judicial process (trial), incarceration (sentence) and return (repatriation) after completing the sentence. Each stage required specific assistance by UNODC to the four piracy prosecution states. The specific lines of support provided by UNODC to the four piracy prosecuting states are listed on the powerpoint slides.

The enhanced maritime surveillance patrolling the Somali basin and the Gulf of Aden enabled a rapid response capability to piracy attacks. It also provided the capability to detain suspected pirates on the high seas and transfer them to one of the four piracy prosecution states.

The legal finish facilitated by UNODC enabled fair judicial trial and the incarceration of convicted maritime pirates. An effective deterrent mechanism that sent a message to potential pirates, if you do the crime you do the time.

The presence of privately contracted armed security personnel (PCASP) on board vessels plying the high risk area had a disabling effect on the operational capability of pirate attack groups.

The scourge of piracy declined by 2014, as a result of the above three attributes, enhanced maritime surveillance, effective legal finish and armed guards on board, and UNODC is proud to have played a significant role both in developing the piracy prosecution model to facilitate an effective legal finish and mobilising regional and international cooperation to counter maritime piracy off the coast of Somalia.

Let me go back to the United Nations Convention on the Law of the Sea (UNCLOS) and in particular Article 110 (Right of Visit), and the jurisdictional advantage to board a suspected pirate vessel on the high seas. The ability to pursue and board suspected pirate vessels on the high seas provided a jurisdictional advantage that is not available when countering other forms of maritime crime on the high seas. The period 2014 onwards brought new challenges in the Indian Ocean in relation to non-traditional maritime threats, in particular maritime crime. The emergence of heroin trafficking dhows on the Southern Route from the Makran Coast to the East Coast of Africa and South Asia. It is possible the heroin trafficking dhows had gone undetected prior to 2013, but records of drug seizures by the Combined Maritime Forces (CMF) under CTF 150 were

reported in 2013. The volumes were staggering, by 2018 over 20,000 kg of heroin was seized in maritime operations in the Indian Ocean.

Let's return to the United Nations Convention on the Law of the Sea (UNCLOS) and in particular Article 110 (Right of Visit), there is no provision to board drug trafficking vessels on the high seas, and here the jurisdictional limitation, as opposed to the jurisdictional advantage for maritime piracy. The United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, under Article 17 facilitates a mechanism of competent authorities for flag state consent. However, still the jurisdictional limitations remain.

The Global Maritime Crime Programme (GMCP) of UNODC, established the Southern Route Partnership (SRP) in 2016. The SRP is a forum for drug enforcement agencies of the Indian Ocean states to strengthen regional cooperation, information sharing and coordinate maritime law enforcement action, especially during the inter-monsoon periods. The SRP published the Compendium of Drug Seizures at Sea tabulating all drug seizures at sea including records of drug stamps. As an outcome of the SRP initiative, a sub-regional group between Tanzania, Mozambique and South Africa developed a Trilateral Strategy to better counter heroin dhows heading towards the Mozambique Channel.

UNODC has also provided Visit, board search and seizure (VBSS) training to 13 littoral states in the Indian Ocean and Southeast Asia using facilities of the Sri Lanka Navy in Trincomalee. The VBSS training provides a practical and operational capability to counter drug trafficking at sea.

Relating to the overall theme of the Galle Dialogue 2019 is *"Refining mindset to address transnational maritime threats"*, UNODC has also been looking at new approaches to overcome the challenges posed by maritime drug trafficking. Learning lessons from our

work in the maritime space over the last decade, UNODC is innovating programme delivery.

The Global Maritime Crime Programme (GMCP) of UNODC is placing a concerted effort to develop Maritime Domain Awareness (MDA) technology and analytical capability among littoral states. The use of technology to map the maritime surface picture and better understand pattern of life at sea is a key areas of focus.

A good understanding of the pattern of life at sea highlights anomalies and suspicious activity. UNODC has installed terrestrial maritime radars, facilitated the acquisition of synthetic aperture radar imagery, and developing training in MDA analysis to build a cohort of competent MDA analysts that can use algorithms to identify anomalies and suspicious activity.

This by itself may not overcome the jurisdictional limitation in the fight against maritime drug trafficking, and other maritime crimes, however the improved situational awareness can connect the dots to identify the links from the high seas to territorial waters.

Given the time limitations, I have curtailed the discussion to maritime drug trafficking, though other forms of maritime crime also have similar modus operandi.

The presentation examined the period 2009-2014 during the height of maritime piracy and the attributes that contributed towards the decline including the pivotal role played by UNODC. The presentation also examined the period 2014-2019 and the raise of maritime drug trafficking, in particular the flow of Afghan heroin by sea. The presentation compared and contrasted the attributes and dynamics relating to the two periods and the role of UNODC. It presented a technology led approach as the future of maritime law enforcement.

In conclusion, I would like to thank Vice Admiral Piyal De Silva and the Sri Lanka Navy for the facilitation of my visit to Sri Lanka and the exceptional arrangements at the conference. I would also like to thank the Liaison Officer assigned to me Cdr. Nissanka Wickremesinghe for his support.

Thank you for your attention.