

**Southern Regional Model United Nations**  
***Ensuring Peace and Security in a Turbulent Global***  
***Environment: Fostering Prosperity and Forward Movement***

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Dear Delegates,

I would like to welcome you to Southern Regional Model United Nations (SRMUN) Charlotte 2014 and the Commission on Crime Prevention and Criminal Justice (CCPCJ). It is a privilege for me to serve as the director of CCPCJ at SRMUN-Charlotte 2014. I will be serving with my esteemed Assistant Director, Jessica De Jesus, who is equally thrilled to be a part of this year's conference and working with the delegates of CCPCJ. This is the beginning of my fourth year on SRMUN staff and I look forward to working with each of you in committee and helping you make the most of this experience. Working on SRMUN staff is a rewarding experience each year that I am able to participate and I am eager to facilitate debate on the relevant topics of the CCPCJ.

The CCPCJ is one of the functional commissions of the United Nations Office on Drugs and Crime, as well as the Economic and Social Council, and is dedicated to offering Member States a platform to share information and set standards to address crime. The CCPCJ was established in 1992 with the mandate to 'guide the activities the UN in the field of crime prevention and criminal justice.' The CCPCJ focuses primarily on taking international action to combat international, national, and transnational crime, while also offering Member States a plethora of legal and forensic tools to investigate crime.

We have chosen the following topics to discuss at this year's conference because of the importance they play in advancing the status of women around the world.

- I. Addressing the Trafficking of Fraudulent Medicines across International Borders
- II. Assessing Measures of Combating Maritime Piracy

Each delegation is required to submit a position paper, which covers both of the topics mentioned above. The papers should be no longer than two pages and singled-spaced as outlined on the SRMUN website. The purpose of the position paper is to discuss your country's position on the two topics and persuade your fellow delegates to follow the course of action laid out in your paper during committee. These position papers are incredibly important to your success in committee and should provide insight into your country's position on violence against women and refugee women and girls.

Delegates are encouraged to use the position paper as a means of stating what your country hopes to achieve in committee, and outline the best course of action for all Member States. Having a clear position outlined in the paper will serve as the foundation for your success in committee, and should thus portray accurate positions relating to your country. More information about position papers can be found on the SRMUN website ([http://www.srmun.org/docs/position\\_paper\\_guidelines.pdf](http://www.srmun.org/docs/position_paper_guidelines.pdf)). **All position papers MUST be uploaded by Friday March 21st, 11:59pm EST to the SRMUN website ([www.srmun.org](http://www.srmun.org)).**

I look forward to serving as the director for the Commission on Crime Prevention and Criminal Justice during the 2014 Southern Regional Model United Nations Charlotte Conference. I wish you luck as you prepare for the conference and eagerly anticipate working with each of you at the conference in April. Please feel free to contact Devin, Jessica or myself should you have any questions during your preparation for the conference.

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## Committee History of the Commission on Crime Prevention and Criminal Justice

Every aspect of crime, be it the prosecution of criminals or the adoption of new laws, is of the utmost importance to the global community. In order to monitor the global crime infrastructure, the United Nations created the Commission on Crime Prevention and Criminal Justice (CCPCJ). This commission was created in 1992 under the purview of the Economic and Social Council (ECOSOC) in resolution 1992/1.<sup>1</sup> The resolution dissolved the original Committee on Crime Prevention and Control and created the CCPCJ.<sup>2</sup> The newly formed commission was tasked with monitoring national and transnational crime, including various forms of organized crime. The commission was also tasked with promoting the role of criminal law, aiding in crime prevention in urban areas, improving the efficiency of laws, and ensuring fairness in the criminal justice system.<sup>3</sup> Along with its mandate, as directed by ECOSOC, the CCPCJ offers every Member State “a forum for exchanging expertise, experience and information in order to develop national and international strategies, and to identify priorities for combating crime.”<sup>4</sup> Since 1992, the CCPCJ has sought to improve the criminal justice system internationally and due to the work that the CCPCJ has done since its creation, its mandate expanded in 2006. This expansion allowed the CCPCJ to “function as a governing body of the United Nations Office on Drugs and Crime (UNODC), and to approve the budget of the United Nations Crime Prevention and Criminal Justice Fund, which provides resources for technical assistance in the field of crime prevention and criminal justice worldwide.”<sup>5</sup> With this expanded functionality, the CCPCJ is able to do more with both ECOSOC and the UNODC in their efforts to monitor criminal justice systems worldwide.

The CCPCJ has four main functions that fall under the jurisdiction of both ECOSOC and the UNODC. The first is the functional aspect of the CCPCJ through ECOSOC. In this arena, the CCPCJ’s mandate is to monitor criminal justice systems worldwide and to report on criminal trends in order to help prevent crimes from occurring. As a governing body of the UNODC, the commission provides assistance to Member States and it regulates budgetary concerns. The CCPCJ provides “substantive and organizational direction for the quinquennial United Nations Congress on Crime Prevention and Criminal Justice; it considers the outcome of the congresses and takes decisions on appropriate follow-up measures.”<sup>6</sup> Among the commission’s other duties, it participates in the Programme Network of Institutes, which maintains the link between Member States and the United Nations Crime Prevention and Criminal Justice Programme Network. The institute also “supports the efforts of the United Nations in the area of crime prevention and criminal justice and contributes to the work of the Commission.”<sup>7</sup> All of these functions enable the CCPCJ to review the UN standards on criminal justice and evaluate how those standards are implemented by Member States.

The CCPCJ is headquartered in Vienna, Austria, which also serves as the headquarters for the UNODC and other commissions falling under the UNODC purview. The commission meets annually, and often semi-annually, to discuss the needs of Member States. The first session of the CCPCJ was held April 21-30, 1992 and meets in the spring of every year; the latest meeting of the commission occurred December 12-13, 2013.<sup>8</sup> Each year, the commission focuses on one or two important aspects of crime prevention and criminal justice. The commission is currently in its 22<sup>nd</sup> session and focusing on a theme titled; “The challenge posed by emerging forms of crime that have a significant impact on the environment and ways to deal with it effectively.”<sup>9</sup> The commission functions so efficiently that it drafted seven resolutions to be adopted by the General Assembly and drafted five resolutions and two decisions to be adopted by ECOSOC. The CCPCJ also considers previous resolutions and how Member States

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<sup>1</sup> “The Commission on Crime Prevention and Criminal Justice,” <http://www.unodc.org/unodc/commissions/CCPCJ/>.

<sup>2</sup> ECOSOC RES/1992/1.

<sup>3</sup> “The Commission on Crime Prevention and Criminal Justice,” <http://www.unodc.org/unodc/commissions/CCPCJ/>.

<sup>4</sup> “The Commission on Crime Prevention and Criminal Justice,” <http://www.unodc.org/unodc/commissions/CCPCJ/>.

<sup>5</sup> “The Commission on Crime Prevention and Criminal Justice,” <http://www.unodc.org/unodc/commissions/CCPCJ/>.

<sup>6</sup> Mandate and Functions, Commission on Crime Prevention and Criminal Justice, <http://www.unodc.org/unodc/en/commissions/CCPCJ/ccpcj-mandate-functions.html>.

<sup>7</sup> Mandate and Functions, Commission on Crime Prevention and Criminal Justice, <http://www.unodc.org/unodc/en/commissions/CCPCJ/ccpcj-mandate-functions.html>.

<sup>8</sup> Documentation, The Commission on Crime Prevention and Criminal Justice, <http://www.unodc.org/unodc/en/commissions/CCPCJ/session/index.html>

<sup>9</sup> Meetings of the CCPCJ, <http://www.unodc.org/unodc/en/commissions/CCPCJ/ccpcj-more-information.html>

can better implement them. Since they act as a governing body they also consider budgetary issues brought to the attention of the CCPCJ and consider future issues for the body to address. While its meetings only last for a week, the CCPCJ is able to build consensus and accomplish an enormous amount of work. The CCPCJ takes its actions through resolutions and decisions adopted by the body.

The budget for the CCPCJ comes from the consolidated UNODC budget, which is currently USD 576.7 million. This budget includes USD 43 million (7.4 percent) from the regular UN budget and USD 533.7 million from voluntary contributions. Of that budget, USD 274.2 (51.4 percent) is for the drugs program and USD 295.5 million (48.6 percent) is for the crime program.<sup>10</sup> The CCPCJ plays a vital role in the budgetary processes of the UNODC and helps regulate the flow of money throughout the UNODC and its functioning commissions. The CCPCJ also relies on voluntary donor contributions, which come from different Member States, UN Agencies, Multi-Donor Trust Funds, Inter-Governmental Organizations and International Financial Institutions.<sup>11</sup> The voluntary donor contributions are funneled into two different pools; the General Purpose Fund, which finances executive directions and management, and the Special Purpose Funds, which funds technical cooperation and other work done by the UNODC. As a commission of the UNODC, the CCPCJ has access to all of this funding and plays a major role in how it is divided between the various commissions and working groups of the UNODC. The CCPCJ continues to play an integral role in the areas of criminal justice and crime prevention.

The current Member States of the CCPCJ include:

ALGERIA, ARGENTINA, AUSTRIA, BAHAMAS, BELARUS, BRAZIL, CAMEROON, CHINA, COLOMBIA, CROATIA, CUBA, CZECH REPUBLIC, DEMOCRATIC REPUBLIC OF CONGO, GERMANY, GHANA, INDONESIA, IRAN (ISLAMIC REPUBLIC OF), ITALY, JAPAN, KENYA, MAURITIUS, MEXICO, NAMIBIA, NIGERIA, NORWAY, PAKISTAN, PERU, REPUBLIC OF KOREA, RUSSIAN FEDERATION, SAUDI ARABIA, SIERRA LEONE, SOUTH AFRICA, SWITZERLAND, THAILAND, TUNISIA, UGANDA, UNITED ARAB EMIRATES, UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND, UNITED STATES OF AMERICA, URUGUAY.

## **Topic I: Addressing the Trafficking of Fraudulent Medicines across International Borders**

*“When a sick child or ill mother is in need of medicine, they must be given something that is effective. We must not let them suffer in pain and misery due to the greed of criminals. For this reason, fraudulent medicine is not a national or even a regional problem. It is our global problem.”*  
-Yury Fedotov, UNODC Director General

### ***Introduction***

The Commission on Crime Prevention and Criminal Justice (CCPCJ) is tasked with addressing the impact of crime within the global community and international courts. There are many aspects of crime and crime prevention, everything from committing a crime to how it is prosecuted. The CCPCJ is influential in all of these aspects by reporting on crime and tending to the criminal justice system, both internationally and domestically, as it provides legal tools and counsel for Member States. The CCPCJ is at the forefront of addressing new and emerging global crimes, as well as checking on the measures currently in place to address international crime. As the world becomes increasingly interconnected, so too does crime and its impact across international borders. The CCPCJ not only provides support to the United Nations (UN), they also support the efforts of Member States by offering “a forum for exchanging expertise, experience and information in order to develop national and international strategies, and to identify priorities for combating crime.”<sup>12</sup> While there are many different topics that are discussed by the CCPCJ, one issue has come to the forefront. The trafficking of fraudulent medicines first entered the CCPCJ radar in 2006; however, it has been a growing dilemma for many years prior to 2006. The CCPCJ has worked closely with the United Nations Office on Drugs and Crime (UNODC) and the World Health Organization (WHO) to adequately define what is considered to be fraudulent medicines. There has been considerable debate about what exactly

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<sup>10</sup> Funds and Partners, UNODC Budget, <http://www.unodc.org/unodc/en/donors/index.html?ref=menuaside>.

<sup>11</sup> Funds and Partners, UNODC Budget, <http://www.unodc.org/unodc/en/donors/index.html?ref=menuaside>.

<sup>12</sup> “The Commission on Crime Prevention and Criminal Justice,” <http://www.unodc.org/unodc/commissions/CCPCJ/>

qualifies as fraudulent medicines and because of that there is no universally accepted definition.<sup>13</sup> Many Member States, and the CCPCJ, use the term fraudulent more often because “pharmaceuticals are considered fraudulent if they differ substantially from what is indicated on the packaging. Vendors would be guilty of fraud if they were aware of this difference at the time of sale.”<sup>14</sup> In order to address this emerging crime, especially considering the difficulty in coming to a consensus as to what is considered fraudulent, the CCPCJ has adapted and developed its approach to this topic.

In the past, the CCPCJ has been guided by such conventions as the Single Convention on Narcotic Drugs of 1961 and its Amending Protocol in 1972, as well as the Convention on Psychotropic Substances of 1971. These conventions and protocol form the backbone of the CCPCJ’s response to drug trafficking and, as fraudulent medicines have grown into a booming field for criminals, they now guide the CCPCJ in addressing this problem.<sup>15</sup> Since the CCPCJ guides the activities of the UN in terms of crime prevention, its main goal has been finding ways to prevent the spread of fraudulent medicines sent over international borders. The trafficking of fraudulent medicines poses a serious risk to public health, as well as complicating how governments and businesses react to the loss of product and the flood of fraudulent medicines.<sup>16</sup> The impact of trafficking fraudulent medicines cuts across many spectrums and affects everything from the health of patients; the legitimate production of pharmaceuticals, loss of revenue, and it complicates international and national legal frameworks.<sup>17</sup> Since the trafficking of these medicines has become more organized over the years, the CCPCJ has begun treating it as a new ‘organized crime.’ By labeling the trafficking of fraudulent medicines as a form of organized crime, the CCPCJ is also able to draw upon the United Nations Convention against Transnational Organized Crime (UNTOC) from 2000 while handling cases of fraudulent medicines. The CCPCJ has continually used the multi-sector approach in addressing crime, its prevention and the prosecution of criminals, and has continued the use of this methodology to address the trafficking of fraudulent medicines.

### ***Current Situation***

Today, the CCPCJ is adapting to address emerging crimes, such as the trafficking of fraudulent medicines, by examining where this crime fits in the spectrum of drug trafficking. The biggest hindrance to classifying fraudulent medicines lies in the lack of distinction between fraudulent and counterfeit medicines in the language of UN documents. The CCPCJ is currently working to address this discrepancy within its meetings and resolutions. The CCPCJ is finding new ways of adapting to globalization by making tools such as assessment, international cooperation, databases, and legislative guides available to as many Member States as possible. By connecting Member States, the CCPCJ is able to allow for the sharing of information and technology in the fight against the trafficking of fraudulent medicines. One partnership that has proven most effective in addressing the trafficking of fraudulent medicines is between the CCPCJ and the WHO. The WHO plays a vital role in the collection and analysis of data regarding all aspects of world health. Since 1995, the WHO has collected data on government expenditures on health care services and programs. The global government expenditures on health have fluctuated over the years. In 2006, when fraudulent medicines began to be addressed by the UN; expenditures had lowered to 56.5 percent, and in 2011 expenditures rose to 57.7 percent.<sup>18</sup> According to the WHO, USD 3 trillion is currently spent on health services worldwide, which makes it a large and powerful target for various forms of corruption.<sup>19</sup> The WHO also estimates that “10-20 percent of global spending on public procurement of medicines is lost to corruption.”<sup>20</sup> This

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<sup>13</sup> “Fraudulent Essential Medicines from South Asia and East Asia to West Africa-Defining Fraudulent Essential Medicines,” The United Nations Office on Drugs and Crime, [http://www.unodc.org/documents/toc/Reports/TOCTAWestAfrica/West\\_Africa\\_TOC\\_FRAUD\\_MEDICINES.pdf](http://www.unodc.org/documents/toc/Reports/TOCTAWestAfrica/West_Africa_TOC_FRAUD_MEDICINES.pdf),

<sup>14</sup> Ibid.

<sup>15</sup> Treaties, The United Nations Office on Drugs and Crime, <http://www.unodc.org/unodc/en/treaties/index.html?ref=menuseide>

<sup>16</sup> “Trafficking in Fraudulent Medicines,” The Commission on Crime Prevention and Criminal Justice, <http://www.unodc.org/unodc/en/fraudulentmedicines/introduction.html>.

<sup>17</sup> “Trafficking in Fraudulent Medicines,” The Commission on Crime Prevention and Criminal Justice, <http://www.unodc.org/unodc/en/fraudulentmedicines/introduction.html>.

<sup>18</sup> “Health Financing: Health Expenditure Ratios by WHO Region,” The World Health Organization, <http://apps.who.int/gho/data/view.main.1880?lang=en>

<sup>19</sup> “Good Governance for Medicines: Curbing Corruption in Medicines Regulation and Supply,” The World Health Organization, <http://www.who.int/medicines/areas/policy/goodgovernance/GGM.pdf>

<sup>20</sup> Ibid.

kind of corruption leads to delayed medical care and, in extreme cases, death. Without access to the proper medications, patient illnesses continue to lead to prolonged and unnecessary suffering.

The WHO and the CCPCJ have been working on projections of how much the trafficking of fraudulent medicines will increase and its inevitable cost on Member States. In a global report done by the WHO in 2006, it reported that “each year hundreds of billions of dollars are siphoned from the world’s USD 3.1 trillion annual health spending into private pockets.”<sup>21</sup> The CCPCJ has found that corruption in annual health expenditures had led to the increase in trafficking of fraudulent medicines. This corruption has steadily increased since 2006 and the report makes sure to mention that this is an issue facing every Member State as a worldwide problem. The report showed that losses due to corruption are significant, “in the United States, both Medicaid and Medicare-government fund health insurance organizations-estimate that 5-10 percent of their budget is lost to overpayment. In Cambodia, researchers, health workers and administrators...said it was widely assumed that between 5 percent and 10 percent of the health budget disappears before it is even paid by the Ministry of Finance to the Ministry of Health.”<sup>22</sup> This problem affects all spectrums of the health care system. Patients are forced to make “under-the-counter” payments; for example, informal payments for medicines make up 56 percent of total health expenditures in Russia, which is also a problem in areas around the world.<sup>23</sup> The CCPCJ has found that “as with other forms of crime, criminal groups use, to their advantage, gaps in legal and regulatory frameworks, weaknesses in capacity and the lack of resources of regulatory, enforcement and criminal justice officials, as well as difficulties in international cooperation.”<sup>24</sup>

Corruption within the health care system has opened a door for criminals and new forms of organized crime in the trafficking of fraudulent medicines. The commission has noted that “the prospect of comparatively low risk of detection and prosecution in relation to the potential income make the production and trafficking in fraudulent medicines an attractive commodity to criminal groups, who conduct their activities with little regard to the physical and financial detriment, in not the exploitation, of others.”<sup>25</sup> With little to no repercussions, the CCPCJ is developing new measures that would increase reporting of fraudulent medicines being sold and improve international cooperation. During the 20<sup>th</sup> session of the CCPCJ in 2011, the commission adopted Resolution 20/6, which addressed the many different aspects of the trafficking of fraudulent medicines. The Resolution stresses that previous methods of defining fraudulent medicines are outdated and have expired, while noting with concern that this is a global issue with dire consequences.<sup>26</sup> In the effort to bring this issue to the forefront of the UN, the CCPCJ was candid in its discussions of the emergence of the trafficking of fraudulent medicines. In Resolution 20/6, the CCPCJ noted that “all stages of the fraudulent-medicine supply chain, in particular distribution and trafficking, require neither sophisticated infrastructure nor high level of skills, and that as new methods for identifying fraudulent medicines are developed, criminals continually improve their methods of replicating packaging, holograms and other physical aspects, as well as chemical composition of their products.”<sup>27</sup> The resolution also requested further cooperation between the UNODC and UN Agencies, Inter-Governmental Organizations, and regional organizations to assist Member States in building stronger networks to fight against this growing organized crime. The need for increased cooperation has never been greater, as this issue continues to plague Member States worldwide.

The trafficking of fraudulent medicines has become a lucrative business for traffickers. In 2011, the UNODC estimated the value of trafficking of fraudulent medicines was USD 1.6 billion in Africa and Asia alone.<sup>28</sup> This increase in trafficking has had a detrimental effect on both the developed and developing world, placing more and more lives at risk. The WHO indicated in 2011 that 3 in 10 pharmaceuticals in Africa, Asia and Latin America were

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<sup>21</sup> “New report on corruption in health,” Bulletin from the World Health Organization, <http://www.who.int/bulletin/volumes/84/2/news10206/en/>

<sup>22</sup> Ibid.

<sup>23</sup> Ibid.

<sup>24</sup> “Trafficking in Fraudulent Medicine,” The Commission on Crime Prevention and Criminal Justice, <http://www.unodc.org/unodc/en/fraudulentmedicines/introduction.html>

<sup>25</sup> Ibid.

<sup>26</sup> CCPCJ/RES/20/6

<sup>27</sup> Ibid.

<sup>28</sup> “Not what the doctor ordered-the growing links between fraudulent medicines and organized crime,” The United Nations Office on Drugs and Crime, <http://www.unodc.org/unodc/en/frontpage/2011/May/not-what-the-doctor-ordered-the-growing-linkages-between-fraudulent-medicines-and-organized-crime.html>

counterfeits.<sup>29</sup> They also indicated, “up to 50-60 percent of anti-infective medications tested in parts of Asia and Africa have been found to contain active ingredients outside acceptable limits.”<sup>30</sup> One of largest areas of concern for the CCPCJ is the developing world because not only are more of the medicines fraudulent, the people living there need them more than ever. As much as the developing world is plagued by the problem, it is an issue in the developed world as well. The European Customs Union “detected more than 3,200 attempts to import fake medicines (in cases involving almost 9 million items) in 2008 alone.”<sup>31</sup> What is even more startling than the increase in trafficking activity is its link to organized crime. The CCPCJ has noted this with great concern. Resolution 20/6 noted that the trafficking of fraudulent medicines was linked to organized crime, which allows the CCPCJ to utilize the UNTOC. This allows the CCPCJ to reinforce international cooperation between Member States.<sup>32</sup> While the CCPCJ has been able to learn more about this growing issue, it noted with concern that more needs to be done between Member States to combat this issue. The CCPCJ has requested the efforts of Member States to “adopt measures enhancing cross-border cooperation, including the exchange of information, joint investigations, special investigative and enforcement techniques at the national, regional and international levels, and to promote the cooperation of national law enforcement agencies aimed at curbing trafficking in fraudulent medicines, in particular by promoting existing tools and considering new tools.”<sup>33</sup> In order to combat this growing issue, the CCPCJ continues to stress the importance of Member States working together by using the tools that are readily available.

### ***Risks associated with Trafficking of Fraudulent Medicines***

There are many risks associated with the trafficking of fraudulent medicines, ranging from endangering patients in desperate need of medicines to the loss of revenue for Member States. One of the largest risks posed by the manufacturing and trafficking of fraudulent medicines is the harm that is done to patients in need of those medicines. The populations of Africa, East Asia and Latin America are at the greatest risk for loss of life and debilitating disease if they do not get the medicine they desperately need. The WHO estimates that “1 percent of medicines in the developed world are likely to be fraudulent. “This figure rises to 10 percent in various developing countries. In parts of Asia, Africa and Latin America, fraudulent pharmaceuticals amount to as much as 30 percent of the market.”<sup>34</sup> It is also estimated that one-third of malaria medicines in those same countries were fraudulent, which can lead to devastating effects for those who need that medication.<sup>35</sup> The inherent risks associated with fraudulent medicine are the particular dangers posed to the patients in the long term. What makes these medicines fraudulent is that they often contain ingredients that are not normally found in that specific medication. Some of these ingredients are highly toxic, such as rat poison, and can lead to loss of life. Another risk posed by fraudulent medicines is the condition in which they leave patients, even more vulnerable to disease than they already are. Without proper treatment, diseases that are normally treatable can last longer, leading to increased hospital care and larger expenditures for both the individual and health care providers. Further risks associated with aspects of trafficking fraudulent medicines are the effects they have on the dangerous diseases they are intended to treat. The manufacturing of fraudulent medicines “make some of the world’s most dangerous diseases and viruses stronger by contributing to the development of drug-resistant strains, as the active ingredients are no longer able to work correctly, more resistant strains are then passed on to other victims, and the legitimate drugs they take to fight the same disease are less effective.”<sup>36</sup>

What is even more disconcerting in the manufacturing and trafficking of fraudulent medicines is that fact that nearly any kind of medicine can be made fraudulently. Because of this, Member States are facing new challenges in monitoring this growing problem. Anything from antihistamines, to pain killers, to weight loss drugs can be made fraudulently, and in even graver cases, medicines that treat cancer and heart disease have been made and sold fraudulently.<sup>37</sup> While the health risks posed by fraudulent medicines increases, the risks posed to fight organized

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<sup>29</sup> Ibid.

<sup>30</sup> Ibid.

<sup>31</sup> Ibid.

<sup>32</sup> CCPCJ/RES/20/6

<sup>33</sup> Ibid.

<sup>34</sup> “Counterfeit Goods-A Bargain or a costly mistake?” UNODC, [http://www.unodc.org/documents/toc/factsheets/TOC12\\_fs\\_counterfeit\\_EN\\_HIRES.pdf](http://www.unodc.org/documents/toc/factsheets/TOC12_fs_counterfeit_EN_HIRES.pdf)

<sup>35</sup> Ibid.

<sup>36</sup> Ibid.

<sup>37</sup> Ibid.

crime has been on the increase as well. The CCPCJ and other UN agencies have noted a growing trend in the relationship between the trafficking of fraudulent medicines and organized crime. Criminals are finding new products to manufacture and sell illegally. The General Assembly (GA) adopted one of the first international conventions against organized crime, the UNTOC, on 15 November 2000 in resolution A/RES/55/25. This convention entered into force on 29 September 2003 and is the main instrument to fight transnational organized crime on the international level.<sup>38</sup> This landmark agreement was one of the first major steps in the fight against organized crime and it aimed to enhance international cooperation. The broad definition of an “organized criminal group” allows for the even broader use of the convention. According to Article 2, sub-clause A, an “organized criminal group shall mean a structured group of three or more persons, existing for a period of time and acting in concert with the aim of committing one or more serious crimes or offences established in accordance with this convention, in order to obtain directly or indirectly, a financial or other material benefit.”<sup>39</sup> The convention further defines “serious crime” as anything that is punishable by a deprivation of liberty for a minimum of four years.<sup>40</sup> Its use of the Convention on Organized Crime allows the CCPCJ to target specific aspects of the trafficking of fraudulent medicines. The CCPCJ is committed to a multi-sector, broad-based approach to dealing with this growing problem.

### ***Action Taken by the CCPCJ***

The topic of fraudulent medicines was recently the subject of the CCPCJ agenda in Vienna. On 14-15 February, the UNODC hosted a technical, high-level conference on the trafficking of fraudulent medicines. At this conference, representatives from different agencies such as law enforcement, regional organizations, and Member States met to discuss trafficking. The current Executive Director of the UNODC, Mr. Yury Fedotov, of the Russian Federation, opened the conference by addressing the severity of the growing fraudulent medicines market and remarked how each Member State has a part to play in eradicating this debilitating trend. He noted that “where medicine is designed to bring treatment and relief, fraudulent medicines deliver only suffering, misery and even death.”<sup>41</sup> Because of the alarming nature of this issue and the fact that it is a problem affecting all Member States, the CCPCJ used Resolution 20/6 as a starting point for its work on trafficking. The resolution developed a nine-point program for addressing the trafficking of fraudulent medicines across international borders. The resolution calls for and encourages (1) the strengthening of current mechanism and measures; (2) new legislation passed on the national level; (3) a review of current regulatory frameworks; (4) the adoption of new measures enhancing cross border cooperation; (5) more publications on the harmful effects of fraudulent medicines; (6) strengthening of research done by the UNODC; (7) identification of areas prone to the trafficking of fraudulent medicines; (8) increased cooperation between UN bodies and outside agencies; and (9) the UNODC to assist Member States as needed.<sup>42</sup> This comprehensive plan addresses the more critical aspects of the trafficking of fraudulent medicines.

The first three points in the action plan against the trafficking of fraudulent medicines work hand in hand to address the severe gaps in legislation. As pointed out earlier, criminals are taking advantage of these gaps, which is causing an increase in this particular kind of drug trafficking. During the February conference on fraudulent medicines, Executive Director Fedotov also noted that using the UNTOC, the UNODC, and CCPCJ will strengthen existing measures against trafficking. Mr. Fedotov stated that “the UN Convention of Transnational Organized Crime is the basis for our work and for the cooperation necessary to confront this crime. UNTOC provides for the exchange of information, the application of investigative powers, and information sharing that is often invaluable in these types of criminal operations.”<sup>43</sup> Many Member States are working to improve existing legislation as well as implement new legislation regarding the trafficking of fraudulent medicines; one example is the work of the European Union (EU). In 2011, the EU issued Directive 2011/62/EU, which also amended a previous directive regarding falsified medicines. The directive covers many aspects of the trafficking of fraudulent medicines, everything from awareness campaigns concerning falsified medicines, to how to identify distributors. The directive stresses that “it is important

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<sup>38</sup> United Nations Convention against Transnational Organized Crime and the Protocols Thereto, UNODC, <http://www.unodc.org/unodc/en/treaties/CTOC/index.html>

<sup>39</sup> United Nations Convention against Transnational Organized Crime, <http://www.unodc.org/documents/treaties/UNTOC/Publications/TOC%20Convention/TOCebook-e.pdf>

<sup>40</sup> Ibid.

<sup>41</sup> Remarks at the UNODC Conference on the Illicit Trafficking of Fraudulent Medicines, Yury Fedotov, Executive Director of the UNODC, 14 February 2013, <http://www.unodc.org/unodc/en/speeches/remarksconfraudulentmedicines14.02.13.html>

<sup>42</sup> CCPCJ RES 20/6

<sup>43</sup> Remarks at the UNODC Conference on the Illicit Trafficking of Fraudulent Medicines, Yury Fedotov.

that the competent authorities of the Member States, the Commission and the Agency cooperate to ensure the exchange of information in measures taken to combat the falsification of medical products and on the penalties systems that are in place.”<sup>44</sup>

The next three points, four through six, cover areas of researching and reporting, which are also important aspects of the trafficking of fraudulent medicines. Mr. Fedotov noted, “Confidence in public health is falling and the costs of health are rising in countries that can ill afford such costs.”<sup>45</sup> The burden of dealing with fraudulent medicines often falls on the world’s most poor; however, all areas of the world are in some way affected by this crime. Cooperation between Member States and international organizations is necessary because without that critical aspect, many cases of trafficking of fraudulent medicines would go unreported. Mr. Ts. Gandbold, the Head of Internal Policy Division of the Ministry of Justice for Mongolia, noted at the Vienna conference that, “the number of investigations and enquiries related to the trafficking of fraudulent medicines and illicit drugs, its production, import, trade, distribution and other deductive substances increases each year.”<sup>46</sup> In 2008 and 2009, there were only nine cases of trafficking of fraudulent medicines reported in Mongolia; however, by 2012 that number had risen to 20. By disseminating this information, the public has become more aware of the problem and Mongolia is currently implementing a plan to strengthen its policies toward fraudulent medicines being trafficked into the country. Member States rely on the research and aid of the WHO in tracking and monitoring the influx of fraudulent medicines being trafficked into their borders. By strengthening these ties, Member States are able to better address policy changes that are made at the national level and with accurate reporting, Member States have a better idea of just how much fraudulent medicines make it across their borders.

The final points in the action plan against the trafficking of fraudulent medicines involve stronger cooperation and increased aid from the UNODC and CCPCJ. The UNODC and CCPCJ play a vital role in monitoring the trafficking of illicit goods across international borders. By working more closely with the UNODC and CCPCJ, Member States are able to take advantage of legal tools, research, and the sharing of information among Member States. A key role that the CCPCJ plays in this relationship are gathering information about areas that are experiencing higher trafficking rates than others. The CCPCJ has been closely monitoring the trade between Southeast Asia and Africa, which is responsible for the largest organized fraudulent medicines market. The UNODC reported that, “in West Africa there has been a marked increase in fraudulent medicines, including antibiotics, antiretroviral drugs and medicines to fight life-threatening diseases such as malaria and tuberculosis. Meanwhile, in Asia—a key manufacturer of legal medicine—the production of fraudulent drugs is seen to be on the rise.”<sup>47</sup> It is estimated that approximately two-thirds of fraudulent medicines were trafficked out of East Asia to different areas of the world.<sup>48</sup> INTERPOL and the World Customs Organization (WCO) play a critical role in the reporting process, as they link law enforcement agencies across international borders.

### ***A Case Study: Trafficking of Fraudulent Medicines between Asia and Africa***

As discussed, the trade of fraudulent medicines between Asia and Africa is stronger than in any other area of the world. The value of this trade stands at nearly USD 5 billion and one-third to two-thirds of medicines tested in forensic lab were found to be fraudulent.<sup>49</sup> The UNODC, CCPCJ, WCO, and WHO have spent the past several years gathering data about fraudulent medicines from Asia and Africa. In their research, they determined that fraudulent medicines originating from Asia and Africa fall under two categories: lifestyle medicines, such as Viagra and diet pills, and essential medicines, such as malaria medication. While both are on the rise, the rate at which fraudulent essential medicines are rising is alarming. In Uganda, 62 percent of a 2002 sampling of anti-malaria medication failed chemical analysis. In Nigeria, 57 percent of a 2007 sampling of the same medication failed chemical analysis.

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<sup>44</sup> Directive 2011/62/EU, clause 34.

<sup>45</sup> Remarks at the UNODC Conference on the Illicit Trafficking of Fraudulent Medicines, Yury Fedotov.

<sup>46</sup> Remark at the UNODC Conference on the Illicit Trafficking of Fraudulent Medicines, Mr. Ts. Gandbold, the Head of Internal Policy Division of the Ministry of Justice for Mongolia, [http://www.unodc.org/documents/organized-crime/FM/Ts\\_Gandbold.pdf](http://www.unodc.org/documents/organized-crime/FM/Ts_Gandbold.pdf)

<sup>47</sup> Counterfeit goods: a bargain or a costly mistake; Transnational Organized Crime, The UNODC, <http://www.unodc.org/toc/en/crimes/counterfeit-goods.html>

<sup>48</sup> Counterfeit goods: a bargain or a costly mistake; Transnational Organized Crime, The UNODC, <http://www.unodc.org/toc/en/crimes/counterfeit-goods.html>

<sup>49</sup> Fraudulent essential medicines from East Asia to Southeast Asia and Africa, The UNODC, [http://www.unodc.org/documents/toc/Reports/TOCTA-EA-Pacific/TOCTA\\_EAP\\_c12.pdf](http://www.unodc.org/documents/toc/Reports/TOCTA-EA-Pacific/TOCTA_EAP_c12.pdf), 129.



Later in 2009, 82 percent of a sampling in Ghana also failed chemical analysis.<sup>50</sup> In fact, 27 to 82 percent of samplings of anti-malaria medications failed chemical analysis in varying countries in Africa. While it seems that Africa is the main destination for many fraudulent medicines, East/Southeast Asia is the main hub from where they are originating. In 2010, the WCO found that China and India were the top two origins of fraudulent medicines and that China detected more fraudulent medicines than any other country in the world.<sup>51</sup>

Africa and Asia are more susceptible to the trafficking of fraudulent medicines because there is no database that monitors such activity. Because of this, the area relies heavily upon the aid of INTERPOL and the WCO to compensate for the lack of monitoring and adequate law enforcement. Between 2001 and 2006, INTERPOL led seven different operations to seize fraudulent medicines; four of these operations were in Africa alone, while two were based in East Asia and another one covered East Asia and Kenya. In 2008, Operation Storm detected counterfeit medicines in Myanmar and Kenya. In 2010, Operation Storm II in Southeast Asia “led to the seizure of millions of dollars worth of fraudulent antibiotics, anti-malarials, birth control medicines, anti-tetanus serums, and pain-relief medications.”<sup>52</sup> While a vast amount of the data collection has been centered on the medications themselves and whether or not they are indeed fraudulent, new testing is allowing forensic teams to pin point where the medicines originated. In 2011, Operation Jupiter found that “321 samples manufactured by one major Asian producer (Guilin Pharmaceutical from China’s Guangxi region), 61 percent were found to be counterfeit.”<sup>53</sup> From the Jupiter Operation, the UNODC was able to trace the origins of the fraudulent medicines to a specific region in China, and forensic testing determined that some of the medicines that had reached Africa came from Asia.<sup>54</sup> Corruption is so widespread that many regulatory agencies in Asia and Africa can hardly contain the trafficking of these fraudulent medicines. The Chinese government has spent a considerable amount of time sweeping various areas for fraudulent medicines. The melamine scandal of 2008, when nearly 300,000 children fell ill after drinking powdered milk tainted with melamine, caused China’s Food and Drug regulatory agency to reevaluate its standards.<sup>55</sup> The Chinese have increased their sweeps and, in 2011, found that there was widespread counterfeiting in the Henan province and a network in the Guangxi Zhuang Autonomous Region that was producing 710 fraudulent medicines of differing varieties.<sup>56</sup> Because of these sweeps, the Chinese government has been able to crack down on the amount of fraudulent medicines produced inside its borders.

A critical aspect of the trafficking of fraudulent medicines is how the trades are being conducted. This information is even more critical in areas more susceptible to the trafficking of fraudulent medicines. The key is to find which pharmaceutical agencies are legitimately manufacturing medicines and follow correct recipes for medications, and which are not. It can be difficult to trace where exactly these medicines are being fraudulently produced, especially considering that according to the CCPCJ, much of the production is done on a small scale. The WHO reported that “the manufacture of fraudulent medicines is often a small-scale cottage industry, conducted in informal settings such as garages and small warehouses. Many detected operations fit this description, in which chemicals are stored in pies on the floor and distributed with shovels.”<sup>57</sup> It is also challenging because many larger pharmaceutical companies have been known to produce fraudulent medicines, especially if under financial pressure.<sup>58</sup> Once the medicines have been altered or produced, it takes very little to organize for shipment across international borders. The CCPCJ faces the challenge of trying to monitor when reports of fraudulent medicines reach its offices and monitor the trade routes, which can be difficult when this trafficking is done on such a small scale. Criminals often take advantage of gaps in law enforcement in areas of Asia and Africa, which makes the area more susceptible to this kind of trafficking. The challenge presented to the CCPCJ is that this crime does not require a coherent organization and can be performed by anyone without a strong, central organized identity.<sup>59</sup> Because Asia and Africa are more susceptible to the trafficking of fraudulent medicines, the area has garnered more focus from the CCPCJ and the UNODC.

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<sup>50</sup> Ibid, 132.

<sup>51</sup> Ibid,132.

<sup>52</sup> Ibid, 133.

<sup>53</sup> Ibid, 133.

<sup>54</sup> Ibid, 133.

<sup>55</sup> Ibid, 134.

<sup>56</sup> Ibid, 134.

<sup>57</sup> Ibid, 134.

<sup>58</sup> Ibid, 134.

<sup>59</sup> Ibid, 135.

## *Legal Framework for Addressing Trafficking*

Much of the legal work done on this topic is carried out at the national level, something the CCPCJ has strongly encouraged. On the international level, the legal frameworks guiding the CCPCJ are the conventions and treaties previously mentioned. The Convention on Narcotics and Drugs of 1961, its amended Protocol of 1972, and the Psychotropic Convention of 1971 guide the work of the CCPCJ with regards to the prosecution and prevention of the trafficking of fraudulent medicines. The CCPCJ has worked to introduce the Convention on Organized Crime as a new means of addressing this crime, as it is becoming more organized. Because of the harmful, sometimes deadly effects of ingesting fraudulent medicines, the CCPCJ is working to increase cooperation between various agencies in the UN and other international organizations. Those responsible for the trafficking of fraudulent medicines take advantage of the gaps in international law, which is something the CCPCJ is seeking to remedy. The CCPCJ acknowledges that “while focus has been given to the health and regulatory aspect of this problem, it appears that less attention has been given to the issue from a criminal justice perspective.”<sup>60</sup> The CCPCJ is willing and prepared to assist Member States on the international level; however, much of the work is to be done at the domestic level. During the 2013 Technical Conference in Fraudulent Medicines, various Member States discussed what methods of addressing this crime have worked for their countries.

Linda Marks, a Senior Litigator for the US Department of Justice, shared some of the challenges facing the US and how it has addressed this crime. A trend that Marks has noticed is that some physicians order medicines from unlicensed brokers or wholesalers and these medicines are often fraudulent and have been tampered with or altered.<sup>61</sup> Often these medicines or drugs do not meet standards set by the US Food and Drug Administration and are not properly stored or shipped, which can further tamper with the medications. There are provisions in the US that allow for the prosecution of those who illegally sell and tamper with medications, as set forth by the Federal Food, Drug and Cosmetic Act. Under the law, the medicines are classified as “misbranded,” meaning the labeling is false or misleading, or “adulterated,” meaning a difference in the quality or purity of the medication.<sup>62</sup> The penalty, under law, for tampering with medications is steep; it comes with a 20-year maximum sentence in prison and a USD 1 million fine for intentionally adulterating a medication or drug.<sup>63</sup> Marks identified two main global challenges to addressing this growing problem. The first is tracing the money required to manufacture and purchase fraudulent medicines, as this crime often lacks a substantial paper trail for investigations to follow. The other key challenge is tracking the packages containing fraudulent medicines, as addresses are often unreported as well as declarations in packages crossing international borders.

Another example of the legal framework in addressing the trafficking of fraudulent medicines is the national strategies set forth by Argentina. Maximiliano Derecho, Legal Adviser for the National Program for the Control of Drugs and Medical Devices Market, reported on Argentina’s legal framework for prosecution. Under Argentine law, the penalty for creating fraudulent medicines is three to ten years in prison and a fine up to 200 pesos.<sup>64</sup> Along with prosecuting those guilty of trafficking of Fraudulent Medicines, Argentina, like many Member States, is working on more efficient means of tracing fraudulent medicines. Its strategy encourages better identification of suspicious packages, strengthening the language of laws against the trafficking of fraudulent medicines, and better reporting of incidences of fraudulent medicines. By strengthening its laws, Argentina has seen an increase in reported cases of fraudulent medicines moving throughout the country. Between 1997 and 2003, only 253 cases were reported, and between 2004 and 2012, 278 cases were reported.<sup>65</sup> Along with more reports being filed, investigations into the trafficking of fraudulent medicines have steadily increased since 1997.<sup>66</sup> Since 1997, there have been 853 legal proceedings involving the manufacturing and trafficking of fraudulent medicines and 42 underground labs have been

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<sup>60</sup> Trafficking in Fraudulent Medicines, the CCPCJ, <http://www.unodc.org/unodc/en/fraudulentmedicines/introduction.html>

<sup>61</sup> Challenges Investigating and Prosecuting Pharmaceutical Crime, Linda Marks, Senior Litigation Counsel, Consumer Protection Branch, US Department of Justice, Technical Conference on Trafficking in Fraudulent Medicines, [http://www.unodc.org/documents/organized-crime/FM/Linda\\_Marks.pdf](http://www.unodc.org/documents/organized-crime/FM/Linda_Marks.pdf)

<sup>62</sup> Ibid.

<sup>63</sup> Ibid.

<sup>64</sup> National and Regional Strategies against Fraudulent Medicines, Maximiliano Derecho, Legal Adviser-National Program for the Control of Drugs and Medical Devices Market, Argentina, [http://www.unodc.org/documents/organized-crime/FM/Maximiliano\\_Derecho.pdf](http://www.unodc.org/documents/organized-crime/FM/Maximiliano_Derecho.pdf)

<sup>65</sup> Ibid.

<sup>66</sup> Ibid.

dismantled, which has been a huge step in a positive direction in cracking down on the trafficking of fraudulent medicines. While more work needs to be done, Member States are working to strengthen their own legislation and strengthening international conventions against the trafficking of fraudulent medicines.

### ***Conclusion***

While this topic may be an emerging topic for the CCPCJ, substantial work is being done to ensure that it does not evolve into an even larger global issue. The CCPCJ has worked to increase awareness of this issue and while there are no records of cases being tried on the international level, substantial work is being done on the national level. As a member of the UNODC, the CCPCJ has a vital role to play in monitoring and reporting on many topics relating to crime and its prosecution. The trafficking of fraudulent medicines is one of the fastest growing issues that the CCPCJ and UNODC have to address and with the challenges facing the international community, the need for cooperation is great. For as many challenges as there are, the international community has done a great deal of work to strengthen existing legal frameworks and encouraging innovative legislation at the national level. While the CCPCJ is able to do a lot of work to address this issue, the problem will only get worse in the future unless Member States come together. The functions of the CCPCJ allow it to provide ample resources to Member States, including forensic labs which analyze drugs that are suspected to be fraudulent, information regarding the criminal justice system and law enforcement, access to regulatory and health authorities, and information and standards published in manuals. There are also a number of legal tools available to Member States through the CCPCJ and UNODC, which have allowed Member States to address the trafficking of fraudulent medicines. In order to fully address this topic, more work needs to be done both nationally and internationally that will tighten the gaps in law enforcement, which criminals are able to take advantage of and manipulate. The trafficking of fraudulent medicines is an important issue for the CCPCJ and one that it is working hard to bring to light. With more work and increased reporting, the CCPCJ will be able to better address crime in the future.

### ***Committee Directives***

There are many areas of this topic that can be explored by delegates of the CCPCJ—the first being how Member States are addressing this issue. This is an important issue that the body needs to address, especially considering that it affects each and every Member State in some way. Delegates should explore the laws relating to the trafficking of fraudulent medicines and any initiatives to raise awareness of this crime. This is a sensitive issue because it relates to national law, which varies with every Member State. Delegates should come prepared to openly debate this issue, despite differences in the rule of law between Member States. There are several questions that would be important for delegates to answer: What is being done nationally? What role each Member State plays in addressing this issue internationally? Are there laws regarding the trafficking of fraudulent medicines in their country? How can the international community foster more international cooperation? The delegates should come prepared to answer these questions and further debate what can be done to address this crime and how it can be addressed by each Member State.

## II: Assessing Measures of Combating Maritime Piracy

*“The challenge of piracy cannot be resolved solely at sea. Piracy needs to be addressed on shore – where it starts – if it is ever to be resolved. An on shore solution is the effective and permanent way to eliminate piracy and the hazards that affect seafarers, and also to eliminate the \$5 billion a year that piracy costs industry. Only when Somalis and West Africans have greater access to jobs than to guns will they turn to work rather than to piracy.”<sup>67</sup>*  
Marcel Arsenault

### Introduction

The issue of maritime piracy began well over 2000 years ago along with the creation of trade routes and commercial shipping. As a result, merchants were plagued by pirates who sought the opportunity to become profitable through the seizure of cargo, goods, treasures and even human beings who were enslaved for ransom, murdered or recruited as a crewmember.<sup>68</sup> Over the past decade, maritime piracy has resurfaced as a significant global topic due to an influx of recent incidents, which ultimately have resulted in a worldwide impact on varying levels. While the last three years have witnessed a decline in overall piracy-related incidents, and more specifically a decrease in hostage situations, piracy attacks are still occurring despite international efforts.<sup>69</sup> In fact, pirate attacks have dropped 95 percent over the past year.<sup>70</sup> Despite this decrease, a total of 234 incidents, including 12 hijackings, were reported worldwide by mid-2013.<sup>71</sup> In total, 264 attacks worldwide were reported by the end of 2013, the lowest figures over the last six years.<sup>72</sup>

In 2012, the 21<sup>st</sup> Session of the Commission on Crime Prevention and Criminal Justice (CCPCJ) adopted ten resolutions in total, three of which emphasized civilian private security, maritime piracy and the connection between organized crime and terrorism.<sup>73</sup> The United Nations Office on Drugs and Crime (UNDOC), an extension of the CCPCJ, has worked with the United Nations Crime Prevention and Criminal Justice Programme Network to promote solid international cooperation.<sup>74</sup> The UNDOC also created the Counter Piracy Programme, which has been expanded tremendously since its inception in 2009.<sup>75</sup> The UNODC is currently supporting piracy prosecutions in Kenya, Seychelles, Mauritius and Somalia.<sup>76</sup> With over 1,200 suspected or convicted pirates detained in 21 Member States around the world, UNODC’s work on counter piracy remains highly relevant.<sup>77</sup>

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<sup>67</sup> Oceans Beyond Piracy, “The Human Cost of Maritime Piracy, 2012,” (2013), available from <http://www.mphrp.org/publications/HCoP2012FullReport.pdf>, Accessed 27 December 2013.

<sup>68</sup> Royal Navy The National Museum, “A Brief History of Piracy,” (2012), available from [http://www.royalnavalmuseum.org/info\\_sheets\\_piracy.htm](http://www.royalnavalmuseum.org/info_sheets_piracy.htm), Accessed 26 December 2013.

<sup>69</sup> The Maritime Executive, “EU To Lead International Counter-Piracy Efforts in 2012,” (2013), available from <http://www.maritime-executive.com/article/EU-to-Lead-International-CounterPiracy-Efforts-in-2014-2013-12-26/>, Accessed 27 December 2013.

<sup>70</sup> Ibid.

<sup>71</sup> Oceans Beyond Piracy, “The Human Cost of Maritime Piracy, 2012,” (2013), available from <http://www.mphrp.org/publications/HCoP2012FullReport.pdf>, Accessed 27 December 2013.

<sup>72</sup> Rick Gladstone, “Global Piracy Hits Lowest Level Since 2007, Report Says,” The New York Times, (January 2014), available from [http://www.nytimes.com/2014/01/16/world/africa/global-piracy-hits-lowest-level-since-2007-report-says.html?ref=piracyatsea&\\_r=0](http://www.nytimes.com/2014/01/16/world/africa/global-piracy-hits-lowest-level-since-2007-report-says.html?ref=piracyatsea&_r=0), Accessed 15 January 2014.

<sup>73</sup> Delegation of the European Union to the International Organisations in Vienna, “CCPCJ 21<sup>st</sup> Session 04/05/2012,” available from [http://eeas.europa.eu/delegations/vienna/press\\_corner/news\\_un/2012/20120504\\_en.htm](http://eeas.europa.eu/delegations/vienna/press_corner/news_un/2012/20120504_en.htm), Accessed 23 December 2013.

<sup>74</sup> United Nations Office on Drugs and Crime, “Commission on Crime Prevention and Criminal Justice,” (2014), available from <http://www.unodc.org/unodc/en/commissions/CCPCJ/ccpcj-mandate-functions.html>, Accessed 22 December 2013.

<sup>75</sup> United Nations Office on Drugs and Crime, “Counter Piracy Programme, Support to the Trial and Related Treatment of Piracy Suspects,” (March 2013), available from [http://www.unodc.org/documents/easternafrika/piracy/UNODC\\_Brochure\\_Issue\\_11\\_wv.pdf](http://www.unodc.org/documents/easternafrika/piracy/UNODC_Brochure_Issue_11_wv.pdf), Accessed 23 December 2013.

<sup>76</sup> Ibid.

<sup>77</sup> Ibid.

Although piracy is not exclusive to the aforementioned Member States only, the majority of piratical dispute has occurred in four regions: “the Gulf of Aden, near Somalia and the southern entrance to the Red Sea; the Gulf of Guinea, near Nigeria and the Niger River delta; the Malacca Strait between Indonesia and Malaysia; and off the Indian subcontinent particularly between India and Sri Lanka.”<sup>78</sup> Statistics conclude that the Horn of Africa region and more specifically, the Somali Basin have become a habitually problematic area with a recent surge in hijacking incidents.<sup>79</sup> While most attacks have been directed against cargo vessels, attempts on various cruise ships and private vessels, such as yachts, have occurred throughout Member States, such as Venezuela, and in the Gulf of Aden region.<sup>80</sup>

Because maritime piracy is transnational in nature, international law is handed the difficult task of providing regulations and enforcement. Challenged by Member States’ national sovereignty as well as the vastness of the seas themselves, international piracy legislation can be problematic in that many officials feel the United Nations (UN) definition of piracy is simply too narrow.<sup>81</sup> The 1958 Geneva Convention on the High Seas and the 1982 United Nations Convention on the Law of the Sea (UNCLOS) first attempted to recognize the evolution of maritime piracy as an international crime.<sup>82</sup> With the support of the General Assembly, as well as the Security Council, “the 1982 UNCLOS provides the framework for the repression of piracy under international law, in particular, articles 100 to 107 and 110.”<sup>83</sup>

Furthermore, article 101 of UNCLOS details piracy as “any illegal acts of violence or detention, or any act of depredation, committed for private ends by the crew or the passengers of a private ship or a private aircraft, and directed on the high seas.”<sup>84</sup> This specific clause has been controversial because it calls into question the exact definition of what qualifies as a maritime piracy attack and what action the international community can implement.

*“when piracy was first subject to regulation under the Law of the Sea, nearly all of the world’s oceans were considered high seas... However, under the new law of the sea as reflected in UNCLOS, vast tracts of the world’s oceans have now fallen under sovereignty and jurisdiction of coastal states. Under the UNCLOS, an act of piracy can therefore only occur beyond the limits of the territorial sea, which in most cases extends 12 nautical miles from the coastline. One consequence of these developments is that the modern law on piracy has been significantly constrained so as to effectively fall into two categories: piracy on the high seas beyond the 12 nautical mile limit of coastal State jurisdiction and sovereignty; and pirate-type acts which occur within territorial waters, including the waters of archipelagic States such as Indonesia.”<sup>85</sup>*

As detailed above, this piece of international law is tricky because it imposes a limitation on the prosecution of perpetrators based upon jurisdictional restrictions. Further concerning, when the acts do occur within territorial waters, Member States that lack an environment of political stability (as in the case of Somalia) have difficulty enforcing measures.<sup>86</sup> This concept brings us back to the initial theory that although international in nature, combating maritime piracy must also be addressed at its origin - on land and within the particular Member State.

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<sup>78</sup> Council on Foreign Relations, “Combating Maritime Piracy,” (March 2012), available from <http://www.cfr.org/piracy/combating-maritime-piracy/p18376>, Accessed 23 December 2013.

<sup>79</sup> International Maritime Organization, “Piracy and Armed Robbery Against Ships,” available from <http://www.imo.org/OurWork/Security/PiracyArmedRobbery/Pages/Default.aspx>, Accessed 23 December 2013.

<sup>80</sup> U.S Passports & International Travel, “International Maritime Piracy and Armed Robbery Fact Sheet,” available from <http://travel.state.gov/content/passports/english/emergencies/piracy.html>, Accessed 23 December 2013.

<sup>81</sup> James Wombwell, “Occasional Paper 32,” Combat Studies Institute Press, available from [http://usacac.army.mil/cac2/cgsc/carl/download/csipubs/OP32\\_Piracy.pdf](http://usacac.army.mil/cac2/cgsc/carl/download/csipubs/OP32_Piracy.pdf), Accessed 23, 2013.

<sup>82</sup> Crimes of War, “Maritime Piracy and International Law,” available from <http://www.crimesofwar.org/commentary/maritime-piracy-and-international-law/>, Accessed 23 December 2013.

<sup>83</sup> Oceans & Law of The Sea, United Nations Division for Ocean Affairs and the Law of the Sea, “Piracy Under International Law,” (April 2012), available from <http://www.un.org/Depts/los/piracy/piracy.htm>, Accessed 23 December 2013.

<sup>84</sup> James Wombwell, “Occasional Paper 32,” Combat Studies Institute Press, available from [http://usacac.army.mil/cac2/cgsc/carl/download/csipubs/OP32\\_Piracy.pdf](http://usacac.army.mil/cac2/cgsc/carl/download/csipubs/OP32_Piracy.pdf), Accessed 23, 2013.

<sup>85</sup> Crimes of War, “Maritime Piracy and International Law,” available from <http://www.crimesofwar.org/commentary/maritime-piracy-and-international-law/>, Accessed 23 December 2013.

<sup>86</sup> *Iid.*

Another difficult task in combating maritime piracy is the assessment or value of loss. While international law may form its policy around the protection of the high seas and various economic operations, it does not necessarily focus on the human cost caused by acts of piracy. The ongoing challenges that local seafarers, fisherman, and their families continue to face should also be considered given the physical and psychological abuse, which ensues from these attacks.<sup>87</sup> Kidnapping, ransoms, armed attacks, and fatalities are just a few of the many types of attacks carried out upon vessels.<sup>88</sup> Furthermore, depending on the duration or type of hostage situation, families that are already facing economic hardship must endure additional adversity when a working member of the family unit is absent. Some family members are confronted by negotiators who demand ransom money for the safe return of their loved ones or are approached by barterers who will exchange pictures of the captive for funds.<sup>89</sup> These criminal acts may result in loss of life, physical harm or hostage-taking of seafarers, significant disruptions to commerce and navigation, financial losses to ship owners, increased insurance premiums and security costs, increased costs to consumers and producers, and damage to the marine environment.”<sup>90</sup>

Despite awareness and significant successful initiatives, ongoing threats to maritime security must continue to be addressed. International coordination with sovereign Member States is an absolute necessity in order to resolve the constraints previously mentioned. With a thorough understanding of the current environment, as well as a comprehension of existing regional approach, future proposals that adhere to both the international community and individual Member State can then begin to address the underlying roots of maritime piracy.

### *History*

A cavernous analysis of maritime piracy indicates deep historical roots dating back to the Laws of Hammurabi (1948-1905 BC) and, more commonly referred, to the Greek’s Cretan Navy, which was formed to repress piratical activity in the Aegean Sea.<sup>91</sup> Historically, pirates were entrusted with the responsibility of carrying out attacks for political objective and capturing the merchant of enemy ships.<sup>92</sup> “Between the sixteenth and nineteenth centuries, there have been different types of pirates, these being privateers, buccaneers and corsairs”; although quite distinctive, these terms have been used interchangeably.<sup>93</sup> The corsairs, also known as the Barbary Corsairs, derived from the Ottoman Empire and were either Muslim or converts from Christianity to Islam.<sup>94</sup> The corsairs’ territory consisted of North Africa and most of their incursions were against Christian ships from the Mediterranean.<sup>95</sup> The buccaneers operated out of the West Indies and were known to invade Spanish vessels moving throughout the Caribbean.<sup>96</sup> Lastly, privateers had written permission from the government to attack enemy ships.<sup>97</sup> “They shared their profits with the government. Between the sixteenth and eighteenth centuries, also known as the “Golden Age of

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<sup>87</sup> Oceans Beyond Piracy, “The Human Cost of Maritime Piracy, 2012,” (2013), available from <http://www.mphrp.org/publications/HCoP2012FullReport.pdf>, Accessed 27 December 2013.

<sup>88</sup> Ibid.

<sup>89</sup> Ibid.

<sup>90</sup> Oceans & Law of The Sea, United Nations Division for Ocean Affairs and the Law of the Sea, “Piracy Under International Law,” (April 2012), available from <http://www.un.org/Depts/los/piracy/piracy.htm>, Accessed 23 December 2013.

<sup>91</sup> James Wombwell, “Occasional Paper 32,” Combat Studies Institute Press, available from [http://usacac.army.mil/cac2/cgsc/carl/download/csipubs/OP32\\_Piracy.pdf](http://usacac.army.mil/cac2/cgsc/carl/download/csipubs/OP32_Piracy.pdf), Accessed 23, 2013.

<sup>92</sup> Ibid.

<sup>93</sup> Royal Navy The National Museum, “A Brief History of Piracy,” (2012), available from [http://www.royalnavalmuseum.org/info\\_sheets\\_piracy.htm](http://www.royalnavalmuseum.org/info_sheets_piracy.htm), Accessed 26 December 2013.

<sup>94</sup> Cindy Vallar, “The Barbary Corsairs,” (2004), available from <http://www.cindyvallar.com/barbarycorsairs.html>, Accessed 26 December 2013.

<sup>95</sup> Ibid.

<sup>96</sup> Royal Navy The National Museum, “A Brief History of Piracy,” (2012), available from [http://www.royalnavalmuseum.org/info\\_sheets\\_piracy.htm](http://www.royalnavalmuseum.org/info_sheets_piracy.htm), Accessed 26 December 2013.

<sup>97</sup> Ibid.

piracy,” Member States issued ‘letters of marque’ which licensed these sailors to plunder alien ships. This was to prevent privateers from being charged with piracy, which was an offence punishable by death.”<sup>98 99</sup>

In 1651, the British Navigation Act was passed, allowing supplies to be brought into United Kingdom (UK) but only if they were transported on English vessels.<sup>100</sup> Member States that wanted to barter with the UK had to pay extra fees, causing traders to do business with privateers within their seacoast for a cheaper cost.<sup>101</sup> A pseudo black market began to take shape because privateers neglected to bring money made in transaction back to the UK. Eventually, the profitable living situation convinced many privateers to abandon their orders and instead, become self-serving pirates.<sup>102</sup> It was not until 1856, with the signing of the Declaration of Paris between France and the UK, that both privateering and letters of marquee were officially outlawed.<sup>103</sup> At this time, Member States employed their own navies to patrol national bodies of water and enforce the Declaration’s provisions.<sup>104</sup>

The Royal Navy played a major role in the decrease of piratical attacks from the eighteenth century until the nineteenth century.<sup>105</sup> Nonetheless, within the 1980’s and 1990’s, piracy surged once again with a vengeance. In 1983, the Maritime Safety Committee of the International Maritime Organization (IMO) met to discuss international trade relationships.<sup>106</sup> At the meeting, “Sweden raised concerns about the prevalence of piracy off the coast of West Africa” and once Nigeria failed to remedy the issue, “Sweden turned to the UN.”<sup>107</sup> As a result, the IMO created a resolution entitled *Measures to Prevent Acts of Piracy and Armed Robbery Against Ships*, which ultimately urged Member States to inform the IMO of any piratical activity.<sup>108</sup> “Throughout the 1990s, and especially after the Soviet Union’s collapse, piracy increased dramatically. Reports of piracy tripled during 1991-2001: of 335 reported cases in 2001, 91 were in waters claimed by Indonesia...”<sup>109</sup> The International Maritime Bureau (IMB) reported 3,521 pirate attacks from 1998-2008, an average of 320 per year.<sup>110</sup> This cyclical activity has once again propelled Member States to acknowledge and address maritime piracy on a new, multinational platform.

### ***International Law***

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<sup>98</sup> James Wombwell, “Occasional Paper 32,” Combat Studies Institute Press, available from [http://usacac.army.mil/cac2/cgsc/car1/download/csipubs/OP32\\_Piracy.pdf](http://usacac.army.mil/cac2/cgsc/car1/download/csipubs/OP32_Piracy.pdf), Accessed 23, 2013.

<sup>99</sup> Ibid.

<sup>100</sup> Naval War College Newport Papers, “Piracy and Maritime Crime Historical and Modern Case Studies,” (January 2010), available from <http://www.usnwc.edu/Publications/Naval-War-College-Press/Newport-Papers/Documents/35.aspx>, Accessed 26 December, 2013.

<sup>101</sup> Ibid.

<sup>102</sup> Ibid.

<sup>103</sup> International Committee Red Cross, “Declaration Respecting Maritime Law,” (May 2012), available from <http://www.icrc.org/applic/ihl/ihl.nsf/Treaty.xsp?action=openDocument&documentId=10207465E7477D90C12563CD002D65A3>, Accessed 26 December 2013.

<sup>104</sup> Royal Navy The National Museum, “A Brief History of Piracy,” (2012), available from [http://www.royalnavalmuseum.org/info\\_sheets\\_piracy.htm](http://www.royalnavalmuseum.org/info_sheets_piracy.htm), Accessed 26 December 2013.

<sup>105</sup> Naval War College Newport Papers, “Piracy and Maritime Crime Historical and Modern Case Studies,” (January 2010), available from <http://www.usnwc.edu/Publications/Naval-War-College-Press/Newport-Papers/Documents/35.aspx>, Accessed 26 December, 2013.

<sup>106</sup> James Wombwell, “Occasional Paper 32,” Combat Studies Institute Press, available from [http://usacac.army.mil/cac2/cgsc/car1/download/csipubs/OP32\\_Piracy.pdf](http://usacac.army.mil/cac2/cgsc/car1/download/csipubs/OP32_Piracy.pdf), Accessed 23, 2013.

<sup>107</sup> Ibid.

<sup>108</sup> Ibid.

<sup>109</sup> Naval War College Newport Papers, “Piracy and Maritime Crime Historical and Modern Case Studies,” (January 2010), available from <http://www.usnwc.edu/Publications/Naval-War-College-Press/Newport-Papers/Documents/35.aspx>, Accessed 26 December, 2013.

<sup>110</sup> James Wombwell, “Occasional Paper 32,” Combat Studies Institute Press, available from [http://usacac.army.mil/cac2/cgsc/car1/download/csipubs/OP32\\_Piracy.pdf](http://usacac.army.mil/cac2/cgsc/car1/download/csipubs/OP32_Piracy.pdf), Accessed 23, 2013.

Several major UN frameworks have addressed the dilemma of maritime piracy. Ocean privatization has long been a contentious issue in the battle against piratical activity, originating from the moment that navigation of the seas was made possible. Regulations that help to outline jurisdiction and clarify national responsibility have often been general and ambiguous. It was once said that everyone and no one owned the seas at the same time.<sup>111</sup> Better explained by American ecologist Garrett Hardin, “from the low watermark down, the sea is a common called the ‘tragedy of the commons.’ The status of a common was decided a long time ago. Roman law held that what no man controlled, no man could own. . . the air, flowing water, the sea, and the seashore were open to all.”<sup>112</sup> Presently, in regards to jurisdictional limit or a Member State’s mile limit, the Law of the Sea states that Member States “may claim a 12-mile territorial sea limit and a 200-mile exclusive economic zone limit.”<sup>113</sup>

The United States, for example, is a signatory to the Convention on the High Seas and the SUA Convention, but not to UNCLOS. A “global diplomatic effort to regulate and write rules for all ocean areas, all uses of the seas and all of its resources” resulted in the convening of the third United Nations Conference on the Sea in 1973 and the adoption of UNCLOS in 1982. Throughout much of human history, it was assumed that the seas could not be owned, occupied, or governed. Fighting pirates at sea, although desirable, was beyond the jurisdiction and ability of most “states,” whether feudal or national. As asserted in *Mare Liberum*, “the Sea is common to all, because it is so limitless that it cannot become a possession of any one, and because it is adapted for the use of all, whether we consider it from the point of view of navigation or of fisheries.”<sup>114</sup>

### ***United Nations Convention on the Law of the Sea***

The United Nations Convention on the Law of the Seas was sponsored by the UN in 1982 in Montego Bay, Jamaica and ratified in 1984.<sup>115</sup> Article 100 refers to the participation of Member States in that “all states shall cooperate 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.”<sup>116</sup> Likewise, Article 105, gives permission to Member States to decide on the penalties and punishment of perpetrators within their territorial waters, under their court systems.<sup>117</sup> Article 101 of UNCLOS, however, is less concise and has been somewhat controversial because although it defines piracy, it is vague. Article 101 of UNCLOS has acted as an international guideline in determining just what piratical activity is.

*“Piracy consists of any of the following acts: (a) any illegal acts of violence or detention, or any act of depredation, committed for private ends by the crew or the passengers of a private ship or a private aircraft, and directed: (i) on the high seas, against another ship or aircraft, or against persons or property on board such ship or aircraft; (ii) against a ship, aircraft, persons or property in a place outside the jurisdiction of any State; (b) any act of voluntary participation in the operation of a ship or of an aircraft with knowledge of facts making it a pirate ship or aircraft; (c) any act inciting or of intentionally facilitating an act described in sub-paragraph (a) or (b).”<sup>118</sup>*

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<sup>111</sup> German Council on Foreign Relations, “Who Owns the Sea?” (January 2005), available from <https://ip-journal.dgap.org/en/ip-journal/topics/who-owns-sea>, Accessed 23, 2013.

<sup>112</sup> Ibid.

<sup>113</sup> The United Nations Law of the Sea Treaty Information Center, “The Law of the Sea Treaty Background,” (2012), available from <http://www.unlawoftheseatreaty.org/>, Accessed 26 December 2013.

<sup>114</sup> Republikenisme.nl, “Mare Liberum – The Freedom of the Seas, or the Right Which belongs to the Dutch to Take Part in the East Indian Trade,” available from <http://www.republikenisme.nl/nederland/hugo-de-groot/mare-liberum.html>, Accessed 26 December 2013.

<sup>115</sup> Oceans & Law of The Sea, United Nations Division for Ocean Affairs and the Law of the Sea, “The United Nations Convention on the Law of the Sea A Historical Perspective,” available from [http://www.un.org/Depts/los/convention\\_agreements/convention\\_historical\\_perspective.htm](http://www.un.org/Depts/los/convention_agreements/convention_historical_perspective.htm), Accessed 23 December 2013.

<sup>116</sup> United Nations, “United Nations Convention on the Law of the Sea,” available from [http://www.un.org/Depts/los/convention\\_agreements/texts/unclos/unclos\\_e.pdf](http://www.un.org/Depts/los/convention_agreements/texts/unclos/unclos_e.pdf), Accessed 26 December 2013.

<sup>117</sup> Ibid.

<sup>118</sup> Ibid.



Article 101 of UNCLOS defines piracy as “an act committed for private ends”<sup>119</sup> which leaves any state sanctioned activity to be loosely interpreted. The article also defines piracy as taking place on the high seas, but not necessarily within a Member State’s territorial waters, which brings to light the issue of delimitation and zoning concerns.

### ***Current Situation: Trouble off the Coasts of Africa***

In 2012, the International Maritime Bureau (IMB), a division of the International Chamber of Commerce (ICC), released its annual report which considered two regions in Africa as some of the most dangerous stretches of water in the world: the northwest coast, more specifically the Gulf of Guinea, and the northeast coast or the Gulf of Aden and Somalia in particular.<sup>120</sup> Despite a decrease in worldwide figures overall, incidents on the coasts of East and West Africa contributed to 50 percent of the world’s reported piratical activity.<sup>121</sup> East and West African coasts reported a total of 150 incidents in 2012,<sup>122</sup> while 75 of those incidents were Somali-based and 58 originated in the Gulf of Guinea.<sup>123</sup> By 2013, a joint report by the IMB, the Maritime Piracy Humanitarian Response Program, and the Oceans Beyond Piracy stated that piratical activity in the West African region surpassed that of Somalia’s for the first time.<sup>124</sup>

The ICC-IMB’s Economic Cost of Somali Piracy Report calculated shipping losses at a total of USD 5 billion in 2012 and a grand total of USD 6 billion all together.<sup>125</sup> With more than 80 percent of the world’s commerce taking place at sea, it is essential to protect coastal ports and ensure secure waters for both national and international interests.<sup>126</sup> The coast of West Africa is widely known for its vast oil production; therefore, it has become a prime target for pirate attacks.<sup>127</sup> Like Somalia, the total shipping losses for the west coast are in the billions.<sup>128</sup> Although there has been an influx of incidents off the west coast of Africa, it is Somalia on the east coast that has garnered the most international attention within the region.<sup>129</sup> Perhaps this same international awareness has contributed to the steady decline of hijackings within Somalia. According to Pottengal Mukundan, the director of the IMB, “the single biggest reason for the drop in worldwide piracy is the decrease in Somali piracy off the coast of East Africa.”<sup>130</sup> Since the beginning of the 1990’s, Somalia has operated without an effective government, paving the way for political instability through civil war, economic hardship through illegal fishing, and toxic dumping which ultimately resulted in complete chaos of the surrounding seas.<sup>131</sup> Constant acts of piracy off Somalia’s coast caught

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<sup>119</sup> James Wombwell, “Occasional Paper 32,” Combat Studies Institute Press, available from [http://usacac.army.mil/cac2/cgsc/carl/download/csipubs/OP32\\_Piracy.pdf](http://usacac.army.mil/cac2/cgsc/carl/download/csipubs/OP32_Piracy.pdf), Accessed 23, 2013.

<sup>120</sup> International Chamber of Commerce Commercial Crime Services, “Piracy & Armed Robbery Prone Areas and Warnings,” available from <http://www.icc-ccs.org/piracy-reporting-centre/prone-areas-and-warnings>, Accessed 27 December 2013.

<sup>121</sup> International Chamber of Commerce International Maritime Bureau, “Piracy and Armed Robbery Against Ships,” (2012).

<sup>122</sup> *ibid*

<sup>123</sup> *ibid*

<sup>124</sup> Rick Gladstone, “Global Piracy Hits Lowest Level Since 2007, Report Says,” The New York Times, (January 2014), available from [http://www.nytimes.com/2014/01/16/world/africa/global-piracy-hits-lowest-level-since-2007-report-says.html?ref=piracyatsea&\\_r=0](http://www.nytimes.com/2014/01/16/world/africa/global-piracy-hits-lowest-level-since-2007-report-says.html?ref=piracyatsea&_r=0), Accessed 15 January 2014.

<sup>125</sup> Oceans Beyond Piracy, “The Human Cost of Maritime Piracy, 2012,” (2013), available from <http://www.mphrp.org/publications/HCoP2012FullReport.pdf>, Accessed 27 December 2013.

<sup>126</sup> The Foundry, “From East to West: Piracy in Africa,” (August 2011), available from <http://blog.heritage.org/2011/08/15/fromeast-to-west-piracy-in-africa/>, Accessed 26 December 2013.

<sup>127</sup> *ibid*

<sup>128</sup> *Ibid.*

<sup>129</sup> *Ibid.*

<sup>130</sup> Rick Gladstone, “Global Piracy Hits Lowest Level Since 2007, Report Says,” The New York Times, (January 2014), available from [http://www.nytimes.com/2014/01/16/world/africa/global-piracy-hits-lowest-level-since-2007-report-says.html?ref=piracyatsea&\\_r=0](http://www.nytimes.com/2014/01/16/world/africa/global-piracy-hits-lowest-level-since-2007-report-says.html?ref=piracyatsea&_r=0), Accessed 15 January 2014.

Tristan McConnell, “Somali Pirates’ Rise Linked to Illegal Fishing and Toxic Dumping,” Global Post, (March 2012), available from <http://www.globalpost.com/dispatch/news/regions/africa/120306/pirates-Somalia-how-it-started%20>, Accessed 27 December 2013.

the attention of the UN Security Council who met frequently in 2008 to address the issue.<sup>132</sup> This resulted in the Security Council's adoption of Resolution 1846, which allowed outside navies and militaries to enter Somalia's territorial waters to fight piracy by "all necessary means."<sup>133</sup> At a UN Security Council meeting in 2008, South Africa's UN representative, Dumisani Kumalo, addressed the body, making a valid statement that "piracy in Somalia is part of the larger problem of the lack of peace and stability."<sup>134</sup> Due to the fragile economic state, Somali hijackings provide a source of income and employment for hundreds of civilians.<sup>135</sup> The truth of the matter is when compared to the average per capita of around USD 600 per year, making nearly USD 10,000 in just one raid is enough incentive for Somali pirates to continue their robberies, hijackings and ransom demands.<sup>136</sup> On Africa's west coast, piracy predominantly affects shipping routes.<sup>137</sup> Similar to Somalia's political and economic state, contributing factors such as corruption, a lack of law enforcement and poverty help foster an environment prone to piratical activity.<sup>138</sup> The IMO's security division has teamed up with the UN to assist a total of 24 West African Member States in an effort to connect their local coastguard with the International Criminal Police Organization (INTERPOL) to strengthen their naval divisions and law enforcement agencies.<sup>139</sup> The IMO also teamed up with the Maritime Organization of West and Central Africa (MOWCA) to create a sub-regional coastguard in 2008.<sup>140</sup> Furthermore, the UNODC through its Counter Piracy Program reiterated the importance of strengthening governments and law enforcement to bring criminals through the criminal justice system.<sup>141</sup> Although Africa's east and west coasts have benefited immensely from regional and international cooperation, it is apparent that peace, security and humanitarian solutions on land will help deter piracy with a stable environment.

### ***Conclusion***

Maritime piracy is an ongoing issue detrimental to regional and international interests. Its effects spread worldwide, legally, economically and militarily. Although statistics reflect an overall decrease in incidents reported within the past few years, instability and poorly functioning governments will always help piratical activity thrive. International law has sought to define piracy through the adoption of comprehensive frameworks, but has been vague in its definitions. Recommendations and preventive measures help regional organizations to provide support, but combating piracy requires a multidimensional approach to bring about sharp reductions in attacks at sea.

### ***Committee Directive***

Delegates should be aware what naval programs are currently in place to curb piratical tendencies. They should know the current ideologies at play with regard to crime and punishment tactics to deter piracy. Delegates must be knowledgeable of the definition of maritime piracy and the discrepancies within international law. Is the current international legal framework for countering piracy sufficient or does it need to be changed in some fashion. And, if

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<sup>132</sup> United Nations Political Office for Somalia, "Somalia and Piracy," available from <http://unpos.unmissions.org/Default.aspx?tabid=9742&language=en-US>, Accessed 29 December 2013.

<sup>133</sup> Ibid.

<sup>134</sup> Mary Kimani, "Somalia Tackling Piracy on African Shores," All Africa, (January 2009), available from <http://allafrica.com/stories/200901160744.html?loc=interstitialskip>, Accessed 29, December 2013.

<sup>135</sup> Nico Colombant, "Somalia's Piracy Has Major Global Costs, but Also Incentives," Voice of America, (February 2012), available from <http://www.voanews.com/content/somalias-piracy-has-major-global-costs-but-also-incentives-139129494/151848.html>, Accessed 29, 2012.

<sup>136</sup> Thomas Keating, "The Political Economy of Somali Piracy," The SAIS Review of International Affairs, Volume 33, Number 1, Winter-Spring 2013, pp. 185-191, available from [muse.jhu.edu/journals/sais\\_review/v033/33.1.keating.pdf](http://muse.jhu.edu/journals/sais_review/v033/33.1.keating.pdf), Accessed 29 December 2013.

<sup>137</sup> Nirit Ben-Ari, "Piracy in West Africa," Africa Renewal Online, (December 2013), available from <http://www.un.org/africarenewal/magazine/december-2013/piracy-west-africa>, Accessed 29 December 2013).

<sup>138</sup> Ibid.

<sup>139</sup> Mary Kimani, "Stopping Piracy in the Gulf of Guinea," Afrik News, (February 2009), available from <http://www.afriknews.com/article15355.html>, Accessed 29 December 2013.

<sup>140</sup> International Maritime Organization, "West African States Sign Code of Conduct Concerning the Prevention of Piracy, Armed Robbery Against Ships and Illicit Maritime Activity," (August 2013), available from <http://www.imo.org/OurWork/Security/WestAfrica/Pages/WestAfrica.aspx>, Accessed 29 December 2013.

<sup>141</sup> West Africa Maritime Piracy: UNODC, available from <http://www.scribd.com/doc/181704410/West-Africa-Maritime-PiracyUNODC>, Accessed 30 December 2013.

so, how? What is the extent of government responsibility for countering piracy and what role should the private sector play in helping to manage this problem? Is the delegate's Member State affected by maritime piracy? If not, what are they doing to combat it internationally? Does the Member State have jurisdictional conditions and laws? What are the costs of piracy and how do these compare to the expenses required for mitigation? What are the chief land-based factors that contribute to modern-day piracy and how can these best be addressed to deter future incidents?

## Technical Appendix Guide

### Topic I: Addressing the Trafficking of Fraudulent Medicines across International Borders

Technical Conference of Experts on the Trafficking in Fraudulent Medicines, 14-15 February 2013-Vienna, <http://www.unodc.org/unodc/en/fraudulentmedicines/conference.html>

*This is a great source of information for delegates, especially because it has speeches and information from various Member States. A few of the speeches and power points have already been used in the background guide, but there is a lot of information that has not been used. The agenda gives a good idea of the topics that are most important to the CCPCJ and can be used as a guide for position papers and resolutions.*

The Pharmaceutical Security Institute, <http://www.pharmainstitute.com/>

*This is a great source of information on pharmaceuticals and country specific information. It also has a lot of information about current action plans against many aspects of manufacturing and trafficking fraudulent medicines. There are also reports on the current situation and information on more commonly fraudulent medicines.*

World Health Organization- IMPACT, <http://www.who.int/impact/en/index.html>

*This is a specific planning group set up by the World Health Organization. This planning group aims to coordinate efforts to fight against fraudulent and counterfeit medicines. It is made up of international organizations, pharmaceutical companies and regulatory authorities. This is a great source of information about international cooperation, guidelines, advocacy groups and Member State specific information. This is a great source of information for all delegates.*

INTERPOL, <http://www.interpol.int/en>.

*INTERPOL is a great source of information for delegates; it brings together police and law enforcement officials internationally to target crime. There are a range of topics covered and discusses drug related trafficking, as well as covering information about the trafficking of fraudulent medicines. It is a great international organization that bridges the gap between law enforcement and other nongovernmental organizations. It also has great statistics on drug related trafficking.*

World Drug Report 2013, United Nations Office on Drugs and Crime, <http://www.unodc.org/wdr/>

*The World Drug Report is published every year by the UNODC and its commissions. The report details many drug related issues, everything from trafficking to fraudulent medicines. This is a great source of information relation to this topic and has awareness campaigns built into the report. It also monitors new trends in drug related crime and has country specific information.*

European Medicines Agency, Science Medicines Health, [http://www.ema.europa.eu/ema/index.jsp?curl=pages/special\\_topics/general/general\\_content\\_000186.jsp](http://www.ema.europa.eu/ema/index.jsp?curl=pages/special_topics/general/general_content_000186.jsp)

*This is a good source of information for Member States in Europe and their legal framework. While it is specific to Europe it is a good source of information for all delegates because it can be used for resolution writing and caucusing. There are a number of topics covered on the website that would be helpful for delegates.*

Transnational Crime and Fraudulent Medicines, CCPCJ Twenty-Frist Session, [http://www.unodc.org/documents/commissions/CCPCJ\\_session21/CRP2/ECN152012\\_CRP4\\_e\\_V12525921.pdf](http://www.unodc.org/documents/commissions/CCPCJ_session21/CRP2/ECN152012_CRP4_e_V12525921.pdf)

*This is a report about the growing link between fraudulent medicines and organized crime. It discusses the gravity of the problem and how it relates to organized crime. This is a great source of background information on how the CCPCJ is adjusting to this problem and how to address it. This also discusses how the CCPCJ is working with other agencies to address this growing global threat.*

Transnational Organized Crime, <http://www.unodc.org/toc/en/index.html?lf=1&lng=en>

*This is a great website set up by the UNODC about Transnational Organized Crime and discusses a variety of topics. The website has reports and materials published by the UNODC which would be helpful for all delegates. It has information specifically about fraudulent medicines and how it relates to transnational organized crime.*

New Report on Corruption in Health, WHO, <http://www.who.int/bulletin/volumes/84/2/news10206/en/>

*This is a bulletin published by the World Health Organization about corruption in the world health system, which is an important aspect of fraudulent medicines. There is also a report that goes along with this bulletin that goes into more detail about how much corruption there is in the world health system. Delegates can use this to discuss how to improve on this corruption.*

Laboratory and Forensic Science Services, UNODC, <http://www.unodc.org/unodc/en/scientists/laboratory-and-forensic-science-services.html?ref=menuseide>

*This part of the UNODC website discusses the laboratory services available to all Member States. The CCPCJ has always been committed to helping Member States gather important and relevant information related to crime. The laboratory services allow Member States to use their laboratories and forensic services to gather data. There are a number of reports that are available for delegates to use during the writing process.*

## **Topic II. Assessing Measures of Combating Maritime Piracy**

Catherine Zara Raymond, "Piracy and Armed Robbery in the Malacca Strait," *Piracy and Maritime Crime: Historical and Modern Case Studies (2009)*: 1-13, <http://www.dtic.mil/cigbin/GetTRDoc?AD=ADA519362> (Accessed January 8, 2014).

This article examines the Eyes In the Skies Plan, created to reduce the number of attacks in the Malacca Strait. The Eyes in the Skies Plan has been attributed to the successful decrease in pirate attacks within the region. This article is noteworthy because international representatives have used the plan as a potential fix for similar occurrences in Western and Eastern Africa.

The Commission on Crime Prevention and Criminal Justice. *Resolution 20/5, Combating the Problem of Transnational Organized Crime Committed at Sea*. 2011. [https://www.unodc.org/documents/commissions/CCPCJ/CCPCJ-ECOSOC/CCPCJ-ECOSOC-00/CCPCJ-ECOSOC-11/Resolution\\_20-5.pdf](https://www.unodc.org/documents/commissions/CCPCJ/CCPCJ-ECOSOC/CCPCJ-ECOSOC-00/CCPCJ-ECOSOC-11/Resolution_20-5.pdf) (Accessed December 20, 2013).

This is one of the CCPCJ's key documents, utilized in addressing the combat of transnational organized crime committed at sea. The text focuses on capacity-building measures and the strengthening of law enforcement agencies. This resolution calls on the UNODC to take an advisory role by surveying Member States for practices within their current criminal justice systems. With references to other major protocols and earlier mandates, this document provides a solid starting point for research and the basic understanding of action taken thus far.

The Commission on Crime Prevention and Criminal Justice. *Resolution 21/2, Countering Maritime Piracy, Especially Off the Coast of Somalia and in the Gulf of Guinea: Updates to the Report of the United Nations Interregional Crime and Justice Research Institute Entitled Counterfeiting A Global Spread, A Global Threat. Twentieth Session*. Vienna: 2012.  
[http://www.unodc.org/documents/commissions/CCPCJ\\_session20/ECN152011\\_CRP4\\_eV1180919.pdf](http://www.unodc.org/documents/commissions/CCPCJ_session20/ECN152011_CRP4_eV1180919.pdf) (Accessed December 23, 2013).

This update offers a detailed overview of one of the many side effects of interregional crime such as piracy. In particular, it describes the counterfeiting of goods illegally traded internationally. The summary alludes to maritime piracy and explains how the seizure of counterfeit goods is absolutely essential given its economic consequences. The update also offers a general perspective which pertains to West Africa's current dilemma of hijackings on oil rig. In addition, the update relates to the seizure and illegal transport of medicines which, of course, is made possible through piracy.

International Maritime Organization Maritime Safety Division. *Djibouti Code of Conduct Project Implementation Unit*. 2012. [http://www.imo.org/OurWork/Security/PIU/Documents/PIU\\_Brochure\\_1st\\_edition.pdf](http://www.imo.org/OurWork/Security/PIU/Documents/PIU_Brochure_1st_edition.pdf) (Accessed January 10, 2014).

Adopted by the IMO, the Djibouti Code of Conduct deals with the repression of piracy and armed robbery against ships. This report, however, analyzes its effectiveness in the region thus far. Similarly, the Djibouti Code of Conduct can help outline initiatives that have been successful, measures that have made little impact and policies that need to

be reformed. This report also provides general knowledge about the DCC and how it operates. The report will assist delegates in establishing a list of best practices while looking at pro-active measures against piracy in their own Member States.

Oceans Beyond Piracy. *Regional Anti-Piracy Prosecutions Intelligence Coordination Centre (RAPPICC)'s Featured Story: Piracy in West Africa*. 2013 <http://oceansbeyondpiracy.org/publications/featured-story-piracy-west-africa> (Accessed January 10, 2014).

This short summary of piracy in West Africa summarizes the Somali-piracy crisis as a very different situation than that of West Africa. The summary acknowledges the rising level of pirate attacks in the Gulf of Guinea region and suggests a multi-state solution to address the risks associated with piracy. The summary also highlights and offers further information on two important regional agreements: the Code of Conduct Concerning the Prevention of Piracy, Armed Robbery Against Ships and Illicit Maritime Activity in West and Central Africa, as well as the Djibouti Code of Conduct.

The United Nations Convention on the Law of the Sea. 1982. [http://www.un.org/depts/los/convention\\_agreements/texts/unclos/part7.htm](http://www.un.org/depts/los/convention_agreements/texts/unclos/part7.htm) (Accessed December 27, 2013).

The United Nations Convention on the Law of the Sea (UNCLOS) is the foundational international treaty referred to when dealing with international maritime law. These provisions help define piracy, the rights and responsibilities of Member States in their use of the oceans. The agreement also provides guidelines for proper management of the ocean's marine environment. This document has been ratified by about 162 countries to date and is one of the most significant doctrines used today to help set/control maritime boundaries. UNCLOS has undergone multiple modifications since its ratification which is a testament to its importance and the frequency of its use in international maritime disputes.

United Nations Office on Drugs and Crime. *Data and Analysis of Maritime Piracy*. 2009. [http://www.unodc.org/documents/data-and-analysis/tocta/9.Maritime\\_piracy.pdf](http://www.unodc.org/documents/data-and-analysis/tocta/9.Maritime_piracy.pdf) (Accessed January 2, 2014).

This report from UNODC focuses on the nature of piracy, offering a comprehensive explanation of what piracy is, what it entails, who it affects and to what degree. Although the report was issued in 2009, many of the factual information is general enough to withstand any new knowledge pertaining to maritime piracy. The report also gives special recognition to pirate attacks off the coast of Somalia and puts forth initiatives to alleviate piratical presence in the region.

The United Nations Security Council. *Resolution 2125, Adopted at its 7061<sup>st</sup> Meeting*. 2013. [http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s\\_res\\_2125.pdf](http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s_res_2125.pdf) (Accessed December 27, 2013).

Security Council Resolution 2125 pertains to piracy off the coast of Somalia but is noteworthy because it is one of the first UNSC resolutions to recognize the issue as a threat to international security. The Resolution pays tribute to prior Resolution 2015, adopted in 2011 but further capitalizes on Member State's participation and commitment to criminalize piracy under domestic law. The nine page resolution offers numerous inter-regional organizations, handy for further research and background information.