

# Tackling crime on high seas



**COMBINED FORCE:** The trilateral naval exercise Ibsamar III ended on a dramatic note last week, with a disaster exercise simulating a military incursion into a small coastal community that required the involvement of security personnel, firefighters and medical teams from Brazil, India and South Africa.

PICTURE: HENK KRUGER / CAPE ARGUS

## Norwegian funds establish Fisheries Law Enforcement Academy at Nelson Mandela Metropolitan University

HEATHER DUGMORE

**S**EA FISHERIES crime is a major, international, moving crime that involves vast amounts of illegal fish and seafood, including high-profile, white-collar crime syndicates and a lot of other issues, as well as human and drug trafficking," says South Africa's Hennie van As, a global specialist on sea fisheries and related organised crime.

He is collaborating with governments, Interpol and the UN Office on Drugs and Crime (UNODC) to address this global problem.

An admitted advocate, Van As is a professor in public law and director of the Centre for Law in Action (CLA) in the Faculty of Law at Nelson Mandela Metropolitan University (NMMU) in Port Elizabeth.

"As we all know, South Africa is currently investigating several Chinese fishing boats in our waters; but what people have to realise is that highly organised, well-financed transnational criminal activities are taking place in our waters and within international waters all the time," he explains.

"The illegal harvesting, processing and trading of any kind of fish or seafood globally is so huge, it's in effect a parallel economic system that's undermining sustainable economic growth. Countries are being deprived of taxes; citizens of jobs, food and income; and fisheries and environments are being destroyed."

Research by the UN Food and Agricultural Organisation (FAO) estimates that between \$11 billion (R170bn) and \$30bn

is lost annually to illegal fishing, with the highest rates in West African waters.

Southern and East Africa lose in the region of R12.2bn to illegal and unreported fishing every year. The FAO further estimates that 85 percent of fish stocks worldwide are now fully exploited, and illegal fishing is one of the main contributors.

"The extent of sea crimes we are facing and the depth of people's cruelty in this business is incalculable. So many people are getting away with major crimes.

"In South Africa we urgently need to address this problem together with the National Prosecuting Authority, and to establish why prosecutions for fisheries-related crimes often fail. Is it the prosecution or the lack of proper evidence collected?" asks Van As, who is part of an international research and capacity-building partnership on sea fisheries crime between South Africa and Norway called PescaDOLUS.

Earlier this month, he received confirmation from the Norwegian Embassy that funding has been approved by Norway towards the establishment of a Fisheries Law Enforcement Academy at NMMU in Port Elizabeth.

"The main purpose of the academy is to address international sea fisheries crime. We aim to train fisheries inspectors and other role-players in the criminal justice system along the South African and East African coastlines, as well as Namibia, with a plan to extend this throughout the Indian Ocean Rim, including countries like Indonesia," he



**GETTING TOUGH:** Three Malaysian fishing boats are destroyed, for illegal fishing, by the Ministry of Maritime Affairs and Fisheries along with the police and navy, near Langsa, Aceh province, Indonesia, last month.

PICTURE: REUTERS

explains.

"It has the buy-in from the world's largest international police organisation, Interpol, the AU and the UNODC because the oceans link us all, and porous harbours or borders are a danger to all."

The work of the UNODC's global maritime crime programme and Combined Maritime Forces (CMF) illustrates this. On March 31, the Sri Lanka navy seized 101kg of heroin on an Iranian fishing dhow off the coast of Sri Lanka.

The CMF responded immediately, facilitating support as requested by the Sri Lankan authorities to assist with the police investigation. The drug stamps found on the

consignment matched with records of the Compendium of Drug Seizures at Sea, clearly establishing that the same drug trafficking networks operating from the Makran Coast to East Africa are now operating to South Asia.

Van As is in no doubt that there's a strong link between drug smuggling and illegal fishing in South Africa.

The Fisheries Law Enforcement Academy will therefore ensure that fisheries control officers are comprehensively trained to deal with a wide set of scenarios and crimes.

The training covers basic and specialised training, including how to board a ship, crime scene management, the

difference between inspection and investigation, and what happens when an inspection becomes an investigation.

It also includes species identification, the use of technology in monitoring and surveillance, and technical issues such as permits and quotas, and where rights may not be overstepped (or the courts will throw out the case on a legal technicality), as well as the legal aspects of international smuggling and human trafficking.

To more effectively combat illegal fishing in its waters, Van As proposes that South Africa amends its laws so that fisheries control officers have extended powers.

## Abuse of labour and slave labour is common

ONE OF the most recent high-profile, international, white-collar fisheries crimes involving South Africa and the US is as follows:

Businesspersons Arnold Bengis, his son David Bengis and their partner Jeffrey Noll, who were charged in 2013 in the international case, US versus Arnold Bengis et al," he explains.

Arnold Bengis was the Managing Director and Chairman of Hout Bay Fishing Industries (Pty) Ltd in Cape Town, South Africa, and he also exercised control over Icebrand Seafoods, Inc and Associated Sea Fisheries Inc in Manhattan. Noll was the chairman and president of both Associated and Icebrand in New York. David Bengis was the President of Icebrand Seafoods Maine Inc in Portland, Maine.

From 1987 to August 1, 2001, the accused and their co-conspirators, engaged in an elaborate scheme to, among other things, harvest illegally large quantities of South and West Coast rock lobster, far in excess of applicable quotas, and then to export the illegally harvested lobster from South Africa to the US.

Bringing them to book took time, but the US Department of Justice, US Attorney's Office, issued the following statement on June 14, 2013:

*Mr Preet Bharara, the US Attorney for the Southern District of New York, announced today that the US obtained a restitution order against ARNOLD MAURICE*

*BENGIS, DAVID BENGIS, and JEFFREY NOLL in the amount of nearly \$29.5 million in favour of the Republic of South Africa. This is the largest known restitution order in a Lacey Act case in history.*

*The Lacey Act is a federal statute that makes it a crime to, among other things, import into the US any fish, wildlife, or plants taken in violation of state or foreign law.*

**Violence is a common method being used to control labour**

*The defendants under-reported the fish harvested to South African authorities and bribed South African fisheries inspectors to help them carry out their illegal harvesting scheme.*

*They also submitted false export documents to South African authorities to conceal their over-harvesting.*

*As part of the scheme, the defendants arranged for previously disadvantaged South African citizens who did not have valid US working permits to work for low wages at their fish processing facility in Portland, Maine, where the employees were required to process, among other things, illegally harvested South African rock lobster.*

*Abuse of labour and slave labour is a common feature in international sea fisheries*

crime, as discussed in a feature titled "Slaves at Sea" by Kotie Geldenhuys in the February issue of Servamus, a South African community-based safety and security magazine.

The introduction reads: "Imagine a situation where you are working on a fishing vessel but when the captain gets tired of you, he simply sells you to another captain for profit. Such scenarios, and much worse, are the living realities of thousands of people working on remote fishing vessels as victims of human trafficking."

It goes on to explain that illegal, unregulated and unreported (IUU) fishing has been linked to numerous crimes, which violate the rights of vulnerable people:

"Migrant labourers and fishers fall victim to human traffickers for the purpose of forced labour on board fishing vessels, rafts or fishing platforms, in ports or in fish processing plants. Women and children in fishing ports are vulnerable to organised sexual exploitation in the form of prostitution by fishers. There are also reports of women and children being kidnapped and kept on vessels for the purpose of sex."

Violence is a common way to control labour:

"What we need to face is that this level of cruelty and criminality is increasing, and that traditional legal approaches to combating illegal fishing and the associated illegal activities have met with limited success," says Van As.

**IN ACTION:** Members of the Maritime Reaction Squadron illustrate how suspects at sea are apprehended during Simonstown Navy Festival.

PICTURE: MATTHEW JORDAAN



### UN report confirms rapid expansion

UN Office on Drugs and Crime (UNODC) Global Maritime Crime Programme: fortnightly update on April 19:

Maritime Crime Programme – Indian Ocean.

The Sri Lanka Navy seized 101kg of heroin on an Iranian dhow off the coast of Sri Lanka on March 31. UNODC responded immediately, facilitating support as requested by the Sri Lankan authorities to assist with the police investigation. In the past, the Combined Maritime Forces

have detected large volumes of heroin trafficked from the Makran coast to the East African coast, primarily in the western Indian Ocean region.

However, this was the largest heroin seizure in the eastern Indian Ocean region. The drug stamps found on the consignment matched with records of the Compendium of Drug Seizures at Sea, showing the same drug trafficking networks operating from the Makran coast to East Africa are now operating to South Asia.



**UNDER WATCH:** The Chinese fishing vessel, Lu Huang Yuan Yu 186, was chased and yesterday escorted into Cape Town Harbour, where it was searched. The vessel, and at least nine others, were detected around Port Edward and while being monitored, tried to evade authorities.

PICTURE: MICHAEL WALKER