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Report

Implementing Africa's maritime security strategies

Monday 4 – Thursday 7 May 2015 | WP1407

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Countries in Africa depend heavily on the sea as their primary means of getting goods to market. For example, with more than ninety percent of its trade seaborne, South Africa is dramatically dependent on a secure sea. This African 'blue economy' is under threat, and states on both coasts of Africa that depend heavily on sea borders face many maritime security challenges. Maritime security is a key component of collective security, and many countries across East and West Africa currently lack the ability to effectively police their territorial waters and Exclusive Economic Zones (EEZs), the consequences of which are damaging to local communities, industry and tourism, and overall onshore stability. They also fuel a number of global security problems.

While indications are that incidents of piracy in the Horn of Africa are declining, seafarers are still at high risk, and many remain in captivity. Meanwhile criminality in the Gulf of Guinea including piracy and armed robbery at sea, trafficking and smuggling of drugs, people and arms, as well as related money laundering is increasing across porous land and sea borders. Illegal waste dumping, infrastructure protection and port security also constitute major concerns. The flow of money from maritime crime into political systems can undermine state effectiveness and legitimacy, and can seriously impact national economies.

The adoption in 2014 of the 2050 Africa's Integrated Maritime Strategy (2050 AIMS) was an important milestone in securing Africa's Maritime Domain (AMD). 2050 AIMS serves as the overarching framework for African maritime strategies to confront these challenges and goes beyond simply a counter piracy agenda. It covers economic, social, environmental and security dimensions, and aims to foster more wealth creation from Africa's coast and rivers to realise their full potential. There are also a large number of national and regional maritime strategies, and concerted international interest and support for African maritime security. However, there are important issues of how to achieve synergies, promote complementary rather than duplicative approaches, coherence, and coordination on the part of both African organisations and countries and international donors and partners. To effectively combat criminality, leadership and coordination are needed to avoid replication, facilitate and efficiently resource joint projects and encourage self-sustaining local ownership over the security of territorial waters and maritime domains, encompassing the full range of maritime criminal challenges.

This conference aimed to:

- Promote awareness on the continent and internationally of the full range of stakes involved in African maritime security.
- Support African leadership and build on the key linkages between national, regional and continental maritime strategies.
- Examine and recommend key next steps to develop African maritime security capacity and further implement African maritime security strategies.
- Take relevant lessons from other parts of the continent to share best practice.
- Identify gaps in international donor support and coordination not recognised or addressed by regional platforms, and prioritise areas most important and productive to address.

Key points

2050 AIMS will only be as strong as AU member states allow it to be

- Whilst 2050 AIMS is an impressive maritime strategy, at present it remains to be seen how effective deliverance of its goals and how greater buy-in from member states will be achieved. 2050 AIMS implementation is politically challenging, as there are many diverse interests in play. The challenge is ensuring that all stakeholders continue to share its vision, continue to contribute to its implementation and observe the benefits of sustained interaction.

Trust is the basis for common maritime security

- Integration challenges will revolve around how best to go about reconciling top-down visions of maritime integration contained in the African Union (AU) and Regional Economic Communities (RECS) strategies with the bottom-up realities of working together faced by member states on issues such as, boundary demarcation, joint resource extraction and sharing and information sharing (particularly of potentially sensitive information concerning naval capability). The need for reconciliation between these visions and realities is constraining interstate collaboration at the crucial initial stage of maritime strategy implementation, especially by creating and reinforcing a common unwillingness to reconsider either pooling or sharing sovereignty. 2050 AIMS contains innovative and potentially transformative concepts such as the Combined Exclusive Maritime Zone of Africa (CEMZA). These urgently need to be better researched and analysed.

Maritime security has been only weakly or insufficiently linked to domestic imperatives

- This is slowly changing with a growing realisation that maritime insecurity, or 'Bad Order at Sea', is not exclusive from events on the land. The state of maritime security is therefore a reflection of the state of governance on the land. This is often complicated by a clear lack of government capacity and coordination. Land governance is also an interest for landlocked countries that face infrastructural challenges. The costs of importing and exporting are higher; whilst poor infrastructure adds time and expenses that affect prices and availability of goods for the general populace.

International maritime actors play an important, albeit complicated, role in supporting and facilitating African maritime capacity building and strategy implementation

- African and international stakeholders hold different views and possess varying interests of the key referents to be secured at sea, as well as the appropriate path to securing the AMD. All African security infrastructural development relies upon resources that only donors can provide. The biggest challenge is therefore

reducing donor dependency through improving African ownership of security initiatives and strategies. Donors often engage on terms and with models that prove to be too expensive, contain conditions that cannot be met or which are ill suited to African maritime needs. Working diplomatically with donors and partners is a hugely sensitive matter – a sense of ownership in Africa is crucial to the success of any initiative. Partnership problems and capacity building constraints often occur because they have been created on donor terms. The result often observed is that maintenance of key maritime assets such as vessels or harbour installations often declines and the capacity to police and patrol is reduced once donors depart.

Further exploration of coordination and collaboration is required

- Implementation must receive top-level support. Political support is relatively robust in island states and some maritime states, but more needs to be done.

What is at stake for Africa in the maritime domain?

1. South Africa's National Development Plan (NDP) has led to Operation Phakisa, a government initiative that, amongst others, encourages the creation of a blue economy in South Africa's maritime domain and which will generate lessons for other African countries interested in also creating a blue economy. It is expected to make a considerable contribution to South Africa's Gross Domestic Product (GDP) of an additional R177 billion by 2033 as well as creating approximately one million maritime-related jobs. In order to do so will require input and guidance, especially on how best to balance environmental protection and sustainable development.
2. The overriding temptation for maritime authorities, since the surge in piracy and armed robbery at sea incidents off the Horn of Africa in the mid 2000s, was to engage in a process of securitisation. This was not the best starting point, as securitisation can be expensive and dangerous, leading to the militarisation and commercialisation of maritime security. It has also not answered fundamental questions that continue to be asked - What is it you are securing? What is the value of the oceans?
3. The problem of 'seablindness' is where stakeholders misunderstand or fail to realise the economic importance of Africa's seas and oceans and the contribution they do and can make to development and prosperity. Once stakeholders better understand how much maritime activities contribute and the total worth then spending priorities can be determined and additional resources invested to both secure and grow maritime industries.
4. The reduction in piracy is causing a paradox for authorities. The argument goes that as pirates no longer pose an immediate threat, should maritime investment in capacity building be continued? Has the reduction in piracy shown that current capacity is sufficient? These questions need to be answered through reflecting on counter-piracy policies and, most importantly, how and to whom the reduction is attributed.
5. A further issue concerns how to make the best use of scarce available resources whilst also ending intra-departmental/ministry competition within and between governments by increasing coordination. In some instances there are customs authorities with boats that are seldom used, but could also be deployed for other purposes such as patrols or responding to distress calls. It is therefore important to identify how African maritime agencies are constituted in order to avoid duplication and wasting of resources. The immediate task must now be to review and audit the activities maritime forces already undertake, rather than create new, additional or overlapping forces if current capacity may be more efficiently utilised.

The current status of African maritime security strategies

6. The adoption of the 2050 AIMS was a complicated process. The strategy was not tabled for adoption in 2013 as it was felt that a deferment would ensure that it did not disrupt the celebration of the AU's 50th anniversary. Whilst AU Heads of State adopted the strategy in 2014, transport ministers had already adopted it in 2012. This has been

a weakness though as transport ministries, in general, seldom drive policy-making or set security priorities. The level of awareness and interest in 2050 AIMS, nevertheless, continues to grow.

7. The adoption of 2050 AIMS in 2014 was taken as a significant milestone, especially when considering that the European Union (EU) only adopted a maritime strategy after the AU. Implementation is the most difficult part, and is already lagging, as key activities in the plan of action have not yet been undertaken. The plan of action will need re-evaluation to take into account new threats, changes in the context and the presence of new partners.
8. Since 2009 efforts were already underway to broaden the strategic understanding of maritime security as something beyond or post-piracy. However, there was widespread disagreement amongst stakeholders over the concept or preferred definition of maritime security and an insufficient understanding of the importance of the oceans and seas for Africa. This is being slowly overcome with the growing reconceptualisation of Africa as a 'big island' where events onland will be determined by the safety and security of its maritime domain. The comprehensive conceptualisation of maritime security and resulting good practice can be observed within 2050 AIMS, the Economic Community of West African States (ECOWAS) Integrated Maritime Strategy (EIMS) and the Yaoundé Code of Conduct (YCoC).
9. 2050 AIMS provides a strategic framework, albeit an ambitious and loose one, for achieving security in the AMD. The robustness of the 2050 AIMS framework can be strengthened if the strategy is better popularised and socialised. This needs to occur both at top political levels, as well as amongst the general populace. It requires an 'entrepreneurial' approach from stakeholders, who could offer leadership in driving forward the implementation of the strategy. The observance on 25 July 2015 of Africa's first Day of the Seas and Oceans launching the start of a Decade of African Seas and Oceans marked an important point in the promotion of greater public and political awareness of the importance of the AMD.
10. The Intergovernmental Authority on Development (IGAD) will soon join RECs including the Economic Community of Central African States (ECCAS), the Southern African Development Community (SADC) and ECOWAS in possessing a maritime security strategy. The draft IGAD Integrated Maritime Security Strategy (IMSS) was presented on March 2015. The IMSS aims to deliver a detailed and comprehensive long-term vision for the region, anchored by four key principles – integration; communication; collaboration and coordination. It is the result of a process of securing member state consultations, interactions, input and contributions through workshop, meetings and training.
11. The challenge for the IGAD maritime security regime taskforce in steering the IGAD IMSS is to ensure it dovetails with 2050 AIMS and other crucial AU documents such as the Maritime transport charter and other REC strategies.
12. It is notable that the IGAD IMSS has been produced in a region and context characterised by often debilitating competition between member states. It might therefore prove difficult to cultivate the necessary maritime governance capacity and capability, which does raise questions of when the IGAD strategy can be successfully adopted, and how it will be implemented. Moreover IGAD lacks many of the mechanisms and institutions for maritime security that have been established in other RECS. Concern has been expressed that IGAD will be challenged to address maritime insecurity in an efficient, coherent and coordinated manner.

Case studies of good practice

13. Continental, regional and national maritime strategies must dovetail with each other, and linkages need to be built on an intra-regional and inter-regional basis. As maritime strategies enter the implementation phase, there are some examples of good practice, with some observable lessons that have wide applicability.

14. Obstacles to overcome include intra-regional rivalry and mistrust, sometimes observed amongst REC member states in SADC, ECCAS, ECOWAS and IGAD. Continual dialogue, confidence and trust-building exercises and joint planning promote successful cooperation, which can in turn be built upon.
15. The presence and persistence of seablindness is partly attributable to the landcentric nature of policy making, and the relative absence of African states from the maritime domain. This has resulted in underfunding of maritime authorities, which have struggled as a result to maintain maritime security or good order at sea over their maritime domains. Enforcing sovereignty over the maritime domain is difficult owing to the size of the area and the lack of naval and coastguard capacity that blights many states.
16. Sustainable economic development cannot occur in an insecure environment and security requires economic development.
17. The SADC tripartite agreement or Memorandum of Understanding (MOU) between South Africa, Mozambique and Tanzania, which led to operation COPPER, is a notable success for Southern African and Indian Ocean maritime security, but many complications have arisen. The vision of multilevel coordination has yet to be observed. In particular, the differences in capacity of contributing countries means that burdens are not relatively well shared. This reveals the need for appropriate and thorough coordination of existing capacity, as well as the need for a greater degree of management between SADC member states to assist those with less capacity. Other challenges include the fragmented approaches to maritime security at national levels; the difficulty of reconciling national interests with regional interests, the disruptive influence of third party actors or strategic partners; differences between Anglophone, Francophone and Lusophone countries and resulting misinterpretation and inadequate financial support.
18. SADC would benefit from closer cooperation with the EU and EU member states, especially in the Indian Ocean, although member states from both organisations often diverge on the meaning and extent of cooperation.
19. The closure of the International Maritime Organisation (IMO) Project Implementation Unit (PIU) of the Djibouti Code of Conduct (DCoC) raises numerous questions for signatories of the code on how best to continue developing and building maritime security capacity. The DCoC was successful in achieving a broad regional agreement for information sharing, where regional ownership and management was the priority. Training exercises are also undertaken, which are an important outcome of cooperation in support of the DCoC. Cooperation has also been boosted through third party sea-riding, and training exercises for the East African Standby Force (EASF).
20. The non-binding nature of the DCoC aided this achievement, as it proved beneficial in terms of flexibility. However, expanded cooperation is complicated as the sharing of basic information pertaining to piracy is less sensitive than the sharing of information that might affect, or be classified as, national interests.
21. A further drawback of the DCoC was it was not expanded beyond its initial counter-piracy focus to cover a broader conception of maritime security. The YCoC did, however, utilise a broader conception. Whilst the narrow focus, at first, created the conditions for broad agreement and input, the changing nature of the piracy threat for countries in the Indian Ocean means that interest in continuing to participate dwindles. Piracy is not the only common regional threat, and while there may be a risk to expanding the of maritime security beyond piracy as interest could be diluted, the DCoC would potentially benefit from such an expansion and avoid becoming moribund.
22. The conceptualisation of maritime activities as primarily being the responsibility and within the purview of Ministries of transport needs to be challenged through the adoption of a 'whole of government' approach to maritime security challenges.

Thematic breakout groups

Information gathering and sharing

23. Effective operationalisation is required. Existing Information Sharing Centres (ISCs) and sharing processes work well, but additional ISCs will come on line, especially in West Africa, which could create possible problems of coordination. Overlap and duplication within information sharing protocols therefore needs to be examined.
24. INTERPOL plays a significant role by encouraging and facilitating information sharing, evidence gathering, issuing warnings and requests regarding piracy, as well as identifying, locating, arresting and prosecuting those conducting illegal, unreported and unregulated (IUU) fishing. Piracy prosecutions are an effective deterrent for future piracy if well carried out, but problems over evidence gathering and the lack of capacity to prosecute has meant that many suspects have been caught and released.
25. Effective responses are contingent upon open sharing between relevant stakeholders who control information. Improved vessel monitoring systems (VMS) will provide an important mechanism for Maritime Domain Awareness (MDA), albeit impractical for many countries at present given their lack of resources and the associated costs. Many instead suggest that trawlers transmit data through the Automatic Identification System (AIS), based upon the idea that transparency of activities at seas will be good for maritime security. At the international political level this will likely prove hard to implement as the fishing industry is also able to successfully lobby the IMO against enacting this measure as a mandatory requirement.
26. Representatives of the fishing industry are likely to object to further monitoring or reporting requirements; therefore widespread acceptance is contingent upon a VMS that that is low cost and does not consume time. However, it will still meet with resistance, as it requires the vessel to disclose its location, which is something many are reluctant to report or share. The criminalisation of the act of switching off AIS, at a national level, might prove successful in the short-term. Even with such a scenario in place, the fact that in many cases vessels with AIS use the incorrect signal, or that of another ship, will complicate the monitoring system. Authorities also need to take heed of the fact that some crews often paint ships names out or over, and criminals will change the numbers of a ship once they have hijacked it.

Land based governance

27. Requisite mechanisms to convict and punish criminals do exist, but the will and ability to consistently and completely cover all crimes is lacking. The definition of maritime crime and maritime security remains centred on acts of piracy and armed robbery at sea through the protection of shipping lanes and vessels. Stakeholders must unpack what is meant to be conveyed with, or covered by terms such as 'piracy', specifically whether authorities symptomatically target the perpetrators at sea or systematically target piracy organisers/'kingpins'/'investors'. Targeting both groups is the crucial point of departure for future counter-piracy operations and actions, but in general the approach has focused on perpetrators instead of organisers. In addition, stakeholders must pay greater attention to the money laundering process for ransom payments and ascertaining the destination or investment sites of the proceeds of organised maritime crime in Africa and worldwide.
28. The enquiry must expand and enlarge beyond targeting perpetrators; all other maritime crimes and possible offences need to be properly defined in national legislature and penal codes. The definition and understanding of maritime crime should be expanded to include other crimes, especially small-scale and large-scale offences in the fisheries sector, smuggling, trafficking, pollution, corruption, and money laundering. Long term thinking is also required for developing the capacity to respond to, and clean up, oil spills. No African country possesses the singular capacity to do so at present. This is similar to the idea of 'multi-crimes' at sea in the maritime sector as found in Norway, from which lessons could be drawn.

29. The United Nations Convention on the Law of the Sea (UNCLOS) definition of an act of piracy grants the rights or power to apprehend, but also gives leeway and discretion not to prosecute in national courts. The prosecuting state is seldom also the arresting state. This lack of an obligatory article has resulted in infamous 'catch and release' policies. To work around this problem, states have arranged Memorandums of Understanding (MOUs). The MOU signed between Kenya and the Seychelles is presented as a good example of this cooperation.
30. The DCoC allows maritime officers to embark upon another state's vessel, so that the arrest of suspected pirates is carried out by the intended prosecution state. Since the majority of offences occur in territorial waters, UNCLOS often proves to be an insufficient mechanism, although it is also supplemented by the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (SUA). Together these conventions provide a sufficient mechanism as long as states have signed and ratified both.
31. States have not considered IUU fishing as a crime and consequently there is a conceptual gap, meaning discussing crimes in terms of 'IUU fishing' is increasingly hard to use. The concept remains, firstly, confusing and using it as a mode for information exchange is, secondly, a problem for those states lacking penalties for perpetrators.
32. Legal Frameworks must be sufficient to cover the investigation, prosecution and conviction of suspected criminals. National court jurisdiction must be clearly defined to avoid disputes over who can try maritime crimes.
33. Under the 2050 AIMS 2050 the definition of the AMD incorporates 35 0000 km² of inland waterways. This gives rise to a conceptual and policy challenge of how to incorporate inland waterways and bodies of water such as lakes within maritime security regimes. Maritime law regimes such as UNCLOS refer to the seas and oceans while most waterways lack necessary frameworks. It is convenient and conceptually sensible to separate them. Countries should create proper legislative frameworks to govern inland waterways. Kenya ended up combining them and a lengthy statute ensued, with inland waterways placed under Kenyan maritime waterways. This makes sense too for fisheries, where inland waters are separate from the seas and possess different dynamics, such as track and trace challenges.
34. Reducing gaps in legal frameworks can occur by applying international conventions in national laws and resolving imbalances between ratification and domestic implementation. It is vital that when a convention enters into force, the legal system must be able to implement the provisions and possess the flexibility for continual evaluation and/or reflection, leading to auditing and review of policy implementation. The IMO is flexible in this manner through a tacit acceptance procedure. This recognises the need for flexibility so that regulations can be easily amended if necessary, recognising the dynamic nature of many maritime challenges. Each member state should clearly define where its prosecution ability is located and which court assumes jurisdiction. This must also include an exploration of expanded jurisdiction for extra-territoriality so they can assume jurisdiction outside the territorial waters of a state, especially over stateless vessels.
35. Creating and implementing strategies to fight engrained corruption is difficult. This obstacle could be overcome by giving officers a career path and greater education opportunities. Law enforcement at sea also requires understanding the drivers of corruption for both the recipient and those who pay. It can also be observed that corruption, when it occurs, is not decisively dealt with, as can be seen when unlicensed vessels or those with fraudulent documents are forced away from or denied port services rather than arrested and prosecuted. Many then end up sailing around the globe.

36. Serious consideration must be given to the economic argument that a strong, shore-based civil society is a necessity, based on the fact that pirates or other maritime criminals lack alternative livelihoods and have turned to maritime crime as a result. States must therefore pursue policies that create vibrant, youth-engaging and rewarding industries and blue economies. Short-term success in this regard over the next 2 years requires support for civil society organisations targeting coastal community development.
37. There is a need for capacity building meetings where operational figures and actors at national and regional levels regularly network with peers in other countries and regions, facilitated by research organisations. This could occur through the organisation of a conference within a year and occurring over 5 years.
38. Stakeholders must engage the highest leadership positions to create and sustain interest and action in both implementing strategies and creating a blue economy – at present there is an imbalance in national and international leadership, where only some countries are taking an innovative lead, such as the Seychelles, South Africa and Mauritius, whilst RECs and the AU differ in terms of the degree of implementation support.
39. Existing research on maritime crime needs to be compiled and synthesised and further research conducted. The social-economic causes of maritime crime need to be better understood, whilst there is still insufficient data or research on pirates, their motivations, thinking, and what, ultimately dissuades them from piracy. Often research becomes quickly out-dated. Funding may become a problem in the future, especially if the drop in piracy causes funders to lose interest in a broader concept of maritime security.

Capability and capacity building

40. Countries must improve their capabilities to enhance control of their Exclusive Economic Zones (EEZs) through effective and extensive joint patrolling and information sharing. A demonstrated presence will also have a deterrent effect. Countries must fill numerous capability gaps such as the inability of many to respond to suspicious incidents or crimes because of the lack of long-range patrol aircraft and patrol boats. A major consideration will be how best to balance the requirement to demonstrate presence through robust patrolling and law enforcement with the maintenance and sustainability of limited and costly maritime security assets. Further capability gaps exist in regards to knowledge of the maritime environment and a dearth of hydrographical expertise, which can be overcome through joint projects conducted on a regional and international basis. The language barrier remains an impediment to improved coordination.
41. The concept or term 'capacity building' requires unpacking. One such aspect is 'military capacity building', which contains numerous challenges for consideration. Security expenditure is seldom viewed as a long-term non-military investment. Capacity building could therefore be conceptualised at three interlinked levels. Firstly, at a strategic level, pertaining to the functioning and relationships of various global and international maritime institutions, partnerships and actors. Secondly, at an operational level, which prioritises the regional implementation and operationalisation of strategies through coordinated activities such as joint patrols. Thirdly, at a tactical level, which concerns the creation of national development plans, acquisition programmes for naval and maritime assets and capacity building for the enhancement of MDA. This is necessary to overcome inter-service and inter-agency rivalry for limited funds and policy priorities.
42. As previously discussed, donor dependency challenges future implementation. Donors should recognize there is no such thing as a 'one size fits all' approach; donors must also recognise that different countries have different priorities and different levels of capability and capacity. On the other side, donor suggestions to African countries should include advice on the preparation of Statement of Requirements (SOR) containing projected sustainability/lifecycle costs, the application of a comprehensive/whole of government approach to capacity building (especially greater

recognition of the land-sea relationship), the generation of momentum through African ownership of strategies and operations, as well as leadership during exercises, operations and development plans. This is also dependent upon improved donor coordination in order to avoid any duplication of effort and wastage of resources.

43. Potential solutions for capability gaps include the establishment of regional maritime Task Forces, building and consolidating an inter-African Defence Attaches network, improved opportunities offered for further training and education in line with the theme for World Maritime Day 2015 and the creation of scholarships for further education at places such as the Regional Maritime University in Accra, Ghana and the South African International Maritime Institute (SAIMI) in Port Elizabeth, South Africa. Expanded partnerships with other tertiary maritime educational and training institutions must be encouraged, ideally by starting small and building upon existing knowledge and needs. Cross-disciplinary synergies and alumni networks must also be encouraged.
44. The important link between maritime development and national livelihood will depend upon the provision of timely, effective and targeted research that reaches and influences key decision makers at city, provincial and national levels. In addition, civil society organisations with national and international areas of interest must be engaged and involved in these and other processes.
45. Budgeting processes can be enhanced through additional training in procurement best practices as well as anti-corruption measures. Corruption itself could also be combatted through specific conditions-based capacity building.

Conclusions: coordinating African maritime security strategies

46. Those responsible for coordinating maritime security strategies will be greatly dependent upon the focal points and steering committees appointed and given responsibility for implementing strategies and codes of conduct. The national and regional focal points must be fully supported and regular interaction must occur.
47. Implementation should occur in phases, taking incremental steps towards smart, achievable objectives. In the short-term, a reassessment of the plan of action of 2050 AIMS alongside regional and national strategies and initiatives will identify joint milestones and areas of synergy.
48. The development or enhancement of a maritime economy requires engagement with industry to kick-start investment and technology usage using public/private partnership models. Above all maritime infrastructure must be improved.
49. The forthcoming African Union Extraordinary Summit on Maritime Security and Safety and Development in Africa in Lome, Togo, scheduled to take place in 2016, should aim to achieve the following deliverables:
 - Heads of State and Governments validate REC maritime progress.
 - Agreement on the establishment of a Continental Trust Fund to finance the implementation of 2050 AIMS and the enlargement and reinforcement of the 2050 AIMS Strategic Taskforce.
 - Reassess and agree upon a revised plan of action for 2050 AIMS.
 - Improve intra-REC communication and external public diplomacy (to show-case existing successes).
 - Identify duplications of action and explore expert sharing opportunities.

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Wilton Park | December 2015

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