



Africa Maritime Security & Law Enforcement Primer, 2019

United States Department of State,
Bureau of International Narcotics and
Law Enforcement Affairs



United States Department of Defense,
Africa Center for Strategic Studies

AFRICA MARITIME SECURITY AND LAW ENFORCEMENT PRIMER, 2019

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The “Africa Maritime Security and Law Enforcement Primer” (Primer) is an update to the 2015 “Gulf of Guinea Maritime Security and Criminal Justice Primer.” Workshops and capacity building initiatives conducted in Africa through efforts led by the U.S. Department of State’s Bureau of International Narcotics and Law Enforcement Affairs (INL), the Department of Defense’s Africa Center for Strategic Studies (ACSS), the U.S. Africa Command (USAFRICOM), and the U.S. Coast Guard (USCG) have sought to better position African states to identify, prevent, and respond to maritime crimes, as well as support a blue economy. These collaborative engagements have also served as the catalyst for the development of the Primer.

Primer objectives include:

- Highlighting the criminal justice elements of international legal instruments that impact maritime security;
- Building cooperation and coordination among national agencies involved in maritime law enforcement and criminal justice; and
- Promoting collaboration and cross-border information-sharing among neighboring countries.

The Primer is a compilation of the most salient information on international maritime legal frameworks, relevant Africa policy documents, and helpful tools for use as reference materials. It has been updated to include the Africa Union Charter on Maritime Security and Safety and Development in Africa (Lomé Charter) signed in 2016 in Lomé, Togo, as well as the Jeddah Amendments to the Djibouti Code of Conduct adopted in 2017.

Developed as a result of participant recommendations, the Primer is designed to support efforts to develop and manage national maritime security and criminal justice system programs.

**Bureau of International Narcotics
and Law Enforcement Affairs
U.S. Department of State**

**Africa Center for Strategic Studies
U.S. Department of Defense**

It shall be the policy of United States to “enhance cooperation with foreign counterparts against transnational criminal organizations...through sharing of intelligence and law enforcement information and through security sector assistance to foreign partners...”

—Executive Order with respect to Transnational Criminal Organizations and Preventing International Trafficking, 2017

“For nations that have the will to fulfill their international law enforcement commitments but lack the necessary means, the United States is committed to partnering with them to develop stronger law enforcement and criminal justice institutions necessary for ensuring the rule of law.”

—U.S. Strategy to Combat Transnational Organized Crime, 2011

EDITOR’S NOTE

The 2019 edition of the Africa Maritime Security and Law Enforcement Primer (“Primer”) includes comprehensive updates.

Originally based on documents compiled from Trans-Atlantic Maritime Security and Criminal Justice Workshops held in multiple West and Central African venues, the Primer has been and remains a resource document for government officials. The workshops, co-sponsored by the U.S. Department of State’s Bureau of International Narcotics and Law Enforcement (INL), the Africa Center for Strategic Studies (ACSS), and U.S. Africa Command (USAFRICOM), in partnership with the United States Coast Guard (USCG), impressively brought together officials and subject matter experts from North America, Europe, and Africa to collaboratively address capacity building, discuss best practices, and examine maritime criminal justice issues. The Stockton Center for the Study of International Law, U.S. Naval War College, provided comprehensive support to the development of this revised Primer.

The Primer has evolved to address the following governance and threat issues: Whole-of-government frameworks that support interagency coordination, strategy development, as well as specific threats, such as piracy, armed robbery at sea, maritime migration, human trafficking, drug trafficking, illegal fishing, pollution, financial crimes, and terrorist acts. And, the Primer has excerpted key provisions from the following instruments:

- *Djibouti Code of Conduct (2009) and the Jeddah Amendments (2017)*
- *Lome Charter (2016)*
- *Yaoundé Code of Conduct (2013)*
- *2050 Africa’s Integrated Maritime Strategy (2050 AIM Strategy) (2012)*

Contributions from practitioners in Africa and the United States have enabled this document to improve. This Primer exists because of significant contributions from co-editors Brian Wilson and Lisa E. Jacobson, as well as contributors Dr. Raymond Gilpin, Dr. Ian Ralby, Dr. Assis Malaquias, Dr. Kamal Ali-Deen, Dr. James Kraska, Admiral ‘Jimi’ Osinowa, Doris McBryde, Wayne Raabe, Joseph Wheatley, Rick Button, Nick Tomb and the Center for Civil Military Relations (CCMR), Stephen Cox, Rebecca Castaneda, Brian Lisko, Frank DelRosso, Cyrille Atonfack, Yusuf Bala, Greg O’Brien, Sean Fahey, Greg Smith, Kevin Brew, A Joo Kim, and Joseph Whitley.

The Primer includes summaries of 26 African States, and it is our intent to discuss all African States in possible future editions. In this regard, we welcome contributions and summaries of noteworthy maritime interdictions.

We continue to also welcome recommendations on how the Primer can remain impactful amidst emerging security and governance challenges. Please forward comments and/or recommended additions to its editors at Brian.S.Wilson2@uscg.mil or JacobsonLE@state.Gov; or let us know during a maritime security workshop.

Note: This Primer is provided for reference and educational purposes only. Characterizations of international obligations and instruments in this document are not necessarily authoritative. Practitioners should always be aware of national level guidance. The views expressed in this publication do not necessarily reflect those of the United States Department of State, Bureau of International Narcotics and Law Enforcement Affairs.

FEEDBACK FROM PRACTITIONERS AND PARTNERS

Realizing that many of the maritime security challenges in the Gulf of Guinea stems from socio-economic causes, the necessity of whole-of-nation and whole-of-government efforts becomes imperative as a preventative strategy and a cost-effective approach.

As the Trinity of Action in maritime policing operations - surveillance, response initiative and law enforcement - assumes a demanding trend in the Gulf of Guinea, the institution of a more deterrent posture by judicial processes of member states becomes more relevant; existence of effective laws and timely application are critical in discouraging criminalities and encouraging positive disposition of maritime law enforcement agencies.

Admiral 'Jimi' Osinowo, Nigerian Navy



The essential ingredients for effective response to maritime security is to know the 'what' and 'how'. This is what the Gulf of Guinea Maritime Security and Criminal Justice Primer unambiguously leads you to.

Kamal-Deen Ali, PhD, Executive Director, Centre for Maritime Law and Security Africa (CEMLAWS)



Practical, well documented and referenced, the "Guide to Maritime Security and Criminal Justice for the Gulf of Guinea" compiles key information and is impressively becoming a long-term reference document for practitioners of maritime security issues on a global scale in West and Central Africa. A true legal, penal, strategic and political guidebook, this guide, which offers answers to the policies, experts, researchers and practitioners of the sea, could in the very near future help to lay the foundations for a sufficiently proactive maritime governance prospective for the development of an Africa where the blue economy would be established as the main lever of development.

CYRILLE Atonfack, Cameroon Navy, Inter-Regional Coordination Center, Yaoundé

Institutions, Actors, and Organizations

- Navies
- Maritime Police Organizations
- Coast Guards
- Ministries of Justice, Defense, and the Interior
- Transport Ministries
- Local Police and Law Enforcement
- Attorney/Solicitor General and prosecutors
- Judges and court administrators
- Judicial and prosecutorial councils
- Private defense counsel
- Public defenders and other legal aid providers
- Anti-corruption institutions/commissions
- Policy Makers
- Legislators
- Economic Development Practitioners
- Civil society and media organizations
- International Organizations
- United Nations
- International Maritime Organization (IMO)
- INTERPOL
- Non-Governmental Organizations (NGOs) and the private sector

SECTION I—LEGAL, POLICY, AND GOVERNANCE CONSIDERATIONS

1.1 RULE OF LAW IN THE OCEANS

The United Nations Convention on the Law of the Sea (LOS Convention)

- **Treaty:** The United Nations Convention on the Law of the Sea (LOS Convention) (1982).
- **Purpose:** Establish a comprehensive multilateral regime governing ocean activities.
- **Benefits:** Provides a stable and widely accepted legal order of the oceans that effectively balances the rights of flag, port and coastal states, protects freedom of navigation and overflight and provides a basis for states to cooperate in enhancing maritime security.

More than 90 percent of global trade is conducted over the sea lanes. Maritime trade is particularly important in Africa, providing sustenance, security, and economic links to other countries. Ensuring maritime security—and advancing economic priorities—requires a concerted effort among coastal states and landlocked states, as well as flag states, international organizations and maritime industry partners. Moreover, a crucial component of maritime security is capability and capacity *ashore*, and includes investigative/ law enforcement, prosecutorial, judicial, and detention/prison sectors.

Threats emanating from the maritime domain affect each nation in Africa and require collective efforts to effectively counter them. All African nations have a stake in the development and maintenance of security, stability, and continent-wide economic prosperity. These intersecting considerations are dependent on maintaining order throughout the vast ocean space. Partners can collaborate to better protect sea lines of communication, facilitate and protect commerce and supply chain security, ensure the safety of commercial mariners, address IUU fishing, interdict migrant smuggling and human trafficking, counter

maritime piracy and armed robbery at sea, and maintain a lawful order of the oceans.

As African economies become more integrated, it is imperative that States coordinate and, where appropriate, collectively integrate their activities to secure the seas. There exist a number of international, continent-wide, zonal agreements, and partnerships that promote maritime security cooperation. Foremost among these are the United Nations Convention on the Law of the Sea (LOS Convention) and the Convention for the International Maritime Organization (IMO).

The global interest in freedom of navigation and overflight has been preserved by the delicate compromises contained in the LOS Convention on the status of the exclusive economic zone, the right of innocent passage through the territorial sea, the regime of transit passage through straits used for international navigation, and the regime of archipelagic sea lanes passage, among others. The LOS Convention also contributes to the peaceful settlement of disputes between states through a system of compulsory dispute settlement and established an International Tribunal for Law of the Sea, presiding in Hamburg, Germany. Key features of the LOS Convention include:



- Coastal States exercise sovereignty over their territorial sea in which they have the right to establish its breadth up to a limit not to exceed 12 nautical miles from lawfully drawn baselines; foreign-flagged vessels, including warships and other naval vessels, enjoy the right of *innocent passage* through those waters. Innocent passage does not apply to aircraft. Innocent passage may be temporarily suspended by the coastal State for *bona fide* security reasons.
- Ships and aircraft of all States, including military aircraft and warships, may conduct *transit passage*, in normal mode of operation, through straits used for international navigation; States bordering the straits can regulate navigational and other aspects of passage so long as such laws are nondiscriminatory and do not have the practical effect of denying, hampering or impairing the right of transit passage. Transit passage may not be suspended.
- Archipelagic States, wholly composed of islands and interconnecting waters, exercise sovereignty over a sea area enclosed by straight baselines drawn among the outermost points of the outermost islands, and through which the international community enjoys the right of non-suspendable innocent passage and the right of archipelagic sealanes passage (similar to transit passage) through normal routes.
- Coastal States enjoy sovereign rights and jurisdiction in a 200-nautical mile exclusive economic zone (EEZ) with respect to living and nonliving resources and certain economic activities, marine scientific research, and specified environmental measures. All other States have high seas freedom of navigation and overflight in the EEZ, as well as freedom to lay submarine cables and pipelines and the exercise of other lawful uses of the high seas, including military/naval exercises, counter-piracy operations, and other military activities.
- Coastal States have sovereign rights and jurisdiction over the continental shelf (the national area of the seabed) for exploring and exploiting it; the shelf can extend at least 200 nautical miles from the shore, and more under specified circumstances.
- All states enjoy the traditional freedoms of navigation, overflight, marine scientific research and fishing on the high seas. States are obliged to cooperate with other states in adopting measures to manage and conserve living resources.
- States are bound to prevent and control marine pollution and are liable for damage caused by violation of their international obligations to combat such pollution.

- States Parties are obliged to settle by peaceful means their disputes concerning the interpretation or application of the Convention.
- Disputes can be submitted to the International Tribunal for the Law of the Sea established under the LOS Convention, to the International Court of Justice, or to arbitration under Annex VI or VII of the LOS Convention.

The LOS Convention serves as a cornerstone for peacetime maritime security, providing a stable and widely accepted legal order of the oceans. The Convention recognizes rules for the status of ships and their nationality, immunities of warships and other government vessels, prohibitions on universal crimes such as the transport of slaves and maritime piracy, addresses the issue of *stateless vessels*, sets forth the historical obligation to render assistance at sea, enhances cooperation in the suppression of illicit traffic in narcotic drugs, provides for a right of visit in certain circumstances, and establishes a framework for the peaceful resolution of disputes arising from maritime matters.

The IMO has facilitated development and adoption of significant initiatives to enhance maritime security and safety. These efforts include the 1974 International Convention for the Safety of Life at Sea (SOLAS) and its numerous amendments, as well as the 1988 Convention and the 2005 Protocols for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (SUA), and the 2002

Yaoundé Code of Conduct (2013):

Preamble: Recognizes the crucial role of international cooperation at the global, regional, sub-regional, and bilateral levels in combating, in accordance with international law, threats to maritime security, including piracy, armed robbery at sea, terrorist acts against shipping, offshore installations and other maritime interests, through bilateral and multilateral instruments and mechanisms aimed at monitoring, preventing and responding to such threats, the enhanced sharing of information among States relevant to the detection, prevention and suppression of such threats, and the prosecution of offenders with due regard to national legislation, and the need to sustainably build capacity which permits the attainment of these objectives,

Underscores the importance of enhancing international cooperation at all levels to fight transnational organized criminal activities, including illicit traffic in narcotic drugs and psychotropic substances within the scope of the United Nations instruments against illicit drug trafficking, as well as the smuggling of migrants, and trafficking in persons and illicit trafficking in firearms and criminal activities at sea falling within the scope of the United Nations Convention against Transnational Organized Crime..."

International Ship and Port Facility Security (ISPS) Code. The ISPS Code, which amends the 1974 SOLAS agreement, establishes a new framework for states to implement extensive security standards for the commercial shipping industry.

The LOS Convention, in concert with numerous binding and nonbinding instruments developed at the IMO, brings parties together within a common nomenclature, state practice, and legal and policy reference point to facilitate greater cooperation and coordination. Multiple continent-wide and zonal efforts developed in Africa complement international instruments and emphasize maritime collaboration and cooperation. These are discussed throughout the Primer.

For decades, the United States has affirmed that the Convention's provisions concerning traditional uses of the ocean—such as fishing, navigation, overflight rights and freedoms, military activities, and submarine cable laying—generally reflect customary international law that is binding on all States, including the United States. President Reagan's March 10, 1983, Oceans Policy Statement provides:

- First, the United States is prepared to accept and act in accordance with the balance of interests relating to traditional uses of the oceans [in UNCLOS]—such as navigation and overflight. In this respect, the United States will recognize the rights of other States in the waters off their coasts, as reflected in the Convention, so long as the rights and freedoms of the United States and others under international law are recognized by such coastal States.
- Second, the United States will exercise and assert its navigation and overflight rights and freedoms on a worldwide basis in a manner that is consistent with the balance of interests reflected in the Convention. The United States will not, however, acquiesce in unilateral acts of other States designed to restrict the rights and freedoms of the international community in navigation and overflight and other related high seas uses.

2050 Africa's Integrated Maritime Strategy (2050 AIM Strategy) (2012):

Executive Summary: The [African Union development] agenda sees an Africa using its own resources to take its rightful place in a multi-polar, inter-reliant and more equitable world. In the maritime domain of Africa, the wide variety of related activities are inter-related to some extent, and all have a potential impact on the prosperity derivative through their contributions to social, economic and political stability, and safety and security. Notably, therefore, the approach to regulation and management of maritime issues and resources cannot be confined to a few select sectors or industries...

1.2 PORT SECURITY AND ECONOMIC DEVELOPMENT

A safe, secure maritime operating environment facilitates economic growth and enables development to flourish. As two-thirds of African states have a coastline, maritime sector security is directly linked to economic vitality. Regional

and continent-wide documents/agreements expressly recognize the economic benefits of maritime security.

The *Maritime Security Sector Reform (MSSR) Guide*, published by the U.S. government in December 2010, provides guidance on key considerations to support a focused approach to port security and economic development, among other issues. It was developed as a tool to help countries assess their maritime sector, their maritime security capabilities, and foster coordination and a whole-of-government approach to maritime safety and security.

Maintaining a vibrant national economy requires attention to the maritime economy, as even landlocked countries depend on the maritime access of their neighbors for their own economic well-being. Thus, safe and secure maritime conditions are important to the health of the overall economy of each State, as well as that of regions and the continent.

Amended Djibouti Code of Conduct (2017)

Preamble: CONVINCED THAT international seaborne trade between Participants and other States, developing efficient ports and infrastructure, nurturing national shipping lines and promoting seafaring as a career, and developing the "blue economy", that is managing and protecting fisheries, securing offshore energy production, and creating the stable conditions that encourage investment and tourism, will help to ensure sustainable economic growth, food security, employment, prosperity and stability;

DEEPLY CONCERNED about the crimes of piracy, armed robbery against ships and other illicit maritime activity, including fisheries crime, in the Western Indian Ocean and the Gulf of Aden and the grave dangers to the safety and security of persons and ships at sea and to the protection of the marine environment arising from such acts;

REAFFIRMING that international law, as reflected in UNCLOS, sets out the legal framework applicable to maritime economic development, maritime governance and maritime law enforcement, including combating piracy, armed robbery at sea and other illicit maritime activity...

Multiple elements of a national economy have maritime characteristics, or are influenced by developments in the maritime sector. Accordingly, it is beneficial that States identify key areas of economic activity that utilize or depend on the maritime domain. These areas of activity include a variety of stakeholders and represent a range of responsibilities that are important to any concept of maritime security and economic development.

Maritime activities also require stakeholders to coordinate and communicate. MSSR identifies the following maritime economy focus areas for collaboration:

Economic activity regulation and management: The tasks required to ensure a comprehensive maritime economic and regulatory environment contributes to the sustainable commercial development of a nation, through the promo-

tion of safety of passage, compliance with international obligations, and improvement in levels of competence, resulting in increased competitiveness of goods and services.

Commercial ports: The tasks required to ensure a competitive position in the global economic marketplace through the movement of imported and exported goods, both cost effectively and efficiently. Ports and associated waterways are maintained in navigable condition, are accessible and secure, have properly maintained facilities, and are supported by necessary infrastructure.

Transport: The tasks required to promote the development of efficient, integrated maritime supply chains, with a combination of personnel and equipment able to support broad national maritime goals, development programs, and initiatives.

Market conditions: The tasks required to encourage markets to function efficiently (including through the establishment of incentive structures and enforcement mechanisms) and to prevent their exploitation.

Yaoundé Code of Conduct (2013)

Preamble: Deplores “the loss of life and adverse impact on international trade, energy security, and the global economy resulting from” ...transnational organized crime committed at sea...”

Amended Djibouti Code of Conduct (2017)

Preamble: CONVINCED THAT international seaborne trade between Participants and other States, developing efficient ports and infrastructure, nurturing national shipping lines and promoting seafaring as a career, and developing the “blue economy”, that is managing and protecting fisheries, securing offshore energy production, and creating the stable conditions that encourage investment and tourism, will help to ensure sustainable economic growth, food security, employment, prosperity and stability.

Maritime Economic Efforts

Effective maritime governance depends on the recognition of the interconnectedness of security, economic development, and environmental stewardship.

The coastal areas of Africa possess significant oil and gas reserves, as well as other strategic maritime resources, most notably abundant fish stocks. Given Africa’s economic prominence, it is particularly important to develop and implement effective maritime governance. As reflected in multiple national-level, zonal, regional, and continent-wide documents, governments in Africa indeed recognize economic development is linked to maritime governance. That acknowledgment, along with an appreciation that land-locked countries are dependent on their coastal neighbors for access to global markets via the sea, has favorably led to increased engagements and collaboration.

The maritime economy in Africa is growing in importance, both as a source of food and revenue. More and more, Africans, and indeed the world, depend on Africa’s maritime resources, from fish to fuel. In addition, Africa’s trade access to the global economy depends on competitive, safe ports in secure harbors that can be accessed without fear of crime or corruption. The maritime economy also represents a source of opportunity for individuals to gain skills and knowledge to sustain their families. African stakeholders, as reflected in the Yaoundé Code of Conduct (2013), amended Djibouti Code of Conduct (2017), and the Lomé Charter (2016), importantly highlighted the necessity of focusing on the maritime economy.

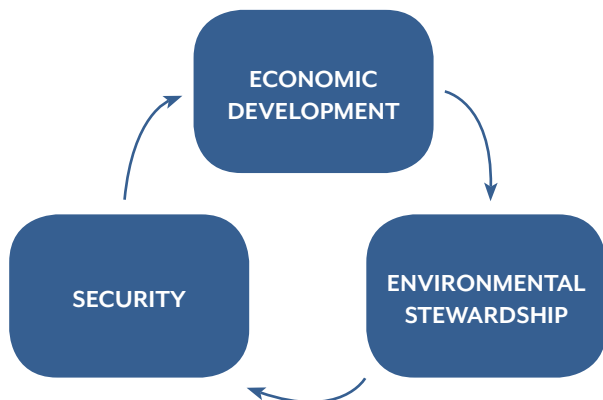
The rights of navigation and overflight associated with freedom of the seas have become an essential element of national security and economic prosperity.

Since a prohibitive majority of the world’s trade travels by way of the sea, any closure, heightened violence, or increased criminal activity has regional and global implications.

Freedom of navigation—and the ability to ply the high seas and conduct trade without interference—underpins African prosperity, peace and security. Since States began conducting international trade in earnest, they have relied on freedom of the seas for their safety and prosperity. Four hundred years ago, the Dutch legal scholar Hugo Grotius cogently set forth the commercial doctrine of freedom of the seas, which would fuel a rapid expansion in transnational trade. Today, centuries after the writings of Grotius, freedom of the seas—the right of all nations to travel freely on the water and conduct traditional ocean activities—remains a core enabler of economic development and national security throughout the world, and the United States has joined with other nations to combat maritime piracy, excessive maritime claims, and other disruptions to freedom of the seas.

The concept of the “Blue Economy” was recognized at the United Nations Conference on Sustainable Development (UNCSD) Rio+20 Summit in June 2012. The blue economy definition simply stated is the notion of the use of the ocean for economic development. However, some assert that its proper definition includes the concept of use of resources for sustainable development. Thus, the definition often cited by scholars refers to the concept as an alternative economic model for sustainable development that puts the oceans at the center of this approach. A sustainable ocean economy emerges when economic activity is in balance with the long-term capacity of ocean ecosystems to support this activity and remain resilient and healthy. The importance of the blue economy was recognized by

the heads of African states in October 2016 when the aim of the Lomé Conference was to make maritime space the key driver of Africa's economic and social development.



Lomé Charter (2016)

Articles 3 and 4: Objectives and Scope

The objectives of the present Charter shall be to:

- prevent and suppress national and transnational crime, including terrorism, piracy, armed robbery against ships, drug trafficking, smuggling of migrants, trafficking in persons and all other kinds of trafficking transiting through the sea and IUU fishing;
- protect the environment in general and the marine environment in the space of coastal and insular States, in particular;
- promote a flourishing and sustainable Blue/Ocean Economy;
- promote and enhance cooperation in the fields of maritime domain awareness, prevention by early warning and fight against piracy, armed robbery against ships, illicit trafficking of all kinds, the pollution of the seas, cross-border crime, international terrorism and the proliferation of small arms and light weapons;
- establish appropriate national, regional and continental institutions and ensure the implementation of appropriate policies likely to promote safety and security at sea;
- promote the inter-agency and transnational coordination and cooperation among Member States, within the spirit of the African Peace and Security Architecture of the African Union;
- boost the implementation of the 2050 AIM Strategy in conformity with International Maritime Law;
- promote the training and capacity building of the maritime, port and industrial sector, for safe and responsible use of the maritime domain;
- cooperate in the field of Search and Rescue in line with the IMO SOLAS Convention;
- further sensitize communities living next to seas for sustainable development of African coastline and biodiversity;
- promote and protect the right of access to the sea of landlocked countries in accordance with the provisions of this Charter, the legal instruments of the AU and other regional and international instruments;
- raise the level of social welfare of the concerned population

The present Charter shall cover:

- a) the prevention and control of all transnational crime at sea, including terrorism, piracy, armed robbery against ships, drug trafficking, smuggling of migrants, trafficking in persons and all other kinds of trafficking, IUU fishing, prevention of pollution at sea and other unlawful acts at sea, under the jurisdiction of a State Party in its area

of responsibility;

- b) all measures to prevent or minimize accidents at sea caused by ships or crew or aimed at facilitating safe navigation; and
- c) all measures for the sustainable exploitation of marine resources and optimization of the development opportunities of sectors related to the sea.

1.3 INTERNATIONAL MARITIME ORGANIZATION (IMO)



- **Treaty:** Convention on the International Maritime Organization (1948).
- **Purpose:** The United Nations specialized agency with responsibility for the safety and security of shipping and the prevention of marine pollution by ships. Member Governments use IMO to develop internationally agreed standards that can be applied to all ships.
- **Benefits:** Serve as a forum for developing internationally accepted treaties and standards for ensuring the safety and security of global shipping.
- **State Parties:** 174 Member States.

The International Maritime Organization (IMO) is the “competent international organization” to facilitate the development of internationally accepted standards under the LOS Convention. The IMO has 174 State parties, as well as three associate members and intergovernmental and non-governmental organizations representing a wide variety of interests ranging from industry sectors to environmental groups, all promoting the goal of universal standards for safe, clean, and efficient shipping. Since its inception, Member States at the IMO have approved more 50 conventions and agreements, as well as hundreds of codes, guidelines, and recommendations that address nearly all aspects of shipping. By working through an effective consensus approach, the IMO has facilitated adoption by member states of the most important conventions covering maritime safety and the prevention of ocean pollution. These regimes are now applicable to almost 100 percent of global shipping tonnage.



1.4 RESPONDING TO TRANSNATIONAL CRIME AT SEA

Illicit activity occurs daily in the maritime domain. States in multiple venues, including the United Nations and the International Maritime Organization, among others, have developed legal authorities to proscribe criminal activity on the water along with focused efforts to enhance capabilities/capacity ashore.

Three widely accepted international treaties call on States to cooperate in counterdrug activities and operations. Building greater coordination, capability and capacity will enhance these efforts. The Single Convention on Narcotic Drugs (1961) has 186 States parties and the Convention on Psychotropic Substances (1971) has 184 States parties. The UN Convention on Illicit Traffic of Narcotics and Psychotropic Substances (1988 Vienna Convention) has 190 States parties as of June 2018 and is discussed in detail below.

These three major international drug control treaties are mutually supportive and complementary. An important purpose of the first two treaties is to codify internationally applicable control measures in order to ensure the availability of lawful narcotic drugs and psychotropic substances for medical and scientific purposes, and to prevent their diversion into illicit channels. They also include general provisions on illicit trafficking and drug abuse. The third treaty regulates precursor chemicals to drugs controlled by the Single Convention and the Convention on Psychotropic Substances, and strengthens provisions against money laundering and other drug-related crimes.

States cooperate in fulfilling their obligations under the multilateral counterdrug treaties, often through bilateral or regional maritime counterdrug agreements. When States conduct bilateral operations under these arrangements they may agree to permit other nations to operate within

waters under their jurisdiction in accordance with pre-planned action.

The agreement might define specific parameters such as geographical area, time, period, frequency, or potential targets or suspects. These operational activities may include information exchange or cooperative patrolling or enforcement actions. The agreements also aid states in developing more effective and coordinated detection, monitoring and law enforcement response. Typically, member states prescribe procedures to be used for designating on-scene coordinators and mutually acceptable rules on the use of force or rules of engagement that will be utilized in operations. States also may agree on when and how a boarding may take place. The agreements also may contain provisions for the sharing of information, including methods of communication. Additionally, States may agree to exchange ship-riders and operational liaison officers with regional partners.

1988 Vienna Drug Convention: The United Nations Convention Against Illicit Trafficking in Narcotic Drugs and Psychotropic Substances obligates member States' to take appropriate actions and cooperate with other States to suppress maritime drug trafficking per Article 17 of the Convention. There are 190 parties as of February 2018. The 1988 Vienna Convention importantly provides that Parties shall consider entering into bilateral or regional agreements or arrangements to carry out, or to enhance the effectiveness of, the provisions of the Convention—*referred to as Article 17 agreements*—which has occurred dozens of times.

United Nations Convention Against Transnational Organized Crime (UNTOC): UNTOC is the first legally binding, multilateral agreement that specifically addresses the problem of transnational organized crime. UNTOC parties agree to criminalize conduct that is linked with organized crime and to partner to address organized crime. Adopted on November 15, 2000 and entered into force on September 29, 2003, there are 188 parties as of July 2017.

UNTOC Protocol Against the Smuggling of Migrants by Land, Sea and Air: This Protocol entered into force in January 2000 and is aimed at protecting the rights of migrants and reducing the power and influence of organized criminal groups that abuse migrants. It emphasizes the need to provide migrants with humane treatment and the need for comprehensive international approaches to combat migrant smuggling, and the root causes of illegal migration. Article 3 provides the definition of the smuggling of migrants, and Article 8 focuses on “measures against the smuggling of migrants by sea” and establishes a framework for cooperation among flag States to facilitate the boarding and search of vessels suspected

of migrant smuggling. The Protocol confirms the right of States to board vessels suspected of smuggling that are without nationality or are treated as without nationality. As of February 11, 2018, there were 146 parties. Migrant smuggling and the similar but distinct crime of trafficking in persons in the maritime context are discussed in greater detail in Section I.II.

UNTOC Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children: Signatories to this protocol agree to criminalize trafficking in persons; to protect and safely repatriate victims of trafficking; and to establish measures to prevent trafficking and to protect victims, especially women and children, from becoming victims again. Article 3 includes the definition of trafficking in persons, and Article II of the Protocol also contains border control measures, which require States to strengthen border controls to prevent and detect trafficking and to cooperate with other States on border control issues. Adopted on November 15, 2000, and entered into force on December 25, 2003.

The **Suppression of Unlawful Acts Against the Safety of Maritime Navigation (SUA Convention) (1988) and its 2005 Protocols**, are discussed in more detail in Section I.7. The SUA Convention provides a framework to criminalize and prosecute offenses in the maritime environment and the Protocols commit member States to criminalize, among other things, the maritime transport of terrorists and the illicit shipment of weapons of mass destruction, including illegal chemical, radiological, nuclear, and biological materials, precursors and components and their delivery systems, and dual use material. There are 42 State Parties to the Protocols as of May 2018.

The SUA Protocols requires Parties to limit the use of force during actions carried out pursuant to the Agreement to the minimum force reasonable and necessary under the circumstances. Article 8bis includes important safeguards when a State Party takes measures against a ship, including boarding. The safeguards include: not endangering the safety of life at sea; ensuring that all persons on board are treated in a manner which preserves human dignity and in keeping with human rights law; taking due account of safety and security of the ship and its cargo; ensuring that measures taken are environmentally sound; and taking reasonable efforts to avoid a ship being unduly detained or delayed.

Article 8bis (9) provides: When carrying out the authorized actions under this article, the use of force shall be avoided except when necessary to ensure the safety of its officials and persons on board, or where the officials are obstructed in the execution of the authorized actions. Any use of force pursuant to this article shall not exceed the minimum degree of force which is necessary and reasonable under the circumstances. (*emphasis added*).

The **Arms Trade Treaty**, which entered into force on December 24, 2014, regulates international trade in conventional weapons, among other issues.

There are 94 States Parties (as of June 2018). The preamble to this treaty provides, in part, that there is a “need to prevent and eradicate the illicit trade in conventional arms and to prevent their diversion to the illicit market, or for unauthorized end use and end users, including in the commission of terrorist acts...”

States generally may use force that is reasonable and necessary under the circumstances to enforce maritime security. The Agreement **relating to the Conservation and Management of Straddling Stocks and Highly Migratory Fish Stocks (Straddling Stocks Convention)**¹ reflects this “reasonable” force standard in Art 22(f):

The inspecting State shall ensure that its duly authorized inspectors: avoid the use of force except when and to the degree necessary to ensure the safety of the inspectors and where the inspectors are obstructed in the execution of their duties. The degree of force used shall not exceed that reasonably required in the circumstances.

The first case from the International Tribunal for the Law of the Sea (ITLOS), **M/V “Saiga” (No. 2) Case; (Saint Vincent and the Grenadines v. Guinea)**, provided:

Although the Convention does not contain express provisions on the use of force in the arrest of ships, international law, which is applicable by virtue of article 293 of the Law of the Sea Convention requires that the use of force must be avoided as far as possible and, where force is unavoidable, it must not go beyond what is reasonable and necessary in the circumstances.²

In 2012 and 2016 the United Nations Office on Drugs and Crime (UNODC) has held expert group meetings (EGMs) to discuss relevant issues relating to transnational organized crime committed at sea. These meetings have included recommendations by the Chair

¹ United Nations Convention on the Law of the Sea relating to the Conservation and Management of Straddling Stocks and Highly Migratory Fish Stocks, Sept. 8, 1995, 2167 U.N.T.S. 3; available at http://www.un.org/depts/los/convention_agreements/texts/fish_stocks_agreement/CONF164_37.htm.

² *Id.* at para 155. Article 293 of the Law of the Sea Convention.

of the meeting for future collaboration and capacity building efforts. The report of the outcome of the 2016 EGM may be found on the website of the UNODC.³



Selected Provisions of Article 17 of the 1988 United Nations Convention Against Illicit Trafficking in Narcotic Drugs and Psychotropic Substances (1988 Vienna Convention)

- 1) The Parties shall co-operate to the fullest extent possible to suppress illicit traffic by sea, in conformity with the international law of the sea.
- 2) A Party which has reasonable grounds to suspect that a vessel flying its flag or not displaying a flag or marks of registry is engaged in illicit traffic may request the assistance of other Parties in suppressing its use for that purpose. The Parties so requested shall render such assistance within the means available to them.
- 3) A Party which has reasonable grounds to suspect that a vessel exercising freedom of navigation in accordance with international law and flying the flag or displaying marks of registry of another Party is engaged in illicit traffic may so notify the flag State, request confirmation of registry and, if confirmed, request authorization from the flag State to take appropriate measures in regard to that vessel.
- 4) In accordance with paragraph 3 or in accordance with treaties in force between them or in accordance with any agreement or arrangement otherwise reached between those Parties, the flag State may authorize the requesting State to, inter alia: (a) Board the vessel; (b) Search the vessel; (c) If evidence of involvement in illicit traffic is found, take appropriate action with respect to the vessel, persons and cargo on board.
- 5) For the purposes of paragraphs 3 and 4 of this article, a Party shall respond expeditiously to a request from another Party to determine whether a vessel that is flying its flag is entitled to do so, and to requests for authorization made pursuant to paragraph
- 6) At the time of becoming a Party to this Convention, each Party shall designate an authority or, when necessary, authorities to receive and respond to such request. Such designation shall be notified through the Secretary-General to all other Parties within one month of the designation.

1.5 PIRACY AND ARMED ROBBERY AT SEA

The **United Nations Law of the Sea Convention** defines the crime of piracy and affirms that it is a crime of universal jurisdiction. The Convention also reflects the customary norm that all states shall cooperate in the repression of piracy on the high seas, and by extension, the EEZs. International Maritime Organization (IMO) Circulars and Codes of Practice provide recommendations to governments, and guidelines to the shipping industry on best approaches to counter-piracy.

The United Nations Convention on the Law of the Sea (UNCLOS/LOS Convention), UN Security Council resolutions (UNSCRs) and member States of the International Maritime Organization (IMO) support the repression of piracy and armed robbery at sea.

- **Regional & zonal:** The amended Djibouti Code of Conduct (2017) and the Yaoundé Code of Conduct (2013). *See also*, zonal agreements, such as the agreement establishing Maritime Zone E (2013)(ECOWAS).
- **Guidance:** Member States at the IMO adopted guidelines to assist in the investigation of piracy and armed robbery against ships in 2011 and in the same year, *Best Management Practices for Protection Against Somalia Based Piracy* version 4 (*BMP4*) was released to support the repression, reporting, and response of piracy and armed robbery at sea.
- **Impact:** The LOS Convention and UN Security Council resolutions provide legal authority for states to cooperate in piracy repression; regional accords provide political direction to collaborate, and may include provisions that expressly authorize operational co-operation, and, guidance better positions States and the private sector to prevent attacks.

United Nations Convention on the Law of the Sea (UNCLOS)

Article 100: Duty to cooperate in the repression of piracy

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.

Article 101: Definition of piracy; 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 of inciting or of intentionally facilitating an act described in subparagraph (a) or (b).

The United Nations Security Council (UNSC) and Somali Piracy:

In 2008 the UN Security Council adopted Resolution 1816 (2008), one of fifteen resolutions on maritime issues spanning almost a decade. Resolution 1816 authorized entry into the territorial waters of Somalia for the purpose of repressing acts of piracy and armed robbery at sea, in

³ https://www.unodc.org/documents/commissions/CCPCJ/CCPCJ_Sessions/CCPCJ_25/ECN152016-CRP3_e-V1602942.pdf

a manner consistent with such action permitted on the high seas and in coordination with the Transitional Federal Government of Somalia and, after 2012, the Federal Government of Somalia.

UNSC resolutions concerning Somali piracy have included authority to “use all necessary means” to repress acts of piracy and armed robbery. Resolution 1976 (2011) underlined the need to investigate those who “illicitly finance, plan, organize or unlawfully profit from pirate attacks,” strengthen “anti-money-laundering laws,” and establish Financial Investigation Units. Resolution 2316 (2016) recognized that “piracy exacerbates instability in Somalia by introducing large amounts of illicit cash that fuels additional crime and corruption,” and stressed the “need for a comprehensive response to prevent and suppress piracy and tackle its underlying causes by the international community.” This resolution also highlighted “the importance of coordination among States and international organizations in order to deter acts of piracy and armed robbery at sea off the coast of Somalia.”

United Nations Security Council Resolutions 2018 and 2039: UN Security Council Resolutions 2018 (2011) and 2039 (2012) focused on piracy and armed robbery occurring in the Gulf of Guinea. In 2011, the UN Security Council adopted Resolution 2018, expressing its deep concern about the threat that piracy and armed robbery at sea in the Gulf of Guinea poses to international navigation, security and the economic development of states in the region.

In 2012, UN Security Council Resolution 2039 welcomed the initiatives taken by States in the region and regional organizations, including the Economic Community of Central African States (ECCAS), the Economic Community of West African States (ECOWAS), the Gulf of Guinea Commission (GGC), and the Maritime Organization for West and Central Africa (MOWCA) to enhance maritime safety and security in the Gulf of Guinea. Resolution 2039 favorably noted the ECCAS comprehensive joint maritime security architecture to counter piracy in the Central African sub-region, including the strategy adopted by ECCAS Peace and Security Council in February 2008, the establishment of the Regional Centre for Maritime Security in Central Africa (CRESMAC) in Pointe-Noire, Congo, as well as the multinational coordination centers in the region.

In 2016, the UN Security Council President stated that the Security Council remained “deeply concerned” about the threat of maritime piracy in the Gulf of Guinea. Piracy in the Gulf of Guinea negatively impacts and threatens

international navigation, the security and economic development of the region, and the safety and welfare of seafarers and other persons.

See Section 2 for a more thorough discussion of UN Security Council resolutions to combat piracy.

1.6 KEY PRINCIPLES FOR INFORMATION SHARING FOR IDENTIFYING AND PROSECUTING PIRATES⁴

The Contact Group on Piracy off the Coast of Somalia (CGPCS) was established in 2009 following adoption of United Nations Security Council Resolution 1851. This voluntary, *ad hoc* international forum has brought together countries, organizations, and industry groups with an interest in combating maritime piracy. The CGPCS has sought to coordinate political, military, industry, and non-governmental efforts to bring an end to piracy off the coast of Somalia and to ensure that pirates are brought to justice.

Amended Djibouti Code of Conduct (2017)

Preamble: “DEEPLY CONCERNED about the crimes of **piracy, armed robbery against ships** and other illicit maritime activity, including fisheries crime, in the Western Indian Ocean and the Gulf of Aden and the grave dangers to the safety and security of persons and ships at sea and to the protection of the marine environment arising from such acts...”

Both at the national level and internationally, authorities should be efficient and eliminate duplication of effort, filling coverage gaps, and sharing information and experiences, both during investigation and prosecution. Sharing information among concerned authorities, as well as the shipping industry, and other private sector subjects involved, could provide important contributions to the identification and prosecution of head pirates and financiers. The CGPCS has made the follow ten recommendations on sharing information to combat maritime piracy.

1. **Building the network.** States should designate a National Single Point of Contact who would form part of a recognized network in order to expedite information sharing while INTERPOL, serving as the initial International Single Point of Contact, would help ensure that the appropriate National Single Point of Contact is notified. Such a system would help develop personal relationships to build confidence and speed up coordination.
2. **A transparent legal framework.** Authorities should clarify the legislation, regulation and policies appli-

⁴ Developed by the Contact Group on Piracy off the Coast of Somalia (CGPCS)

cable in case of vessel hijacking, including regarding ransom payments and money laundering and ensure that they are consistently implemented. Also, authorities should consider steps to reduce differences with other national legislations, regulations, and policies among nations, within the limits of their basic legal principles.

3. **A strategic partnership.** States and industry share the common goals of ensuring that captured seafarers and ships and vessels are released in a timely manner and that the perpetrators are brought to justice. They will cooperate closely while fully respecting the relevant international and national legal frameworks.

The shipping industry owns information that could contribute to the identification and prosecution of pirate leaders and financiers, and should share it with the competent authorities in order to help the international community combat piracy. It is vital to establish a strategic understanding with the shipping industry to enhance cooperation and ensure that authorities receive complete and timely information regarding piracy cases.

4. **Access to information during negotiations.** Government investigators should receive full and timely information gathered by private parties during negotiations with pirates. Information should be used in a way that is respectful of the ship-owners' responsibilities towards the crewmembers of the hijacked vessel. Law enforcement agencies that approach the ship-owner to seek its full cooperation with the investigation should make sure that information is not used in a way that could jeopardize the release of the ship and/or the crew. Law enforcement can play a helpful role in advising the ship-owners and their representatives on negotiation strategies; cooperating closely with the response company on crisis management tactics; and seeking to obtain any and all information that will assist the investigations arising out of the incident.
5. **Post-incident investigative access.** To facilitate investigations of piracy incidents and pirate organizations, law enforcement agencies need access to locations and personnel who are under industry control for evidence gathering, including pirated ships and affected crewmembers immediately following their recovery or release. The shipping industry should ensure its cooperation with law enforcement agencies and make crewmember witnesses available, which is essential to making later prosecutions possible. Crewmembers' interrogation should be conducted in a way that is compatible with their health conditions, including

psychological condition. The shipping industry should also permit law enforcement authorities to conduct forensic investigations of recovered ships.

6. **Information ownership.** Information may be business sensitive and its uncontrolled circulation could damage the commercial interests of the companies involved. Legal authorities and industry should develop and agree on a set of guidelines governing information sharing to avoid undesired effects.
7. **Coordinating investigations.** When more than one country starts investigations, investigators should coordinate to join forces and share findings and evidence. This is particularly relevant in the CSI phase, because of time constraints and logistical difficulties. When no country is starting investigations, INTERPOL should either invite a national law enforcement agency (NLEA) to investigate, and/or ensure that any relevant information about the incident obtained by an NLEA is collected on a default basis for the piracy database.
8. **Tracking the money trail.** Authorities should be fully informed of the way the cash for ransoms is collected, transported and dispatched to pirates. Whenever possible the notes to be used for the ransom should be registered or, if useful, marked. The Financial Information Units of the countries concerned should receive early information on the modalities of the ransom payment and be fully involved in the investigative process.
9. **The Piracy Database.** Information obtained during investigations should be shared as soon as practicable with the INTERPOL Global Piracy Database and other relevant INTERPOL data bases (*i.e.*, for biometrics) while the investigation and case are ongoing. Withholding information until the investigation and case are completed or closed should be an exception dictated by special circumstances. All countries that are INTERPOL members should continue to be able to access information contained in the Database upon request.
10. **Feedback to the private sector.** When the private sector provides information to NLEAs, they expect to see the effects of this collaboration. While the information that can be released during an ongoing investigation may be limited, authorities should recognize the importance of this interest and endeavor to show how information received is positively used to prosecute pirates.

1.7 SUPPRESSION OF TERRORISTS AND WEAPONS OF MASS DESTRUCTION AT SEA

- **Key Initiative:** The 2005 Protocol to the 1988 Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (SUA).
- **Purpose:** The 1988 SUA treaty is a multilateral anti-terrorism criminal law treaty. The 2005 SUA Protocol provides a comprehensive framework for cooperation against the transport of terrorists and WMD at sea.⁵
- **Benefits:** The 2005 Amendments to the SUA Convention establish a treaty basis for states to cooperate in criminalizing the transport of terrorists and WMD at sea and provides comprehensive provisions for states that may be used in cases of consensual boarding.
- **State Parties:** The 1988 SUA treaty has 166 States parties (as of March 2017), and the 1988 SUA Convention for Fixed Platforms Located on the Continental Shelf has 156 States Parties as of March 2017; the 1988 SUA entered into force on March 1, 1992; the 2005 SUA Protocol has 42 States parties (as of May 2018) and entered into force July 28, 2010.

A. United Nations Security Council Resolution 1540

United Nations Security Council Resolution (UNSCR) 1540⁶ of 2004 was a historic event marking Security Council resolve to address the threat to international peace and security posed by the proliferation of WMD to non-state actors. As a foundation for proliferation security and counter-proliferation, UNSCR 1540 calls on all states to take cooperative action to prevent trafficking in WMD.

The resolution has served as a basis for national action and provision of assistance, where appropriate, to ensure global implementation. UNSCR 1540 complements national and international treaties and initiatives to control WMD proliferation.

For example, the European Union began to establish effective policies in the Thessaloniki European Council in June 2003, and the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) provides additional impetus for controlling the proliferation of WMD.

Yaoundé Code of Conduct (2013)

Preamble: Recognizes the crucial role of international cooperation at the global, regional, sub-regional, and bilateral levels in combating...terrorist acts against shipping, offshore installations and other maritime interests...

Article 1: Definitions: "Transnational organized crime" includes maritime terrorism...

Article 3: Guiding Principles: Signatories intend, to the fullest possible

extent, to conduct and support the conduct of investigations in cases of transnational organized crime in the maritime domain [including] maritime terrorism...

Amended Djibouti Code of Conduct (2017)

Article 7: Measures to repress Illegal, Unreported and Unregulated Fishing and associated crimes

Participants intend to...Integrate activities related to combating IUU fishing in other international, regional and sub-regional initiatives related to repressing transnational organized crime in the maritime domain, maritime terrorism, and other illegal activities at sea...

Lomé Charter (2016)

Article 3: Objectives...promote and enhance cooperation in the fields of... international terrorism

*Article 32: Cooperation in Combating Crimes at Sea...*State Parties shall cooperate and coordinate their actions in combating transnational organized crimes of all kinds including...maritime terrorism...

Applying particularly to non-state actors, UNSCR 1540 creates a binding legal obligation on all UN member States to take a number of steps to prevent the proliferation of WMD and their delivery systems. States are called on to refrain from "providing any form of support to non-State actors that attempt to develop, acquire or manufacture, possess or transport, transfer or use" nuclear, chemical and biological weapons and their means of delivery. States also should adopt and enforce "appropriate and effective" laws criminalizing the proliferation of WMD to non-state actors, control the physical security and accounting for WMD, their means of delivery and relation materials, border controls and law enforcement to stop illicit trafficking and export and transshipment control. These obligations are not limited to the parties to the NPT and instead apply to all UN member States. UNSCR 1540 provides one of the broadest authorities in international law for States to develop closer cooperation and coordination to prevent the proliferation of WMD.

B. Suppression of Unlawful Acts against the Safety of Maritime Navigation (SUA) (1988 Convention and 2005 Protocol)

In response to the 1985 hijacking of the Italian-flag cruise ship *Achille Lauro* and the murder of an American passenger, Austria, Egypt and Italy proposed in 1986 that the IMO prepare a convention on the subject of unlawful acts against the safety of maritime navigation. The goal of the convention was to provide for a comprehensive suppression of unlawful acts committed against the safety of maritime navigation which endanger innocent human life, jeopardize the safety of persons and property, seri-

⁵ http://www.imo.org/Conventions/mainframe.asp?topic_id=259&doc_id=686#review.

⁶ <http://daccessdds.un.org/doc/UNDOC/GEN/No4/328/43/PDF/No432843.pdf?OpenElement>.

ously affect the operation of maritime services and thus are of grave concern to the international community as a whole. The proposal was supported, and in 1988 a conference was held in Rome that adopted the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (SUA).

The main purpose of the convention is to ensure that appropriate action is taken against persons committing unlawful acts against ships. These include the seizure of ships by force; acts of violence against persons on board ships; and the placing of devices on board a ship that are likely to destroy or damage the vessel. The convention obliges Contracting Governments either to extradite or prosecute alleged offenders.

At a Diplomatic Conference in 2005 the Member States of the IMO adopted two Protocols to the SUA Convention, with one focusing on the safety of vessels and the other on the safety of fixed platforms on the continental shelf. Among the unlawful acts covered by the SUA Convention in Article 3 are the seizure of ships by force; acts of violence against persons on board ships; and the placing of devices on board a ship which are likely to destroy or damage it. The 2005 Protocol to the SUA Convention adds a new provision providing that a person commits an offense within the meaning of the Convention if a person unlawfully and intentionally commits an act that attempts to intimidate a population or compel a government or an international organization to do or to abstain from doing any act. The 2005 Protocols criminalize the following activities:

- Use of any explosive, radioactive material or biological, chemical, nuclear (BCN) weapon on or against a ship.
- Discharge of oil, liquefied natural gas, or other hazardous or noxious substance from a ship that would cause death or serious injury or damage.
- Use of a ship in a manner that causes death or serious injury or damage.
- The transport on board a ship of any explosive or radioactive material with the knowledge that it would cause death or serious injury or damage for the purpose of intimidating a population, or compelling a government or an international organization to do or to abstain from doing any act.
- The transport on board a ship of any BCN weapon or source material, special fissionable material, or equipment or material especially designed or prepared for the processing, use or production of special fissionable material, when the material is intended to be used in a nuclear explosive activity or in any other nuclear activity not under safeguards pursuant to an Interna-

tional Atomic Energy Agency (IAEA) comprehensive safeguards agreement.

- The transport on board a ship of any equipment, materials or software or related technology that significantly contributes to the design, manufacture or delivery of a BCN weapon, with the intention that it will be used for such purpose. Furthermore, the 2005 Protocols identify responsibilities and roles of the master of the ship, flag State and receiving State in delivering to the authorities of any state party any person believed to have committed an offence under the Convention, including the furnishing of evidence pertaining to the alleged offence. An article in the 2005 Protocols covers cooperation and procedures to be followed if a state party desires to board a ship flying the flag of a state party when the requesting party has reasonable grounds to suspect that the ship or a person on board the ship is, has been, or is about to be involved in, the commission of an offence under the 2005 Convention.

The authorization and cooperation of the flag State is required prior to conducting a SUA Protocols (2005) boarding. A State party may notify the IMO Secretary-General that it would allow authorization to board and search a ship flying its flag, its cargo and persons on board if there is no response from the flag State within four hours of a request. Flag State authorization to board may also be provided in response to a request by a State Party that has reasonable grounds to suspect that an offense has been, is being, or is about to be committed.

The use of force is to be avoided except when necessary to ensure the safety of officials and persons on board, or where the officials are obstructed to the execution of authorized actions.

The Protocols include important safeguards when a State party takes measures against a ship, including not endangering the safety of life at sea; ensuring that all persons on board are treated in a manner which preserves human dignity and in keeping with human rights law; taking due account of safety and security of the ship and its cargo; ensuring that measures taken are environmentally sound; and taking reasonable efforts to avoid a ship being unduly detained or delayed. The Convention and Protocol also contain provisions for extradition and important safeguards on mutual legal assistance.

Suppression of Unlawful Acts against the Safety of Maritime Navigation (SUA) 2005 Protocol Excerpts

Article 3bis

1. Any person commits an offence within the meaning of this Convention if that person unlawfully and intentionally:

(a) when the purpose of the act, by its nature or con- text, is to intimidate

a population, or to compel a government or an international organization to do or to abstain from doing any act:

- (i) uses against or on a ship or discharges from a ship any explosive, radioactive material or BCN weapon in a manner that causes or is likely to cause death or serious injury or damage; or
 - (ii) discharges, from a ship, oil, liquefied natural gas, or other hazardous or noxious substance, which is not covered by subparagraph (a)(i), in such quantity or concentration that causes or is likely to cause death or serious injury or damage; or
 - (iii) uses a ship in a manner that causes death or serious injury or damage; or
 - (iv) threatens, with or without a condition, as is provided for under national law, to commit an offence set forth in subparagraph (a)(i), (ii) or (iii); or
- (b) transports on board a ship:
- (i) any explosive or radioactive material, knowing that it is intended to be used to cause, or in a threat to cause, with or without a condition, as is provided for under national law, death or serious injury or damage for the purpose of intimidating a population, or compelling a government or an international organization to do or to abstain from doing any act; or
 - (ii) any BCN weapon, knowing it to be a BCN weapon as defined in article 1; or
 - (iii) any source material, special fissionable material, or equipment or material especially designed or prepared for the processing, use or production of special fissionable material, knowing that it is intended to be used in a nuclear explosive activity or in any other nuclear activity not under safeguards pursuant to an IAEA comprehensive safeguards agreement; or
 - (iv) any equipment, materials or software or related technology that significantly contributes to the design, manufacture or delivery of a BCN weapon, with the intention that it will be used for such purpose.

Article 8bis

12 States Parties are encouraged to develop standard operating procedures for joint operations pursuant to this article and consult, as appropriate, with other States Parties with a view to harmonizing such standard operating procedures for the conduct of operations.

13 States Parties may conclude agreements or arrangements between them to facilitate law enforcement operations carried out in accordance with this article.

14 Each State Party shall take appropriate measures to ensure that its law enforcement or other authorized officials, and law enforcement or other authorized officials of other States Parties acting on its behalf, are empowered to act pursuant to this article.

15 Upon or after depositing its instrument of ratification, acceptance, approval or accession, each State Party shall designate the authority, or, where necessary, authorities to receive and respond to requests for assistance, for confirmation of nationality, and for authorization to take appropriate measures. Such designation, including contact information, shall be notified to the Secretary-General within one month of becoming a Party, who shall inform all other States Parties within one month of the designation. Each State Party is responsible for providing prompt notice through the Secretary-General of any changes in the designation or contact information.

1.8 ILLEGAL, UNREPORTED, AND UNREGULATED (IUU) FISHING

The United Nations Convention on the Law of the Sea (1982) (LOS Convention) is the framework on which

many international agreements addressing living marine resources (LMR) are based.

Part V of the 1982 LOS Convention, notably Articles 61-68, 77, and 116-120, recognizes a coastal State's sovereign rights for the purpose of exploring and exploiting, as well as a duty to conserve and manage, natural living resources in its exclusive economic zone (EEZ). The LOS Convention provides for freedom of fishing in the high seas, subject to a number of conditions such as treaty obligations (Article 116 (a)) and the interests of coastal States in dealing with cross-boundary stocks (Article 63(2)), highly migratory species (Article 64), marine mammals (Article 65), anadromous species (Article 66), and catadromous species (Article 67).

The LOS Convention imposes a duty on States to collaborate and negotiate on living resources management both directly and through regional fishery bodies (Article 118). Conservation measures for living resources to maintain or restore populations of harvested stocks are to be based on the best scientific evidence available and taking account of interdependence between stocks (Article 119). States are also to conserve and manage marine mammals in the high seas (Article 120).

In addition, LOS Convention Article 73(3) provides "Coastal State penalties for violations of fisheries laws and regulations in the exclusive economic zone may not include imprisonment, in the absence of agreements to the contrary by the States concerned, or any other form of corporal punishment."

"Despite this provision, [a] wide variety of measures have been enacted by coastal States to enforce their laws and regulations relating to fishing in the exclusive economic zone. Some of those measures continue to provide for imprisonment for violations of these laws and regulations despite the prohibition in article 73. Those provisions thus are not consistent with article 73." (Virginia Commentary on the Law of the Sea).

Several major international agreements have been negotiated under the framework of the LOS Convention, often under the auspices of the Fisheries Department of the Food and Agriculture Organization of the United Nations. Agreements include the 1991 United Nations General Assembly resolution on large-scale high seas driftnet fishing; the 1995 United Nations Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks (known as the Fish Stocks Agreement); the Code of Conduct for Responsible Fisheries (the Fisheries Code of Conduct); and the Agreement

to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas (the Compliance Agreement). The Fisheries Code of Conduct is the most encompassing of these schemes. Other agreements, which have similar overall objectives, address specific concerns. Taken together, these initiatives provide a coherent package to address fisheries problems.

In 1995, the Member States of the United Nations concluded the Conference on Straddling Fish Stocks and Highly Migratory Fish Stocks by adopting a landmark agreement (United Nations Fish Stock Agreement or UNFSA) outlining management of those types of fisheries. In November 2001, the thirtieth State ratified this Agreement, and it entered into force on December 11, 2001. The UNFSA required all regional fisheries management organizations that manage straddling stocks or highly migratory species to adopt boarding and inspection procedures that are comparable to the Agreement by December 11, 2003.

Regional Fisheries Management Organizations (RFMOs) are responsible for managing fish stocks on the high seas and fish stocks which migrate through the waters of more than just a single State. RFMOs also have a duty to conserve all species associated or affected by their fisheries, including seabirds, turtles, dolphins, sharks and non-target fish. These responsibilities have been outlined in new international agreements governing the oceans, such as FAO's Code of Conduct for Responsible Fisheries, and the United Nations Fish Stocks Agreement, both of which were established in 1995.

RFMOs have a key role to play in the conservation of marine species, especially for wide-ranging species such as albatrosses, where effective mitigation depends on collaboration between States. RFMOs are the organizations best positioned to create this collaboration.

2050 Africa's Integrated Maritime Strategy (2050 AIM Strategy) (2012):

In order to further deter **IUU fishing activities**, sanctions "of sufficient gravity as to deprive the offenders of the benefits accruing from their illegal activities" shall be put in place as per the 2005 Rome Declaration on IUU Fishing, which might include seizure of assets and prosecution, with the toughest stand for compensation. All Member States are encouraged to report any IUU fishing activity to the AU for supplementary stringent dissuasive actions through all available channels deemed appropriate.

AU Member States are urged to endeavour to deter IUU fishing activities. Recommended measures include: (i) Effective licensing and control of vessels allowed to fish by Flag States; (ii) Real-time positional reporting by licensed vessels via Vessel Monitoring Systems (VMS); (iii) Surveillance and interception of irresponsible fishing by on-water patrols; (iv) Implementation of technical regulations for the safety of non-convention fishing vessels; and (v) Promotion of effective Flag State implementation in a broader context

through the enforcement of RFMO measures, such as 'white' or 'black lists' to identify 'bad actors'.

FAO Code of Conduct:

The FAO Code of Conduct⁷ is considered to be the foundation for sustainable fisheries and aquaculture development. While the Code is voluntary, it derives from existing provisions of international law including the Law of the Sea Convention. The FAO Code addresses six substantive themes:

- 1) fisheries conservation and management;
- 2) fishing operations;
- 3) aquaculture development;
- 4) coastal area management;
- 5) post-harvest practices and trade; and
- 6) fisheries research.

As in the Fish Stocks agreement, the FAO Code identifies flag State responsibility both for management of resources and for the activities of fishing vessels flying its flag. Its overall objective is to promote international cooperation to enhance management measures that improve the optimal and sustainable use of fisheries resources. A relatively new approach incorporated in the Code is stakeholder participation and cooperation.

The FAO Code supports international plans of action (IPOAs) that apply to all States and international fisheries organizations, as well as to fishers. Like the Code, the IPOAs are voluntary instruments. They address such issues as:

- 1) preventing, deterring and eliminating illegal, unreported and unregulated (IUU) fishing;
- 2) reducing incidental catch of seabirds in longline fisheries;
- 3) the conservation and management of shark;
- 4) the management of fishing capacity;
- 5) overfishing and rebuilding of fish stocks; and
- 6) reducing waste in fisheries.

UN Moratorium on High Seas Drift Nets:

The global UN Moratorium on High Seas Drift Net (HSDN) fishing encourages all nations to take measures, individually and collectively, to prevent large-scale, pe-

7 The FAO Code of Conduct can be found at <http://www.fao.org/docrep/005/v9878e/v9878e00.HTM>

logic driftnet fishing operations on the high seas of the world's oceans.

Drift nets are used in large-scale commercial fishing operations. Miles-long in length, nets are suspended from floats at various depths and set adrift in open oceans to capture fish or squid. Drift nets can catch almost everything in their path, and there are few protections for species that were never intended to be caught. Although some nets can be quite efficient in capturing only certain species, the bycatch from drift nets can include not only non-commercial fish, but sea turtles, seabirds, seals and sea lions, sharks, porpoises, dolphins, and large whales. Nets that are set adrift from fishing vessels in the open ocean and never recovered pose an even more severe hazard to the marine environment. Lost nets can drift and kill animals for long periods of time, becoming what environmentalists have called “ghost nets.”

Lomé Charter (2016)

Article 20: Fisheries and Aquaculture

- 1) Each State Party shall implement appropriate fisheries and aquaculture policies for the conservation, management and sustainable exploitation of fish stocks and other biological resources.
- 2) Each State Party shall carry out the necessary reforms for good governance in the fishery sector and the promotion of continental fishing and aquaculture to contribute to the creation of employment in the sector, reduce food insecurity and malnutrition and promote economic diversification.
- 3) Each State Party shall take appropriate measures to effectively combat IUU fishing activities within the framework of its respective national jurisdictions and to take legal steps aimed at prosecuting the perpetrators engaged in IUU fishing.

Amended Djibouti Code of Conduct (2017)

Article 7: The Participants intend to co-operate and collaborate among themselves and with the sub-regional fisheries bodies, the FAO and other relevant international organizations on preventing and combating illegal, unreported and unregulated fishing, and associated crimes to protect fisheries resources for sustainable long term utilization to sustain livelihoods in the Western Indian Ocean and the Gulf of Aden area. In particular, the Participants intend to:

...Integrate activities related to combating IUU fishing in other international, regional and sub-regional initiatives related to repressing transnational organized crime in the maritime domain, maritime terrorism, and other illegal activities at sea...

1.9 MARINE POLLUTION, ENVIRONMENTAL CRIME AND NATURAL DISASTER

The response to environmental crimes in African waters, which could involve an at-sea boarding or port State control examination, is based on authorities that include international treaties, regional accords, domestic laws, and national-level policy guidance.

The Yaoundé Gulf of Guinea Code of Conduct (2013), the amended Code of Conduct (2017), and the Lomé Charter (2016) all complement and advance maritime environmental protection by recognizing the importance of global and domestic-level strategies and guidance. These efforts also seek to promote a flourishing and sustainable blue ocean economy and protect the environment through the prevention and suppression of transnational organized crime and the pollution of seas.

A stable, safe, and clean maritime environment is best approached from a whole-of-government standpoint. Thus, environmental protection is most effective when it involves every facet of a State administration, including law enforcement, military and government assets, diplomatic attachés, the judicial system, partner nations, and often industry partners.

Member States at the International Maritime Organization developed key authorities to advance marine environmental protection. Foremost is the 1973 International Convention for the Prevention of Pollution from Ships, as modified by the Protocol of 1978, the primary international convention on the prevention of pollution from ships into the world's maritime environment. (Also referred to as *MARPOL 73/78*). This seminal instrument emerged more than 50 years after the sinking of the *Titanic* and more than 20 years after the initial international recognition for the need to protect the sea from oil pollution.

As oil became a major commodity, the transport of oil by sea prompted ever-increasing interest in international shipping via tank ships or “tankers.” In 1954, the International Convention for the Prevention of Pollution by Oil (OILPOL) was the first international treaty focused on prohibiting tankers from discharging oil (including oily mixtures of more than 100 parts per million) within specified zones. However, as the world was switching from coal to oil as a primary fuel source, the need to export, import, and transport oil increased dramatically. As a result of this new demand, vessel manufacturers started making tankers bigger with little concern for engineering standards or safety. The concept of a “super” tanker quickly became a reality and as the capacity to carry massive quantities of oil grew, so did the capacity for accidents to turn into environmental disasters.

MARPOL 73/78 entered into force on October 2, 1983 and has been amended numerous times since. The most recent amendment was in 1997 with the addition of Annex VI to regulate the air emissions from vessels. MARPOL 73/78 consists of the Protocols (1973, 1978, and 1997) and the Annexes. The Protocol essentially cover the obligations of the Parties, definitions, reporting requirements, and

arbitration. However, the substance of MARPOL 73/78 lies mainly with the Annexes, which specifically address the operational or accidental release of six different categories of pollutants: I=oil, II=noxious liquid substances in bulk, III=harmful substances in package form, IV = sewage, V = garbage, and VI = air emissions.

Complementing these international authorities are regional constructs. The Yaoundé Code of Conduct and the amended Djibouti Code of Conduct all encourage Participants to focus national strategy efforts through policies that enhance information sharing, the establishment of ship-rider programs that allow for further reach of law enforcement operations, and development and promotion of training and education programs for the management of the marine environment, particularly focusing on the preservation and protection of the marine environment, and the prevention, reduction and control of marine pollution. They also intend to encourage States, ship owners, and ship operators, where appropriate, to take protective measures. The Codes demonstrate blanket awareness of the strength of collective efforts to conserve and sustainably use oceans, seas, and marine resources, and that this endeavor includes government action and industry practices.

Both Codes also encourage the exercise of national legislation, practices, and procedures and domestic prosecution. This process envelops the front-line of law enforcement beginning with initial investigations and enforcement actions, the judiciary systems where perpetrators are held accountable, and finally, diplomatic processes when international engagement is required through the asset seizure and forfeiture and the exercise of international conventions, codes, standards, and recommendations adopted by the International Maritime Organization. The Codes recognize that multiple States, including the flag State, State of suspected origin of the perpetrators, the State of nationality of persons on board the ship, and the State of ownership of cargo may have legitimate interests in cases. Therefore, signatories of the Code are encouraged to liaise and cooperate with States and stakeholders, and to coordinate rescue, interdiction, investigation, and prosecution.

The Lomé Charter is a product of the Governmental Expert's Validation Workshop held in Addis Ababa, Ethiopia, in April of 2016. It reaffirms Participants' commitment to combat maritime crime, threats, and challenges to protecting and securing the seas and oceans, including inland waterways. The objectives of the Lomé Charter include preventing and suppressing national and transnational crime, promoting a blue ocean economy, and

protecting the environment in general, and the marine environment in the space of coastal and insular States. It also seeks to promote and sensitize communities living next to seas for sustainable development of African coastline and biodiversity. Each State Party of the Lomé Charter agrees to commit itself to harmonizing its national laws by adhering to all relevant international legal instruments, including the LOSC, Convention for the Safety of Life at Sea (SOLAS), and the Protocol of 2005 to the Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation (SUA), as well as to integrate these Conventions into its domestic law and to responsibly implement its adherence within the judicial system.

The Yaoundé Gulf of Guinea Code of Conduct, the amended Djibouti Code of Conduct, and the Lomé Charter encourage State Parties to make efforts to establish a platform for information exchange and to share best practices on maritime safety and security. Each Party agrees to develop a mechanism for the detection, prevention and reporting of marine pollution through the dumping of toxic waste from ships and aircraft into African waters. State Parties agree to commit themselves to prohibit the import, export, handling, accumulation or dumping of such waste with provisions of the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal (Basel Convention). They also agree to determine an integrated multi-sectoral and multi-disciplinary strategy for maritime disaster management aimed at reducing the severity and the impacts of a disaster. It also encourages the establishment of co-operative mechanisms to foster judicial cooperation, and to designate a competent authority which shall serve as a liaison between the various Parties.

The Lomé Charter recognizes the importance and value of communications between the government and industry stakeholders, and seeks to further the exchange of information through a detailed maritime awareness strategy. The Charter places emphasis on developing a public affairs type of campaign that seeks to educate, train, and communicate national, regional, and international safety and security issues to create greater awareness of the seas and oceans. Uniquely, the Charter encourages the strengthening of relations between universities and their training and research institutes related to the seas and oceans with specific emphasis placed on encouraging maritime scientific research campaigns for development purposes.

The 2050 Africa's Integrated Maritime Strategy (2050 AIM Strategy) provides a broad framework for the protection and sustainable exploitation of Africa's Maritime Domain

(AMD). Its structure acknowledges that Member States share common maritime challenges and opportunities as well as significant responsibilities for generating political will for implementing a strategy, and seeks to harmonize policies and strategies. The acknowledgment of political challenges intelligently addresses the need to account for various, perhaps competing, interests. The Strategy acknowledges that environmental crimes are a threat and a vulnerability to the AMD, and strives to concentrate efforts to combat toxic waste dumping and discharge of oil, and enhance environmental protection and conservation, and to minimize environmental damage and expedite recovery from catastrophic events.

The AIM Strategy aims to combat environmental crimes and increase response to disaster risk management through the rapid establishment of standardized Regional Maritime Headquarters (MHQ) with Maritime Operational Coordination Centers (MOC) which will improve response capability and situational awareness of all organizations and agencies during real-time events. It encourages Member States to develop legal frameworks for coordinated State intervention at sea and inland waterways, and for corresponding subsequent action. It supports harmonizing national maritime laws, and enhancing bilateral and regional strategies including signing and ratifying international maritime legal instruments. Member States agree to develop a procedure to detect and prosecute cases of dumping of toxic waste in the AMD, and to maintain the toughest position for compensation. They also agree to support the New Partnership for Africa's Development (NEPAD) Joint Implementation Mechanism of the Nairobi and Abidjan Conventions in the implementation of the marine and coastal environment components; NEPAD is the implementing agency of the African Union that facilitates and coordinates continent-wide programs and projects. The Strategy presents a vision for the achievement of maritime viability for the people and interests of Africa, and acknowledges that its efforts will continuously be in a state of challenge and flux.

1.10 SEARCH AND RESCUE

There are several international conventions that provide the legal basis and international framework for a State, as they are able to do so individually or in cooperation with other States, to establish and operate **search and rescue (SAR)** services. States are to ensure SAR services are provided to any person in distress at sea regardless of the nationality or status of such a person or the circumstances in which that person is found.

- **International:** IMO's International Convention on Maritime Search and Rescue (SAR Convention) provides for the establishment of a maritime global, maritime

SAR framework that organized the conduct of maritime SAR operations internationally. The Convention on International Civil Aviation (Chicago Convention), Annex 12 – Search and Rescue, provides the framework for the organization and coordination of the global aeronautical SAR system. The International Convention for the Safety of Life at Sea (SOLAS Convention) in its successive forms is generally regarded as the most important of all international treaties concerning the safety of merchant ships. Flag States are responsible for ensuring that ships under their flag comply with its requirements. The United Nations Law of the Sea Convention, Article 98, requires coastal States to promote the establishment, operation and maintenance of an adequate and effective service.

- **Regional:** The amended Djibouti Code of Conduct (2017), the Lomé Charter (2016), and the Yaoundé Code of Conduct (2013) encourage, to the fullest extent possible, for Signatories to cooperate in rescuing persons in distress at sea.
- **Guidance:** ICAO and IMO jointly developed International Aeronautical and Maritime Search and Rescue (IAMSAR) Manual to foster co-operation between themselves, between neighboring States, and between aeronautical and maritime authorities. The goal of the IAMSAR Manual is to assist State authorities to economically establish effective SAR services, to promote harmonization of aeronautical and maritime SAR services, and to ensure that persons in distress will be assisted without regard to their locations, nationality, or circumstances. State authorities are encouraged to promote, where possible, harmonization of aeronautical and maritime SAR services.
- **Impact:** These conventions provide the legal mandate for States to work together to cooperate in the conduct of SAR operations. While ships at sea are required to render assistance to persons in distress at sea, States are required to provide an effective and efficient aeronautical and maritime SAR system to coordinate the response and assist the ship in survivor disembarkation to a place of safety.

IMO Guidelines on the Treatment of Persons Rescued at Sea (Resolution MSC.167(78)): These Guidelines provide governments and shipmasters with information concerning their respective obligations under relevant international law regarding the treatment of persons rescued at sea. Governments should ensure that their respective Rescue Coordination Centers (RCCs) and SAR units are operating in accordance with the IAMSAR manual.

In addition, shipmasters and coastal States should ensure that SAR survivors are delivered to a place of safety (SAR

Convention, 3.1.9), which is “...a location where rescue operations are considered to terminate. It is also a place where the survivors’ safety of life is no longer threatened and where their basic human needs (such as food, shelter and medical needs) can be met. Further it is a place from which transportation arrangements can be made for the survivors’ next or final destination.” Governments should coordinate and cooperate with each other to provide for suitable places of safety for SAR survivors. In addition, governments must “...avoid disembarkation in territories where the lives and freedoms of those alleging a well-founded fear of persecution would be threatened is a consideration in the case of asylum-seekers and refugees recovered at sea.”

SAR Convention

Paragraph 2.1.1: Parties shall, as they are able to do so individually or in co-operation with other States... participate in the development of search and rescue services to ensure that assistance is rendered to any person in distress at sea....

Chicago Convention, Annex 12

Paragraph 2.1.1: Contracting States shall, individually or in cooperation with other States, arrange for the establishment and prompt provision of search and rescue services within their territories to ensure that assistance is rendered to persons in distress. Such services shall be provided on a 24-hour basis.

SOLAS Convention

Chapter V, Regulation 33: Contracting Governments shall coordinate and cooperate to ensure that masters of ships providing assisting by embarking persons in distress at sea are released from their obligations with minimum further deviation from the ships’ intended voyage.... The Contracting Government responsible for the search and rescue region in which such assistance is rendered shall exercise primary responsibility for ensuring such coordination and cooperation occurs, so that survivors assisted are disembarked from the assisting ship and delivered to a place of safety, taking into account the particular circumstance of the case...

United Nations Convention on the Law of the Sea (UNCLOS)

Article 98: Duty to render assistance

2. Every coastal State shall promote the establishment, operation and maintenance of an adequate and effective search and rescue service regarding safety on and over the sea, and where circumstances so require, by way of mutual regional arrangements cooperate with neighbouring States for this purpose.

1.11 MARITIME MIGRATION, RESCUE AT SEA, MIGRANT SMUGGLING, AND TRAFFICKING IN PERSONS⁸

Armed conflict, famine, natural disasters, and adverse economic conditions create situations in which populations are forced to migrate to seek security and/or more favorable economic opportunities. As increasingly mobile populations set out for new locations, often via maritime means,

conditions develop where unscrupulous opportunists and criminal traffickers may take advantage of individuals desperate to migrate to new regions. In addition, overloaded and inappropriate vessels for transporting migrants can create unsafe conditions and risk the lives of migrants.

The first consideration when encountering any vessel suspected of transporting migrants is for the safety and security of those on board. However, once the safety of individuals is established, consideration should be given to the status of those migrants aboard. Careful screening of migrants to account for their individual status is important. Migrants aboard vessels traveling via maritime means may be categorized as refugees, asylum seekers, economic migrants, and, in some cases, victims of trafficking in persons.

The 1951 Refugee Convention provides definitions for refugees and asylum seekers. In general, a **refugee** is someone who has been forced to flee his or her country because of persecution, war, or other violence. An **asylum seeker** is someone who is seeking international protection but whose claim for **refugee** status has not yet been determined.

An **economic migrant** is one who seeks to move to another region for better employment, educational, or economic opportunities but who is not necessarily afforded refugee status. Victims of trafficking in persons are individuals who are the object of being transported by force for forced labor or other exploitation purposes. The definition of trafficking in persons may be found in Article 3 of UNTOC Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children. (Palermo Protocol).

IMO and UNODC, among others, have addressed the response to maritime migration. Similarly, the UNSC has also addressed maritime migration in the Mediterranean Sea in Resolutions, Presidential Statements, and Reports.

The 1951 Refugee Convention prohibits refugees and asylum seekers to be expelled or returned to their place of origin if their life or freedom is threatened. This prohibition not only includes the State from which the person has fled, but also includes any other territory where the person would face such a threat. Article 33(1) provides that, “No Contracting State shall expel or return (“refouler”) a refugee in any manner whatsoever to the frontiers of territories where his[/her] life or freedom would be threatened on account of his[/her] race, religion, nationality, membership of a particular social group or political opinion.”

⁸ This section provides a brief overview of selected instruments.

The International Convention for the Safety of Life at Sea (SOLAS), Regulation V/33.1, obliges the “master of a ship at sea which is in a position to be able to provide assistance, on receiving information from any source that persons are in distress at sea, ... to proceed with all speed to their assistance, if possible informing them or the search and rescue service that the ship is doing so” (Regulation V/33.1).

The International Convention on Maritime Search and Rescue obliges States parties to, “... ensure that assistance [is] provided to any person in distress at sea ... regardless of the nationality or status of such a person or the circumstances in which that person is found” (Paragraph 2.1.10) and to “... provide for their initial medical or other needs, and deliver them to a place of safety” (Paragraph 1.3.2).

The Law of the Sea Convention, Article 98(1) provides that, “Every State shall require the master of a ship flying its flag, in so far as [the master] can do so without serious danger to the ship, the crew, or the passengers ... to render assistance to any person found at sea in danger of being lost ... and to proceed to the rescue of persons in distress, if informed of their need for assistance, in so far as such action may be reasonably be expected of [the master].”

In addition, Article 98(2) obligates every coastal State Party to “...promote the establishment, operation and maintenance of an adequate and effective search and rescue service regarding safety on and over the sea and, where circumstances so require, by way of mutual regional arrangements co-operate with neighbouring States for this purpose.”

The IMO’s Maritime Safety Committee Resolution MSC.167 (78), Guidelines on the Treatment of Persons Rescued at Sea, “...provide guidance to Governments and to shipmasters with regard to humanitarian obligations and obligations under the relevant international law relating to treatment of persons rescued at sea.” In particular, Resolution MSC.167(78) requires that:

- “A ship should not be subject to undue delay, financial burden or other related difficulties after assisting persons at sea, therefore coastal States should relieve the ship as soon as practicable” (paragraph 6.3).
- “A place of safety (as referred to in the Annex to the 1979 SAR Convention, paragraph 1.3.2) is a location where rescue operations are considered to terminate. It is also a place where the survivors safety of life is no longer threatened and where their basic human needs (such as food, shelter, and medical needs) can be met. Further it is a place from which transportation arrangements can be made for the survivors’ next or final destination.” (paragraph 6.12)

- “Governments should co-operate with each other with regard to providing suitable places of safety after considering relevant factors and risks.” (paragraph 6.16)
- “The need to avoid disembarkation in territories where the lives and freedoms of those alleging a well-founded fear of persecution would be threatened is a consideration in the case of asylum-seekers and refugees recovered at sea.” (paragraph 6.17)

The International Maritime Organization, in collaboration with International Chamber of Shipping and the Office of the United Nations High Commissioner for Refugees (UNHCR) drafted the guide *Rescue at Sea*. The guide is “intended for Masters, ship owners, Government authorities, insurance companies, and other interested parties involved in rescue-at-sea situations. It provides guidance on relevant legal provisions, on practical procedures to ensure the prompt disembarkation of rescued persons, and on measures to meet their specific needs, particularly in the case of refugees and asylum-seekers.”

UNSC Resolution 2240 (2015), in part,

- Deplored “...the continuous maritime tragedies in the Mediterranean Sea that have resulted in hundreds of casualties,” and that, “...such casualties were, in some cases, the result of exploitation and misinformation by transnational criminal organizations which facilitated the illegal smuggling of migrants via dangerous methods for personal gain and with callous disregard for human life.”
- Highlighted that, “...although the Crime of smuggling of migrants may share, in some cases, some common features with the crime of trafficking in persons, Member States need to recognize that they are distinct crimes, as defined by UNTOC and its Protocols, requiring differing legal, operational, and policy responses.”
- Noted that the, “...obligations of States under applicable international law to exercise due diligence to prevent and combat migrant smuggling and human trafficking, to investigate and punish perpetrators, to identify and provide effective assistance to victims and migrants and to cooperate to the fullest extent possible to prevent and suppress migrant smuggling and human trafficking.”

UNSC Resolution 2240 contains three operative elements:

1. Inspections are authorized on the high seas (outside of the 12-mile territorial sea) off the coast of Libya, provided there are reasonable grounds of migrant smuggling and “good faith efforts” are made to first contact the flag state for consent;

2. Disposal of vessels involved in migrant smuggling or human trafficking interdicted is authorized if “in accordance with applicable international law;” and
3. Member states may “use all measures commensurate to the specific circumstances...” in confronting migrant smugglers consistent with “international human rights law.”

A 2016 Report of the United Nations Secretary-General pursuant to Resolution 2240 noted the following:

- “More than 10,000 men, women and children on their way to Europe have died or gone missing at sea since 2014. As of 31 August 2016, the Office of the United Nations High Commissioner for Refugees (UNHCR) had recorded 3,169 deaths and disappearances in the Mediterranean Sea and 281,740 arrivals in Europe by sea in 2016.
- Organized criminal networks, including those involved in smuggling and trafficking, have exploited the security situation in Libya to expand their operations, which in turn has fueled instability. These profitable activities may have provided both direct and indirect funding for armed groups and terrorist organizations, further worsening the security situation and eroding government control. There are also signs that criminal enterprises have increased the fragility of governance structures by breeding corruption.
- The business model of migrant smugglers is based on meeting the demand for crossings into Europe by asylum seekers, refugees and migrants. As controls tighten and in the absence of commensurate safe and regular pathways, irregular crossings become more difficult, leading to a growing market for the services of smugglers. An increase in demand can therefore be expected. The European Police Office (Europol) estimates that more than 90 per cent of the persons travelling irregularly to States members of the European Union in 2015 used facilitation services. It also estimates that criminal networks involved in migrant smuggling had a turnover of between 5 billion and 6 billion euros in 2015.”

In 2016, the Security Council adopted Resolution 2312, which:

- Extended authorizations provided in Resolution 2240 (2015) for a year.
- Acknowledged “the need to assist States in the region, upon request, in the development of comprehensive and integrated regional and national strategies, legal

frameworks, and institutions to counterterrorism, transnational organized crime, migrant smuggling, and human trafficking, including mechanisms to implement them within the framework of States’ obligations under applicable international law...”

- Further stressed that “addressing both migrant smuggling and human trafficking, including dismantling smuggling and trafficking networks in the region and prosecuting migrant smugglers, and human traffickers requires a coordinated, multi-dimensional approach with States of origin, of transit, and of destination, and further acknowledging the need to develop effective strategies to deter migrant smuggling and human trafficking in States of origin and transit...”

In 2013, the UNODC developed an Issue Paper, “Combating Transnational Organized Crime Committed at Sea,” which notes that:

- “The smuggling of migrants and human trafficking at sea are subject to different legal frameworks, because such crimes fall under the dimensions of the law of the sea and transnational criminal law. The majority of the people intercepted on the seas are migrants travelling without documentation, often facilitated by smugglers. Smuggling of migrants is defined by Article 3(a) of the Smuggling of Migrants Protocol as: “the procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a State Party of which the person is not a national or a permanent resident.”
- Smuggling of migrants must also be differentiated from the concept of trafficking in persons, defined by article 3(a) of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children as: “The recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.”
- The first category to consider is refugees, the legal definition of which can be found in article 1A (2) of the Refugee Convention which states: “A refugee is a person, who ‘owing to a well-founded fear of being persecuted for reasons of race, religion, nationality,

or membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, unwilling to avail himself of the protection of that country' ”

Resolution 2380 (2017) extended these authorities through October 5, 2018. Member States, acting nationally or through regional organizations, continue to be authorized to inspect vessels reasonably suspected of being used for migrant smuggling or human trafficking from Libya, and to seize those confirmed to be engaging in such activities.

2050 Africa's Integrated Maritime Strategy (2050 AIM Strategy):

Trafficking in persons is a criminal offence addressed by many international instruments and programmes.

Among those are the UN Convention against Transnational Organized Crime and its Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (2000); the United Nations Global Initiative to Fight Human Trafficking (UN.GIFT) programme (2004) and in the context of Africa, the Ouagadougou Action Plan to Combat Trafficking in Human Beings, Especially Women and Children (2006). The UNODC has developed a United Nations Counter - Kidnap Manual on best practices for law enforcement authorities to combat kidnapping.

To deal with the scourge of human trafficking, a bigger part of the work will consist in awareness-raising, through media and training workshops, and capacity building in source and transit countries to deal with human trafficking.

The AU shall work towards addressing the root causes of human trafficking, which include poverty, unbalanced distribution of wealth, unemployment, armed conflicts, poor law enforcement system, degraded environment, poor governance, societies under stress, corruption, lack of education, lack of respect for universal human rights and discrimination, increased demand for sex trade and sex tourism.

The AU in collaboration with relevant stakeholders shall continue to assist Member States with the development and implementation of sound migration policies aimed at addressing trafficking in human beings, especially women and children.

1.12 INTERNATIONAL SHIP AND PORT FACILITY SECURITY (ISPS) CODE

After the attacks of September 11, 2001, the member states of the IMO convened a diplomatic conference in 2002 to adopt security-related amendments to the Safety of Life at Sea Convention (SOLAS) aimed at enhancing ship and port security. The amendments include the addition of Chapter XI-2 titled “Special Measures to Enhance Maritime Security” and the International Ship and Port Facility Security (ISPS) Code. Chapter XI-2 applies to passenger ships and cargo ships of 500 gross tons or greater, including high speed craft, mobile offshore drilling units and port facilities serving such ships engaged on international voyages.

The requirements of Chapter XI-2 and the ISPS Code stipulate a range of mandatory measures to enhance the security of ships engaged on international voyages and to port facilities. The provisions are focused on preventive action and do not extend to actual response to attack or consequence management. Combined, these measures are directed at protecting ships from being a target or using a ship as a weapon or as a means for transporting either persons intending to cause a security incident or their means for such an incident.

The ISPS Code contains security-related requirements for governments, port authorities and shipping companies set forth in a mandatory section (Part A). Guidelines on how to achieve the requirements are set forth in a second, non-mandatory section (Part B).

The requirements contained in the ISPS Code are presently in force for 158 States, which together constitute over 99 percent of the gross tonnage of the world's merchant fleet. The ISPS Code reflects that security is a risk management exercise and that in order to determine appropriate security measures, an assessment of the risk must be made in each specific case. The purpose of the ISPS Code is to set forth a standardized and consistent framework for evaluating risk to ships and port facilities, and to assist governments in calibrating changes in the threat level with changes in security to reduce the vulnerability of ships and port facilities.

Each government conducts port facility assessments that identify and evaluate important shipping infrastructure that, if damaged, could cause significant loss of life or damage to the economy or the environment. Second, governments identify actual threats to the critical infrastructure and prioritize security measures. Finally, vulnerability assessments are conducted to accurately evaluate risk. These assessments include the areas of physical security, structural integrity, utilities, communications, and port procedures.

Similarly, ships are required to have designated ship security officers, ships security plans and certain onboard equipment related to security. Shipping companies must identify company security officers. Both ships and port facilities must have controlled access and monitoring and ensure security communications are available. Because each class of vessel and type of port facility presents different risks, contracting governments determine and ultimately approve implementation of the Code.

2050 Africa's Integrated Maritime Strategy (2050 AIM Strategy) (2012)

72. Within the past decade, there have been major developments in the

regulation of international shipping, particularly through the introduction of the International Ship and Port Facility Security (ISPS) Code. Consequently, AU Member States that have not yet implemented the ISPS Code should move quickly to do so, and introduce other maritime MDA and security measures.

1.13 IMO MARITIME SECURITY LEGISLATION GUIDANCE

Overview: Guidance for the Development of National Maritime Security Legislation

The “Guidance for the Development of National Maritime Security Legislation” primer is model legislation developed by the International Maritime Organization (IMO) to support the implementation and enforcement of ship and port security measures.

Background: Soon after the September 11, 2001 attacks in the United States, member States at the International Maritime Organization (IMO) amended the Safety of Life at Sea (SOLAS) Convention to establish international port security standards. This amendment, known as the International Ship and Port Facility (ISPS) Code, serves as a benchmark for port security assessment and assistance.

The ISPS Code has supported significant improvements to ship and port security, though it is only partially mandatory and does not define offenses, suggest penalties, empower law enforcement, enable prosecutions or allow for incident response. Accordingly, the SOLAS Convention requires Contracting Governments to promulgate their own laws and regulations to give full and complete effect to all aspects of the Convention, including the ISPS Code.

In 2016 the IMO released “Guidance for the Development of National Maritime Security Legislation”⁹ (Guidance) to help Contracting Governments to meet the SOLAS legislation requirement. This model legislation is drawn from IMO sources, including the SOLAS Convention, the ISPS Code, the 2012 “Guide to Maritime Security and the ISPS Code”, and related IMO resolutions and circulars.

Crafted for ease of use, the IMO Guidance is a collection of stand-alone port security measures designed to allow for selective use and application under any legislative system.

Discussion: The IMO Guidance is organized to consider: (1) the controlling authority, (2) specific ship and port security requirements, and (3) the means by which the controlling authority may enforce those regulatory objectives. It is not intended to represent a definitive body of ship and port security law, but provides a selection of

international regulatory concepts designed to stimulate and assist in the discussion and development of maritime security legislation.

A national ship or port security regime must establish the scope of legal authority and define the conditions of legislative or regulatory applicability. It must ensure that public and private stakeholders understand their respective roles with clear lines of responsibility, allow for the issuance of regulations, and enable enforcement action for non-compliance.

- Part I of the IMO Guidance lays the legal foundation for national ship and port security regulatory development.
- Part II describes the State’s Maritime Security Organization and its authority to develop, implement and enforce ship and port security regulations. Specifically, this section describes Administrations, Designated Authorities, subordinate components and advisory committees. It also governs the employment of private Recognized Security Organizations as regulators. No particular hierarchical option is mandatory, but model text may be used as applicable under the nation’s specific circumstances.
- Part III focuses on ship security and the obligations of company security officers and ship security officers. Issues discussed include documentation; training, drills and exercises; physical security; operational security; and incident response.
- Similarly, Part IV addresses port facility security officer duties and authorities and details the practical and operational security measures to be addressed in port facility security plans.
- Part V on Enforcement addresses ship control measures and the enforcement and adjudication of ship and port security violations. Having empowered national and local ship and port security authorities to implement specific security measures and requirements, meaningful enforcement is necessary. This Part provides a basic outline of enforcement issues, which may be applied in conjunction with a nation’s existing criminal law regime.

Implementation: Several African nations have used the IMO’s Guidance to draft comprehensive maritime security codes. Similarly, the Guidance is employed in legislative development assistance workshops provided by the IMO and the U.S. Coast Guard in Asia and the Americas.

⁹ The IMO’s Guidance for the Development of National Maritime Security Legislation (Circular MSC.1/Circ. 1525) is accessible online at: http://www.imo.org/en/OurWork/Security/Guide_to_Maritime_Security/Guidance/Documents/MS-C.1-Circ.1525.pdf#search=MSC%201%20Circ%201525

1.14 MARITIME SITUATIONAL AWARENESS

Maritime situational awareness is the effective understanding of anything associated with the maritime domain that could affect the safety, security, economy or environment of a country or region. The United States, for example, refers to this capability as “maritime domain awareness (MDA),” though there is not one universally recognized term.

The maritime domain is best defined as all areas and things of, on, under, relating to, adjacent to, or bordering on a sea, ocean, or other navigable waterway, including all maritime-related activities, infrastructure, people, cargo, vessels, and other conveyances. Maritime situational awareness is a key component of maritime defense and a critical factor for ensuring the security of commercial shipping, fishing and other lawful uses of the sea. Maritime situational awareness may rely on information exchange that encompasses both public and private sector entities with maritime interests.

Obtaining and sharing information is a key mechanism to increase transparency, safety, security and economic prosperity in the maritime domain. Two primary capabilities are the Automatic Identification System (AIS) and the Long Range Identification and Tracking (LRIT) system.

Maritime situational awareness serves to simplify the complex and ambiguous maritime security environment by meeting the following strategic goals:

1. Enhancing transparency in the maritime domain to detect, deter and defeat threats as early and distant from shore as possible;
2. Enabling accurate, dynamic, and confident decisions and responses to the full spectrum of maritime threats; and
3. Sustaining the full application of the law to ensure freedom of navigation and the efficient flow of lawful commerce.

Achieving situational awareness depends on the ability to monitor maritime activities so that trends can be identified and anomalies differentiated. Data must be collected, fused, and analyzed, and computer data integration and analysis algorithms can assist in handling disparate data streams. These actions (including their dissemination) aid operational decision makers in anticipating threats and countering them. Furthermore, developing greater awareness should not be used by coastal states to impair or diminish freedom of navigation and other freedoms and lawful uses of the seas, including on the high seas and throughout exclusive economic zones, the right of innocent passage in territorial seas, the right of transit

passage in international straits, or the right of archipelagic sea lanes passage.

A. Automatic Identification Systems (AIS)

Chapter V of SOLAS (Safety of Navigation) was revised to require all ships over 300 gross tons or that carried 12 or more passengers on international voyages, to install an automatic identification system (AIS). A ship with AIS is able to display to similarly equipped vessels or shore receivers within range information such as vessel name, size, heading, speed, next port of call, and cargo. AIS is a line of sight system on VHF maritime band, so the range is generally restricted to approximately 60 km. The AIS signal is transmitted effectively on a continuous basis, but when vessel stations are transiting in the oceanic spaces data cannot be picked up readily and utilized by shore-based security centers. Some nations are beginning to collect AIS data by satellite, which eliminates this shortcoming and gives them a near global awareness of AIS-equipped vessels.

Operation of AIS in some areas may cause a security concern because information is broadcast and made available to anyone, including pirates or terrorists. For this reason, in November 2003 the IMO Assembly adopted resolution A.956(23), “Amendments to the guidelines for the onboard operational use of shipboard automatic identification systems (AIS),” which permits ship masters to switch off AIS in areas where the master believes the ship may be in imminent threat of attack from pirates or terrorists. Some maritime and coast guard agencies permit masters to turn off AIS when they believe the vessel is placed under threat by broadcasting AIS. For many areas, however, particularly near entrances to congested ports and harbors, AIS presents a critical part of strengthening maritime situational awareness.

B. Long Range Identification & Tracking (LRIT)

In May 2006, an amendment to SOLAS Chapter V introduced Long Range Identification and Tracking (LRIT) as mandatory for ships 300 gross tons or greater automatically on international voyages, including passenger ships, cargo ships, high-speed craft and mobile offshore drilling units. LRIT is a global satellite-based system vessel identification system that is more secure than AIS.

LRIT makes vessel location and identity information available to a government for ships flying its flag, entering its ports, and also for those ships passing within 1,000 nautical miles of its coastline but not entering a port. Vessels send position reports periodically to cooperating national, regional or international LRIT data centers. LRIT data centers will deliver data to SOLAS contracting governments entitled to receive the data for official use

only. An international data exchange serves as a “router” of the data among data centers. LRIT provides reliable and persistent global surveillance of maritime traffic for the purposes of detecting, identifying and classifying vessels. LRIT is a closed system designed with security solely in mind.

C. Maritime Safety and Security Information System (MSSIS)

On 31 Dec 2004, the International Maritime Organization (IMO) mandated that the transmission of AIS data is required for all vessels greater than 300 gross register tonnage (GRT) on an international voyage, 500 GRT on all cargo vessels, and on all passenger ships regardless of size.

MSSIS was established to assist or provide emerging maritime partners with the capability to detect, track, identify, display and share information on cooperative surface vessels to enable maritime security and safety operations through automatic identification system (AIS) data feeds.

The establishment of an open AIS data exchange was based on several core principles to ensure benefit to all participating countries including:

- Open to any government willing to exchange AIS data;
- Sharing your AIS information will, in turn, allow you to receive the global AIS picture;
- Share non-classified data only;
- Data is not owned or centralized, it is only exchanged.

Participating nations operate AIS receivers at fixed locations and/or on maritime/aerial platforms to maintain the specified receivers in good working order to ensure a continuous, accurate flow of data to the network. Maritime sources may range from single AIS receivers to entire national or regional AIS networks. Data is received from the MSSIS network for governmental purposes, specifically maritime safety and security; the data is to be used in a manner that is consistent with customary international law and other relevant rules of international law. Total participation is now up to 70 nations, covering over 240,300 miles of coast line around the globe.

Sharing law enforcement information across all levels of government is a key driver of improving a national ability to detect, prevent, and respond to acts of criminal activities and terrorism. Sharing law enforcement information generally involves multiple agencies, at all levels of a government.

A fundamental component of effective information sharing, for example, is the use of information systems that capture relevant data and make it broadly available to authorized users in a timely and secure manner.

Further, many principles that facilitate the exchange of information related to terrorist activities have relevance to cooperation in other areas. Criminal history records, law enforcement incident reports, records of judicial actions and decisions, and watch lists of known and suspected terrorists are all essential sources of vital data that provide accurate, timely, and complete information to law enforcement officers across a country.

2050 Africa's Integrated Maritime Strategy (2050 AIM Strategy) (2012)

“On its part, the AU is in the process of complementing its efforts by setting the tone to address Maritime Security and Safety, including Situational Awareness in the maritime domain of the African continent, by thoroughly addressing the issue in the new Commission's Strategy”. (H.E. Amb. Ramtane Lamamra, AUC's Commissioner for Peace and Security, 6046th UNSC Meeting, New York, 16 Dec. 08:

31. Steps toward promoting inter-agency and transnational cooperation and coordination on maritime safety and security shall include the development of an inter-agency approach...to scrutinize issues of situational awareness and collaborate towards the enhancement of Africa's Maritime Domain Awareness (MDA), and to uphold cooperative efforts between Navies/Coast Guards of the AU Member States and international partners.

[The Chiefs of African Navies and/or Coast Guards (CHANS)] will strive to:

- 1) Foster development of requisite capacities to achieve effective MDA in Africa.
- 2) Pool national and regional political will by enhancing understanding of the importance of MDA as a critical enabler in building Africa's maritime security and safety.
- 3) Increase joint regional surveillance operations at sea, and the establishment of sea-going Navies and/or Coast Guard networks around Africa, with cross-border hot pursuit function.

United Nations Convention Against Transnational Organized Crime (UNTOC) (excerpts)

Article 27: Law enforcement cooperation

1. States Parties shall cooperate closely with one another, consistent with their respective domestic legal and administrative systems, to enhance the effectiveness of law enforcement action to combat the offences covered by this Convention. Each State Party shall, in particular, adopt effective measures:

- (a) To enhance and, where necessary, to establish channels of communication between their competent authorities, agencies and services in order to facilitate the secure and rapid exchange of information concerning all aspects of the offences covered by this Convention, including, if the States Parties concerned deem it appropriate, links with other criminal activities;
- (b) To cooperate with other States Parties in conducting inquiries with respect to offences covered by this Convention concerning: (i) The identity, whereabouts and activities of persons suspected of involvement in such offences or the location of other persons concerned; (ii) The movement of proceeds of crime or property derived from the commission of such offences; (iii) The movement of property, equipment or other instrumentalities used or intended for use in the commission of such offences;
- (c) To provide, when appropriate, necessary items or quantities of substances

for analytical or investigative purposes;

(d) To facilitate effective coordination between their competent authorities, agencies and services and to promote the exchange of personnel and other experts, including, subject to bilateral agreements or arrangements between the States Parties concerned, the posting of liaison officers;

(e) To exchange information with other States Parties on specific means and methods used by organized criminal groups, including, where applicable, routes and conveyances and the use of false identities, altered or false documents or other means of concealing their activities;

(f) To exchange information and coordinate administrative and other measures taken as appropriate for the purpose of early identification of the offences covered by this Convention.

2. With a view to giving effect to this Convention, States Parties shall consider entering into bilateral or multilateral agreements or arrangements on direct cooperation between their law enforcement agencies and, where such agreements or arrangements already exist, amending them. In the absence of such agreements or arrangements between the States Parties concerned, the Parties may consider this Convention as the basis for mutual law enforcement cooperation in respect of the offences covered by this Convention. Whenever appropriate, States Parties shall make full use of agreements or arrangements, including international or regional organizations, to enhance the cooperation between their law enforcement agencies. 3. States Parties shall endeavour to cooperate within their means to respond to transnational organized crime committed through the use of modern technology.

Article 28: Collection, exchange and analysis of information on the nature of organized crime

1. Each State Party shall consider analysing, in consultation with the scientific and academic communities, trends in organized crime in its territory, the circumstances in which organized crime operates, as well as the professional groups and technologies involved.

2. States Parties shall consider developing and sharing analytical expertise concerning organized criminal activities with each other and through international and regional organizations. For that purpose, common definitions, standards and methodologies should be developed and applied as appropriate.

4. Each State Party shall consider monitoring its policies and actual measures to combat organized crime and making assessments of their effectiveness and efficiency.

1.15 FOLLOWING THE MONEY: USING FINANCIAL TOOLS TO INVESTIGATE AND PROSECUTE CRIMINAL NETWORKS

Effective investigations and prosecutions of criminal networks use a variety of tools, including financial tools, undercover operations, cooperating witnesses, witness protection, and electronic surveillance. This chapter focuses on the use of financial tools to effectively investigate and prosecute criminal networks. Criminal networks can take many forms, including maritime networks, cyber-crime networks, narco-trafficking networks, and human trafficking networks.

By following the money and assets of criminal networks, West African and Central African governments can help reduce and dismantle criminal networks, including maritime criminal networks.

Why follow money and assets of criminal networks?

First, many people commit crime for the money and assets it gives them. Accordingly, the government can catch criminals through their money and assets, by following the paper trails and digital trails left by the criminal networks. Once the government has found the money and assets, it can forfeit the money and the assets, and provide restitution to any victims.

Second, money also helps pay for more crimes. By cutting off the flow of money and forfeiting it, the government can help prevent future crimes from being committed.

Most investigations and prosecutions can benefit from financial tools

Financial tools can help many different kinds of investigations. Financial tools are not only used for investigations of financial crimes, such as money laundering and fraud. For instance, financial tools can also be used to investigate maritime offenses, violent crimes, human trafficking/smuggling, narcotics, mafias and gangs, child exploitation, terrorism, cybercrime, and public corruption.

General financial indicators of wrongdoing

According to the Egmont Group, there are six general financial indicators of wrongdoing to look for when investigating criminal activity:

1. Large-scale cash transactions.
2. Atypical or uneconomical fund transfers to or from foreign jurisdictions.
3. Unusual business activity or transactions.
4. Large and/or rapid movements of funds.
5. Unrealistic wealth compared to client profiles.
6. Defensive stance to questioning.

What is “financial information”?

Financial information that government investigators can obtain includes:

1. Ordinary records from financial institutions, such as records about checks, credit cards, savings, loans, investments, and safe deposit boxes.
2. Due diligence records, also known as “Know Your Customer” records. These are account opening re-

cords and account monitoring records that financial institutions maintain with information about their customers, such as corporate history, signature cards, references, and taxes.

3. Records that financial institutions are required by law to create and maintain, such as Currency Transaction Reports (CTRs) and Suspicious Activity Reports (SARs).
4. Electronic fund transfers, including international wire transfers through SWIFT.
5. Nonbank financial records, such as hawala and hundi.

Obtaining domestic financial information

In most countries, domestic financial information is available through legal process, such as subpoenas or court orders. In some countries, domestic financial records are available to government investigators automatically, without the need for legal process.

Obtaining foreign financial information

Methods by which investigators may seek to obtain foreign financial information include:

1. Treaty requests, which are official requests for information through bilateral Mutual Legal Assistance Treaties or international legal conventions.
2. Law enforcement agency contacts, in which a government's law enforcement agency requests and obtains information from a law enforcement agency in another country.
3. Requests through the Egmont Group.

Investigators should consult contacts such as foreign law enforcement attachés about what information can be obtained via police-to-police requests without MLAT requests.

Obtaining foreign financial information through the Egmont Group

The Egmont Group is composed of government Financial Intelligence Units (FIUs) from more than 150 countries, including various West African and Central African states. The Egmont Group focuses on fighting money laundering, terrorist financing, and other financial crimes. It is open to new member countries, at www.egmontgroup.org/membership.

The Egmont Group helps member states share financial information with each other.

International Conventions and Standards Governing Money Laundering

United Nations Conventions and Resolutions:

Instruments

- 1988 UN Convention Against the Illicit Traffic in Drugs and Psychotropic Substances
- UNTOC and UN Convention Against Corruption (UNCAC)

Provisions

- Contain provisions on criminalizing the laundering of proceeds of crime
- Contain measures to combat money laundering

Call for creation of Financial Intelligence Units (FIUs)

Financial Action Task Force (FATF) Standards

- Provided recommendations for improving national legal systems, enhancing the role of the financial sector, and intensifying cooperation in the fight against money-laundering.

SELECTED PROVISIONS OF THE UNITED NATIONS CONVENTION AGAINST TRANSNATIONAL ORGANIZED CRIME (UNTOC) (2000)

UNTOC entered into force December 25, 2003

Foreword by UN Secretary-General Kofi A. Annan: "...If crime crosses borders, so must law enforcement. If the rule of law is undermined not only in one country, but in many, then those who defend it cannot limit themselves to purely national means. If the enemies of progress and human rights seek to exploit the openness and opportunities of globalization for their purposes, then we must exploit those very same factors to defend human right rights and defeat the forces of crime, corruption and trafficking in human beings."

Article 6: Criminalization of the laundering of proceeds of crime

Each State Party shall adopt, in accordance with fundamental principles of its domestic law, such legislative and other measures as may be necessary to establish as a criminal offense, when committed intentionally:

a(i) The conversion or transfer of property, knowing that us property is the proceeds of crime, for the purpose of concealing or disguising the illicit origin of the property or of helping any person who is involved in the commission of the predicate offense to evade the legal consequences of his or her action.

(ii) The concealment or disguise of the true nature, source, location, disposition, movement or ownership of or rights with respect to property, knowing that such property is the proceeds of crime;"

(b) Subject to the basic concepts of its legal system:

(i) The acquisition, possession or use of property, knowing at the time of receipt, that such property is proceeds of crime;

(ii) Participation in, association with or conspiracy to commit attempts to commit and aiding, abetting, facilitating and counselling the commission of any of the offenses established in accordance with this article.

Article 7: Measures to combat money-laundering

Each State party shall...

...Institute a comprehensive domestic regulatory and supervisory regime for banks and non-bank financial institutions and, where appropriate, other bodies particularly susceptible to money-laundering, within its competence, in order to deter and detect all forms of money-laundering, which regime shall emphasize requirements for customer identification, record-keeping and the reporting of suspicious transactions...

...Ensure that administrative, regulatory, law enforcement and other

authorities dedicated to combating money laundering...have the ability to cooperate and exchange information at the national and international levels within the conditions prescribed by its domestic law...

Article 8: Criminalization of corruption

Each State party shall adopt legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally...

...the promise, offering or giving to a public official, directly or indirectly, of an undue advantage, for the official himself or herself or another person or entity, in order that the official act or refrain from acting in the exercise of his or her official duties...

1.16 MODEL MARITIME SERVICE CODE¹⁰

Overview: The Model Maritime Service Code, which is separate from, but complementary to IMO Maritime Security Legislation Guidance, is a U.S. Coast Guard-created reference document for States to use in developing or refining a maritime service, such as a coast guard or navy, and substantive laws the maritime service might enforce.

The Model Code represents the collective efforts of the U.S. Coast Guard as both an armed force and civilian law enforcement agency with extensive experience in seaborne operations and maritime law, and is designed to assist nations in developing a Maritime Force to address safety, security, and economic challenges in the maritime environment.

Regulation of the oceans and coastal regions by maritime states grew more complex in the 20th century. In addition to an expanding number of international maritime conventions, states are confronting legal and maritime issues they have never faced before. In response, maritime states are developing a maritime regulatory infrastructure flexible enough to allow them to respond to the variety of issues which arise from the use of the seas. The adoption of a legislative framework similar to that contained in the Model Code would provide the maritime state with enhanced safety and security, protect the mariner as well as the environment, and allow a maritime state to exercise the variety of maritime rights and obligations recognized under international law.

Clear legal authority provides a Maritime Force with a basis for action, ensures public and governmental support for its missions, and protects the rights of citizens. The Model Code includes “draft” provisions to support legislative obligations in the areas of maritime safety and security, and protect mariners and the marine environment. It is

fashioned after the organization and authority of the U.S. Coast Guard - a law enforcement organization, a regulatory agency, and a military service. Accordingly, the Model Code represents one method for establishing a multi-mission Maritime Force. Importantly, the Model Code helps identify fundamental legal authority a multi-mission Maritime Force needs to function effectively as a military service, a law enforcement organization, and a regulatory agency. Principal areas in the Model Code include:

- military operations and preparedness;
- law enforcement;
- maritime safety (including search and rescue); and
- enforcement of shipping and navigation laws.

First developed in 1994, and subsequently revised, the Model Code is presented in 18 chapters. The first section is dedicated to establishing a Maritime Force organized and authorized to assert maritime jurisdiction over activities, vessels, and persons in specified geographic areas. Another section is dedicated to authorizing a Maritime Force to conduct investigations, assess and impose civil penalties, and refer cases for criminal prosecution. Individual missions that may be performed by a Maritime Force are also addressed.

An appendix provides supplemental statutory language regarding personnel administration that may be helpful but not essential to most Maritime Forces. Another appendix identifies important but limited United States statutory references that may be helpful. A third appendix provides a summary of the International Maritime Organization (IMO) Conventions. The Model Code and its appendices were specifically drafted with the anticipation that the Model Code would be presented by Coast Guard personnel to interested countries.

Each chapter in the Model Code has an introductory discussion that address: (a) The Model Code; (b) The United States Coast Guard; and (c) International Treaties. In reading the introductory material to each chapter, the reader should be able to: (1) identify the purpose for each of the chapters and subparts; (2) recognize U.S. Coast Guard programs; and (3) identify some of the international treaties relating to the topic addressed in the chapter. The Model Code has been revised to reflect developments in domestic and international law since the first edition was published, such as sample legislative text related to ship and port facility security and port state control.

¹⁰ Portions of this section are excerpted from an article written by LT Tamara Wallen, USCG, The Model Maritime Service Code, Proceedings, Summer 2009, available at: http://www.uscg.mil/proceedings/summer2009/articles/32_%20Wallen_The%20Model%20Maritime%20Service%20Code.pdf

The Model Code is a useful reference to conduct national-level reviews of legislative obligations as well as create or restructure their Maritime Forces in light of a dynamic and changing threat environment.

2050 Africa's Integrated Maritime Strategy (2050 AIM Strategy) (2012)

60. The AU shall encourage Member States to develop legal frameworks for coordinated State intervention at sea and inland water ways and subsequent actions. The AU shall further actively and continuously encourage high levels of commitment within RECs/RMs and other regional initiatives, including RFMOs, to harmonize national maritime laws and to enhance bi-lateral and regional strategic synergies, including signing and ratification and accession by Member States of the relevant international maritime instruments.

64. At the national level, Member States shall be encouraged to stiffen penalties associated with money laundering, illegal arms and drug trafficking. AU Member States shall strive to harmonize policies and laws in this area to curb these trans-boundary crimes...

2050 AIM Strategy (cont.)

Control, Communications, Computers, Intelligence, Surveillance and Reconnaissance (C4ISR) systems and operational concepts.

V. Promote the establishment of Regional Centers of Excellence for training, operations and equipment development on maritime safety and security.

VI. Promote the establishment of Liaison Team mechanism among neighboring Member States and within RECs/RMs bearing in mind the IMO Recommendations on Regional Agreement on Cooperation on Preventing and Suppressing Acts of Piracy and Armed Robbery Against Ships (IMO MSC 1/Cir 1333).

VII. Establish in collaboration with relevant and interested stakeholders, Continental and Regional agreements, arrangements, and capabilities including, but not limited to, mutualization of assets to address such common agendas as law enforcement, Search and Rescue, Humanitarian Crises, Disaster Relief, etc.

VIII. Push for requirement for Continental, Regional and National harmonization of Force Structure Element capability requirements.

IX. Enhance cooperation through existing regional organizations associated with fisheries, maritime commerce, and transport, maritime tourism and academia.

X. Rally round a cross-sector interagency approach to improve the concept of Integrated Coastal Area Management (ICAM) in Africa.

1.17 ENERGY SECURITY

Africa's oil, gas, and mineral reserves are a source of tremendous wealth and opportunity. These resources, unfortunately, also fuel criminality and conflict. The continent's long-term challenges with natural resource governance, some of which have manifested as brutal wars, now also occur offshore and pose new concerns for energy

security and more broadly the security of the hydrocarbon sector, food security, and national security.

Offshore Infrastructure Protection

In the October 2015 Luanda Declaration arising out of a high-level maritime security conference hosted by the Angolan Government, the discussion of maritime security in Africa was appropriately broadened to include energy security. Increasingly, African economies rely on the production of hydrocarbon and other resources in the maritime and offshore spaces. In addition, the transport of such resources into and out of countries around the continent affect coastal and landlocked states alike. In a very real sense, therefore, the maritime domain powers Africa on multiple levels.

The Luanda Declaration took note of the increased reliance of African states on offshore infrastructure and transportation infrastructure and made its security a priority. That need for maritime security to include protection of infrastructure has been underscored by the debilitating effects of the Niger Delta Avengers' attacks on oil infrastructure in Nigeria. In 2016, such attacks reduced oil production from 2.2 million barrels to as low as 900,000 barrels per day, and constituted an overall 40% shortfall from expectations (on which the national budget was based).

Regardless of whether a state produces oil, it is beneficial to prioritize energy and extractive infrastructure protection in the maritime space. Furthermore, it is also beneficial to have awareness of all private security enterprises that operate in their territory, frequently hired by multinational companies to protect such infrastructure without state involvement. Regulatory initiatives that seek to ensure that they have visibility, oversight and control of the private security activities occurring within their entire territory---not just on land---is a recognized best practice.

While terrorism and infrastructure destruction is on the rise, crude oil theft and fuel theft are equally destabilizing.

Crude Oil Theft

In 2013, the UK's Royal Institute of International Affairs at Chatham House published a major report on "Nigeria's Criminal Crude," detailing the extensive illicit activity surrounding crude oil theft (also known as illicit bunkering) in Nigeria. Pipeline tapping, theft from storage facilities, and both piracy and armed robbery at sea result in billions of dollars of losses per year. The consequences of that criminality, however, reach far beyond the financial impact of losing roughly 150,000 barrels per day to illicit actors in Nigeria. The illicit supply chain often involves other states, offshore facilities, and criminal networks that

trade in other illicit goods as well as stolen oil. Furthermore, there is an increasingly close nexus between illicit oil operations and terrorist organizations.

While Nigeria has been the focus of attention, security concerns exist anywhere oil is extracted or moved. Most of the armed attacks on vessels over the past decade in the Gulf of Guinea, for example, have concentrated on tankers. A contrast from Somali piracy, the model has been to hold the ship for a relatively low ransom, and steal its oil.

Fuel Theft

A 2017 study of “Downstream Oil Theft: Global Modalities, Trends and Remedies,” by the U.S. think tank, the Atlantic Council, led by Dr. Ian Ralby revealed a previously under-examined issue with tremendous maritime implications. While crude oil theft has been examined, the illicit activity concerning refined oil products – the fuel used for such vital activities as cooking, driving, heating, cooling and powering generators – has largely been ignored.

The Atlantic Council study concluded that in Nigeria, for example, 30% of all fuel that is imported into the country is smuggled out, both over land and by boat. Given the size of the country, that operation has dramatic effects on neighboring states. In Benin, 80% of all fuel in the country is smuggled from Nigeria, meaning that the government does not have control of its energy supply; criminals do. The maritime smuggling route from Nigeria stretches as far as Ghana where illicit fuel is known to move via several mechanisms from the water into the distribution network. And that distribution network directs more fuel to a border town of 100,000 people than it does to the capital city of 2.3 million because the cross-border fuel smuggling practice is so extensive.

A follow-up Atlantic Council report, “Oil on the Water: Illicit Hydrocarbons Activity in the Maritime Domain,” further explored the large-scale fraud and high-level criminal schemes that facilitate oil and fuel theft in the maritime space. In addition, the movement of fuel in modified fishing vessels, and even in jerry cans on boats that move non-stop along smuggling routes greatly undercut the energy security of the region. These activities deprive African states of tens of billions of dollars a year in tax revenues, drain the resources of maritime law enforcement agencies, and fund the transnational organized crime groups and terrorist organizations that destabilize governments and threaten national security.

Energy security, with an array of maritime modalities, has not yet represented a priority focus area for most law enforcement agencies. Transnational organized criminal groups, terrorist organizations, insurgents and militants

have increasingly turned to fuel theft to fund their more operations.

To address these energy security issues states should consider:

- Establishing whole-of-government frameworks for overseeing upstream and downstream oil activities.
- Implementing molecular marking, high quality metering, and comprehensive tracking/monitoring to reduce theft, adulteration, fraud and tax evasion.
- Focusing on criminal networks, rather than individual crimes, to prevent seemingly benign crimes like fuel smuggling from becoming the funding source for criminal or terrorist organizations.
- Requiring oil industry companies to maintain and publish careful records relating to the movement of oil and fuel, specifically identifying exact quantities.
- Reducing price differentials across borders caused by subsidy and tax schemes, thereby dis-incentivizing smuggling.

1.18 WHOLE-OF-GOVERNMENT COLLABORATION

Whole-of-Government collaboration:

The integration of multiple agencies within a nation to share information, identify threats, and synchronize responses. Whole-of-government collaboration may address security threats and/or environmental events, among other challenges. A documented national level process connects the right people at the right time to support improved senior-leader awareness, a networked response, and consequence delivery. Also referred to as inter-agency or inter-ministerial coordination; this concept represents both a process and community of interest.

The Yaoundé Gulf of Guinea Code of Conduct (2013), the amended Djibouti Code of Conduct (2017), and the Lomé Charter (2016) all recognize the importance of national level coordination frameworks.

The focus on whole-of-government is emblematic of a changed environment: the maritime response spectrum now involves an unprecedented number of ministries, ranging from surface assets and military units, to law enforcement officials, investigators, safety agencies, and diplomats. The response spectrum includes more agencies, in part, because threats are more complex, authorities are more distributed throughout a government, and the end-state is frequently a land-based courtroom.

The expanded response spectrum includes departments often operating under different chains of command and recognition that a government has to speak with one voice. The challenge—and goal—is achieving a single, authoritative voice and achieving unity of effort efficiently and effectively.

The Yaoundé Gulf of Guinea Code of Conduct and amended Djibouti Code of Conduct—in sections titled “measures at the national level” encourage Participants to harness the collective strength of multiple agencies, ensure a government speaks with one voice, and that its response activities are synchronized. The challenge, and opportunity, is developing a whole-of-government framework.

Key considerations include identifying legal authorities, which ministries may be involved, defining when the process would be utilized, and ensuring that the process is effectively implemented. Developing metrics to measure impact supports an adaptive, evolving process.

Issues, such as whether to board a foreign-flagged ship on the high seas suspected of drug trafficking, how suspected pirates will be transported to the prosecuting State, and the response to an inbound ship with passengers that may have a contagion, likely involve multiple agencies. Moreover, specific responses, such as combating piracy, terrorist activity, drug trafficking, weapons of mass destruction (WMD) smuggling, fisheries violations, human trafficking, and migrant smuggling, among other illicit activity, has the potential to involve government agencies that operate under separate chains of command, with separate authorities and separate responsibilities.

The U.S. Department of State INL Bureau, U.S. Africa Command, (USAFRICOM) and Africa Center for Strategic Studies (ACSS) organized a workshop in Abuja, Nigeria, in 2016 focused exclusively on the key elements of a whole-of-government framework to support the coordinated response to maritime threats and events. Participants agreed that collaborative frameworks specifically equip African states with essential tools to meet varied security threats and safety challenges emanating from the maritime environment. Speakers at the Abuja workshop in 2016 highlighted the following critical issues related to whole-of-government processes:

- When multiple ministries are involved, lines of responsibility must be clean and well-defined, and timely information sharing is critical;
- Authority for the process – for coordination – must be provided from the highest level of government;
- Guidance must be clear and understood by all;
- The process must be supported by all ministries and at all levels;
- Ministries must be able to align their views and activities quickly in any significant security situation
- A process that is frequently used or exercised, enables ministries to harness each others’ strengths and fill gaps so that a unified effort can effectively address the threat; and

- Maintaining an educational focus is also key: workshops, documented training, incentivizing participation, scenario-based, Performance Qualification System, and annual reporting, are important enablers of an effective whole-of-government process.

Guidance and recommendations from an array of organizations and documents collectively recognize that a national-level process best positions timely information sharing, coordinated responses, and consequence delivery. In addition to the Yaoundé and Djibouti Codes, the Lomé Charter (2016) reflects a core whole-of-government goal: aligning actions and enhancing the exchange of information, and speaking as one voice.

The 2050 Africa’s Integrated Maritime Strategy (AIM Strategy), likewise, provides that a step “toward promoting inter-agency and transnational cooperation and coordination on maritime safety and security shall include the development of an inter-agency approach...”

And, the International Maritime Organization (IMO) Strategic Guidance for Implementing Sustainable Maritime Security Measures in West and Central Africa (2014) recommended, among other things, the “establishment of a national maritime security committee or other system for coordinating the related activities between the departments, agencies, control authorities, and other organizations of the State...”

2050 Africa’s Integrated Maritime Strategy (2050 AIM Strategy) (2012)

31. Steps toward promoting inter-agency and transnational cooperation and coordination on maritime safety and security shall include the development of an inter-agency approach, a Naval Component capacity within the framework of the African Standby Force (ASF), and the establishment of a representative continental working group of Chiefs of African Navies and/or Coast Guards (CHANS) to scrutinize issues of situational awareness and collaborate towards the enhancement of Africa’s Maritime Domain Awareness (MDA), and to uphold cooperative efforts between Navies/Coast Guards of the AU Member States and international partners. The AU, in collaboration with maritime agencies across the continent, including those from coastal and non-coastal Member States, will designate appropriate representatives to the CHANS. The CHANS will strive to...:

....Establish in collaboration with relevant and interested stakeholders, Continental and Regional agreements, arrangements, and capabilities including, but not limited to, mutualization of assets to address such common agendas as law enforcement, Search and Rescue, Humanitarian Crises,

Disaster Relief, etc.

....Push for the requirement for Continental, Regional and National harmonization of Force Structure Element capability requirements.

....Enhance cooperation through existing regional organizations associated with fisheries, maritime commerce, and transport, maritime tourism and academia.

....Rally around a cross-sector interagency approach to improve the concept of Integrated Coastal Area Management (ICAM) in Africa.

1.19 NATIONAL-LEVEL MARITIME STRATEGY DEVELOPMENT

The Yaoundé Gulf of Guinea Code of Conduct (2013), the Revised Djibouti Code of Conduct (2017) and the draft Lomé Charter (2016) all recognize the importance of national-level strategic guidance.

The maritime domain is an area of evolving geostrategic importance. To meet security and development challenges in this domain, the Codes of Conduct and Charter recognize that an impactful national-level strategy must include a maritime dimension.

Maritime strategies enable states to fully utilize maritime domain resources to achieve sustainable development. Equally critical, maritime strategies equip Africans with essential harmonizing tools to meet the many security threats emanating from the maritime domain.

In 2016, the State Department INL, USAFRICOM, and ACSS conducted a workshop in Ghana focused exclusively on the development of impactful national-level maritime strategies. The 2016 workshop provided participants with key considerations for strategy development by laying out its various stages in a template format.

The format was developed by expert practitioners with operational and academic experience, and further enriched by the discussions of participants from 34 African countries in the April 2010 Maritime Safety and Security in Africa Seminar, hosted by ACSS in Dar Es Salaam, Tanzania. These seminars focused both on substance and process. The template provided examples of important issues and techniques to consider in maritime strategy development. While there is not a single model regarding the process by which a strategy is developed, approved, and implemented, this section identifies issues to be considered when drafting a maritime strategy (recognizing the text of a national maritime strategy will be unique to each government). The process by which a drafting team is assembled is equally important to the development of an effective, durable document. In addition, the development of an implementation plan is also a key element of an effective strategy.

To develop a maritime strategy, it is beneficial to first assess and prioritize maritime threats and challenges in Africa. Following a threat assessment, it is beneficial to identify the broad and diverse group of public and private stakeholders in the maritime realm. Stakeholders may be numerous and particular to a nation or region.

A comprehensive list of stakeholders cannot, thus, be identically applied across the continent. To achieve strategic objectives, it is critical to develop and determine

the desired “aims.” The “aims” should strive to achieve balance between the interests of economic, social, environmental, and security sectors of society, as well as working within the parameters established by available resources. In designing a maritime strategy, *ends* must be actionable, tangible and measurable as well as describe the desired goal of implementing a maritime strategy.

The mechanisms for accomplishing objectives, or the *ways*, are linked invariably with the *ends* because they describe a specific path of action to the desired result. Appropriate ways must take into account the breadth of maritime sector activities in which stake-holders participate.

The ways and means describe how best to achieve and resource these goals. A given maritime strategy may well have multiple objectives that require prioritization dependent on the needs of the country, sub-region, or region. While this task may appear to be specific to a country, it is possible to identify examples of key maritime objectives and their overarching pillars, which include governance, economy, environment, law, information, and security.

Key Pillars of Maritime Governance

Governance

1. Ensure relevant ministries are in compliance with their mandate.
2. Foster better maritime understanding and awareness through increased political will and policy maker education.
3. Ensure adequate mechanisms exist and function to prevent and deter corruption.
4. Reinforce maritime administrative bodies.

Economy

5. Enable and encourage the free, legal and legitimate movement of people and trade in the maritime domain.
6. Identify funding mechanisms to effect maritime security programs.

Environment

7. Protect and preserve the maritime environment and maritime communities.

Law

8. Achieve compliance with international treaties and obligations, and national laws.

Information

9. Design integrated communication processes that allow effective information sharing.
10. Achieve full public awareness about the maritime domain.

Security

11. Achieve maritime domain awareness as a critical step in defending state sovereign rights including national use and exploitation of maritime resources for domestic and international priorities.

Assessments are the final, yet critical, piece of maritime strategy development. Once completed, the assessments can

reinforce the entire strategy and can positively contribute to building support. Topics that might be addressed by an assessment include competing domestic and international interests, and financial considerations.

Similar to guidance provided in the Yaoundé and Djibouti Codes, the IMO's Strategy for West and Central Africa States (2014) recommends that States establish a national maritime security plan with related contingency plans (or other system) for harmonizing and coordinating the implementation of security measures designed to enhance the security in the international maritime transport sector with those of other modes of transport. And the 2050 Africa's Integrated Maritime Strategy (2050 AIM Strategy) expressly recognizes the importance of a maritime strategy, in seeking to create an "overarching, concerted and coherent long-term multilayered plans of actions that will achieve the objectives of the AU to enhance maritime viability for a prosperous Africa."

Development of a maritime security strategy requires sustained attention, senior-leader support/direction, flexibility, and continued re-evaluation in an evolving environment. Ensuring that a Maritime Security Strategy remains effective, likewise, requires sustained attention, senior-leader review, and flexibility.

To ensure effectiveness, a strategy must be implemented. The U.S. Center for Civil-Military Relations (CCMR), in support of the U.S. Department of State, Africa Bureau, initiated a one-year Colloquium on Regional Maritime Security for the Gulf of Guinea to assist regional states to draft and implement their national-level strategies. The Colloquium was impressively launched with an initial workshop in Abidjan, Cote d'Ivoire in March 2018, with 26 African maritime officials from 11 participating countries. The Colloquium is designed to be one year in length, with a total of three international workshops and intensive intercessional assessment and mentorship.

SECTION 2—REFERENCE DOCUMENTS AND INSTRUMENTS

2.1 MAPS OF AFRICAN OPERATIONAL AREAS



2.2 SUMMARY OF AFRICAN MARITIME LEGISLATIVE AND GOVERNANCE FRAMEWORKS

Angola

In Angola, agencies involved in maritime security include the Navy (Marinha de Guerra Angolana or MGA), the Policia Fiscal (Angola's Revenue and Customs Police) and the Port Authorities of each coastal province. Angola is a party to the United Nations (UN) Law of the Sea Convention, the UN Convention Against Transnational Organized Crime, the UN Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (1988 Vienna Drug Convention), and the UN Convention Against Corruption. In addition, Angola is a party to the SOLAS Convention, the COLREG Convention, the STCW Convention, MARPOL Annexes I-V, and the OPRC, among others. Further, Angola has made available its military centers for regional maritime training.



Benin

In Benin, maritime governance is achieved through the efforts of several agencies, including the Benin Navy, the Benin Army and Gendarmerie National. Regarding RFMOs, Benin is a member of the COMHAFAT, the Fishery Committee for the Eastern Central Atlantic (CECAF), and the Committee on Inland Fisheries and Aquaculture of Africa (CIFAA). Benin has adopted a National Plan of Action (NPOA) against IUU fishing. Benin is a party to the IMO Convention and amendments 91; SOLAS Convention 74 and Convention 78; International MARPOL I-VI; the United Nations Convention on Drugs and Psychotropic Substances; UNTOC; the Protocol to Prevent, Suppress and Punish the Trafficking of Persons, Especially Women and Children; the Protocol Against the Smuggling of Migrants by Land, Sea, and Air, and the Protocol Against the Illicit Manufacturing of and Trafficking in Firearms, their Parts and Components, and Ammunition (Palermo Protocols).



Burkina Faso

Burkinabé security governance is achieved through the efforts of several agencies, including the Army of Burkina Faso (L'Armée de Terre), National Gendarmerie, National Police, People's Militia, and the Air Force of Burkina Faso (Force Aérienne de Burkina Faso). Regarding RFMOs, Burkina Faso is a member of the Committee on Inland Fisheries and Aquaculture of Africa (CIFAA). Burkina Faso is a party to the Law of the Sea Convention, SUA; the United Nations Convention on Drugs and Psychotropic Substances; and UNTOC.



Cameroon

Cameroonian maritime governance is achieved through the efforts of several agencies, including the Cameroonian Navy, the Cameroonian Army and the Gendarmerie Nationale. Regarding RFMOs, Cameroon is a member of the COMHAFAT, Regional Fisheries Committee for the Gulf of Guinea (COREP), and the Committee on Inland Fisheries and Aquaculture of Africa (CIFAA). Cameroon is a party to MARPOL Annex I-V; the United Nations Convention on Drugs and Psychotropic Substances; and UNTOC. In support of efforts to promote regional maritime security, Cameroon hosts the Interregional Coordination Center for the Implementation of the Yaoundé Code of Conduct (2013).



Cabo Verde

Cabo Verdean maritime governance is achieved through the efforts of several agencies, including the Cape Verdean Coastguard, the Maritime Police, the Judicial Police, the General Fisheries Directorate, and the Maritime and Port Institute (IMP). The Counter-narcotics and Maritime Security Interagency Operations Center (COSMAR) serves as an interagency fusion center to disseminate and promote coordination of information regarding the response to maritime crime. Cape Verdean Public Law

78/IV/93 prohibits the trafficking of drugs, and has extraterritorial application in certain circumstances. Cabo Verde fishery enforcement laws extend out to 200 nautical miles. Regarding RFMOs, Cabo Verde is a member of the COMHAFAT, Sub-regional Fisheries Commission (SRFC), and Fishery Committee for the Eastern Central Atlantic (CECAF). Cabo Verde is a party to the United Nations Convention on Drugs and Psychotropic Substances and UNTOC, and its Protocols to Prevent, Suppress, and Punish Trafficking in Persons, Especially Women and Children, the Against the Smuggling of Migrants by Land, Sea, and Air, and Against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components, and Ammunition (Palermo Protocols).



Republic of Congo

In the Republic of Congo, the agency involved in maritime security include the Navy. The Navy Operation Center (NOC) supports, among other things, coordinated counter piracy operations. Congo is a party to the United Nations (UN) Law of the Sea Convention, the UN Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (1988 Vienna Drug Convention). In addition, Congo is a party to the SOLAS Convention, the COLREG Convention, the STCW Convention, MARPOL Annexes I-V, and the OPRC, among others. Further, Congo has made available its military centers for regional maritime training, and hosts the Regional Center for African Maritime Security (CRESMAC).

Cote d'Ivoire

Ivorian maritime governance is achieved through the efforts of several agencies, including the Cote d'Ivoire Navy, the Cote d'Ivoire Army, Maritime Police, and National Gendarmerie. Regarding RFMOs, Cote d'Ivoire is a member of the Fishery Committee for the Eastern Central Atlantic (CECAF) and the Committee on Inland Fisheries and Aquaculture of Africa (CIFA). Cote d'Ivoire is a party to

SOLAS Convention 74 and Protocol 78; MARPOL Annex I-V; SUA and its Protocol (2005); and the United Nations Convention on Drugs and Psychotropic Substances; UNTOC, and the Protocol to Prevent, Suppress and Punish the Trafficking of Persons, Especially Women and Children. Cote d'Ivoire hosts the Maritime Security Regional Coordination Centre for Western Africa (CRESMAO).

Djibouti

The Djiboutian Navy and Coast Guard are the primary government agencies engaged in maritime security and governance. Djibouti is a party to the IMO Convention, (SOLAS), MARPOL I-II; SUA, UNTOC, UNTOC Protocol Against the Smuggling of Migrants by Land, Sea, and Air (UNTOC SOM Protocol), and the Protocol to Prevent, Suppress, and Punish Trafficking in Persons, Especially Women and Children (Palermo Protocols).



Gabon

The Gabonese Navy (Marine Gabonaise) is among the government agencies involved in maritime security. Gabon is a party to the United Nations (UN) Law of the Sea Convention, UNTOC, the UN Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (Vienna Drug Convention), and the Convention Against Corruption. In addition, Gabon is a party to the 1974 SOLAS Convention, the COLREG Convention, the STCW Convention, MARPOL Annexes I-V, London Convention, and the OPRC, among others. Further, Gabon has made available its military centers for regional maritime training.



The Gambia

Gambian maritime governance is achieved through the efforts of several agencies including the Gambian Navy, the Gambia Police Force and the Gambia National Army, the Gambia National Guard, the Gambia National Military Police. Regarding RFMOs, the Gambia is a member of the COMHAFAT, Sub-regional Fisheries Commission (SRFC), and the Committee on Inland Fisheries and Aquaculture of Africa (CIFA). The Gambia has adopted a National Plan of Action (NPOA) for combating IUU. The Gambia is a party to MARPOL Annex I-V; SUA; the United Nations Convention on Drugs and Psychotropic Substances; and UNTOC.

Ghana

Ghanaian maritime governance is achieved through the efforts of several agencies, including the Ghanaian Navy, Marine Police Unit (under the Ministry of Interior), and Fisheries Department, the Ghana Maritime Authority, and the National Maritime Security Committee. Regarding RFMOs, Ghana is a member of the COMHAFAT, the Fishery Committee for the Eastern Central Atlantic (CECAF), and the Committee on Inland Fisheries and Aquaculture of Africa (CIFA). Ghana is a party to SOLAS Convention 74 and Convention 78; MARPOL; SUA; the United Nations Convention on Drugs and Psychotropic Substances; and UNTOC.



Guinea

Guinean maritime governance is achieved through the efforts of several agencies, including the Guinean Navy, Guinean Army, National Gendarmerie, and Republican Guard. Regarding RFMOs, Guinea is a member of the Sub-regional Fisheries Commission (SRFC) and the Fishery Committee for the Eastern Central Atlantic (CECAF). Guinea is a party to SOLAS Convention 74 and Protocol 78; MARPOL Annex I-VI; the Suppression of Unlawful Acts Against the Safety of Maritime Navigation

(SUA); UNTOC; the United Nations Convention on Drugs and Psychotropic Substances; and the Protocol to Prevent, Suppress and Punish the Trafficking of Persons, Especially Women and Children; and the Protocol Against the Smuggling of Migrants by Land, Sea, and Air (Palermo Protocols).

Guinea-Bissau

Bissau-Guinean maritime governance is achieved through the efforts of several agencies, including the Bissau-Guinean Navy and Bissau-Guinean Army. Regarding RFMOs, Guinea-Bissau is a member of the COMHAFAT and the Sub-regional Fisheries Commission (SRFC). Guinea-Bissau is a party to SUA; UNTOC; the United Nations Convention on Drugs and Psychotropic Substances; and the Protocol to Prevent, Suppress and Punish the Trafficking of Persons, Especially Women and Children; and the Protocol Against the Smuggling of Migrants by Land, Sea, and Air (Palermo Protocols).



Kenya

Maritime governance in Kenya is carried out by several agencies, including Kenya Navy, Kenya Police Service, Kenya Ports Authority, Kenya Wildlife Service, Kenya Revenue Authority, and Ministry of Agriculture, Livestock, and Fisheries. Kenya is a party to the IMO Convention, SOLAS, the International Convention on Maritime Search and Rescue (SAR), MARPOL I-VI; SUA, UNTOC, UNTOC Protocol Against the Smuggling of Migrants by Land, Sea, and Air (UNTOC SOM Protocol), and the Protocol to Prevent, Suppress, and Punish Trafficking in Persons, Especially Women and Children (Palermo Protocols).



Liberia

Liberian maritime governance is achieved through the efforts of several agencies, including the Liberian Coast Guard and Bureau of National Fisheries (under the Ministry of Agriculture), with support from ground forces from Armed Forces of Liberia and Liberian National Police. In 2012, Liberia established a National Maritime Security Committee to increase inter-ministerial coordination for maritime security. Liberia's laws prohibit large fishing trawlers from operating within six nautical miles of its coast and require fishing licenses for all vessels. Regarding RFMOs, Liberia is a member of the COMHAFAT and the Fishery Committee for the Eastern Central Atlantic (CECAF). With regards to major international conventions, Liberia is a party to the United Nations Convention on the Law of the Sea, SOLAS 74, Protocols 78 and 88; MARPOL; SUA; the United Nations Convention on Drugs and Psychotropic Substances; UNTOC; the Protocol to Prevent, Suppress and Punish the Trafficking of Persons, Especially Women and Children; and the Protocol Against the Smuggling of Migrants by Land, Sea, and Air (Palermo Protocols).



Mali

Malian security governance is achieved through the efforts of several agencies, including the Mali Army, National Gendarmerie, Republican Guard, National Guard, and National Police. Regarding RFMOs, Mali is a member of the Committee on Inland Fisheries and Aquaculture of Africa (CIFA). Mali is a party to SUA; UNTOC; the United Nations Convention on Drugs and Psychotropic Substances; and the Protocol to Prevent, Suppress and Punish the Trafficking of Persons, Especially Women and Children; and the Protocol Against the Smuggling of Migrants by Land, Sea, and Air (Palermo Protocols).

Mauritania

Mauritanian maritime governance is achieved through the efforts of several agencies, including the Mauritanian Navy (Marine Mauritanienne), the Mauritanian Army, National Gendarmerie, and the National Guard. Regarding RFMOs, Mauritania is a member of the COMHAFAT, Sub-regional Fisheries Commission (SRFC), and the Fishery Committee for the Eastern Central Atlantic (CECAF). Mauritania is a party to the SOLAS Convention 74 and Protocol 78; MARPOL Annex I-V; SUA; the United Nations Convention on Drugs and Psychotropic Substances; and UNTOC.

Mozambique

Maritime security in Mozambique is led by the Mozambique Navy, a part of the Mozambique Defense Armed Forces (FADM). The Ministry of Sea, Inland Waters, and Fisheries is the central organ of the Mozambican government that directs, coordinates, organizes, and ensures the implementation of policies, strategies and business plans in the sea areas, inland waters and fisheries. Mozambique is a party to the SOLAS Convention 74; MARPOL Annexes I-V; Convention on Search and Rescue (SAR) 79; SUA 88 and SUA Protocol 88; UNTOC; the Protocol to Prevent, Suppress and Punish the Trafficking of Persons, Especially Women and Children; and the Protocol Against the Smuggling of Migrants by Land, Sea, and Air (Palermo Protocols).



Niger

Though Niger is a land-locked country, its maritime security does include a focus on fisheries and other maritime crime. Nigerien maritime security governance is achieved through the efforts of several agencies, including the Niger Army, National Gendarmerie, National Police and the National Guard. Regarding RFMOs, Niger is a member of the Committee on Inland Fisheries and Aquaculture of Africa (CIFA). Niger is a party to SUA; UNTOC; the United Nations Convention on Drugs and Psychotropic Substances; the Protocol to Prevent, Suppress and Punish the Trafficking of Persons, Especially Women and Children; and the Protocol Against the Smuggling of Migrants by Land, Sea, and Air (Palermo Protocols).



Nigeria

Nigerian maritime governance is achieved through the efforts of several agencies, including the Nigerian Navy, Maritime Police, and the Nigerian Army. In addition, the Nigerian Maritime Administration and Safety Agency (NIMASA) is responsible for regulations relating to Nigerian shipping, maritime labor, and coastal water issues including search and rescue. NIMASA cooperates with the Ministry of Labour, Ministry of Transport, and the Navy. Regarding RFMOs, Nigeria is a member of the COMHAFAT, the Fishery Committee for the Eastern Central Atlantic (CECAF), and the Committee on Inland Fisheries and Aquaculture of Africa (CIFA). Nigeria is a party to SOLAS Convention 74 and Convention 78; MARPOL I-V; SUA; the United Nations Convention on Drugs and Psychotropic Substances; UNTOC; the Protocol to Prevent, Suppress and Punish the Trafficking of Persons, Especially Women and Children; and the Protocol Against the Smuggling of Migrants by Land, Sea, and Air (Palermo Protocols).



Senegal

Senegalese maritime governance is achieved through the efforts of several agencies, including the Senegalese Navy, the Compagnie Fusilier de Marine (COFUMACO), Senegalese Army, National Gendarmerie, and National Police. Regarding RFMOs, Senegal is a member of the COMHAFAT, Sub-regional Fisheries Commission (SRFC), the Fishery Committee for the Eastern Central Atlantic (CECAF), and the Committee on Inland Fisheries and Aquaculture of Africa (CIFA). Senegal is a party to SOLAS Convention 74 and Protocol 78; MARPOL Annex I-V; SUA; the United Nations Convention on Drugs and Psychotropic Substances; UNTOC; the Protocol to Prevent, Suppress and Punish the Trafficking of Persons, Especially Women and Children; and the Protocol Against the Smuggling of Migrants by Land, Sea, and Air (Palermo Protocols).

São Tomé and Príncipe

The Coast Guard of São Tomé and Príncipe (Guarda Costeira de Sao Tome e Principe, GCSTP), also called “Navy,” is among the agencies involved in maritime security. Sao Tome and Principe is a party to UNCLOS, UNTOC, the UN Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (Vienna Drug Convention), and the Convention Against Corruption. In addition, Sao Tome and Principe is also a party to the 1974 SOLAS Convention and 1978 Protocol, the COLREG Convention, the STCW Convention, MARPOL Annexes I-V, and the 1988 SUA Convention and Protocol, among others. Sao Tome and Principe is also a member of the Gulf of Guinea Commission.

Seychelles

Maritime governance in Seychelles is carried out by the Seychelles Coast Guard, Defense Forces, and the Seychelles Fishing Authority. The Seychelles Coast Guard operates independently and carries out its own planned patrols using the available local assets of the Seychelles People's Defense Forces (SPDF). The sustainable management of marine resources in Seychelles is the responsibility of the Seychelles Fishing Authority (SFA), as stipulated in the Fisheries Act 1986. Seychelles is a party to UNCLOS, the

IMO Convention, SOLAS, the International Convention on Maritime Search and Rescue (SAR), MARPOL 73/78, Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation (SUA Convention), UNTOC, Protocol Against the Smuggling of Migrants by Land, Sea, and Air, and the Protocol to Prevent, Suppress, and Punish Trafficking in Persons, Especially Women and Children (Palermo Protocols).



Sierra Leone

Sierra Leonean maritime governance is achieved through the efforts of several agencies, including the Republic of Sierra Leone Armed Forces Maritime Wing (Sierra Leone's Navy), Sierra Leone International Ship Registry, and the Ministry of Fisheries and Marine Resources. Sierra Leone prohibits "large fishing trawlers" from operating within six nautical miles of its coast. The government imposes fines for illegal fishing and utilizes Vessel Monitoring Systems as part of community surveillance models to counter IUU fishing. Regarding RFMOs, Sierra Leone is a member of the COMHAFAT, Sub-regional Fisheries Commission (SRFC), the Fishery Committee for the Eastern Central Atlantic (CECAF), and the Committee on Inland Fisheries and Aquaculture of Africa (CIFAA).

With regards to major international conventions, Sierra Leone is a party to SOLAS; and the United Nations Convention on Drugs and Psychotropic Substances.

South Africa

Maritime governance in South Africa is implemented through efforts of several agencies, including the South African Navy, the South African Coast Guard, and the Department of Agriculture, Forestry, and Fisheries. South Africa is a party to the IMO Convention, SOLAS, International Convention on Maritime Search and Rescue (SAR),

MARPOL I, II, III, and V, SUA, UNTOC, the Protocol Against the Smuggling of Migrants by Land, Sea, and Air, and the Protocol to Prevent, Suppress, and Punish Trafficking in Persons, Especially Women and Children (Palermo Protocols).

Togo

Togolese maritime governance is achieved through the efforts of several agencies, including the Togolese Navy, Togolese Army and Gendarmerie Nationale. Regarding RFMOs, Togo is a member of the COMHAFAT, the Fishery Committee for the Eastern Central Atlantic (CECAF), and the Committee on Inland Fisheries and Aquaculture of Africa (CIFAA). In 2012, private security companies were allowed by the Togolese Army to help guard vessels anchored in Lome. Togo is a party to the SOLAS Convention 74 and Convention 78, MARPOL I-V, SUA, the United Nations Convention on Drugs and Psychotropic Substances, and UNTOC.

2.3 UNITED NATIONS SECURITY COUNCIL INSTRUMENTS ON COUNTERING PIRACY AND ARMED ROBBERY AT SEA¹¹

The United Nations Security Council (UNSC) has addressed piracy and armed robbery at sea in Resolutions, Presidential Statements, Reports, and Press Statements. The IMO and UNODC, among others, have similarly focused on the threat posed by these crimes to navigational freedoms, security, and the economic development of states. Collectively, these instruments highlight the importance of piracy repression, collaboration, and the enduring intersection of maritime security and economic stability.

Gulf of Guinea piracy:

The United Nations Security Council (UNSC) adopted Resolutions 2018 (2011) and 2039 (2012) and in Presidential Statements in 2013 and 2016, among other actions.

The Security Council in Resolution 2039 expressed its deep concern over piracy and armed robbery at sea in the Gulf of Guinea and the urgent need to devise and adopt effective and practical measures to counter these threats. The Security Council encouraged:

"international partners to provide support to regional States and organizations for the enhancement of their capabilities to counter piracy and armed robbery at sea... including their capacity to conduct regional patrols, to

¹¹ This section provides only a brief overview of selected instruments. Further information is available at, among other sites:
<http://www.un.org/en/sc/documents/resolutions/>
<http://www.imo.org/en/Pages/Default.aspx>
<http://www.unodc.org/easternafrika/en/piracy/>

establish and maintain joint coordination centres and joint information-sharing centres...”

The President of the United Nations Security Council in 2016 noted the link between piracy and armed robbery at sea and transnational organized crime in the Gulf of Guinea and “express[ed] its concern about the fact that pirates benefit from it.”

Member States at the IMO adopted Resolution A.1069(28) on November 29, 2013, regarding the prevention and suppression of piracy in the Gulf of Guinea. In part, this resolution noted the “grave danger to life and the serious risks to navigational safety and the environment that attacks by pirates, armed robbers and other criminals may cause.” The resolution appealed to “States in the region, in close cooperation with international and regional organizations, to take all measures possible within the provisions of international law,” to combat the threat.

The IMO in 2014 also released a strategy for “Implementing Sustainable Maritime Security Measures in West and Central Africa.” And, the UNODC issued a threat assessment on transnational organized crime in West Africa that in part, examined the illegal movement of cocaine through West Africa as well as other illicit activity, including piracy.



Somali piracy:

The UNSC has adopted more than a dozen resolutions to address the response to Somali piracy since 2008. The Security Council President has also expressed grave concern about the threat posed by piracy, condemned hostage taking and violence against hostages and called for a continuation of efforts to combat piracy at the national, regional and international levels (S/PRST/2012/24). Several UNSC-commissioned reports on Somali piracy have significantly informed discussions on response options and considerations.

In 2016, the UNSC adopted Resolution 2316, which noted the “ongoing threat that resurgent piracy and armed robbery at sea poses to the prompt, safe, and effective delivery of humanitarian aid to Somalia and the region, to the safety of seafarers and other persons, to international

navigation and the safety of commercial maritime routes, and to other ships, including fishing vessels operating in conformity with international law...” Resolution 2316 (2016):

“Highlights the importance of coordination among States and international organizations in order to deter acts of piracy and armed robbery at sea off the coast of Somalia, commends the work of the CGPCS to facilitate such coordination in cooperation with the IMO, flag States, and Somali authorities, and urges continued support of these efforts;

Encourages Member States to continue to cooperate with Somali authorities in the fight against piracy and armed robbery at sea, notes the primary role of Somali authorities in the fight against piracy and armed robbery at sea off the coast of Somalia,

Calls upon all States to criminalize piracy under their domestic law and to favourably consider the prosecution of suspected, and imprisonment of those convicted, pirates apprehended off the coast of Somalia, and their facilitators and financiers ashore, consistent with applicable international law, including international human rights law, and decides to keep these matters under review, including, as appropriate, the establishment of specialized anti-piracy courts in Somalia with substantial international participation...;

Welcomes, in this context, the UNODC Maritime Crime Programme’s continued work with authorities in Somalia and in neighbouring States to ensure that individuals suspected of piracy are prosecuted and those convicted are imprisoned in a manner consistent with international law, including international human rights law; and

Acknowledges the recommendations and guidance provided by the IMO on preventing and suppressing piracy and armed robbery at sea; and urges States, in collaboration with the shipping and insurance industries and the IMO, to continue to develop and implement avoidance, evasion, and defensive best practices and advisories to take when under attack or when sailing in the waters off the coast of Somalia, and further urges States to make their citizens and vessels available for forensic investigation as appropriate at the first suitable port of call immediately following an act or attempted act of piracy or armed robbery at sea or release from captivity...”

The IMO has developed multiple documents on maritime security, including, among others, guidance on transits through High Risk Areas, implementation of Best Management Practice, and guidelines on crimes of piracy and armed robbery investigation.

In January 2009, “an important regional agreement was adopted in Djibouti by States in the region, at a high-level meeting convened by IMO. The Djibouti Code of Conduct (DCoC) concerning the Repression of Piracy and Armed Robbery against Ships in the Western Indian Ocean and the Gulf of Aden recognizes the extent of the problem of piracy and armed robbery against ships in the region and, in it, the signatories declare their intention to cooperate to the fullest possible extent, and in a manner consistent with international law, in the repression of piracy and armed robbery against ships.

The signatories commit themselves towards sharing and reporting relevant information through a system of national focal points and information centers; interdicting ships suspected of engaging in acts of piracy or armed robbery against ships; ensuring that persons committing or attempting to commit acts of piracy or armed robbery against ships are apprehended and prosecuted; and facilitating proper care, treatment, and repatriation for seafarers, fishermen, other shipboard personnel and passengers subject to acts of piracy or armed robbery against ships, particularly those who have been subjected to violence.”¹²

And, “The UNODC Global Maritime Crime Programme (GMCP) assists states to strengthen their capacity to combat maritime crime. The GMCP was formed in 2009 as the UNODC “Counter Piracy Programme” (CPP), which was established in response to Security Council resolutions calling for a concerted international response to the scourge of piracy off the Horn of Africa.”

Gulf of Guinea

- UNSC Resolutions
- Security Council Presidential Statements
- IMO documents
- UNODC instruments
- Yaoundé Code of Conduct

Somali piracy:

- UNSC Resolutions
- - Security Council Presidential Statements
- IMO documents
- UNODC instruments
- Best Management Practices IV
- Revised Djibouti Code of Conduct

The 2050 AIMS Strategy (2012)

75. Trafficking in persons is a criminal offence addressed by many international instruments and programmes.

Among those are the UN Convention against Transnational Organized Crime and its Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (2000); the United Nations Global Initiative

to Fight Human Trafficking (UN.GIFT) programme (2004) and in the context of Africa, the Ouagadougou Action Plan to Combat Trafficking in Human Beings, Especially Women and Children (2006). The UNODC has developed a United Nations Counter - Kidnap Manual on best practices for law enforcement authorities to combat kidnapping.

76. To deal with the scourge of human trafficking, a bigger part of the work will consist in awareness-raising, through media and training workshops, and capacity building in source and transit countries to deal with human trafficking.

The AU shall work towards addressing the root causes of human trafficking, which include poverty, unbalanced distribution of wealth, unemployment, armed conflicts, poor law enforcement system, degraded environment, poor governance, societies under stress, corruption, lack of education, lack of respect for universal human rights and discrimination, increased demand for sex trade and sex tourism.

77. The AU in collaboration with relevant stakeholders shall continue to assist Member States with the development and implementation of sound migration policies aimed at addressing trafficking in human beings, especially women and children.

¹² <http://www.imo.org/en/OurWork/Security/PiracyArmedRobbery/Pages/Default.aspx>

2.4 YAOUNDÉ GULF OF GUINEA CODE OF CONDUCT 2013

CODE OF CONDUCT CONCERNING THE REPRESSION OF PIRACY, ARMED ROBBERY AGAINST SHIPS, AND ILLICIT MARITIME ACTIVITY IN WEST AND CENTRAL AFRICA

The Governments of [Angola, Benin, Burkina Faso, Burundi, Cameroon, Cape Verde, the Central African Republic, Chad, Congo, Côte d'Ivoire, the Democratic Republic of the Congo, Equatorial Guinea, Gabon, the Gambia, Ghana, Guinea, Guinea Bissau, Liberia, Mali, Niger, Nigeria, Sao Tome and Principe, Senegal, Sierra Leone, and Togo] (hereinafter referred to as "the Signatories"),

CONSIDERING the relevant provisions of the United Nations Millennium Declaration 55/2, in particular Section II on Peace, Security and Disarmament; Section III on Development and poverty eradication; section IV on Protecting our common environment; and section VII on Meeting the special needs of Africa.

NOTING Resolution 2018 (2011) and 2039 (2012) of the United Nations Security Council in relation to piracy and armed robbery in the Gulf of Guinea, which, inter alia, welcomes the intention to convene a summit of Gulf of Guinea Heads of State in order to consider a comprehensive response in the region and encourages the States of the Economic Community of West African States (ECOWAS), the Economic Community of Central African States (ECCAS), and the Gulf of Guinea Commission (GGC) to develop a comprehensive strategy, including through:

- (a) the development of domestic laws and regulations, where these are not in place, criminalizing piracy and armed robbery at sea;
- (b) the development of a regional framework to counter piracy and armed robbery at sea, including information-sharing and operational coordination mechanisms in the region;
- (c) the development and strengthening of domestic laws and regulations, as appropriate, to implement relevant international agreements addressing the safety and security of navigation, in accordance with international law;

NOTING IN PARTICULAR that resolution 2039 (2012) recognizes the urgent need to devise and adopt effective and practical measures to counter piracy and armed robbery at sea in the Gulf of Guinea; emphasizes the importance of building on existing national, regional and extraregional initiatives to enhance maritime safety and security in the Gulf of Guinea; and welcomes the initiatives already taken by States in the region and regional organizations, including ECCAS, ECOWAS, GGC, and the Maritime Organization for West and Central Africa (MOWCA), to enhance maritime safety and security in the Gulf of Guinea,

NOTING ALSO that the General Assembly of the United Nations, at its sixth-seventh session, adopted, on 5 December 2012, resolution 67/78 on Oceans and the Law of the Sea which, inter alia:

- (a) Notes with concern the continuing problem of transnational organized crime committed at sea, including illicit traffic in narcotic drugs and psychotropic substances, the smuggling of migrants and trafficking in persons, and threats to maritime safety and security, including piracy, armed robbery at sea, smuggling, and terrorist acts against shipping, offshore installations and other maritime interests, and deploring the loss of life and adverse impact on international trade, energy security, and the global economy resulting from such activities,



(b) Recognizes the crucial role of international cooperation at the global, regional, sub-regional, and bilateral levels in combating, in accordance with international law, threats to maritime security, including piracy, armed robbery at sea, terrorist acts against shipping, offshore installations and other maritime interests, through bilateral and multilateral instruments and mechanisms aimed at monitoring, preventing and responding to such threats, the enhanced sharing of information among States relevant to the detection, prevention and suppression of such threats, and the prosecution of offenders with due regard to national legislation, and the need to sustainably build capacity which permits the attainment of these objectives.

(c) Recognizes the importance of enhancing international cooperation at all levels to fight transnational organized criminal activities, including illicit traffic in narcotic drugs and psychotropic substances within the scope of the United Nations instruments against illicit drug trafficking, as well as the smuggling of migrants, and trafficking in persons and illicit trafficking in firearms and criminal activities at sea falling within the scope of the United Nations Convention against Transnational Organized Crime;

(d) Recognising the importance of enhancing international cooperation in the fight against piracy oil theft and safety of offshore infrastructures

RECALLING that the United Nations General Assembly, in its resolution 67/79 on sustainable fisheries of December 11, 2012 expressed its serious concern that illegal, unreported and unregulated fishing remains one of the greatest threats to fish stocks and marine ecosystems and continues to have serious and major implications for the conservation and management of ocean resources, as well as the food security and the economies of many States, particularly developing States, and renews its call upon States to comply fully with all existing obligations and to combat such fishing and urgently to take all necessary steps to implement the International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing;

RECALLING the decision Assembly/AU/Dec.252(XIII) adopted at the 13th Ordinary Session of the Assembly of Heads of States and Governments of the African Union (AU), held in Sirte, Libya, in July 2009, in which the Assembly expressed its serious concern at the mounting insecurity in Africa's maritime domain, strongly condemned all illegal activities therein and welcomed the initiatives undertaken by the Commission to develop a comprehensive and coherent strategy to address Africa's geostrategic maritime challenges and opportunities;

RECALLING ALSO the Decision of the 15th Ordinary Session of the Assembly of Heads of States and Governments of the AU held in Kampala, Uganda in July 2010 [Decision Assembly/AU/Dec.294(XV)] by which the Assembly lent its support to the efforts being undertaken by the Commission, including the elaboration of an integrated maritime strategy for the management of the continent's maritime domain.

RECALLING the efforts made by the AU, including the Africa Maritime Transport Charter(AMTC), which was first adopted in 1994 and updated in Durban in October 2009, the Durban resolution (2009) and the Plan of Action on maritime transport



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(adopted in Abuja in February 2007 and updated in April 2008 in Algiers and in October 2009 in Durban);

TAKING INTO ACCOUNT the Treaty for an Economic Community of West African States (Treaty of Lagos) on 28 May 1975, as amended by the revised ECOWAS Treaty July 1993; and the ECOWAS Protocol Relating to the Mechanism for Conflict Prevention, Management, Resolution, Peace-Keeping and Security, done at Lomé on 10 December 1999, and in particular its Chapter X on Sub-Regional Security,

TAKING ALSO INTO ACCOUNT the Treaty Establishing the Economic Community of Central African States; and the ECCAS comprehensive joint maritime security architecture to counter piracy in the Central African sub-region, including the December 2009 Protocol on Maritime Cooperation, the establishment of the Regional Centre for Maritime Security in Central Africa (CRESMAC) in Pointe-Noire, Congo, as well as the multinational coordination centres in the region,

FURTHER TAKING INTO ACCOUNT the GGC Treaty establishing as one of its organs the Ad Hoc Arbitration Mechanism,

RECALLING that the Memorandum of Understanding on the Establishment of a Sub-Regional Integrated Coast Guard Network in West and Central Africa, adopted in Dakar, Senegal on 30 July 2008, signed by fifteen coastal States from West and Central Africa, provided a framework to promote regional maritime cooperation and a stable maritime environment, contribute to the peace, good order and continuing prosperity of the West and Central Africa,

RECALLING the Assembly of IMO, at its twenty-sixth regular session, adopted on 2 December 2009 resolution A.1025(26) on the Code of Practice for the Investigation of Crimes of Piracy and Armed Robbery against Ships which amongst others invited Governments to develop, as appropriate, agreements and procedures to facilitate co-operation in applying efficient and effective measures to prevent acts of piracy and armed robbery against ships;

TAKING INTO ACCOUNT the Special measures to enhance maritime security adopted on 12 December 2002 by the Conference of Contracting Governments to the International Convention for the Safety of Life at Sea, 1974 as amended, including the International Ship and Port Facility Security Code;

INSPIRED by the Code of Conduct Concerning the Repression of Piracy and Armed Robbery Against Ships in the Western Indian Ocean and the Gulf of Aden ("the Djibouti Code of Conduct") adopted in Djibouti on 29 January 2009;

INSPIRED ALSO the United Nations Convention on the Law of the Sea (UNCLOS) on 10th December 1982 in its Article 100 in the fight against piracy armed robberies, and illicit activities at sea;

RECALLING that the Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation, 1988 and the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf, 1988 (hereinafter referred to as "SUA Treaties") provide, inter alia, for parties to create criminal offences, establish jurisdiction, and accept delivery or persons responsible for or suspected of seizing or exercising control over a ship by force or threat thereof or any other form of intimidation;

WELCOMING the initiatives of the United Nations, including the United Nations Regional Offices for West Africa (UNOWA) and Central Africa (UNOCA), United Nations Office on Drugs and Crime, and the United Nations Development Programme, the



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International Maritime Organization, ECOWAS, ECCAS, GGC, MOWCA, donor States and other relevant international entities to provide training, technical assistance and other forms of capacity building to assist Governments, upon request, to adopt and implement practical measures to apprehend and prosecute those persons engaged in transnational organized crime in the maritime domain, maritime terrorism, and illegal, unreported, and unregulated (IUU) fishing;

CONVINCED that the following transitional Code of Conduct will promote regional maritime cooperation and a stable maritime environment, contribute to the peace, good order and continuing prosperity of the West and Central Africa;

Have agreed as follows:

Article 1: DEFINITIONS

For the purposes of this Code of Conduct, the following terms, expressions, and acronyms are understood as specified below unless the context otherwise requires:

1. "Signatory" is a State having signed this present Code of Conduct.
2. "Host Signatory" is a State having signed this Code of Conduct and that receives the embarked officers of another Signatory State with that State's authorization.
3. "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 of inciting or of intentionally facilitating an act described in subparagraph (a) or (b).
4. "Armed robbery at sea" consists of any of the following acts:
 - (a) unlawful act of violence or detention or any act of depredation, or threat thereof, other than an act of piracy, committed for private ends and directed against a ship or against persons or property on board such a ship, within a State's internal waters, archipelagic waters or territorial sea;
 - (b) any act of inciting or of intentionally facilitating an act described in subparagraph (a).
5. "Transnational organized crime in the maritime domain" includes but is not limited to any of the following acts when committed at sea:
 - (a) money laundering,
 - (b) illegal arms and drug trafficking,
 - (c) piracy and armed robbery at sea,
 - (d) illegal oil bunkering,



- (e) crude oil theft,
- (f) human trafficking,
- (g) human smuggling,
- (h) maritime pollution,
- (i) IUU fishing
- (j) illegal dumping of toxic waste
- (k) maritime terrorism and hostage taking
- (l) vandalisation of offshore oil infrastructure.

6. "Embarked Officers" consists of law enforcement officers or other authorized officials embarked on ships or patrol aircraft;

7. "Pirate ship" means a vessel effectively controlled by people who intend to use it to commit an act of piracy, or used it to commit such an act, as long as it remains under the control of such persons;

Article 2: PURPOSE AND SCOPE

1. Consistent with their available resources and related priorities, their respective national laws and regulations, and applicable rules of international law, the Signatories intend to co-operate to the fullest possible extent in the repression of transnational organized crime in the maritime domain, maritime terrorism, IUU fishing and other illegal activities at sea with a view towards:

- (a) sharing and reporting relevant information;
- (b) interdicting ships and/or aircraft suspected of engaging in transnational organized crime in the maritime domain, maritime terrorism, IUU fishing and other illegal activities at sea;
- (c) ensuring that persons committing or attempting to commit transnational organized crime in the maritime domain, maritime terrorism, IUU fishing and other illegal activities at sea are apprehended and prosecuted; and
- (d) facilitating proper care, treatment, and repatriation of seafarers, fishermen, other shipboard personnel and passengers subjected to transnational organized crime in the maritime domain, maritime terrorism, IUU fishing, and other illegal activities at sea, particularly those who have been subjected to violence.

2. The Signatories intend this Code of Conduct to be applicable in relation to transnational organized crime in the maritime domain, maritime terrorism, IUU fishing and other illegal activities at sea in Central and West Africa.

3. The Signatories should carry out their obligations and responsibilities under this Code in a manner consistent with the principles of sovereign equality and territorial integrity of States and that of non-intervention in the domestic affairs of other States.

4. Operations to suppress transnational organized crime in the maritime domain, maritime terrorism, IUU fishing and other illegal activities at sea in and over the territorial sea of a Signatory are the responsibility of, and subject to the sovereign authority of that Signatory.



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Article 3: Guiding Principles

1. The Signatories intend that any measures taken pursuant to this Code of Conduct should be carried out by law enforcement or other authorized officials from warships or military aircraft, or from other ships or aircraft clearly marked and identifiable as being in government service and authorized to that effect.
2. The Signatories recognize that multiple States, including the flag State, State of suspected origin of the perpetrators, the State of nationality of persons on board the ship, and the State of ownership of cargo may have legitimate interests in cases arising pursuant to Articles 4 and 5. Therefore, the Signatories intend to liaise and co-operate with such States and other stakeholders, and to coordinate such activities with each other to facilitate the rescue, interdiction, investigation, and prosecution.
3. The Signatories intend, to the fullest possible extent, to conduct and support the conduct of investigations in cases of in transnational organized crime in the maritime domain, maritime terrorism, IUU fishing and other illegal activities at sea taking into account the relevant international standards and practices, and, in particular, recommendations adopted by IMO.
4. The Signatories intend to co-operate to the fullest possible extent in medical and decedent affairs arising from operations in furtherance of the repression in transnational organized crime in the maritime domain, maritime terrorism, IUU fishing and other illegal activities at sea.
5. The Signatories intend to ensure that, in seeking the fulfilment of the above objectives, a balance is maintained between the need to enhance maritime security and facilitation of maritime traffic and to avoid any unnecessary delays to international maritime trade in West and Central Africa;

Article 4: MEASURES AT THE NATIONAL LEVEL

1. The Signatories intend to develop and implement, as necessary:
 - (a) Appropriate national maritime security policies to safeguard maritime trade from all forms of unlawful acts;
 - (b) National legislation, practices and procedures, which together provide the security necessary for the safe and secure operation of port facilities and ships at all security levels; and
 - (c) National legislation which ensures effective protection of the marine environment,
2. The Signatories intend to establish, as necessary, a national maritime security committee or other system for co-ordinating the related activities between the departments, agencies, control authorities, and other organizations of the State, port operators, Companies and other entities concerned with, or responsible for the implementation of, compliance with, and enforcement of, measures to enhance maritime security and search and rescue procedures,
3. The Signatories intend to establish, as necessary, a national maritime security plan with related contingency plans (or other system) for harmonizing and co-ordinating the implementation of security measures designed to enhance the security in the international maritime transport sector with those of other modes of transport,



4. The Signatories intend to prosecute, in their domestic courts and in accordance with relevant domestic laws, perpetrators of all forms of piracy and unlawful acts against seafarers, ships, port facility personnel and port facilities.

5. The organization and functioning of this national system is exclusively the responsibility of each State, in conformity with applicable laws and regulations.

Article 5: PROTECTION MEASURES FOR SHIPS

The Signatories intend to encourage States, ship owners, and ship operators, where appropriate, to take protective measures against transnational organized crime in the maritime domain, maritime terrorism, and other illegal activities at sea, taking into account the relevant international Conventions, Codes, Standards and Recommended Practices, and guidance adopted by IMO. The Signatories intend to cooperate in the implementation of measures to protect ships.

Article 6: MEASURES TO REPRESS PIRACY

1. Consistent with Article 2, each Signatory to the fullest possible extent intends to co-operate in:

- (a) arresting, investigating, and prosecuting persons who have committed piracy or are reasonably suspected of committing piracy;
- (b) seizing pirate ships and/or aircraft and the property on board such ships and/or aircraft; and
- (c) rescuing ships, persons, and property subject to piracy.

2. Any Signatory may seize a pirate ship beyond the outer limit of any State's territorial sea, and arrest the persons and seize the property on board.

3. Any pursuit of a ship, where there are reasonable grounds to suspect that the ship is engaged in piracy, extending in and over the territorial sea of a Signatory is subject to the authority of that Signatory. No Signatory should pursue such a ship in or over the territory or territorial sea of any coastal State without the permission of that State.

4. Consistent with international law, the courts of the Signatory which carries out a seizure pursuant to paragraph 4 may decide upon the penalties to be imposed, and may also determine the action to be taken with regard to the ship or property, subject to the rights of third parties acting in good faith.

5. The Signatory which carried out the seizure pursuant to paragraph 4 may, subject to its national laws, and in consultation with other interested entities, waive its primary right to exercise jurisdiction and authorize any other Signatory to enforce its laws against the ship and/or persons on board.

6. Unless otherwise arranged by the affected Signatories, any seizure made in the territorial sea of a Signatory pursuant to paragraph 5 should be subject to the jurisdiction of that Signatory.

Article 7: MEASURES TO REPRESS ARMED ROBBERY AGAINST SHIPS

1. The Signatories intend for operations to suppress armed robbery against ships in the territorial sea and airspace of a Signatory to be subject to the authority of that Signatory, including in the case of hot pursuit from that Signatory's territorial sea or archipelagic waters in accordance with UNCLOS.

2. The Signatories intend for their respective focal points and Centres (as designated pursuant to Article 8) to communicate expeditiously alerts, reports, and information related to armed robbery against ships to other Signatories and interested parties.



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Article 8: MEASURES TO REPRESS ILLEGAL, UNREGULATED AND UNREPORTED FISHING

1. The Signatories shall consult at the bilateral and sub-regional levels in the formulation and harmonization of policies for the conservation, management and sustainable use of marine living resources that straddle maritime zones, or which are highly migratory, or occur in the high seas.
2. The Signatories shall co-operate and collaborate with the sub-regional fisheries bodies and the Food and Agriculture Organization on preventing and combating illegal, unregulated and unreported fishing, and protecting fisheries resources for sustainable long term utilization to sustain livelihoods in West and Central Africa;

Article 9: EMBARKED OFFICERS

1. In furtherance of operations contemplated by this Code of Conduct, a Signatory may nominate law enforcement or other authorized officials (hereafter referred to as "the embarked officers") to embark in the patrol ships or aircraft of another Signatory (hereafter referred to as "the host Signatory") as may be authorized by the host Signatory.
2. The embarked officers may be armed in accordance with their national law and policy and the approval of the host Signatory.
3. When embarked, the host Signatory should facilitate communications between the embarked officers and their headquarters, and should provide quarters and messing for the embarked officers aboard the patrol ships or aircraft in a manner consistent with host Signatory personnel of the same rank.
4. Embarked officers may assist the host Signatory and conduct operations from the host Signatory ship or aircraft if expressly requested to do so by the host Signatory, and only in the manner requested. Such request may only be made, agreed to, and acted upon in a manner that is not prohibited by the laws and policies of both Signatories.
5. When duly authorized, embarked officers may:
 - a. embark on law enforcement vessels of any of the Signatories;
 - b. enforce the laws of the designating Signatory to suppress transnational organized crime in the maritime domain, maritime terrorism, IUU fishing, and other illegal activities at sea in the waters of the designating Signatory, or seaward of its waters in the exercise of the right of hot pursuit or otherwise in accordance with international law;
 - c. authorize the entry of the law enforcement vessels on which they are embarked into and navigation within the waters of the designating Signatory;
 - d. authorize the law enforcement vessels on which they are embarked to conduct patrols in the waters of the designating Signatory;
 - e. authorize law enforcement officials of the vessel on which the embarked officer is embarked to assist in the enforcement of the laws of the designating Signatory to suppress transnational organized crime in the maritime domain, maritime terrorism, IUU fishing, and other illegal activities at sea; and
 - f. advise and assist law enforcement officials of the other Signatory in the conduct of boardings of vessels to enforce the laws of the other Signatory to suppress transnational organized crime in the maritime domain, maritime terrorism, IUU fishing, and other illegal activities at sea.



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Article 10: ASSET SEIZURE AND FORFEITURE

1. Assets seized, confiscated or forfeited in consequence of any law enforcement operation pursuant to this Code, undertaken in the waters of a Signatory, should be disposed of in accordance with the laws of that Signatory.
2. Should a flag State Signatory have consented to the exercise of jurisdiction by another Signatory pursuant to Article 18, assets seized, confiscated or forfeited in consequence of any law enforcement operation of any Signatory pursuant to this Code should be disposed of in accordance with the laws of the boarding Signatory.
3. To the extent permitted by its laws and upon such terms as it deems appropriate, a Signatory may, in any case, transfer forfeited property or proceeds of their sale to another Signatory or an intergovernmental body specialising in the fight against piracy, armed robbery, and other illicit maritime activity.

Article 11: COORDINATION AND INFORMATION SHARING

1. Each Signatory should designate a national focal point to facilitate coordinated, effective, and timely information flow among the Signatories, consistent with the purpose and scope of this Code of Conduct. In order to ensure coordinated, smooth, and effective communication between their designated focal points, the Signatories intend to use the piracy information sharing centres. Each Centre and designated focal point should be capable of receiving and responding to alerts and requests for information or assistance at all times.
2. Each Signatory intends to:
 - (a) declare and communicate to the other Signatories its designated focal point at the time of signing this Code of Conduct or as soon as possible after signing, and thereafter update the information as and when changes occur;
 - (b) provide and communicate to the other Signatories the telephone numbers, telefax numbers, and e-mail addresses of its focal point, and, as appropriate, of its Centre and thereafter update the information as and when changes occur; and
 - (c) communicate to the Secretary-General of the International Maritime Organization [the Secretary General of ECCAS, the President of the ECOWAS Commission, and the GGC Executive Secretary] the information referred to in subparagraphs (a) and (b) and thereafter update the information as and when changes occur.
3. Each Centre and focal point should be responsible for its communication with the other focal points and the Centres. Any focal point which has received or obtained information about an imminent threat of, or an incident of, piracy or armed robbery against ships should promptly disseminate an alert with all relevant information to the Centres. The Centres should disseminate appropriate alerts within their respective areas of responsibility regarding imminent threats or incidents to ships.
4. Each Signatory should ensure the smooth and effective communication between its designated focal point, and other competent national authorities including search and rescue coordination centres, as well as relevant non-governmental organizations.
5. Each Signatory should make every effort to require ships entitled to fly its flag and the owners and operators of such ships to promptly notify relevant national authorities, including the designated focal points and Centres, the appropriate search and rescue



coordination centres and other relevant the contact points, of incidents of piracy or armed robbery against ships.

6. Each Signatory intends, upon the request of any other Signatory, to respect the confidentiality of information transmitted from a Signatory.

7. To facilitate implementation of this Code of Conduct, the Signatories intend to keep each other fully informed concerning their respective applicable laws and guidance, particularly those pertaining to the interdiction, apprehension, investigation, prosecution, and disposition of persons involved in piracy and armed robbery against ships. The Signatories may also undertake and seek assistance to undertake publication of handbooks and convening of seminars and conferences in furtherance of this Code of Conduct.

Article 12: INCIDENT REPORTING

1. The Signatories intend to undertake development of uniform reporting criteria in order to ensure that an accurate assessment of the threat of piracy and armed robbery in the West and Central Africa is developed taking into account the recommendations adopted by IMO. The Signatories intend for the Centres to manage the collection and dissemination of this information in their respective geographic areas of responsibility.

2. Consistent with its laws and policies, a Signatory conducting a boarding, investigation, prosecution, or judicial proceeding pursuant to this Code of Conduct should promptly notify the results thereof to any affected flag and coastal States and the Secretary-General of the International Maritime Organization [the Secretary General of ECCAS, the President of the ECOWAS Commission, and the GGC Executive Secretary].

3. The Signatories intend for the Centres to:

- (a) collect, collate and analyse the information transmitted by the Signatories concerning piracy and armed robbery against ships, including other relevant information relating to individuals and transnational organized criminal groups committing transnational organized crime in the maritime domain, maritime terrorism, IUU fishing or other illegal activities at sea in their respective geographical areas of responsibility; and
- (b) prepare statistics and reports on the basis of the information gathered and analyzed under subparagraph (a), and to disseminate them to the Signatories, the shipping community, and the Secretary-General of the International Maritime Organization [the Secretary General of ECCAS, the President of the ECOWAS Commission, and the GGC Executive Secretary].

Article 13: ASSISTANCE AMONG SIGNATORIES

1. A Signatory may request any other Signatory, through the Centres or directly, to co-operate in detecting:

- (a) persons who have committed, or are reasonably suspected of committing, transnational organized crime in the maritime domain, maritime terrorism, IUU fishing, and other illegal activities at sea;
- (b) pirate ships, where there are reasonable grounds to suspect that those ships are engaged in piracy;
- (c) other ships or aircraft, where there are reasonable grounds to suspect that those ships or aircraft are engaged in transnational organized crime in the maritime domain, maritime terrorism, IUU fishing, or other illegal activities at sea and



- (d) ships or persons who have been subjected to piracy or armed robbery against ships.
- 2. A Signatory may also request any other Signatory, through the Centres or directly, to take effective measures in response to reported transnational organized crime in the maritime domain, maritime terrorism, IUU fishing or other illegal activities at sea.
- 3. Co-operative arrangements such as joint exercises or other forms of co-operation, as appropriate, may be undertaken as determined by the Signatories concerned.
- 4. Capacity building co-operation may include technical assistance such as educational and training programmes to share experiences and best practices.

Article 14: TRAINING AND EDUCATION

1. The Signatories intend to co-operate on the development and promotion of training and educational programs for the management of the marine environment, particularly for the maintenance of safety and law and order at sea, the preservation and protection of the marine environment, and the prevention, reduction and control of marine pollution. Such cooperation might include:
 - a) the offer of places on national training courses to other States, subject to payment of relevant costs;
 - b) sharing curriculum and course information;
 - c) the exchange of naval and law enforcement personnel, scientists and other experts;
 - d) the exchange of views on maritime issues;
 - e) holding conferences, seminars, workshops and symposia on maritime subjects of common interest; and
 - f) fostering cooperation among maritime training institutions and research centres.
 - g) the offer of places on national training courses to other States, subject to payment of relevant costs and training provided by the International Seabed Authority ;
2. Signatories are invited to institute regular meetings to enhance cooperation and coordination in their maritime enforcement activities.

Article 15: INDICTMENT, PROSECUTION AND CONVICTION

Signatories are encouraged to incorporate in national legislation, transnational crimes in the maritime domain, as defined in Article 1 (3) of this Code of Conduct, in order to ensure effective indictment, prosecution and conviction in the territory of the Signatories. Signatories are encouraged to develop adequate guidelines for the exercise of jurisdiction, conduct of investigations and prosecution of alleged offenders.

Article 16: DISPUTE SETTLEMENT

The Signatories intend to settle by consultation and peaceful means amongst each other any disputes that arise from the implementation of this Code of Conduct.



Article 17: CONSULTATIONS

Within three (3) years of the effective date of this Code of Conduct, the Signatories intend to consult, at the invitation of the Inter-Regional Coordination Centre to

- a) Eventually transform this Code of Conduct into a binding multi-lateral agreement.
- b) Assess the implementation of this Code of Conduct
- c) Share information and experiences and best practices
- d) Review activities which National Maritime Security Centres have carried out and recommend actions to be taken thereafter
- e) Review all other issues concerning Maritime Security in the Gulf of Guinea

Article 18: CLAIMS

Any claim for damages, injury or loss resulting from an operation carried out under this Code of Conduct should be examined by the Signatory whose authorities conducted the operation. If responsibility is established, the claim should be resolved in accordance with the national law of that Signatory, and in a manner consistent with international law, including Article 106 and paragraph 3 of Article 110 of UNCLOS.

Article 19: MISCELLANEOUS PROVISIONS

Nothing in this Code of Conduct is intended to:

- (a) create or establish a binding agreement, except as noted in Article [13];
- (b) affect in any way the rules of international law pertaining to the competence of States to exercise investigative or enforcement jurisdiction on board ships not flying their flag;
- (c) affect the immunities of warships and other government ships operated for non-commercial purposes;
- (d) apply to or limit boarding of ships conducted by any Signatory in accordance with international law, beyond the outer limit of any State's territorial sea, including boardings based upon the right of visit, the rendering of assistance to persons, ships and property in distress or peril, or an authorization from the flag State to take law enforcement or other action;
- (e) preclude the Signatories from otherwise agreeing on operations or other forms of co-operation to repress piracy and armed robbery against ships;
- (f) prevent the Signatories from taking additional measures to repress piracy and armed robbery at sea through appropriate actions in their land territory;
- (g) supersede any bilateral or multilateral agreement or other co-operative mechanism concluded by the Signatories to repress piracy and armed robbery against ships;
- (h) alter the rights and privileges due to any individual in any legal proceeding;



Article 20: SIGNATURE AND ENTRY INTO FORCE

This Code of Conduct is open for signature by Signatories in Yaoundé and at the Headquarters of the ECCAS, ECOWAS and GGC with one copy at IMO, AU, ECCAS, ECOWAS and GGC.

2. This Code of Conduct shall enter into force upon date of signature by two or more Signatories

3. It becomes effective for subsequent Signatories upon their respective date of deposit of a signature instrument at the ECCAS, ECOWAS and GGC.

Article 21: LANGUAGES

This Code of Conduct is established in the English, French, Portuguese, and Spanish languages, each text being equally authentic.

DONE in Yaounde this 25th day of June two thousand and thirteen.

IN WITNESS WHEREOF the undersigned, being duly authorized by their respective Governments for that purpose, have signed this Code of Conduct.

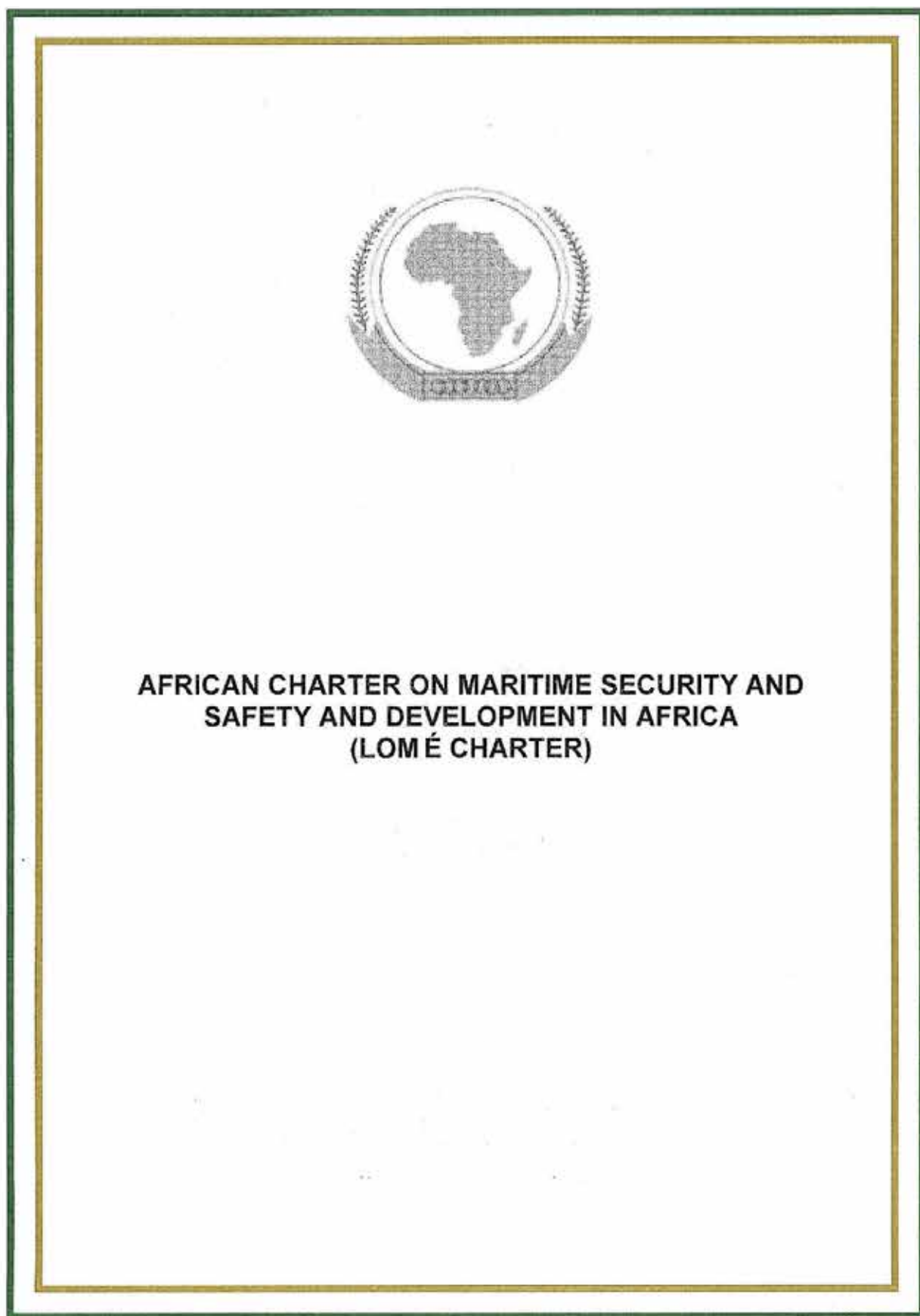
Signed (signatures omitted) in Yaoundé on 25 June 2013 by [Angola, Benin, Burkina Faso, Burundi, Cameroon, Cape Verde, Central African Republic, Chad, Congo, Democratic Republic of Congo, Côte d'Ivoire, Gabon, The Gambia, Ghana, Guinea, Guinea Bissau, Equatorial Guinea, Liberia, Mali, Niger, Nigeria, Sao Tome and Principe, Senegal, Sierra Leone, and Togo]

For the Republic of Angola  Candido Van-Duyen General	For the Republic of Benin Nassirou BAKO-ARIFARI 
For the Republic of Burkina Faso 	For the Republic of Cameroon  Prof. Pierre Moukoko MBOUJO
For the Republic of du Cape Verde 	For the Central African Republic

<p>For the Republic of Congo</p> <p>More DJO Charles Richard</p> 	<p>For the Democratic Republic of Congo</p>  <p>Raymond TSHIBANDA</p>
<p>For the Republic of de Côte d'Ivoire</p>  <p>Di'sy Koffi-chamb</p>	<p>For the Republic of du Gabon</p> <p>PO LE MIN</p> <p>Pacôme - RUFIN OUDZOUNGA</p>  <p>25-06-13</p>
<p>For the Republic of de Gambia</p>  <p>Susan Waffa-Goo</p>	<p>For the Republic of de Ghana</p>  <p>06/6/13</p>
<p>For the Republic of de Guinea</p> <p>Ahmed Tidiane Traoré</p> 	<p>For the Republic of de Guinée Bissau</p>  <p>FERNANDO DEL REY M.O.E.</p>
<p>For the Republic of de Equatorial Guinea</p>	<p>For the Republic of Liberia</p> 
<p>For the Republic of Mali</p> <p>NADIE YACINBA DAGNENO AMBASSADOR OF MALI IN CAMEROON</p> 	<p>For the Republic of Niger</p> <p>Abdou LABO</p> 

<p>For the of Federal Republic of Nigeria</p> <p>Dr. Nuruddeen-Muhammad</p> 	<p>For the Democratic Republic of Sao Tomé and Principe</p> <p>António Chibeline</p> 
<p>For the Republic of Senegal</p> <p>AEP Fataou Sam Ndiaye</p> <p>BA</p> 	<p>For the Republic of de Sierra Leone</p> <p>DR EBUN A. Jusu</p> <p>EA Jusu</p>
<p>For the Republic of Chad</p> <p>LAMINE MOUSTAPHA</p> 	<p>For the Republic of Togo</p> <p>Elliott CHIN</p> 

2.5 THE AFRICA UNION CHARTER ON MARITIME SECURITY AND SAFETY AND DEVELOPMENT IN AFRICA (LOMÉ CHARTER) 2016



**AFRICAN CHARTER ON MARITIME SECURITY AND SAFETY AND
DEVELOPMENT IN AFRICA
(LOMÉ CHARTER)**

PREAMBLE

We, the Heads of State and Government of the Member States of the African Union (AU);

CONSIDERING the Constitutive Act of the African Union of 11 July 2000, in particular Articles 3 (a), (b), (e) and (f);

HAVING REGARD to the provisions of the Charter of the United Nations of 26 June 1945, in particular its Chapters VI, VII and VIII;

COGNISANT of the United Nations Convention on the Law of the Sea of 10 December 1982, in particular its Articles 100, 101 and 105, defining the legal framework for the fight against piracy and armed robbery against ships and the International Convention for the Safety of Life at Sea, 1 November 1974;

CONSIDERING the International Convention for the Prevention of Pollution from Ships of 2 November 1973;

CONSIDERING the Convention for the Suppression of Unlawful Acts against the safety of Maritime Navigation of 10 March 1988 and its Protocol of 14 October 2005;

NOTING the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal of 22 March 1989;

CONSCIOUS of the United Nations Convention against Transnational Organised Crime (Palermo Convention) of 15 November 2000, and its three Supplementary Protocols;

CONSIDERING the Bamako Convention on the Ban on the Import into Africa and the Control of Transboundary Movement and Management of Hazardous Wastes within Africa of 30 January 1991;

CONSIDERING also the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation adopted in Rome on 10 March 1988;

RECALLING the provisions of the OAU Convention on the Prevention and Combating of Terrorism of 14 July 1999 and the Protocol to the OAU Convention on the Prevention and Combating of Terrorism of 1 July 2004;



FURTHER RECALLING the provisions of the Revised African Maritime Transport Charter of 26 July 2010;

MINDFUL of the African Union Agenda 2063 and the United Nations 2030 Agenda;

FURTHER MINDFUL of the relevant provisions of the United Nations Security Council Resolutions, which call for the development and implementation of regional, sub-regional and national maritime safety and security and fight against piracy strategies;

RECALLING 2050 Africa's Integrated Maritime Strategy (2050 AIM Strategy) adopted on 27 January 2014, whose implementation shall be in conformity with International Maritime Law;

AWARE of the geostrategic importance of the seas, oceans and inland waterways in the socio-economic development of Africa and of their role in the sustainable development of the continent;

FURTHER CONSIDERING that the persistence of conflicts constitutes a serious threat to peace and security and undermines our efforts to raise the standard of living of our peoples;

DEEPLY CONCERNED by the scourge of terrorism, extremism in all its forms and transnational organised crime as well as the different threats against peace and security in Africa;

ACKNOWLEDGING that the proliferation of small arms and light weapons as well as cross-border crime contribute to the spread of insecurity and instability and pose serious risks to international maritime navigation;

REAFFIRMING our commitment to combat maritime crime, threats and challenges to protect and secure our seas and oceans;

CONVINCED that the prevention, management and the eradication of these scourges can only succeed through the enhancement of cooperation, with a view to coordinating the efforts of coastal, island and land-locked African States within the framework of the African Union;

CONCERNED about the protection of biodiversity and the sustainable use of marine resources of the planet in accordance with the Convention on Biological Diversity, adopted in Rio de Janeiro, on 5 June 1992, the Convention on the Protection, Management and Development of the Marine and Coastal Environment in Eastern Africa, adopted in Nairobi on 21 June 1985 and the Convention for Cooperation in the Protection, Management and Development of



the Marine and Coastal Environment of the Atlantic Coast of the West, Central and Southern Africa Region adopted in Abidjan on 23 March 1981;

DEEPLY COMMITTED to peace and security in the Mediterranean Sea, the Red Sea, the Gulf of Aden, the Atlantic Ocean and the Indian Ocean, and **WELCOMING** the determination, through the Maritime Strategies of the Regional Economic Communities/Regional Mechanisms, the Indian Ocean Commission, and the Gulf of Guinea Commission to work closely with the Commission of the African Union on the implementation, in conformity with International Maritime Law, of the 2050 AIM Strategy;

ALSO WELCOMING the convening in Yaoundé, Cameroun from 24 to 25 June 2013 of the Joint Summit of the Economic Community of Central African States (ECCAS), the Economic Community of West African States (ECOWAS) and the Gulf of Guinea Commission (GGC) on Maritime Safety and Security, which culminated in the establishment of the Interregional Coordination Centre (ICC) based in Yaoundé, Cameroon.

FIRMLY RESOLVED to work tirelessly to ensure peace, security, safety and stability, protection of the marine environment and facilitation of trade in the maritime space and development of our countries;

HEREBY AGREE AS FOLLOWS:

CHAPTER I: GENERAL PROVISIONS

Article 1 Definitions

- 1) For the purpose of this Charter, the following terms and expressions shall apply:

"African Space Policy and Strategy" refers to the first concrete steps to realize an African Space Programme, as one of the flagship programmes of the AU Agenda 2063 adopted on 31 January 2016;

"2050 AIM Strategy" refers to the 2050 Africa's Integrated Maritime Strategy adopted by the Assembly on 27 January 2014;

"Armed robbery against ships" means any illegal act of violence or detention or any act of depredation, or threat thereof, other than an act of piracy, committed for private ends and directed against a ship or against persons or property on board such a ship, in an area falling within the jurisdiction of a State;



"Assembly" means the Assembly of Heads of State and Government of the African Union;

"AU Agenda 2063" refers to the African Union vision adopted on 27 January 2014;

"Bamako Convention" refers to the Bamako Convention on the ban on the Import into Africa and the Control of Transboundary Movement and Management of Hazardous Wastes within Africa adopted by the Organisation of African Unity on 30 January 1991;

"Blue/Ocean Economy" means sustainable economic development of oceans using such techniques as regional development to integrate the use of seas and oceans, coasts, lakes, rivers, and underground water for economic purposes, including, but without being limited to fisheries, mining, energy, aquaculture and maritime transport, while protecting the sea to improve social wellbeing;

"Charter" means the African Union Charter on Maritime Security and Safety and Development in Africa;

"Coastal State" refers to any state having a coast;

"Commission" means the African Union Commission;

"Drug trafficking" means the global illicit trade involving the cultivation, manufacture, distribution and sale of substances which are subject to drug prohibition laws;

"Flag State" means - the State under whose laws a vessel is registered or licensed which has authority and responsibility to enforce regulations over vessels registered under its flag, including those relating to inspection, certification, and issuance of safety and pollution prevention documents.

"Illegal, unreported and unregulated (IUU) fishing" means:

i. **Illegal fishing means activities:**

- a) conducted by national or foreign vessels in waters under the jurisdiction of a State, without the permission of that State, or in contravention of its laws and regulations;
- b) conducted by vessels flying the flag of States that are parties to a relevant regional fisheries management organization but operate in contravention of the conservation and management measures adopted by that organization and by which the States are bound, or relevant provisions of the applicable international law; or



- c) in violation of national laws or international obligations, including those undertaken by cooperating States to a relevant regional fisheries management organization.

ii. Unreported fishing means fishing activities:

- a) which have not been reported, or have been misreported, to the relevant national authority, in contravention of national laws and regulations; or
- b) undertaken in the area of competence of a relevant regional fisheries management organization which have not been reported or have been misreported, in contravention of the reporting procedures of that organization.

iii. Unregulated fishing means fishing activities:

- a) in the area of application of a relevant regional fisheries management organization that are conducted by vessels without nationality, or by those flying the flag of a State not party to that organization, or by a fishing entity, in a manner that is not consistent with or contravenes the conservation and management measures of that organization; or
- b) in areas or for fish stocks in relation to which there are no applicable conservation or management measures and where such fishing activities are conducted in a manner inconsistent with State responsibilities for the conservation of living marine resources under international law.

"Inland waterways" means any navigable rivers, creeks, lakes, tidelands, lagoons, below water baseline, or channel leading into such place having facilities for ships to moor and load or discharge including offshore cargo handling facilities, harbour, berths, jetties, pontoons or buoys and wharves within the limits of the inland waterways in any place in a country and includes any place declared to be an inland waterway under relevant national legislation, as defined in the 2050 AIM Strategy;

"International Maritime Organisation (IMO) SOLAS Convention" refers to the International Maritime Organisation International Convention for the Safety of Life at Sea of 1 November 1974;

"Marine biodiversity" refers to the variety and variability of life on Earth; It is a measure of the variety of organisms present in different ecosystems including genetic variations, ecosystem variations or species variations (number of species) within the Maritime Domain;



"Marine Governance" means the national and international, legal and regulatory framework and associated enforcement processes that ensure the peaceful and sustainable use of the seas for commerce, food, energy and raw material;

"Marine Pollution" refers to the introduction and or spread of invasive organisms into the ocean or the harmful, or potentially harmful effects resulting from the entry into the ocean of chemicals, particles, industrial, agricultural and residential waste or noise and any other polluting factors carried by means of air or land pollution;

"Marine Resources" means the things that plants, animals and humans need for life that originate in the sea;

"Maritime Awareness" means the effective understanding of anything associated with the maritime domain that could impact upon the security, safety, economy, or environment;

"Maritime Domain" refers to all areas and resources of, on, under, relating to, adjacent to, or bordering on the sea, ocean, or lakes, intra-coastal and inland navigable waterways, including all maritime-related activities, infrastructure, cargo, vessels and other means of conveyance. It also includes the air above the seas, oceans, lakes, intra-coastal and inland navigable waterways and the oceans' electromagnetic spectrum as well, as defined in the 2050 AIM Strategy;

"Maritime Safety" means all measures taken for the safety of ships and offshore installations, their crews and where appropriate, their passengers, the safety of navigation and the facilitation of maritime traffic, maritime infrastructure, maritime facilities and maritime environment;

"Maritime Security" means the prevention of and fight against all acts or threats of illicit acts against a ship, its crew and its passengers or against the port facilities, maritime infrastructure, maritime facilities and maritime environment;

"Maritime Territories" means maritime spaces under the jurisdiction or responsibility of the State Party;

"Maritime Zones" means maritime zones as defined in the United Nations Convention on the Law of the Sea (UNCLOS) adopted on 10 December 1982;

"Member State" means a Member State of the African Union;



"Palermo Convention" refers to the United Nations Convention against Transnational Organized Crime adopted by the United Nations General Assembly on 15 November 2000;

"Pavilion State" means the state under whose legislation a merchant ship is registered and which has authority and responsibility to ensure compliance with the regulations on ships flying its flag, including regulations relating to inspection, certification and issuance of safety and anti-pollution documents;

"Piracy" means:

- a) any illegal act of violence or detention committed for private ends by the crew or passengers of a private ship or a private aircraft, and directed:
 - i. on high seas against another ship or aircraft, or against persons or property, on board such ship or aircraft;
 - ii. against a ship, aircraft 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 of inciting or of intentionally facilitating an act as described in paragraphs (a) or (b);

"Pirate Ship" means a ship under the effective control of individuals who have the intention to use it to commit an act of piracy, or a ship which has been used to commit such an act as long as they are under the control of these individuals;

"Port State Control" means the inspection of foreign ships in national ports to verify that the condition of the ship and its equipment comply with the requirements of international regulations and that the ship is manned and operated in compliance with these rules;

"Revised African Maritime Transport Charter" refers to the Revised African Maritime Transport Charter adopted by the African Union on 26 July 2010;

"Requested State" means the State that is requested for something;

"Requesting State" means the State that is requesting for something;



"Ship" means a vessel or mobile facility of any type whatsoever operating in the marine and or inland waterways environments and includes hydrofoil boat, air cushion vehicles, submersibles, floating craft and fixed or floating platforms operated for the purpose of providing movement of goods and passengers and the provision of marine services ;

"Signatory" means a Member State that has signed this Charter;

"States Parties" means Member States that have ratified, accepted, approved or acceded to this Charter in accordance with their respective constitutional rules and the Charter has entered into force for those States;

"Subsidiarity Principle" refers to the principle that seeks to guarantee a degree of independence for a lower authority in relation to a higher body or for a local authority in relation to central government. It therefore involves the sharing of powers between several levels of authority;

"Terrorist acts" refers to terrorist:

- a) Any act or threat of act in violation of the criminal laws of the State Party likely to endanger the life, physical integrity, freedoms of an individual or group of individuals, which results or may result in damages to private or public property, natural resources, the environment or cultural heritage and committed with the intention of:
 - i. Intimidating, creating a situation of terror, forcing, exerting pressure or compelling any government, body, institution, population or section thereof to take or refrain from taking any initiative, adopt, abandon any particular standpoint or act according to certain principles;
 - ii. Disrupting the normal functioning of public services, providing essential services to populations or creating a crisis situation within the populations;
 - iii. Creating general insurrection in a State Party.
- b) Any promotion, financing, contribution, order, aide, incitement, encouragement, attempt, threat, conspiracy, organization or equipment of any individual with the intention of committing any act mentioned in paragraphs a) (i) to (iii).

"Trafficking in persons" means the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms or coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits



to achieve the consent of a person having control over another person, for the purpose of exploitation;

“Transnational Organised Crime” means organized crime coordinated across national borders, involving groups of three or more persons existing for a while acting together, to or committing one or more serious offenses to obtain, directly or indirectly, a financial or other material benefit or networks of individuals working in more than one country to plan and execute illegal business ventures. In order to achieve their goals, these criminal groups use systematic violence and corruption;

“United Nations 2030 Agenda” refers to the United Nations plan for achieving a better future for all adopted by the United Nations General Assembly on 25 September 2015;

“UN Basel Convention” refers to the Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal adopted by the United Nations General Assembly on 31 April 1989; and

“UNCLOS” refers to the Convention on the Law of the Sea adopted by the United Nations on 10 December 1982.

- 2) In this Charter, any reference to sea includes oceans and inland waterways.

Article 2 Principles

Each State Party reaffirms its commitment to the principles and objectives contained in the Charter of the United Nations adopted on 26 June 1945, the Constitutive Act of the African Union adopted on 11 July 2000, the Universal Declaration of Human Rights adopted on 10 December 1948, the African Charter of Human and Peoples' Rights adopted on 27 June 1981, the Agenda 21 on Sustainable Development, adopted in Rio de Janeiro, on 14 June 1992, the Palermo Convention adopted on 15 November 2000, the Bamako Convention adopted on 30 January 1991, and other relevant legal instruments as well as the following fundamental principles:

- a) the promotion of peace, security, stability and development;
- b) the protection of fundamental human rights and freedoms, as well as the observance of the rules of International Humanitarian Law;
- c) the free movement of people and goods;
- d) the sovereign equality and interdependence of the Member States;



- e) the territorial integrity and national sovereignty of Member States; and
- f) subsidiarity.

Article 3 Objectives

The objectives of the present Charter shall be to:

- a) prevent and suppress national and transnational crime, including terrorism, piracy, armed robbery against ships, drug trafficking, smuggling of migrants, trafficking in persons and all other kinds of trafficking transiting through the sea and IUU fishing;
- b) protect the environment in general and the marine environment in the space of coastal and insular States, in particular;
- c) promote a flourishing and sustainable Blue/Ocean Economy;
- d) promote and enhance cooperation in the fields of maritime domain awareness, prevention by early warning and fight against piracy, armed robbery against ships, illicit trafficking of all kinds, the pollution of the seas, cross-border crime, international terrorism and the proliferation of small arms and light weapons;
- e) establish appropriate national, regional and continental institutions and ensure the implementation of appropriate policies likely to promote safety and security at sea;
- f) promote the inter-agency and transnational coordination and cooperation among Member States, within the spirit of the African Peace and Security Architecture of the African Union;
- g) boost the implementation of the 2050 AIM Strategy in conformity with International Maritime Law;
- h) promote the training and capacity building of the maritime, port and industrial sector, for safe and responsible use of the maritime domain;
- i) cooperate in the field of Search and Rescue in line with the IMO SOLAS Convention;



- j) further sensitize communities living next to seas for sustainable development of African coastline and biodiversity;
- k) To promote and protect the right of access to the sea of landlocked countries in accordance with the provisions of this Charter, the legal instruments of the AU and other regional and international instruments;
- l) raise the level of social welfare of the concerned population;

Article 4 Scope

The present Charter shall cover:

- a) the prevention and control of all transnational crime at sea, including terrorism, piracy, armed robbery against ships, drug trafficking, smuggling of migrants, trafficking in persons and all other kinds of trafficking, IUU fishing, prevention of pollution at sea and other unlawful acts at sea, under the jurisdiction of a State Party in its area of responsibility;
- b) all measures to prevent or minimize accidents at sea caused by ships or crew or aimed at facilitating safe navigation;
- c) all measures for the sustainable exploitation of marine resources and optimization of the development opportunities of sectors related to the sea.

CHAPTER II: MEASURES TO PREVENT AND COMBAT CRIMES AT SEA

Article 5 Socio-Economic Measures to Prevent Crimes at Sea

Each State Party shall endeavour to:

- a) continue its efforts to take appropriate measures to create productive jobs, reduce poverty and eliminate extreme poverty, encourage awareness of maritime related issues in order to establish the best living conditions, and to strengthen social cohesion through the implementation of a fair, inclusive and equitable policy to address the socio-economic issues;



- b) stimulate the creation of jobs along the coasts, particularly by codifying and promoting artisanal fishery through the training of sector stakeholders, encouraging the local processing of fishery products, and facilitating their marketing at national, sub-regional and international levels.

Article 6 **States Parties Responsibility**

Each State Party undertakes, according to its own realities, where applicable, to:

- a) organise its actions at sea and to develop its capacity to protect its maritime area and provide assistance to other States Parties or third States as may be required;
- b) strengthen law enforcement at sea, through the training and the professionalization of navies, coast guards, and agencies responsible for maritime safety and security, custom authorities and port authorities;
- c) maintain patrols, surveillance and reconnaissance in the anchorage areas, the exclusive economic zone and continental shelf for law enforcement, search and rescue operations.

Article 7 **National Coordinating Structures**

- 1) Each State Party shall take measures to curb maritime crime and other forms of unlawful acts, as part of on-going dialogue and effective cooperation between their relevant national institutions.
- 2) Each State Party shall establish a national coordinating structure and centre for awareness on maritime related issues to ensure the coordination of actions aimed at safeguarding and enhancing maritime safety and security.

Article 8 **Harmonizing of National Legislation**

Each State Party shall, where appropriate:

- a) harmonise its national laws to conform with relevant international legal instruments including UNCLOS, SOLAS and the Protocol of the 2005 Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation of 1 November 2005; and



- b) train the staff responsible for their implementation, in particular personnel within the justice system.

Article 9

Resources to Guarantee Maritime Security and Safety

Each State Party shall adopt policies that guarantee the availability of resources either by public funds or by forging public-private partnerships, needed for investment in equipment, operations and training in the field of maritime security and safety in accordance with their domestic procedures.

Article 10

Financial Obligations of Flag States and Coastal States

Each State Party shall encourage cooperation between Flag States and Coastal States, so that, in a spirit of co-responsibility, the financial obligations of security and safety in the African maritime domain are shared and supported by the different actors concerned.

Article 11

Maritime Security and Safety Fund

State Parties undertake to establish a Maritime Security and Safety Fund.

CHAPTER III: MARITIME GOVERNANCE

Article 12

Maritime Governance

Each State Party shall ensure good maritime governance based on better information sharing, effective communication, and efficient coordination of their actions.

Article 13

Maritime Boundaries

Each State Party shall endeavour to delimit its respective maritime boundaries in conformity with provisions of relevant international instruments.

Article 14

Protection of Maritime Territories

Each State Party shall protect its maritime territories and ensure its maritime security and safety in conformity with the relevant international laws and principles.



Article 15
Flag State Responsibilities and Port State Control

Each State Party shall fulfil its Flag State and Port State Control responsibilities within their jurisdictions to:

- a) eradicate sub-standard shipping practices;
- b) enhance security and safety; and
- c) protect the marine environment from pollution.

Article 16
Trafficking in Human Beings and Smuggling of Migrants by Sea

Each State Party shall develop and implement sound migration policies aimed at eliminating trafficking in human beings, especially women and children, as well as smuggling of migrants by sea.

Article 17
Drug Trafficking

Each State Party shall develop and implement balanced and integrated strategies aimed at combatting drug trafficking and related challenges in the maritime domain.

Article 18
Safety of Navigation

Each State Party undertakes to promote safety of navigation as well as the protection and sustainable use of the marine environment by:

- 1) providing appropriate aids to navigation according to available resources;
- 2) ensuring the best possible standardisation in aids to navigation; and
- 3) facilitating access to information relating to aids to navigation.

CHAPTER IV: DEVELOPMENT OF THE BLUE /OCEAN ECONOMY

Article 19
Exploitation of the Maritime Domain

- 1) Each State Party shall explore and exploit their respective maritime domains in accordance with relevant international principles and standards.



- 2) Each State Party shall facilitate the engagement of non-state actors, especially the private sector, in the development and implementation of the blue/ ocean economy.

Article 20 Fisheries and Aquaculture

- 1) Each State Party shall implement appropriate fisheries and aquaculture policies for the conservation, management and sustainable exploitation of fish stocks and other biological resources.
- 2) Each State Party shall carry out the necessary reforms for good governance in the fishery sector and the promotion of continental fishing and aquaculture to contribute to the creation of employment in the sector, reduce food insecurity and malnutrition and promote economic diversification.
- 3) Each State Party shall take appropriate measures to effectively combat IUU fishing activities within the framework of its respective national jurisdictions and to take legal steps aimed at prosecuting the perpetrators engaged in IUU fishing.

Article 21 Creation of Wealth and Jobs through Coastal and Maritime Tourism

Each State Party undertakes to promote coastal and maritime tourism as a key sector, with due consideration to the environmental dimensions, that generates considerable revenue and creates jobs, and agree to promote the sustainable development of all associated activities.

Article 22 Integrated Human Resource Strategy for Maritime Development

- 1) Each State Party shall develop an integrated human resources strategy for the maritime sector to support the provision of skills, taking into account gender balance, in the entire maritime value chain which includes shipping and logistics, offshore activities, fishing, coastal and maritime tourism, and safety and security.
- 2) Each State Party shall set up a human resources development agenda, including training, in accordance with the potential for economic growth and job creation opportunities more widely along the maritime value chain.



Article 23
Competitiveness Improvement

Each State Party shall improve competitiveness of its maritime industries, particularly in international trade. To this end, each State Party commits to:

- a) Encourage the creation and development of African maritime companies;
- b) Promote access of African operators to maritime transport auxiliary services and professions;
- c) Create an enabling environment to foster equity investment by African operators in foreign companies operating in Africa in maritime transport auxiliary services and professions;
- d) Prioritize trans-African cabotage to national and regional African maritime companies, in order to promote intra-African trade and facilitate the socio-economic integration of the continent.

Article 24
Development of Infrastructure and Equipment Relating to Maritime Activities

- 1) Each State Party shall develop and strengthen its infrastructure to enable its port facilities to achieve its economic growth potential and competitiveness.
- 2) Each State Party shall encourage public-private partnerships to facilitate modernisation of African maritime industries in order to provide standard quality services and contribute to the attainment of the objectives of sustainable development.

Article 25
Measures to Mitigate Climate Change and Environmental Threats

- 1) Each State Party shall adopt specific adaptation and mitigation measures to contain climate change and environmental threats to the marine environment in conformity with relevant international instruments.
- 2) Each State Party shall establish information exchange and early warning systems on marine pollution, including the dumping of toxic and hazardous waste and unauthorized emissions from the high seas.



Article 26

Protection of Marine Biological Species, Fauna and Flora

Each State Party shall preserve the marine environment and protect the biological species of marine fauna and flora in the development process of its environment and biodiversity.

Article 27

Toxic and Hazardous Waste Dumping

- 1) Each State Party shall develop a mechanism for the detection, prevention and reporting of marine pollution, particularly through the dumping of toxic and hazardous waste.
- 2) Each State Party shall prohibit the import, export, handling, accumulation or dumping of trans-boundary hazardous waste, including radioactive materials, chemical and organic waste in conformity with provisions of the Bamako and Basel Conventions.

Article 28

Prevention of Illegal Exploitation and Theft of Marine Resources

- 1) Each State Party shall endeavour to prevent and effectively fight the illegal exploitation and theft of marine resources in its respective maritime territory.
- 2) Each State Party shall prohibit trade in products derived from illegal exploitation and plundering of marine resources within its maritime domain.
- 3) Each State Party shall prohibit trade in products derived from illegal exploitation and plundering of marine resources from any State Party.

Article 29

Maritime Disaster Risk Management

Each State Party shall develop an integrated multi-sectoral and multidisciplinary strategy for ensuring disaster risk management and reducing the severity and impacts of a disaster.



CHAPTER V: COOPERATION

Article 30

Cooperation in the Exploitation of the Maritime Domain

State Parties shall cooperate at national, regional and continental levels, in:

- 1) developing and exploiting marine resources in their territorial waters through scientific and technological exchanges, partnerships for research and innovation, as well as the promotion and strengthening of the blue/ocean economy, in accordance with relevant international principles and standards;
- 2) facilitating business partnerships in the maritime domain;
- 3) harnessing state-of-the-art technologies, in conformity with the African Space Policy and Strategy and other relevant instruments for maritime security and safety.

Article 31

Cooperation in Fishing and Aquaculture

- 1) State Parties shall cooperate in order to ensure the sustainability of marine biodiversity.
- 2) State Parties shall cooperate within the framework of the Fisheries Committees established by its regional competent bodies and specialized institutions in order to strengthen and promote sustainable management of fishery resources.

Article 32

Cooperation in Combating Crimes at Sea

- 1) State Parties shall cooperate and coordinate their actions in combating transnational organized crimes of all kinds including the circulation and trafficking of arms, maritime terrorism, drug trafficking, trafficking in protected species or of its trophies, money laundering and its predicate offences, acts of piracy and armed robbery against ships, taking of hostages at sea, theft of oil and gas, trafficking in persons, smuggling of migrants, pollution of the seas and oceans, IUU fishing, and illegal dumping of toxic and hazardous waste.
- 2) State Parties shall take adequate measures, individually and collectively, to effectively fight organized crime, including transnational organized crime, and ensure that the perpetrators of such crimes are effectively prosecuted and denied the advantage of the proceeds of their crimes.



Article 33
Maritime Information Sharing

- 1) State Parties shall establish a platform for exchange and sharing of experiences and best practices on maritime security and safety.
- 2) State Parties shall endeavour to develop a system of information-sharing integrating national, regional and continental structures for maritime domain awareness aimed at:
 - a) preventing the commission of unlawful acts at sea;
 - b) the arrest and detention of individuals preparing to or committing any unlawful acts at sea; and
 - c) the seizure or confiscation of ships and equipment used in the commission of any unlawful acts at sea.

Article 34
Cooperation in Intelligence Sharing

State Parties shall encourage cooperation in sharing intelligence between its national services, regional and continental agencies and appropriate international specialized organs, to ensure the effectiveness of the fight against unlawful acts at sea.

Article 35
Strategies for Awareness on Maritime Related Issues

Each State Party shall adopt appropriate maritime strategies for awareness on maritime related issues adapted to its national, regional and international maritime security and safety situations in order to create greater awareness of the seas and oceans.

Article 36
Scientific and Academic Cooperation

Each State Party shall encourage:

- 1) the strengthening of cooperation between its universities and training and research institutes in relation to seas and oceans including those of the Pan African University;
- 2) maritime scientific research campaigns for development purposes; and



- 3) support initiatives by training institutions in respect of capacity building in maritime security and safety.

Article 37 **Continental Cooperation Framework**

State Parties shall establish a framework for close cooperation in the field of maritime security and safety with the national cross-sectoral mechanisms, the Regional Economic Communities and other relevant bodies.

Article 38 **Regional Cooperation Structures**

State Parties shall establish, where they do not exist, regional cooperation structures in the fight against crime at sea.

Article 39 **National Coordination Framework**

- 1) Each State Party shall develop national legal frameworks to coordinate their respective legal interventions at sea.
- 2) Each State Party shall endeavour to incorporate cooperation mechanisms in its national legal frameworks with a view to effectively combatting crime at sea.
- 3) Each State Party undertakes to promote, strengthen and sustain maritime rescue coordination centres and the maritime rescue sub-centres for the efficient organization of maritime search and rescue services.

Article 40 **Judicial and Legal Cooperation**

- 1) State Parties agree to mutual judicial and legal cooperation on the basis of the present Charter;
- 2) Each State Party shall cooperate on the basis of its bilateral or multilateral agreements, or in the absence of a cooperation agreement, on the basis of its national legislation.
- 3) Notwithstanding the differences in the legal framework of each State Party, national legislation shall guarantee joint investigation mechanisms, secure information exchange procedures, judicial requests, extradition and transfer of detainees and other related mechanisms.



CHAPTER VI: MONITORING AND CONTROL

Article 41 Committee of States Parties

- 1) A 15-member Committee of States Parties is hereby established which shall be responsible for monitoring the implementation of this Charter and recommending follow-up actions.
- 2) The Committee shall be composed of the Ministers responsible for maritime affairs or such other Ministers or Authorities as may be designated by the governments of the States Parties.
- 3) The Committee members shall be elected every three years, from among the five regions of the continent on the basis of rotation, gender and geographical distribution in accordance with AU procedures and practice.
- 4) States Parties shall adopt the rules of procedure of the Committee.

Article 42 State Parties Reports

Each State Party to the present Charter shall undertake to submit to the Committee a report on the measures they have undertaken to give effect to the provisions of this Charter:

- 1) within two years of the entry into force of the Charter for the State Party concerned; and
- 2) thereafter, every five years.

Article 43 Reports of the Committee

The Committee of the States Parties shall present, every two years, to the Assembly of the Union, a report on the progress made in the implementation of the Charter.

Article 44 Secretariat of the Committee

The Commission shall act as the Secretariat of the Committee of the States Parties.



Article 45
Settlement of Disputes

- 1) Any dispute or difference arising between States Parties with regard to the interpretation, application and implementation of this Charter shall be settled by mutual consent between the States concerned, including through negotiations, mediation, conciliation or other peaceful means;
- 2) In the event of failure by the disputing parties to settle the dispute or difference in accordance with Article 45 (1), the disputing Parties may, by mutual consent, refer the dispute to:
 - a) The African Court of Justice Human and Peoples' Rights, where applicable; or
 - b) An Arbitration Panel of three (3) Arbitrators whose appointment shall be as follows:
 - i) two (2) Arbitrators each appointed by a Party to the dispute; and
 - ii) a third Arbitrator who shall be President of the Panel and appointed by the Chairperson of the African Union Commission.
- 3) The decision of the Panel of Arbitrators shall be final and binding.

Article 46
Annexes, Guidelines and Modalities

- 1) Member States shall adopt, as and when necessary, Annexes to complement this Charter. The Annexes shall be an integral part of this Charter.
- 2) A State Party which accedes to this Charter prior to the adoption of Annexes retains the right to subsequently accede to the Annexes.
- 3) In the event of a State Party acceding to this Charter after the adoption of annexes, the State Party must declare its intention to be bound by one or all of the Annexes.
- 4) State Parties shall also adopt guidelines and modalities to guide State Parties in fulfilling their obligations under this Charter.



CHAPTER VII: FINAL PROVISIONS**Article 47****Popularization of the Charter**

Each State Party shall take all appropriate measures to ensure the widest possible dissemination of this Charter.

Article 48**Safeguard Clause**

- 1) No provision in this Charter shall be interpreted as derogating from the principles and values contained in other relevant instruments for the promotion of Maritime Security and Safety and Development in Africa.
- 2) Nothing in this Charter shall be construed as preventing a Party from taking any action, compatible with the provisions of the United Nations Charter or any other international instrument and that is limited to the exigencies of the situation, as it considers necessary to its external or internal security.

Article 49**Signature, Ratification and Accession**

- 1) This Charter shall be open to Member States of the Union for signature, ratification or accession.
- 2) The instrument of ratification or accession to the present Charter shall be deposited with the Chairperson of the Commission who shall notify Member States of the Union of the deposit of the instruments of ratification or accession.

Article 50**Entry into force**

- 1) This Charter shall enter into force thirty (30) days after the deposit of the fifteenth (15th) instrument of ratification.
- 2) The Chairperson of the Commission shall notify all Members States of the entry into force of the present Charter.
- 3) For any Member State acceding to the present Charter, the Charter shall come into force in respect of that State on the date of the deposit of its instrument of accession.



Article 51 Reservations

- 1) A State Party may, when, ratifying or acceding to this Charter, submit in writing, a reservation with respect to any of the provisions of this Charter. Reservation shall not be incompatible with the object and purpose of this Charter.
- 2) Unless otherwise provided, a reservation may be withdrawn at any time.
- 3) The withdrawal of a reservation must be submitted in writing to the Chairperson of the Commission who shall notify other States Parties of the withdrawal accordingly.

Article 52 Depositary

This Charter shall be deposited with the Chairperson of the Commission, who shall transmit a certified true copy of the Charter to the Government of each signatory State.

Article 53 Registration

The Chairperson of the Commission shall upon the entry into force of this Charter, register the Charter with the United Nations Secretary General in conformity with Article 102 of the Charter of the United Nations.

Article 54 Withdrawal

- 1) At any time after three years from the date of entry into force of this Charter a State Party may withdraw by giving written notification to the Depositary.
- 2) Withdrawal shall be effective one year after receipt of notification by the Depositary, or on such later date as may be specified in the notification.
- 3) Withdrawal shall not affect any obligation of the withdrawing State Party prior to the withdrawal.

Article 55 Amendment and Revision

- 1) Any State Party may submit proposal(s) for the amendment or revision of this Charter. Such proposal(s) shall be adopted by the Assembly.



- 2) Proposals for amendment or revision shall be submitted in writing to the Chairperson of the Commission who shall transmit such proposals to the Assembly at least six months before the meeting at which it shall be considered for adoption.
- 3) Amendments or revisions shall be adopted by the Assembly by consensus or, failing which, by a two-thirds majority of the Assembly.
- 4) The amendment or revision shall enter into force thirty (30) days after the deposit of the receipt of the fifteenth (15th) instrument of ratification to the Chairperson of the Commission of the African Union.

Article 56
Authentic Texts

This Charter is drawn up in four (4) original texts, in Arabic, English, French and Portuguese languages, all four (4) texts being equally authentic.

IN WITNESS WHEREOF the undersigned, being duly authorized to that effect, has signed this Charter.

**ADOPTED BY THE EXTRAORDINARY SESSION OF THE ASSEMBLY,
HELD IN LOMÉ, TOGO, ON 15 OCTOBER 2016.**



2.6 JEDDAH AMENDMENTS TO THE DJIBOUTI CODE OF CONDUCT 2017

مدونة السلوك المعدلة المتعلقة بقمع أعمال القرصنة والسطو المسلح التي تستهدف السفن والنشاط البحري غير الشرعي في غربي المحيط الهندي ومنطقة خليج عدن

**REVISED CODE OF CONDUCT CONCERNING THE REPRESSION OF PIRACY,
ARMED ROBBERY AGAINST SHIPS, AND ILLICIT MARITIME ACTIVITY IN THE
WESTERN INDIAN OCEAN AND THE GULF OF ADEN AREA**

**CODE DE CONDUITE RÉVISÉ CONCERNANT LA RÉPRESSION DES ACTES DE
PIRATERIE, DES VOLS À MAIN ARMÉE A L'ENCONTRE DES NAVIRES ET
DES ACTIVITÉS MARITIMES ILLICITES DANS LA RÉGION DE
L'Océan Indien Occidental ET DU GOLFE D'ADEN**

RECORD OF THE MEETING

1 The International Maritime Organization (hereinafter referred to as "Organization") convened, pursuant to the request of Signatory States to the Code of conduct concerning the repression of piracy and armed robbery against ships in the western Indian Ocean and the Gulf of Aden (the Djibouti Code of conduct), a meeting to update and upgrade the aforementioned Code of conduct, which was hosted by the Government of the Kingdom of Saudi Arabia and took place in Jeddah from 10 to 12 January 2017 (hereinafter referred to as "the Jeddah Meeting").

2 The Jeddah Meeting was attended by delegations from the following States:

COMOROS
DJIBOUTI
ETHIOPIA
FRANCE
JORDAN
KENYA
MADAGASCAR
MALDIVES
MAURITIUS
MOZAMBIQUE

OMAN
SAUDI ARABIA
SEYCHELLES
SOMALIA
SOUTH AFRICA
UNITED ARAB EMIRATES
UNITED REPUBLIC OF
TANZANIA
YEMEN

by observers from the following States:

JAPAN
NORWAY

UNITED KINGDOM
UNITED STATES

by representatives from the United Nations and the following United Nations bodies and programmes:

UNITED NATIONS OFFICE ON DRUGS AND CRIME (UNODC)

and by observers from the following intergovernmental organizations:

EUROPEAN UNION (EU)
INTERNATIONAL CRIMINAL POLICE ORGANIZATION – INTERPOL
EAST AFRICAN STANDBY FORCE

3 The purpose of the Jeddah Meeting was to consider and adopt the draft text of a revised instrument concerning the repression of piracy, armed robbery against ships and illicit maritime activity in the Western Indian Ocean and the Gulf of Aden which had been developed pursuant to the request of Signatory States to the Djibouti Code of conduct.

4 The Jeddah Meeting was opened by Vice Admiral Awwad Eid Al-Aradi Al-Balawi, the Head of the Border Guard of the Kingdom of Saudi Arabia, and Mr. Chris Trelawny, the Special Advisor to the Secretary-General of the Organization.

5 The Jeddah Meeting was chaired by Vice Admiral Awwad Eid Al-Aradi Al-Balawi, the Head of the Border Guard of the Kingdom of Saudi Arabia.

6 The Jeddah Meeting considered the draft text of the instrument referred to in paragraph 3 above and adopted a Revised Code of conduct concerning the repression of piracy, armed robbery against ships and illicit maritime activity in the Western Indian Ocean and the Gulf of Aden Area. The meeting recognized the significant developments made since the adoption on 29 January 2009, of the Djibouti Code of conduct, which provided a firm basis for the work of the meeting.

7 During the Jeddah Meeting, a range of views were expressed and discussed regarding activities to fight against transnational organized crime in the maritime domain, maritime terrorism, IUU fishing and other illegal activities at sea in the Western Indian Ocean and the Gulf of Aden Area.

8 The Jeddah Meeting, as a result of its deliberations, adopted:

Resolution 1 on ADOPTION OF THE REVISED CODE OF CONDUCT
CONCERNING THE REPRESSION OF PIRACY, ARMED
ROBBERY AGAINST SHIPS AND ILLICIT MARITIME ACTIVITY IN
THE WESTERN INDIAN OCEAN AND THE GULF OF ADEN AREA

which is contained in attachment 1.

9 The Jeddah Meeting also adopted the following resolutions which are contained in attachment 2:

Resolution 2 on TECHNICAL COOPERATION AND ASSISTANCE

Resolution 3 on ENHANCING TRAINING IN THE REGION

Resolution 4 on EXPRESSIONS OF APPRECIATION

10 This record is established in a single original text in the Arabic, English and French languages, which is to be deposited with the Secretary-General of the Organization.

11 The Secretary-General of the Organization shall send copies of this record with its attachments, and certified copies of the authentic text of the Code of conduct referred to in paragraph 8 above, to the Governments of the States invited to be represented at the Jeddah Meeting.

DONE in Jeddah this twelfth day of January two thousand and seventeen.

IN WITNESS WHEREOF the undersigned, representatives of the delegations participating at the Jeddah Meeting, have signed this record.

Signed (signatures omitted) by Comoros, Djibouti, Ethiopia, France, Jordan, Kenya, Madagascar, Maldives, Mauritius, Mozambique, Oman, Saudi Arabia, Seychelles, Somalia, South Africa, United Arab Emirates, United Republic of Tanzania and Yemen.

محضر الاجتماع ، جدة في 12 كانون الثاني/يناير 2017

RECORD OF THE MEETING, JEDDAH 12 JANUARY 2017

COMPTE RENDU DE LA RÉUNION, FAIT À DJEDDA LE 12 JANVIER 2017

<p>COMOROS COMORES جزر القمر</p> 	<p>DJIBOUTI DJIBOUTI جيبوتي</p> 	<p>EGYPT ÉGYPTÉ مصر</p> 
<p>ERITREA ÉRYTHÉE إريتريا</p> 	<p>ETHIOPIA ÉTHIOPIE أثيوبيا</p> 	<p>FRANCE FRANCE فرنسا</p> 
<p>JORDAN JORDANIE الأردن</p> 	<p>KENYA KENYA كينيا</p> 	<p>MADAGASCAR MADAGASCAR مدغشقر</p> 
<p>MALDIVES MALDIVES ملديف</p> 	<p>MAURITIUS ÎLE MAURICE موريشيوس</p> 	<p>MOZAMBIQUE MOZAMBIQUE موزمبيق</p> 
<p>OMAN OMAN عمان</p> 	<p>SAUDI ARABIA ARABIE SAOUDITE المملكة العربية السعودية</p> 	<p>SEYCHELLES SEYCHELLES سيشل</p> 
<p>SOMALIA SOMALIE الصومال</p> 	<p>SOUTH AFRICA AFRIQUE DU SUD جنوب أفريقيا</p> 	<p>SUDAN SOUDAN السودان</p> 
<p>UNITED ARAB EMIRATES ÉMIRATS ARABES UNIS. الإمارات العربية المتحدة</p> 	<p>UNITED REPUBLIC OF TANZANIA RÉPUBLIQUE-UNIE DE TANZANIE جمهورية تنزانيا الاتحادية</p> 	<p>YEMEN YÉMEN اليمن</p> 

ATTACHMENT 1

RESOLUTION 1

Adopted on 12 January 2017

ADOPTION OF THE REVISED CODE OF CONDUCT CONCERNING THE REPRESSION OF PIRACY, ARMED ROBBERY AGAINST SHIPS AND ILLICIT MARITIME ACTIVITY IN THE WESTERN INDIAN OCEAN AND THE GULF OF ADEN AREA

The Jeddah Meeting,

RECALLING that the Assembly of the International Maritime Organization (hereinafter referred to as "IMO"), at its twenty-fifth regular session, adopted, on 27 November 2007, resolution A.1002(25) on *Piracy and armed robbery against ships in waters off the coast of Somalia* which, among other things, called upon Governments in the region to conclude, in cooperation with IMO, and implement, as soon as possible, a regional agreement to prevent, deter and suppress piracy and armed robbery against ships;

RECALLING FURTHER that this led to the development of the Code of conduct concerning the repression of piracy and armed robbery against ships in the western Indian Ocean and the Gulf of Aden (the Djibouti Code of Conduct), adopted on 29 January 2009;

RECOGNIZING that the Djibouti Code of Conduct established a firm basis for national and regional action with respect to countering piracy and armed robbery against ships, including through establishment of national focal points, the facilitation of capacity building, and transnational coordination between the signatory States, other IMO Member States, United Nations entities and international partners;

RECOGNIZING FURTHER that the implementation of the Djibouti Code of Conduct made a commendable contribution towards the international effort to repress piracy in the Western Indian Ocean and the Gulf of Aden;

RECOGNIZING ALSO the need to develop and revise the existing Djibouti Code of Conduct in view of increasing threats to maritime activities,

NOTING that the majority of the 20 signatory States to the Djibouti Code of Conduct had indicated their intention to build on the experience and success of the Djibouti Code of Conduct in countering piracy and armed robbery against ships by widening the scope of the Code to address other aspects of maritime security and maritime law enforcement;

CONSIDERING the experience of the 25 countries in west and central Africa that adopted the Code of Conduct concerning the repression of piracy, armed robbery against ships, and illicit maritime activity in West and Central Africa; and

DESIRING to promote greater regional cooperation and thereby enhance their effectiveness in the prevention, interdiction, prosecution, and punishment of those persons engaging in piracy, armed robbery against ships and other illicit maritime activity on the basis of mutual respect for the sovereignty, sovereign rights, sovereign equality, jurisdiction, and territorial integrity of States;

1 ADOPTS the Revised Code of conduct concerning the repression of piracy, armed robbery against ships and other illicit maritime activity in the Western Indian Ocean and the Gulf of Aden Area (hereinafter referred to as "the Code of conduct"), as contained in the annex;

2 URGES Participating Governments to:

- .1 implement the provisions of the Code of conduct; and
- .2 within five years of the effective date of this Code of conduct, and having established national maritime security and facilitation committees and designated the national focal points referred to in Article 11, the Participants intend to consult, with the assistance of IMO, on the merit of developing a binding agreement;
- .3 engage in regular consultations with each other and with IMO to review the implementation of this Code of conduct;

3 AGREES to refer to the Code of conduct as the "Jeddah Amendment to the Djibouti Code of Conduct 2017".

ANNEX

**REVISED CODE OF CONDUCT CONCERNING THE REPRESSION OF PIRACY,
ARMED ROBBERY AGAINST SHIPS, AND ILLICIT MARITIME ACTIVITY IN THE
WESTERN INDIAN OCEAN AND THE GULF OF ADEN AREA**

The Governments of Comoros, Djibouti, Egypt, Eritrea, Ethiopia, France, Jordan, Kenya, Madagascar, Maldives, Mauritius, Mozambique, Oman, Saudi Arabia, Seychelles, Somalia, South Africa, Sudan, the United Arab Emirates, the United Republic of Tanzania and Yemen (hereinafter referred to as "the Participants"),

RECOGNIZING the need to develop and revise the existing Djibouti Code of Conduct in view of increasing threats to maritime activities,

CONSIDERING the relevant provisions of United Nations General Assembly resolution 70/1 on Transforming our world: the 2030 Agenda for Sustainable Development, including the Sustainable Development Goals detailed therein and, in particular, Goal 14 "Conserve and sustainably use the oceans, seas and marine resources for sustainable development" and Goal 16 "Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels";

CONVINCED THAT international seaborne trade between Participants and other States, developing efficient ports and infrastructure, nurturing national shipping lines and promoting seafaring as a career, and developing the "blue economy", that is managing and protecting fisheries, securing offshore energy production, and creating the stable conditions that encourage investment and tourism, will help to ensure sustainable economic growth, food security, employment, prosperity and stability;

DEEPLY CONCERNED about the crimes of piracy, armed robbery against ships and other illicit maritime activity, including fisheries crime, in the Western Indian Ocean and the Gulf of Aden and the grave dangers to the safety and security of persons and ships at sea and to the protection of the marine environment arising from such acts;

REAFFIRMING that international law, as reflected in UNCLOS, sets out the legal framework applicable to maritime economic development, maritime governance and maritime law enforcement, including combating piracy, armed robbery at sea and other illicit maritime activity;

RECALLING that the Assembly of the International Maritime Organization (hereinafter referred to as "IMO"), at its twenty-fifth regular session, adopted, on 27 November 2007, resolution A.1002(25) on *Piracy and armed robbery against ships in waters off the coast of Somalia* which, among other things, called upon Governments in the region to conclude, in cooperation with IMO, and implement, as soon as possible, a regional agreement to prevent, deter and suppress piracy and armed robbery against ships;

RECALLING FURTHER that this led to the development of the Code of conduct concerning the repression of piracy and armed robbery against ships in the western Indian Ocean and the Gulf of Aden (the Djibouti Code of Conduct), adopted on 29 January 2009;

NOTING that the General Assembly of the United Nations, at its seventy-first session, adopted, on 23 December 2016, resolution 71/257 on Oceans and the law of the sea which amongst others:

- recognizes the crucial role of international cooperation at the global, regional, sub-regional and bilateral levels in combating, in accordance with international law, threats to maritime security, including piracy, armed robbery at sea, terrorist acts against shipping, offshore installations and other maritime interests, through bilateral and multilateral instruments and mechanisms aimed at monitoring, preventing and responding to such threats, the enhanced sharing of information among States relevant to the detection, prevention and suppression of such threats, the prosecution of offenders with due regard to national legislation and the need for sustained capacity-building to support such objectives;
- emphasizes the importance of promptly reporting incidents to enable accurate information on the scope of the problem of piracy and armed robbery against ships at sea and, in the case of armed robbery against ships at sea, by affected vessels to the coastal State, underlines the importance of effective information-sharing with States potentially affected by incidents of piracy and armed robbery against ships at sea, and notes with appreciation the important role of the International Maritime Organization;
- calls upon States to take appropriate steps under their national law to facilitate the apprehension and prosecution of those who are alleged to have committed acts of piracy;
- recognizes that some transnational organized criminal activities threaten legitimate uses of the oceans and endanger the lives of people at sea, as well as the livelihoods and security of coastal communities;
- notes with concern the continuing problem of transnational organized crime committed at sea, including illicit traffic in narcotic drugs and psychotropic substances, the smuggling of migrants, trafficking in persons and illicit trafficking in firearms, and threats to maritime safety and security, including piracy, armed robbery at sea, smuggling and terrorist acts against shipping, offshore installations and other maritime interests, and noting the deplorable loss of life and adverse impact on international trade, energy security and the global economy resulting from such activities;
- recognizes the importance of enhancing international cooperation at all levels to fight transnational organized criminal activities, including illicit traffic in narcotic drugs and psychotropic substances, within the scope of the United Nations instruments against illicit drug trafficking, as well as the smuggling of migrants, trafficking in persons and illicit trafficking in firearms and criminal activities at sea falling within the scope of the United Nations Convention against Transnational Organized Crime;
- recognizes that illicit trafficking in wildlife is, in some cases, committed by transnational organized criminal groups using maritime routes, contributes to damage to ecosystems and livelihoods and requires enhanced regional and global cooperation and coordination in response, in accordance with international law;

- urges all States, in cooperation with the IMO, to actively combat piracy and armed robbery at sea by adopting measures, including those relating to assistance with capacity-building through training of seafarers, port staff and enforcement personnel in the prevention, reporting and investigation of incidents, by bringing the alleged perpetrators to justice, in accordance with international law, and by adopting national legislation, as well as providing enforcement vessels and equipment and guarding against fraudulent ship registration; and
- welcomes the recent achievements against piracy and armed robbery at sea off the coast of Somalia resulting from efforts at the global and regional levels and the significant decrease in reported incidents of piracy off the coast of Somalia, which are at the lowest level since 2006, in this regard continues to be gravely concerned by the ongoing threat that piracy and armed robbery at sea continue to pose in the region off the coast of Somalia;

NOTING that the General Assembly of the United Nations, at its seventy-first session, adopted, on 7 December 2016, resolution 71/123 on Sustainable fisheries, including through the 1995 Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks, and related instruments;

NOTING ALSO that through resolution 71/123, the General Assembly of the United Nations, inter alia, emphasized once again its serious concern that illegal, unreported and unregulated fishing remains one of the greatest threats to fish stocks and marine ecosystems and continues to have serious and major implications for the conservation and management of ocean resources, as well as the food security and the economies of many States, particularly developing States, and renewed its call upon States to comply fully with all existing obligations and to combat such fishing and urgently to take all steps necessary to implement the International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing (IPOA-IUU); and noted with satisfaction the recent ratifications, acceptances and approval of and accessions to the Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing (PSMA) of the Food and Agriculture Organization of the United Nations (FAO), which have resulted in the entry into force of that Agreement;

NOTING FURTHER that the Security Council of the United Nations has adopted a number of resolutions in relation to piracy and armed robbery in waters off the coast of Somalia, transnational organized crime in the maritime domain, and other illicit maritime activity;

RECALLING the Assembly of IMO, at its twenty-second regular session, adopted, on 29 November 2001, resolution A.922(22) on the *Code of Practice for the Investigation of the Crimes of Piracy and Armed Robbery against Ships* which amongst others invited Governments to develop, as appropriate, agreements and procedures to facilitate cooperation in applying efficient and effective measures to prevent acts of piracy and armed robbery against ships;

TAKING INTO ACCOUNT the Special measures to enhance maritime security adopted on 12 December 2002 by the Conference of Contracting Governments to the International Convention for the Safety of Life at Sea, 1974 as amended (SOLAS), including the International Ship and Port Facility Security (ISPS) Code;

INSPIRED by the Regional Cooperation Agreement on Combating Piracy and Armed Robbery against Ships in Asia adopted in Tokyo, Japan on 11 November 2004, the original text of the Djibouti Code of Conduct adopted in Djibouti on 29 January 2009, and the Code of conduct concerning the repression of piracy, armed robbery against ships and illicit maritime activity in west and central Africa adopted in Yaoundé, Cameroon on 25 June 2013;

RECOGNIZING the urgent need to devise and adopt effective and practical measures for the suppression of piracy, armed robbery against ships, illegal, unreported and unregulated fishing and other illicit maritime activity;

RECALLING that the Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation, 1988 and 2005 and the associated Protocols for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf (hereinafter referred to as "SUA Treaties") provide for parties to make the offences set forth in it punishable by appropriate penalties, establish jurisdiction, and accept the delivery of persons responsible for or suspected of seizing or exercising control over a ship by force or threat thereof or any other form of intimidation;

DESIRING to promote greater regional cooperation between the Participants, both coastal States and landlocked States, and thereby enhance their effectiveness, in the prevention, interdiction, prosecution, and punishment of those persons engaging in piracy and armed robbery against ships on the basis of mutual respect for the sovereignty, sovereign rights, sovereign equality, jurisdiction, and territorial integrity of States;

WELCOMING the initiatives of IMO, the United Nations Office on Drugs and Crime, the United Nations Development Programme, the African Union, the European Union, the European Commission, the Indian Ocean Commission, the League of Arab States, the North Atlantic Treaty Organization, donor States and other relevant international entities to provide training, technical assistance and other forms of capacity building to assist Governments, upon request, to adopt and implement practical measures to apprehend and prosecute those persons engaging in transnational organized crime in the maritime domain, maritime terrorism, and illegal, unreported, and unregulated (IUU) fishing;

NOTING FURTHER the need for a comprehensive approach to address the poverty and instability that create conditions conducive to piracy, which includes strategies for effective environmental conservation and fisheries management, and the need to address the possible environmental consequences of piracy;

CONVINCED that the following Code of conduct will promote regional maritime cooperation and a stable maritime environment, contribute to the peace, good order and continuing prosperity of the western Indian Ocean and the Gulf of Aden area;

Have agreed as follows:

Article 1

Definitions

For the purposes of this Code of conduct, unless the context otherwise requires:

1. "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 of inciting or of intentionally facilitating an act described in subparagraph (a) or (b).
2. "Armed robbery against ships" consists of any of the following acts:
- (a) unlawful act of violence or detention or any act of depredation, or threat thereof, other than an act of piracy, committed for private ends and directed against a ship or against persons or property on board such a ship, within a State's internal waters, archipelagic waters and territorial sea;
 - (b) any act of inciting or of intentionally facilitating an act described in subparagraph (a).
- 3 As defined in the International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing:
- 3.1 Illegal fishing refers to activities:
- 3.1.1 conducted by national or foreign vessels in waters under the jurisdiction of a State, without the permission of that State, or in contravention of its laws and regulations;
 - 3.1.2 conducted by vessels flying the flag of States that are parties to a relevant regional fisheries management organization but operate in contravention of the conservation and management measures adopted by that organization and by which the States are bound, or relevant provisions of the applicable international law; or
 - 3.1.3 in violation of national laws or international obligations, including those undertaken by cooperating States to a relevant regional fisheries management organization.
- 3.2 Unreported fishing refers to fishing activities:
- 3.2.1 which have not been reported, or have been misreported, to the relevant national authority, in contravention of national laws and regulations; or
 - 3.2.2 undertaken in the area of competence of a relevant regional fisheries management organization which have not been reported or have been misreported, in contravention of the reporting procedures of that organization.
- 3.3 Unregulated fishing refers to fishing activities:
- 3.3.1 in the area of application of a relevant regional fisheries management organization that are conducted by vessels without nationality, or by those flying the flag of a State not party to that

organization, or by a fishing entity, in a manner that is not consistent with or contravenes the conservation and management measures of that organization; or

- 3.3.2 in areas or for fish stocks in relation to which there are no applicable conservation or management measures and where such fishing activities are conducted in a manner inconsistent with State responsibilities for the conservation of living marine resources under international law.

4 For the purposes of this Code of conduct, "Transnational organized crime in the maritime domain" consists of any of the following acts when committed at sea:

- (a) trafficking in arms,
- (b) trafficking in narcotics and psychotropic substances,
- (c) illegal trade in wildlife and other items in contravention of the Convention on International Trade in Endangered Species of Wild Fauna and Flora,
- (d) piracy and armed robbery against ships,
- (e) illegal oil bunkering,
- (f) crude oil theft,
- (g) human trafficking,
- (h) human smuggling,
- (i) illegal dumping of toxic waste.

5 "Secretary-General" means the Secretary-General of the International Maritime Organization.

Article 2

Purpose and Scope

1. Consistent with their available resources and related priorities, their respective national laws and regulations, and applicable rules of international law, the Participants intend to cooperate to the fullest possible extent in the repression of transnational organized crime in the maritime domain, maritime terrorism, IUU fishing and other illegal activities at sea with a view towards:

- (a) sharing and reporting relevant information;
- (b) interdicting ships and/or aircraft suspected of engaging in transnational organized crime in the maritime domain, maritime terrorism, IUU fishing and other illegal activities at sea;

- (c) ensuring that persons committing or attempting to commit transnational organized crime in the maritime domain, maritime terrorism, IUU fishing and other illegal activities at sea are apprehended and prosecuted; and
 - (d) facilitating proper care, treatment, and repatriation for seafarers, fishermen, other shipboard personnel and passengers subject to transnational organized crime in the maritime domain, maritime terrorism, IUU fishing and other illegal activities at sea, particularly those who have been subjected to violence.
2. The Participants intend this Code of conduct to be applicable in relation to transnational organized crime in the maritime domain, maritime terrorism, IUU fishing and other illegal activities at sea in the Western Indian Ocean and the Gulf of Aden area.
3. The Participants shall carry out their obligations and responsibilities under this Code of conduct in a manner consistent with the principles of sovereign equality and territorial integrity of States and that of non-intervention in the domestic affairs of other States.
4. Operations to suppress transnational organized crime in the maritime domain, maritime terrorism, IUU fishing and other illegal activities at sea in and over the territorial sea of a Participant are the responsibility of, and subject to the sovereign authority of that Participant.

Article 3

Measures at the National Level

- 1 The Participants intend to develop and implement, as necessary:
- (a) A national strategy for the development of the maritime sector and a sustainable "blue economy" that generates revenue, employment and stability;
 - (b) Appropriate national maritime security policies to safeguard maritime trade from all forms of unlawful acts;
 - (c) National legislation, practices and procedures, informed by national maritime threat assessments, which together provide the security necessary for the safe and secure operation of port facilities and ships at all security levels; and
 - (d) National legislation which ensures effective protection of the marine environment and sustainable management of marine living resources,
- 2 The Participants intend to establish, as necessary, a multi-agency, multi-disciplinary national maritime security and facilitation committee or other system for coordinating the related activities between the departments, agencies, control authorities, and other organizations of the State, port operators, Companies and other entities concerned with, or responsible for the implementation of, compliance with, and enforcement of, measures to fight transnational organized crime in the maritime domain, maritime terrorism, IUU fishing and other illegal activities at sea.

3 The Participants intend to establish designated authorities for maritime security ashore, including, establishing in all national ports, port security and facilitation committees charged with implementing national policies on security, border controls, health and safety and trade facilitation, pursuant to relevant international conventions and agreements¹.

4 The Participants intend to establish, as necessary, a national maritime security plan with related contingency plans (or other system) for harmonizing and coordinating the implementation of security measures designed to enhance the security in the international maritime transport sector with those of other modes of transport.

5 The Participants intend to prosecute, in their domestic courts and in accordance with relevant domestic laws, perpetrators of all forms of piracy and unlawful acts, including IUU fishing, against seafarers, ships, port facility personnel and port facilities,

6 The organization and functioning of this national system is exclusively the responsibility of each State, in conformity with applicable laws and regulations.

Article 4

Protection Measures for Ships

The Participants intend to encourage States, ship owners, and ship operators, where appropriate, to take protective measures against transnational organized crime in the maritime domain, maritime terrorism, and other illegal activities at sea, taking into account the relevant international Conventions, Codes, Standards and Recommended Practices, and guidance adopted by IMO and the maritime industry. The Participants intend to cooperate in the implementation of measures to protect ships.

Article 5

Measures to Repress Piracy

1. The provisions of this Article are intended to apply only to piracy.
2. For purposes of this Article and of Article 12, *pirate ship* means a ship intended by the persons in dominant control to be used for the purpose of committing piracy, or if the ship has been used to commit any such act, so long as it remains under the control of those persons.
3. Consistent with Article 2, each Participant to the fullest possible extent intends to cooperate in:
 - (a) arresting, investigating, and prosecuting persons who have committed piracy or are reasonably suspected of committing piracy;
 - (b) seizing pirate ships and/or aircraft and the property on board such ships and/or aircraft; and
 - (c) rescuing ships, persons, and property subject to piracy.

¹ Such conventions and agreements could include, but are not limited to, the Special measures to enhance maritime security detailed in SOLAS chapter XI-2 and the ISPS Code; the Convention on the Facilitation of International Maritime Transport, 1965, as amended; and the ILO/IMO Code of Practice on Security in Ports .

4. Any Participant may seize a pirate ship beyond the outer limit of any State's territorial sea, and arrest the persons and seize the property on board.
5. Any pursuit of a ship, where there are reasonable grounds to suspect that the ship is engaged in piracy, extending in and over the territorial sea of a Participant is subject to the authority of that Participant. No Participant should pursue such a ship in or over the territory or territorial sea of any coastal State without the permission of that State.
6. Consistent with international law, the courts of the Participant which carries out a seizure pursuant to paragraph 4 may decide upon the penalties to be imposed, and may also determine the action to be taken with regard to the ship or property, subject to the rights of third parties acting in good faith.
7. The Participant which carried out the seizure pursuant to paragraph 4 may, subject to its national laws, and in consultation with other interested entities, waive its primary right to exercise jurisdiction and authorize any other Participant to enforce its laws against the ship and/or persons on board.
8. Unless otherwise arranged by the affected Participants, any seizure made in the territorial sea of a Participant pursuant to paragraph 5 should be subject to the jurisdiction of that Participant.

Article 6

Measures to Repress Armed Robbery against Ships

1. The provisions of this Article are intended to apply only to armed robbery against ships.
2. The Participants intend for operations to suppress armed robbery against ships in the territorial sea and airspace of a Participant to be subject to the authority of that Participant, including in the case of hot pursuit from that Participant's territorial sea or archipelagic waters in accordance with Article 111 of UNCLOS.
3. The Participants intend for their respective focal points and Centres (as designated pursuant to Article 11) to communicate expeditiously alerts, reports, and information related to armed robbery against ships to other Participants and interested parties.

Article 7

Measures to repress Illegal, Unreported and Unregulated Fishing and associated crimes

1. The Participants intend to consult at the bilateral and sub-regional levels in the formulation and harmonization of policies to ensure the sustainable use of marine living resources that straddle national maritime zones, or which are highly migratory, or occur on the high seas. Participants shall develop and harmonize measures particularly on:
 - (a) Port state measures, including ratification, approval and accession to the Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing (PSMA);

- (b) Mandatory vessel tracking, such as vessel monitoring systems (VMS) and automatic identification systems (AIS) for all vessels fishing outside of their national jurisdiction;
- (c) Mechanisms for sharing VMS information from these systems through secure channels with appropriate authorities;
- (d) Mandatory identification of all vessels fishing outside of their national jurisdiction and keeping of accurate and updated national vessel registers;
- (e) Ensure a due diligence process for their vessels intending to fish in waters outside their national jurisdiction i.e. inside national waters of a third country and/or in the High Seas;
- (f) Strict regulation of transshipment activities, particularly at sea;
- (g) Control over the activities of nationals involved in fishing activities independently of the nationality of the vessel, or the waters they fish in;
- (h) Ensuring compliance with flag State obligations as described in FAO Voluntary Guidelines on Flag State performance.

2 The Participants intend to cooperate and collaborate among themselves and with the sub-regional fisheries bodies, the FAO and other relevant international organizations on preventing and combating illegal, unreported and unregulated fishing, and associated crimes to protect fisheries resources for sustainable long term utilization to sustain livelihoods in the Western Indian Ocean and the Gulf of Aden area. In particular, the Participants intend to:

- (a) Integrate activities related to combating IUU fishing in other international, regional and sub-regional initiatives related to repressing transnational organized crime in the maritime domain, maritime terrorism, and other illegal activities at sea;
- (b) Participate fully in relevant international projects and initiatives, such as INTERPOL Environmental Crime Project Scale, an international initiative to detect, suppress and combat fisheries crimes;
- (c) Form Task Forces or other mechanisms to facilitate the sharing and analysis of information and intelligence, and collaborative action against illegal operators within the fisheries sector to include cooperation with other agencies, bodies and States relevant to crimes in the fisheries domain.

Article 8

Measures in All Cases

1. The Participants intend that any measures taken pursuant to this Code of conduct should be carried out by law enforcement or other authorized officials from warships or military aircraft, or from other ships or aircraft clearly marked and identifiable as being in government service and authorized to that effect.

2. The Participants recognize that multiple States, including the flag State, State of suspected origin of the perpetrators, the State of nationality of persons on board the ship, and the State of ownership of cargo may have legitimate interests in cases arising pursuant to

Articles 5 and 6. Therefore, the Participants intend to liaise and cooperate with such States and other stakeholders, and to coordinate such activities with each other to facilitate the rescue, interdiction, investigation, and prosecution.

3. The Participants intend, to the fullest possible extent, to conduct and support the conduct of investigations in cases of transnational organized crime in the maritime domain, maritime terrorism, IUU fishing and other illegal activities at sea taking into account the relevant international standards and practices, and, in particular, recommendations² adopted by IMO.

4. The Participants intend to cooperate to the fullest possible extent in medical and decedent affairs arising from operations in furtherance of the repression of piracy and armed robbery against ships.

Article 9

Embarked Officers

1. In furtherance of operations contemplated by this Code of conduct, a Participant (hereafter referred to as "the designating Participant") may nominate law enforcement or other authorized officials (hereafter referred to as "the embarked officers") to embark in the patrol ships or aircraft of another Participant (hereafter referred to as "the host Participant") as may be authorized by the host Participant.

2. The embarked officers may be armed in accordance with their national law and policy and the approval of the host Participant.

3. When embarked, the host Participant should facilitate communications between the embarked officers and their headquarters, and should provide messing and quarters for the embarked officers aboard the patrol ships or aircraft in a manner consistent with host Participant personnel of the same rank.

4. Embarked officers may assist the host Participant and conduct operations from the host Participant ship or aircraft if expressly requested to do so by the host Participant, and only in the manner requested. Such request may only be made, agreed to, and acted upon in a manner that is not prohibited by the laws and policies of both Participants.

5. When duly authorized by the host participant, embarked officers may:

- (a) embark on law enforcement vessels of any of the Participants;
- (b) enforce the laws of the designating Participant to suppress transnational organized crime in the maritime domain, maritime terrorism, IUU fishing, and other illegal activities at sea in the waters of the designating Participant, or seaward of its waters in the exercise of the right of hot pursuit or otherwise in accordance with international law;
- (c) authorize the entry of the law enforcement vessels on which they are embarked into and navigation within the waters of the designating Participant;
- (d) authorize the law enforcement vessels on which they are embarked to conduct patrols in the waters of the designating Participant;

² Resolution A.922(22) on the *Code of Practice for the Investigation of the Crimes of Piracy and Armed Robbery against Ships* as it may be revised.

- (e) authorize law enforcement officials of the vessel on which the embarked officer is embarked to assist in the enforcement of the laws of the designating Participant to suppress transnational organized crime in the maritime domain, maritime terrorism, IUU fishing, and other illegal activities at sea; and
- (f) advise and assist law enforcement officials of the other Participant in the conduct of boarding of vessels to enforce the laws of the other Participant to suppress transnational organized crime in the maritime domain, maritime terrorism, IUU fishing, and other illegal activities at sea.

Article 10

Asset Seizure and Forfeiture

1 Assets seized, confiscated or forfeited in consequence of any law enforcement operation pursuant to this Code of conduct, undertaken in the waters of a Participant, should be disposed of in accordance with the laws of that Participant.

2 Should a flag State Participant have consented to the exercise of jurisdiction by another Participant pursuant to Article 13, assets seized, confiscated or forfeited in consequence of any law enforcement operation of any Participant pursuant to this Code of conduct should be disposed of in accordance with the laws of the boarding Participant.

3 To the extent permitted by its laws and upon such terms as it deems appropriate, a Participant may, in any case, transfer forfeited property or proceeds of their sale to another Participant or an intergovernmental body specialising in the fight against transnational organized crime in the maritime domain, maritime terrorism, and other illegal activities at sea.

Article 11

Coordination and Information Sharing

1 Each Participant should designate a national focal point to represent the national maritime security and facilitation committee and to facilitate coordinated, timely, and effective information flow among the Participants consistent with the purpose and scope of this Code of conduct. In order to ensure coordinated, smooth, and effective communications between their designated focal points, the Participants intend to use the piracy information exchange centres Kenya, United Republic of Tanzania and Yemen (hereinafter referred to as "the Centres"). The Centres in Kenya and the United Republic of Tanzania are situated in the maritime rescue coordination centre in Mombasa and the sub-regional coordination centre in Dar es Salaam, respectively. The Centre in Yemen is situated in the Regional Maritime Information Sharing Centre (ReMISC) in Sana'a. Each Centre and designated focal point should be capable of receiving and responding to alerts and requests for information or assistance at all times. Participants are also encouraged to make full use of other national and regional initiatives that promote communication, coordination and cooperation, both civilian and military.

2 Each Participant intends to:

- (a) declare and communicate to the other Participants its designated focal point(s) at the time of signing this Code of conduct or as soon as possible after signing, and thereafter update the information as and when changes occur;

- (b) provide and communicate to the other Participants the telephone numbers, telefax numbers, and e-mail addresses of its focal point, and, as appropriate, of its Centre and thereafter update the information as and when changes occur; and
- (c) communicate to the Secretary-General the information referred to in subparagraphs (a) and (b) and thereafter update the information as and when changes occur.

3 Each Centre and focal point should be responsible for its communication with the other focal points and the Centres. Any focal point which has received or obtained information about an imminent threat of, or an incident of, transnational organized crime in the maritime domain, maritime terrorism, IUU fishing, and other illegal activities at sea, or any other action that requires an urgent response including shipping accidents, should promptly disseminate an alert with all relevant information to the Centres. The Centres should disseminate appropriate alerts within their respective areas of responsibility regarding imminent threats or incidents to ships.

4 Each Participant should ensure the smooth and effective communication between its designated focal point, the national maritime security and facilitation committee and competent national authorities for maritime safety, security, and protection of the marine environment as well as relevant non-governmental organizations.

5 Each Participant should make every effort to require ships entitled to fly its flag and the owners and operators of such ships to promptly notify relevant national authorities, including the designated focal points and Centres, the appropriate search and rescue coordination centres and other relevant the contact points³, of incidents of transnational organized crime in the maritime domain, maritime terrorism, IUU fishing, and other illegal activities at sea.

6 Each Participant intends, upon the request of any other Participant, to respect the confidentiality of information transmitted from a Participant.

7 To facilitate implementation of this Code of conduct, the Participants intend to keep each other fully informed concerning their respective applicable laws and guidance, particularly those pertaining to the interdiction, apprehension, investigation, prosecution, and disposition of persons involved in transnational organized crime in the maritime domain, maritime terrorism, IUU fishing, and other illegal activities at sea. The Participants may also undertake and seek assistance to undertake publication of handbooks and convening of seminars and conferences in furtherance of this Code of conduct.

Article 12

Incident Reporting

1. The Participants intend to undertake development of uniform reporting criteria in order to ensure that an accurate assessment of the threat of transnational organized crime in the maritime domain, maritime terrorism, IUU fishing, and other illegal activities at sea in the Western Indian Ocean and the Gulf of Aden is developed. Such reporting criteria should take into account the recommendations^{4,5} adopted by IMO. The Participants intend for the Centres to manage the collection and dissemination of this information in their respective geographic areas of responsibility.

³ For example the Maritime Liaison Office Bahrain (MARLO), the United Kingdom Maritime Trade Office Dubai (UKMTO), the Maritime Security Centre-Horn of Africa (MSCHOA), the NATO Shipping Centre, the Seychelles Coast Guard and centre in Madagascar.

⁴ MSC/Circ.1333/Rev.1 on Recommendations to Governments for preventing and suppressing piracy and armed robbery against ships as it may be revised.

⁵ MSC/Circ.1334 on Guidance to shipowners and ship operators, shipmasters and crews on preventing and suppressing acts of piracy and armed robbery against ships as it may be revised.

2. Consistent with its laws and policies, a Participant conducting a boarding, investigation, prosecution, or judicial proceeding pursuant to this Code of conduct should promptly notify any affected flag and coastal States and the Secretary-General of the results.

3. The Participants intend for the Centres to:

- (a) collect, collate and analyse the information transmitted by the Participants concerning transnational organized crime in the maritime domain, maritime terrorism, IUU fishing, and other illegal activities at sea, including other relevant information relating to individuals and transnational organized criminal groups committing such acts in their respective geographical areas of responsibility; and
- (b) prepare statistics and reports on the basis of the information gathered and analysed under subparagraph (a), and to disseminate them to the Participants, the shipping community, and the Secretary-General.

Article 13

Assistance among Participants

1. A Participant may request any other Participant, through the Centres or directly, to cooperate in detecting any of the following persons, ships, or aircraft:

- (a) persons who have committed, or are reasonably suspected of committing, transnational organized crime in the maritime domain, maritime terrorism, IUU fishing, and other illegal activities at sea;
- (b) pirate ships, where there are reasonable grounds to suspect that those ships are engaged in piracy;
- (c) other ships or aircraft, where there are reasonable grounds to suspect that those ships or aircraft are engaged in transnational organized crime in the maritime domain, maritime terrorism, IUU fishing, or other illegal activities at sea; and
- (d) ships or persons who have been subjected to piracy or armed robbery against ships.

2. A Participant may also request any other Participant, through the Centres or directly, to take effective measures in response to reported acts of transnational organized crime in the maritime domain, maritime terrorism, IUU fishing, and other illegal activities at sea.

3. Cooperative arrangements such as joint exercises or other forms of cooperation, as appropriate, may be undertaken as determined by the Participants concerned.

4. Capacity building cooperation may include technical assistance such as educational and training programmes to share experiences and best practice.

Article 14

Training and Education

1 The Participants intend to cooperate on the development and promotion of training and educational programs on security-related matters in respect of the management of the marine domain, particularly for the maintenance of safety and law and order at sea, and the preservation and protection of the marine environment and sustainable use of marine living resources. Such cooperation might include:

- (a) Coordination of training activities through a system of national focal points and under the Djibouti Regional Maritime Training Centre Coordination Mechanism;
- (b) the offer of places on national training courses to other States, subject to payment of relevant costs;
- (c) sharing curriculum and course information;
- (d) the exchange of naval and law enforcement personnel, scientists and other experts;
- (e) the exchange of views on maritime issues;
- (f) holding conferences, seminars, workshops and symposia on maritime subjects of common interest; and
- (g) fostering cooperation among maritime training institutions and research centres

2 Participants are invited to institute regular meetings to enhance cooperation and coordination in their maritime enforcement activities.

Article 15

Review of National Legislation

Participants are encouraged to incorporate in national legislation, transnational organized crime in the maritime domain, and other illegal activities as defined in Article 1 of this Code of conduct, in order to ensure, as appropriate, effective indictment, prosecution and conviction in the territory of the Participants; and to facilitate extradition or handing over when prosecution is not possible. Each Participant intends to develop adequate guidelines for the exercise of jurisdiction, conduct of investigations, and prosecution of alleged offenders.

Article 16

Dispute Settlement

The Participants intend to settle by consultation and peaceful means amongst each other any disputes that arise from the implementation of this Code of conduct.

Article 17

Consultations

1 Within five years of the effective date of this Code of conduct, and having established national maritime security and facilitation committees and designated the national focal points referred to in Article 11, the Participants intend to consult, with the assistance of IMO, on the merit of developing a binding agreement.

2 The Participants shall engage in regular consultations with each other and with IMO to review the implementation of this Code of conduct.

Article 18

Claims

Any claim for damages, injury or loss resulting from an operation carried out under this Code of conduct should be examined by the Participant whose authorities conducted the operation. If responsibility is established, the claim should be resolved in accordance with the national law of that Participant, and in a manner consistent with international law, including Article 106 and paragraph 3 of Article 110 of UNCLOS.

Article 19

Miscellaneous Provisions

Nothing in this Code of conduct is intended to:

- (a) create or establish a binding agreement, except as noted in Article 17;
- (b) affect in any way the rules of international law pertaining to the competence of States to exercise investigative or enforcement jurisdiction on board ships not flying their flag;
- (c) affect the immunities of warships and other government ships operated for non-commercial purposes;
- (d) apply to or limit boarding of ships conducted by any Participant in accordance with international law, beyond the outer limit of any State's territorial sea, including boardings based upon the right of visit, the rendering of assistance to persons, ships and property in distress or peril, or an authorization from the flag State to take law enforcement or other action;
- (e) preclude the Participants from otherwise agreeing on operations or other forms of cooperation to repress piracy and armed robbery against ships;
- (f) prevent the Participants from taking additional measures to repress transnational organized crime in the maritime domain, maritime terrorism, IUU fishing, or other illegal activities at sea through appropriate actions in their land territory;
- (g) supersede any bilateral or multilateral agreement or other cooperative mechanism concluded by the Participants to repress piracy and armed robbery against ships;
- (h) alter the rights and privileges due to any individual in any legal proceeding;

- (i) create or establish any waiver of any rights that any Participant may have under international law to raise a claim with any other Participant through diplomatic channels;
- (j) entitle a Participant to undertake in the territory of another Participant the exercise of jurisdiction and performance of functions which are exclusively reserved for the authorities of that other Participant by its national law;
- (k) prejudice in any manner the positions and navigational rights and freedoms of any Participant regarding the international law of the sea;
- (l) be deemed a waiver, express or implied, of any of the privileges and immunities of the Participants to this Code of conduct as provided under international or national law; or
- (m) preclude or limit any Participant from requesting or granting assistance in accordance with the provisions of any applicable Mutual Legal Assistance Agreement or similar instrument.

Article 20

Relationship between this Code of conduct and the Djibouti Code of Conduct

This revised Code of conduct will supersede the Djibouti Code of Conduct as between the Participants to this Code of conduct which are also Participants to the Djibouti Code of Conduct.

Article 21

Signature and Effective Date

1. The Code of conduct is open for signature by Participants on 12 January 2017 and at the Headquarters of IMO from 16 January 2017.
2. The Code of conduct will become effective upon the date of signature by two or more Participants and effective for subsequent Participants upon their respective date of deposit of a signature instrument with the Secretary-General.

Article 22

Languages

This Code of conduct is established in the Arabic, English and French languages, each text being equally authentic.

DONE in Jeddah this twelfth day of January two thousand and seventeen.

IN WITNESS WHEREOF the undersigned, being duly authorized by their respective Governments for that purpose, have signed this Code of conduct.

Signed (signatures omitted) in Jeddah on 12 January 2017 by Comoros, Djibouti, Ethiopia, Jordan, Madagascar, Maldives, Mozambique, Saudi Arabia, Seychelles, the United Arab Emirates, the United Republic of Tanzania and Yemen.

ATTACHMENT 2

RESOLUTION 2

Adopted on 12 January 2017

TECHNICAL COOPERATION AND ASSISTANCE

The Jeddah Meeting,

HAVING ADOPTED the Revised Code of conduct concerning the repression of piracy, armed robbery against ships and other illicit maritime activity in the Western Indian Ocean and the Gulf of Aden Area (hereinafter referred to as "the Code of conduct"),

DESIRING to promote the wide acceptance and efficient and effective implementation of the Code of conduct,

RECOGNIZING the need for the development of appropriate national legislation and the putting in place of appropriate organizational, administrative and operational procedures and arrangements,

RECOGNIZING FURTHER that there may be limited facilities and training programmes for obtaining the experience required, particularly in developing countries and small island developing States,

BELIEVING that the promotion of technical cooperation at the international level will assist those States not yet having adequate expertise or facilities for providing training and experience to put in place or enhance appropriate infrastructure and, in general, implement the Code of conduct,

EMPHASIZING, in this regard, the grave threat piracy, armed robbery against ships and other illicit maritime activity, including fisheries crime, can pose to the safety of navigation, seafarers and to the marine environment, if not repressed promptly and effectively,

1 URGES Member States of the International Maritime Organization (hereinafter referred to as "IMO"), other appropriate organizations and the maritime industry to provide assistance, either directly or through IMO, to those States which require support in the effective implementation of the Code of conduct;

2 INVITES the Secretary-General of IMO to make adequate provision in the Organization's Integrated Technical Co-operation Programme for advisory services related to the effective implementation of the Code of conduct and, in particular, to address requests for assistance in developing appropriate national legislation;

3 REQUESTS the Secretary-General of IMO to revise the terms of reference of the Djibouti Code of Conduct Trust Fund to reflect the expanded scope of the revised Code of conduct and to seek further financial contributions thereto;

4 INVITES Participants to develop clear proposals for projects to implement efficiently the Code of conduct;

5 ALSO INVITES Member States of IMO, and other international organizations concerned including the United Nations Office on Drugs and Crime, United Nations Development Programme, European Union and Regional Co-operation Agreement on Combating Piracy and Robbery Against Ships in Asia – Information Sharing Centre and the maritime industry to provide financial and in-kind support for technical assistance activities related to the effective implementation of the Code of conduct; and

6 FURTHER INVITES Member States of IMO to take appropriate action within all available frameworks and mechanisms to prevent and repress illegal activities offshore that impact peace and stability throughout the western Indian Ocean and the Gulf of Aden area

RESOLUTION 3

Adopted on 12 January 2017

ENHANCING TRAINING IN THE REGION

The Jeddah Meeting,

ACKNOWLEDGING that best results towards implementation of the provisions of the Revised Code of conduct concerning the repression of piracy, armed robbery against ships and other illicit maritime activity in the Western Indian Ocean and the Gulf of Aden (hereinafter referred to as "the Code of conduct") in a uniform manner may be achieved through the provision of proper training to officials designated by the Governments;

1 THANKS the NATO Maritime Interdiction Operations Training Centre (NMIOTC), the European Union Naval Force (EU NAVFOR), East African Standby Force (EASF), the United Kingdom's International Peace Support Training Centre, the Humanitarian Peace Support Training Centre, Nairobi, Kenya, Saudi Arabia's Mohammed Bin Nayef Academy of Marine Science and Security Studies, United States Naval Forces Africa, Turkey's International Maritime Security Centre of Excellence, the European Union's CRIMARIO programme and EUCAP Somalia and other United Nations agencies, plans and programmes including the United Nations Office on Drugs and Crime (UNODC), the Food and Agriculture Organization (FAO), and the United Nations Development Programme (UNDP) for their generous and on-going support to maritime capacity building;

2 THANKS the Djibouti Regional Maritime Training Centre organization for its efforts to coordinate training in the Western Indian Ocean and the Gulf of Aden area;

3 URGES the Government of Djibouti to make the training centre in Doraleh, Djibouti, operational and available for national and regional training;

4 RECOMMENDS that the Secretary-General of the International Maritime Organization (hereinafter referred to as "IMO") continue to develop and promote training courses appropriate to the wide, effective and uniform implementation of the provisions of the Code of conduct;

5 ENCOURAGES signatory States to cooperate on the development and promotion of training and educational programs for the management of the marine environment, particularly for the maintenance of safety, security and law and order at sea, and to exchange information on their training programmes and best practices with each other; and

6 ENCOURAGES Member States of IMO, international organizations and regional organizations to cooperate with the Secretary-General of IMO for the purpose of implementing this resolution in due course.

RESOLUTION 4

Adopted on 12 January 2017

EXPRESSIONS OF APPRECIATION

The Jeddah Meeting,

ACKNOWLEDGING the kind invitation of the Government of the Kingdom of Saudi Arabia to the Secretary-General of the International Maritime Organization (hereinafter referred to as "IMO") to hold the Meeting in Jeddah,

ACKNOWLEDGING ALSO the generous in-kind contribution and excellent arrangements made by the Government of the Kingdom of Saudi Arabia for the Meeting, as well as the hospitality and other amenities provided by the Government and People of the Kingdom of Saudi Arabia,

EXPRESS APPRECIATION to:

- .1 the Government and People of the Kingdom of Saudi Arabia for their valuable contribution to the success of the Meeting; and
- .2 the Secretary-General of IMO, and especially the staff of the IMO Secretariat, for their tireless efforts and outstanding support for the preparation and conduct of the Meeting.

* * *

التوقيع على مدونة السلوك عملاً بالمادة 21 من المدونة ، جدة في 12 كانون الثاني/يناير 2017

Signatures of the Code of Conduct executed pursuant to article 21 of the Code - Jeddah, 12 January 2017

Signatures apposées le 12 janvier 2017, à Djedda, en application de l'article 21 du Code

COMOROS COMORES جزر القمر 	DJIBOUTI DJIBOUTI جيبوتي 	EGYPT ÉGYPTÉ مصر 
ERITRIA ÉRYTHRÉE إريتريا 	ETHIOPIA ÉTHIOPIE إثيوبيا 	FRANCE FRANCE فرنسا 
JORDAN JORDANIE الأردن 	KENYA KENYA كينيا 	MADAGASCAR MADAGASCAR مدغشقر 
MALDIVES MALDIVES ملديف 	MAURITIUS ÎLE MAURICE موريشيوس 	MOZAMBIQUE MOZAMBIQUE موزمبيق 
OMAN OMAN عمان 	SAUDI ARABIA ARABIE SAOUDITE المملكة العربية السعودية 	SEYCHELLES SEYCHELLES سيشل 
SOMALIA SOMALIE الصومال 	SOUTH AFRICA AFRIQUE DU SUD جنوب أفريقيا 	SUDAN SOUDAN السودان 
UNITED ARAB EMIRATES ÉMIRATS ARABES UNIS. الإمارات العربية المتحدة 	UNITED REPUBLIC OF TANZANIA RÉPUBLIQUE-UNIE DE TANZANIE جمهورية تنزانيا الاتحادية 	YEMEN YÉMEN اليمن 

نسخة طبق الأصل ومصدقة من نص محضر الاجتماع المتعلق بتحديث مدونة جيبوتي للسلوك وتحسينها ، الذي استضافته المملكة العربية السعودية في جدة في الفترة من 10 إلى 12 كانون الثاني/يناير 2017 ، ومن الملحق 1 الذي يتضمن القرار 1 المعنون " مدونة السلوك المعدلة المتعلقة بقمع أعمال القرصنة والسطو المسلح التي تستهدف السفن والنشاط البحري غير الشرعي في غربي المحيط الهندي ومنطقة خليج عدن " والمعتمد في 12 كانون الثاني/يناير 2017 ؛ والملحق 2 الذي يتضمن القرار 2 المعنون "التعاون والمساعدة في المجال التقني" والقرار 3 المعنون "تعزيز التدريب في المنطقة" والقرار 4 المعنون "الإعراب عن الشكر والتقدير".

CERTIFIED TRUE COPY of the text of the Record of the Meeting to update and upgrade the Djibouti Code of Conduct, hosted by the Government of the Kingdom of Saudi Arabia held in Jeddah from 10 to 12 January 2017; and of attachment 1, containing resolution 1 on the revised Code of Conduct concerning the repression of piracy, armed robbery against ships, and illicit maritime activity in the western Indian Ocean and the Gulf of Aden Area, adopted on 12 January 2017; attachment 2, containing resolution 2, on Technical co-operation and assistance; resolution 3 on Enhancing training in the region; and resolution 4, Expression of appreciation.

COPIE CERTIFIÉE CONFORME du texte du compte rendu de la réunion visant à actualiser et améliorer le Code de conduite de Djibouti, laquelle a été accueillie par le Gouvernement du Royaume d'Arabie Saoudite et s'est tenue à Djeddah du 10 au 12 janvier 2017; et du Document joint 1 contenant la résolution 1 sur le Code de conduite révisé concernant la répression des actes de piraterie, des vols à main armée à l'encontre des navires et des activités maritimes illicites dans la région de l'océan Indien occidental et du golfe d'Aden, adopté le 12 janvier 2017; du Document joint 2 contenant la résolution 2 "Coopération et assistance techniques", la résolution 3 "Promouvoir la formation dans la région" et la résolution 4 "Expression de gratitude".

عن الأمين العام للمنظمة البحرية الدولية :

For the Secretary-General of the International Maritime Organization:

Pour le Secrétaire général de l'Organisation maritime internationale :



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London,
Londres, le ...

9 MARCH 2017

J/11376 (A/E/F)

SECTION 3—FURTHER RESOURCES

3.1 LIST OF ACRONYMS

ACSS – U.S. Department of Defense, Africa Center for Strategic Studies

AIS – Automatic Identification System

AMLEP – Africa Maritime Law Enforcement Partnership

APS – Africa Partnership Station

AU – African Union

AUC – African Union Commission

CCMR – U.S. Department of Defense, Center for Civil Military Relations

CIC – Inter-Regional Coordination Center, Yaoundé, Cameroon (also ICC)

CGPCS – Contact Group on Piracy off the Coast of Somalia

DoD – United States Department of Defense

DHS – United States Department of Homeland Security

ECCAS – Economic Community of Central African States

ECOWAS – Economic Community of West African States

GMCC: The U.S. Global Maritime Operational Threat Response (MOTR) Coordination Center

GGC – Gulf of Guinea Commission

IMO – International Maritime Organization

INL – U.S. Department of State, Bureau of International Narcotics and Law Enforcement Affairs

INTERPOL – International Criminal Police Organization

IPS – U.S. Coast Guard International Port Security Program

ISPS – International Ship and Port Facility Security

IUU – Illegal, Unreported, and Unregulated Fishing

LRIT – Long Range Identification and Tracking

MARPOL – Marine Pollution/International Convention for the Prevention of Pollution from Ships

MDA – Maritime Domain Awareness

MOWCA – Maritime Organization of West and Central Africa

MMSC – Model Maritime Service Code

MSSIS – Maritime Safety and Security Information System

MSSR – Maritime Security Sector Reform

PCASP – Privately Contracted Armed Security Personnel

PSMA – Port State Measures Agreement; or UN Food and Agriculture Organization (FAO) Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing

SOLAS – Safety of Life at Sea Convention

SUA – Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation

UNCLOS – United Nations Convention on the Law of the Sea

UNOCA – United Nations Offices for Central Africa

UNODC – United Nations Office on Drugs and Crime

UNOWA – United Nations Offices for West Africa

UNSC – United Nations Security Council

UNTOC – United Nations Convention Against Transnational Organized Crime

USAFRICOM – United States Africa Command

USCG – United States Coast Guard

3.2 AFRICA MARITIME SECURITY ONLINE RESOURCES

Africa Union

2050 Africa Integrated Maritime Strategy (AIMS), Africa Union

<http://oceansbeyondpiracy.org/publications/2050-africanicas-integrated-maritime-strategy-2050-aim-strategy>

United Nations

“Africa’s Blue Economy: A Policy Handbook,” United Nations Economic Commission for Africa

http://www.uneca.org/sites/default/files/PublicationFiles/blueeco-policy-handbook_en.pdf

“Blue Economy Concept Paper,” United Nations

<https://sustainabledevelopment.un.org/content/documents/2978BEconcept.pdf>

“First Global Integrated Marine Assessment” (First World Ocean Assessment), United Nations Division for Ocean Affairs and the Law of the Sea

http://www.un.org/depts/los/global_reporting/WOA_Reg-Process.htm

“Sustainable Development Goal 14 Information,” United Nations Sustainable Development Knowledge Platform

<https://sustainabledevelopment.un.org/sdg14>

“Outcome of the Expert Group Meeting on Transnational Organized Crime at Sea,” UN Office on Drugs and Crime, Document E/CN.15/2016/CRP.3

https://www.unodc.org/documents/commissions/CCPCJ/CCPCJ_Sessions/CCPCJ_25/ECN152016_CRP3_e-VI602942.pdf

“Rescue at Sea: A Guide to Principles and Practice as Applied to Migrants and Refugees”

United Nations High Commissioner for Refugees (UNHCR), International Maritime Organization, and International Chamber of Shipping

<http://www.unhcr.org/publications/brochures/450037d34/rescue-sea-guide-principles-practice-applied-migrants-refugees.html>

“Issue Paper: Smuggling of Migrants by Sea,” United Nations Office on Drugs and Crime,

http://www.unodc.org/documents/human-trafficking/Migrant-Smuggling/Issue-Papers/Issue_Paper_-_Smuggling_of_Migrants_by_Sea.pdf

UNODC Global Maritime Crime Programme (GMCP) Website

https://www.unodc.org/unodc/en/piracy/index_new.html

International Maritime Organization (IMO)

Status of Conventions, International Maritime Organization

<http://www.imo.org/en/About/Conventions/StatusOfConventions/Pages/Default.aspx>

“Guidelines to Assist in the Investigation of the Crimes of Piracy and Armed Robbery Against Ships,” International Maritime Organization, MSC.1/Circ.1404

<http://www.imo.org/en/OurWork/Security/PiracyArmedRobbery/Guidance/Documents/MS.C.1Circ.1404.pdf>

“Guidance for the Development of National Maritime Security Legislation,” International Maritime Organization, Circular MSC.1/ Circ.1525

http://www.imo.org/en/OurWork/Security/Guide_to_Maritime_Security/Guidance/Documents/MS.C.1-Circ.1525.pdf#search=MSC%201%20Circ%201525

United States Government

“National Maritime Security Strategy Toolkit, 2016,” U.S. Department of Defense, Africa Center for Strategic Studies (ACSS)

<http://africacenter.org/publication/national-maritime-security-strategy-toolkit/>

“Maritime Security Sector Reform Guide,” (MSSR), U.S. Maritime Administration

https://www.marad.dot.gov/wp-content/uploads/pdf/Maritime_Security_Sector_Reform.pdf

Private Organizations

Safeseas

Mastering Maritime Security: Reflexive Capacity Building and the Western Indian Ocean Experience, A Best Practice Toolkit, Safeseas, Cardiff University, University of Bristol, British Academy

<http://www.safeseas.net/wp-content/uploads/2018/02/Mastering-Maritime-Security-final.pdf>

Oceans Beyond Piracy

“Piracy and Armed Robbery Against Ships in West Africa, 2017”

<http://oceansbeyondpiracy.org/reports/sop/west-africa>

3.3 GLOSSARY

Acquittal: A verdict that a criminal defendant is not guilty, or the finding of a judge that the evidence is insufficient to support a conviction

Administrative Detention: The deprivation of liberty under the power of the executive branch of government and administrative norms rather than the criminal justice system.

Armed Robbery at Sea: (a) An unlawful act of violence or detention or any act of depredation, or threat thereof, other than an act of piracy, committed for private ends and directed against a ship or against persons or property on board such a ship, within a State’s international waters, archipelagic waters or territorial sea; (b) any act of inciting or of intentionally facilitating an act described in (a).

Appeal: A petition to a higher court requesting it reverse the final judgment or other legal ruling of a lower court on the grounds that it was based upon an erroneous application of law. There are usually two stages of appellate review: an appeal from a trial court to an intermediate appellate court and thereafter to the highest appellate court in the jurisdiction. The party initiating an appeal is known as the appellant and must file a notice of appeal, along with supporting documentation, to commence appellate review. No new evidence is admitted on appeal.

Arraignment: An initial hearing before a court that has jurisdiction in a criminal case in which the identity of

the accused is established, the accused is informed of the charges and his or her rights in the matter. The accused is required to enter a plea in response to the charges.

Arrest: The restraint or detention of an individual, typically by the police or another government agency, acting under legal authority for an actual criminal offense. Arrests may be made under the authority of a warrant issued by a judge or other judicial body or without a warrant when there are reasonable grounds to believe a person has committed a criminal offense.

Assault: Any willful attempt or threat to inflict injury upon the person of another, when coupled with an apparent present ability to do so, and any intentional display of force such as would give the victim reason to fear or expect immediate bodily harm. Physical contact is not required for an assault to have occurred (e.g., an individual points a firearm at another or attempts to stab another but misses).

Assistance Entry: Under international law, the right of a vessel (or aircraft in certain circumstances) to enter a foreign territorial sea to conduct a rescue of those in danger or distress at sea, if their position is reasonably well known.

Asylum: Protection from political persecution afforded by a nation to a refugee.

Authority: The government's legal power to act.

Bail: The release, prior to trial, of a person accused of a crime, under specified conditions designed to assure that person's appearance in court when required. It can also refer to the amount of bond money posted as a financial condition of pretrial release.

Baseline: The line, drawn in accordance with international law, from which the territorial sea and other maritime jurisdictional zones are measured. It is generally the low waterline along the coast (including the coasts of islands) and special closing lines across the mouths of rivers and bays in accordance with the Law of the Sea (LOS) Convention.

Bench Trial: A trial without a jury, in which the judge serves as the fact-finder.

Blue Economy: The idea of the "blue economy" was conceived at the Rio+20 United Nations Conference on Sustainable Development, held in Rio de Janeiro in June 2012. The blue economy concept is for an alternative economic model for sustainable development that puts the oceans at the center of this approach. A sustainable ocean economy emerges when economic activity is in balance with the long-term capacity of ocean ecosystems to support this activity and remain resilient and healthy.

Civil-Military Operations: The activities of a commander that establish, maintain, or support relations between military forces, governmental and nongovernmental organizations and authorities, and the civilian populace in a friendly, neutral, or hostile operational area in order to facilitate military operations and to consolidate and achieve operational objectives to enhance civilian/military relations and assist the civilian population.

Coastal State: A nation bordering ocean waters. The sovereignty of a coastal state extends to its territorial sea, and it may exercise sovereign rights and jurisdiction for certain purposes as reflected in the LOS Convention.

Coastal State Authorization: Coastal State authorization is permission from the coastal state to board and/or take actions in the coastal State's territorial sea. Coastal State authorization may be obtained through a special arrangement between a State seeking to conduct a boarding/interdiction and the coastal state. The specific terms of the authorization determine exactly what action (e.g., entry, pursuit, patrol, boarding, search, detention, arrest, and/or seizure) the requesting State may take.

Common Operating Picture (COP): A display of relevant identical information shared by more than one command. A common operational picture facilitates collaborative planning and assists all echelons to achieve situational awareness.

Compliance: Submission, obedience or conformance. An individual's acknowledgement in some fashion, ordinarily by physically obeying a lawful order, or the authority and/or direction of a law enforcement (LE) officer. In the context of binding international agreements, a State is in compliance with an agreement if it is meeting all of its obligations under that agreement.

Constitutional Court: The main role and duty of a constitutional court is interpreting and deciding whether or not national laws and normative acts conform to the constitution. Not all countries have constitutional courts. In some countries, the Supreme Court is the highest judicial authority responsible for constitutional supervision. A constitutional court, where it exists, tends to be a specialized court outside the judiciary with jurisdiction only over cases directly related to the constitution.

Constructive Presence: The right of a coastal State to exercise jurisdiction in certain circumstances over a foreign flag vessel (mother ship) which remains outside of coastal State jurisdiction, but uses its boat or another ship (contact boat) to commit offenses in violation of coastal State law within a maritime area over which that the coastal State exercises jurisdiction. See LOS Convention article III(4).

Consensual: A boarding conducted based on the consent of the master/person in charge (PIC) of a vessel not subject to the jurisdiction of the State conducting the boarding/interdiction. Such boardings are non-jurisdictional in nature; no enforcement action whatever (e.g. seizure, arrest) may be taken while aboard a vessel solely on a consensual basis.

Contiguous Zone: International law allows for the establishment of a contiguous zone, adjacent to the territorial sea and extending 24 nautical miles from the baseline, in which a coastal State may exercise the control necessary to prevent and punish infringements of its fiscal, immigration, sanitary, and customs laws. The contiguous zone forms a part of the exclusive economic zone, and as such, all nations enjoy the right to exercise traditional high seas freedoms (including of navigation and overflight, of the laying of submarine cables and pipelines, and of all other traditional high seas freedoms and uses related to those freedoms) with due regard to the rights of the coastal state.

Counterdrug activities: Those measures taken to detect, interdict, disrupt, or curtail any activity that is reasonably related to illicit drug trafficking.

Counterdrug operations: Civil or military actions taken to reduce or eliminate illicit drug trafficking.

Criminal Code: A statutory instrument, more typical to civil law as opposed to common law countries, that sets forth substantive norms that regulate conduct that is considered criminal in a particular country. This includes definitions and general principles of criminal law, specific criminal offenses and their elements, and the range of penalties that may be imposed upon individuals found to have committed a criminal offense. (Sometimes referred to as a Penal Code.)

Criminal Procedure Code: A statutory instrument used in both common and civil law countries that compiles the body of accepted rules and procedures governing how a criminal offense will be investigated and adjudicated. Criminal procedure codes define the rights and obligations of each participant in the proceedings, including those of prosecutor, and can affirm basic aspects of criminal investigations and prosecutions, such as the presumption of innocence and burdens of proof.

Criminal Justice System: The laws, procedures, institutions, authorities and actors to investigate, prosecute, and punish those who offend and commit acts against the rules of society and the state. Depending on the legal system involved, the three main pillars of a modern justice system include police, the judiciary, the prosecution, defense counsel, and corrections.

Defense Counsel: Any licensed or otherwise recognized professional lawyer that is educated and trained to represent the interest of a defendant, detainee, or prisoner in a criminal proceeding. In some legal systems, a defense counsel is referred to as an Advocate.

Detention: The delaying or holding up of a vessel, aircraft, and/or person(s) for a period of time for the purpose of inspection, investigation, search, or until discrepancies are corrected; this exercise of control may be a preliminary step for law enforcement actions.

Distressed Person: An individual who requires search and rescue assistance to remove him or her from life-threatening or isolating circumstances in a permissive environment.

Discovery: Procedures used to obtain disclosure of evidence before trial.

Docket: A log containing the complete history of each case in the form of brief chronological entries summarizing the court proceedings.

Dossier (Case File): The collection of documents and evidence obtained during an investigation that are organized and presented by a prosecutor or investigating judge to the court.

Due Process/ Fair Trial Guarantee: A requirement that the State must respect and ensure to any person charged with a criminal offense the procedural and substantive rights required during all phases of a judicial proceeding to ensure fundamental fairness. Due process in criminal proceedings, which is closely associated with equal protection and fair trial guarantees recognized by international law, includes being notified promptly of charges, presumption of innocence, protection from compulsory self-incrimination, adequate time and means for preparation of a defense, access to and assistance of an attorney of one's choosing, and trial without undue delay and appeal to a higher tribunal.

Embarked Officers: Law enforcement officers or other authorized officials embarked on ships or patrol aircraft.

Exclusive Economic Zone (EEZ): The zone of waters beyond and adjacent to the territorial sea not extending beyond 200 NM from the baseline. A coastal State's sovereignty does not extend to the EEZ, but it does enjoy sovereign rights for the purpose of exploring and exploiting, conserving and managing the natural resources of the EEZ. In the EEZ, all nations enjoy the right to exercise traditional high seas freedoms (including of navigation and overflight, of the laying of submarine cables and pipelines, and of all other traditional high seas freedoms and uses of

the sea related to those freedoms) with due regard to the rights of the coastal state.

Flag State: The nation where a given vessel is legitimately registered. Under the LOS Convention (1982), a vessel shall sail under the flag of one State only (Article 92). “A ship which sails under the flags of two or more States, using them according to convenience, may not claim any of the nationalities in question with respect to any other State, and may be assimilated to a ship without nationality.”

Flag State Authorization: Flag State authorization is permission from the flag State of a vessel to board and/or take enforcement actions with respect to that vessel. Flag State authorization may be obtained through a special arrangement between the requesting State and the flag State or on an *ad hoc* basis. The specific terms of the authorization determine exactly what enforcement action (e.g., boarding, search, detention, arrest, and/or seizure) is authorized with respect to the foreign flagged vessel.

Force Majeure: The right of protection of a vessel forced into coastal State waters by virtue of distress that normally exempts it from coastal State jurisdiction for a reasonable period of time necessary to remedy such distress.

Hot Pursuit: The pursuit of a foreign vessel beyond the territorial sea following a violation of law of the pursuing state committed by the vessel within a maritime area over which the state exercises jurisdiction, provided that certain criteria are met, including that the vessel evades boarding within the jurisdiction, and that the pursuit is continuous and uninterrupted. The right of hot pursuit must be exercised by a warship, military aircraft, or other authorized vessel or aircraft in government service of a coastal State. The right of hot pursuit ceases as soon as the pursued vessel enters the territorial seas of another coastal State. See LOS Convention article III.

Human Trafficking: See Trafficking in Persons.

High Judicial (and Prosecutorial) Council: These autonomous judicial institutions, which can be found in legal systems around the world, are designed to maintain an appropriate balance between judicial independence and accountability. High Judicial Councils are generally established by constitutional or statutory provisions as an independent judicial body with authority for the selection, appointment, and advancement of judges. In some instances, high judicial councils are responsible for facilitating effective court administration, management, and budgeting. Similar institutions have been established to oversee professional standards of conduct and other matters related to prosecutors.

Indictment: A formal, written document that is submitted to a court alleging that a specific person has committed a criminal offense.

Innocent Passage: The right of a vessel to continuously and expeditiously transit through a foreign territorial sea, provided the passage is innocent. The LOS Convention provides passage “is innocent so long as it is not prejudicial to the peace, good order or security of the coastal state” and provides an exhaustive list of activities that are prejudicial to the peace, good order and security of the coastal state. See LOS Convention articles 17-26.

Initial Safety Inspection (ISI): A protective inspection of a vessel for the safety of the boarding team. There are two levels of ISI: (1) basic; and (2) extended.

Intrusive Search: A quest for evidence that may require the destruction or permanent alteration of personal property to complete the search.

Internal waters: All waters, other than lawfully claimed archipelagic waters, landward of the baseline from which the territorial sea is measured. Archipelagic States may also delimit internal waters consistent with the 1982 Law of the Sea Convention. All States have complete sovereignty over their internal waters.

International Waters: Not a formal term under the LOS Convention, but in the maritime security context, this term is sometimes defined in bilateral or regional agreements or used informally to mean the waters seaward of the outer limit of the territorial sea of any nation; encompassing the contiguous zones, Exclusive Economic Zone (EEZ), and the high seas.

Interdiction: 1. An action to divert, disrupt, delay, or destroy the enemy’s military surface capability before it can be used effectively against friendly forces, or to otherwise achieve objectives. 2. In support of law enforcement, activities conducted to divert, disrupt, delay, intercept, board, detain, or destroy, under lawful authority, vessels, vehicles, aircraft, people, cargo, and money.

International Criminal Law: a body of laws, norms, and rules governing international crimes and their repression, as well as rules addressing conflict and cooperation between national criminal-law systems.

Investigative Judge: In a civil law system, the investigative judge (or magistrate as they are sometimes called) carries out investigations into cases once formal charges have been made by the prosecutor, and he/she decides whether the case should proceed to trial. Investigative judges typically play an active role in the collection of evidence and examination of witnesses, unlike judges in common law or

adversarial justice systems in which lawyers and prosecutors perform these functions.

IUU: Illegal, unreported, and unregulated fishing.

Judgment: A decision made by a court in respect to the matters before it. Judgments may be interim (interlocutory) and decide particular issues prior to the actual trial of the case. A judgment is considered final for purposes of appeal when it ends the action in the court in which it was brought and nothing more is to be decided. *In personam* decisions are binding and impose a liability on a party to a dispute. *In rem* decisions address issues of rights and other matters and are considered binding generally on everyone.

Jurisdiction: The government's right to exercise legal authority over its persons, vessels, and territory. Within the context of Maritime Law Enforcement (MLE), jurisdiction is comprised of several elements, including substantive law, vessel status/flag, the activity in question, and location.

Legal Frameworks: The body of laws and legally binding instruments that apply in a particular country, give structure to the relationship between the state and the population, and define the parameters for legal conduct. In criminal justice contexts, legal frameworks include criminal and criminal procedures codes, laws on detention, laws on the jurisdiction and organization of the judiciary, along with other laws and legally binding instruments that guarantee fundamental rights and freedoms of members of society.

Magistrate: In a civil law system, the magistrate (or investigating judge as they are sometimes called) carries out investigations into cases once formal charges have been made by the prosecutor, and he/she decides whether the case should proceed to trial. Magistrates typically play an active role in the collection of evidence and examination of witnesses, unlike judges in common law or adversarial justice systems in which lawyers and prosecutors perform these functions. In some countries, magistrate also refers to a prosecutor as well as a judge (the positions are interchangeable).

Maritime Interception Operations: Efforts to monitor, query, and board merchant vessels in international waters to enforce sanctions against other nations such as those in support of United Nations Security Council Resolutions and/or prevent the transport of restricted goods. (Also called MIO.)

Migrant Smuggling: Smuggling of Migrants, or, human smuggling, under the UN Convention on Transnational Organized Crime (UNTOC) Protocol Against the Smuggling of Migrants by Land, Sea, and Air, the procurement in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person

into a State Party of which the person is not a national or a permanent resident.

Ministry of Justice: The executive branch agency responsible with organizing and administering the justice system. In some countries, specific duties may include overseeing prosecutorial services and prison systems in addition to the courts.

Non-Compliant Vessel: In the context of maritime law enforcement, this typically means a vessel subject to examination that refuses to heave to after being legally ordered to do so.

Notice of Arrival (NOA): Advance notification requirement (e.g. 96 hours) for vessels bound for the ports or places they seek to enter/dock.

Operational Commander: The person vested with operational control (OPCON).

Operational Control (OPCON): The authority to perform those functions of command over subordinate forces involving organizing and employing commands and forces, assigning tasks, designating objectives and giving authoritative direction over all aspects of law enforcement (LE) or military operations and joint training necessary to accomplish assigned missions.

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 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 of inciting or of intentionally facilitating an act described in subparagraph (a) or (b). See also LOS Convention Articles 100-110.

Pirate Ship: A vessel that is intended by the persons in dominant control to be used for the purpose of committing an act of piracy, or that has been used to commit such an act, as long as it remains under the control of the persons guilty of the act.

Pre-trial Detention: The holding of an individual in a criminal case upon an order by a judicial authority while he or she awaits judicial proceedings and trial. Detainees are held in jails or similar temporary detention facilities, as opposed to prisons, which house those convicted of crimes. (Sometimes referred to as "remand detention.")

Probation: The conditional freedom granted by a court or judicial officer to an offender provided the person

meets certain conditions of behavior, such as counseling, treatment, community service, or restitution.

Prosecutor: Prosecutors perform an active role in criminal proceedings, including institution of prosecution and, where authorized by law or consistent with local practice, in the investigation of crime, supervision over the legality of these investigations, supervision of the execution of court decisions and the exercise of other functions as representatives of the public interest. Prosecutorial services can be headed by a Prosecutor or Attorney General, who advises the government in legal matters and represents the State's authorities in the courts. In some countries, prosecutors also handle non-criminal cases as well for the State.

Remedy: Measures and activities available for the enforcement, protection, or recovery of rights or for obtaining redress for their infringement. Victims of rights violations should enjoy equal access to an effective judicial remedy, as well as administrative mechanisms and proceedings conducted in accordance with domestic law.

Retributive justice: A form of justice, which asserts that a legitimate moral response to crime is proportionate punishment of the offender, irrespective of whether this will achieve positive social consequences.

Right of Approach (ROA): The right of warships and other duly authorized vessels or military aircraft beyond the territorial sea of any State to approach any vessel in international waters and to verify its nationality through questioning. The Right of Approach is closely linked to the Right of Visit (ROV). (LOS Convention Article 110.)

Right of Visit (ROV): The right of warships and other duly authorized vessels or military aircraft in international waters to board a foreign flagged vessel, provided, among other bases, reasonable grounds exist for suspecting the vessel is engaged in piracy, slave trade, unauthorized broadcasting, or is without nationality. (LOS Convention Article 110.)

Rule of Law: A principle under which all persons, institutions and entities, public and private, including the State itself, are accountable to laws that are publicly promulgated, equally enforced and independently adjudicated, and which are consistent with international human rights principles.

Search and Rescue (SAR): The use of aircraft, surface craft, submarines, and specialized rescue teams and equipment to search for and rescue distressed persons on land or at sea in a permissive environment.

Search and Rescue Incident Classification: Three emergency phases into which an incident may be classified or progress, according to the seriousness of the incident and its requirement for rescue service.

A. uncertainty phase — Doubt exists as to the safety of a craft or person because of knowledge of possible difficulties or because of lack of information concerning progress or position.

B. alert phase — Apprehension exists for the safety of a craft or person because of definite information that serious difficulties exist that do not amount to a distress or because of a continued lack of information concerning progress or position.

C. distress phase — Immediate assistance is required by a craft or person because of being threatened by grave or imminent danger or because of continued lack of information concerning progress or position after procedures for the alert phase have been executed.

Seizure: The taking into custody of a vessel, evidentiary items, and/or contraband.

Sentence: The judgment of a court stating the punishment imposed on a person who has pleaded guilty or been convicted of a crime by a court. Courts tend to have discretionary powers when imposing punishments which can include imprisonment, confiscation of property, and fines.

Stateless Person: A person who is not considered as a national by any state under the operation of its law.

Supreme Court: Supreme Courts are found in most countries where they tend to function as the highest court sitting at the apex of court system. Also known as High Courts or Supreme Courts of Justice, these courts can interpret and apply the law, decide cases involving the constitutional validity of laws, and hear appeals from lower courts. Their judgments tend to be binding and not subject to appeal. Supreme courts play an important role in unifying a country's laws. They can also play a leading role in judicial and legal reform efforts.

Suppression of Unlawful Acts Against the Safety of Maritime Navigation (SUA): Criminal law treaty developed by Member States at the International Maritime Organization (IMO), which entered into force in 1992, and as of May 2014, has 164 State Parties. Proscribes acts that endanger the safe navigation of ships, and requires State Parties to extradite or prosecute. In 2005, Member States at the IMO agreed to the **SUA Protocols**, which entered into force July 28, 2010, addressing criminalization of the use of a ship to transport terrorists or use a ship as a weapon, the maritime transport of explosive or radiological material, with terrorist purpose, any prohibited weapon (e.g., nuclear, chemical, or biological weapon or other nuclear explosive device), source material, special fissionable material, or dual use material, and provides a comprehensive framework for boarding suspect vessels.

Tactical Control (TACON): Command authority over assigned forces or commands, or military capability or forces made available for tasking, that is limited to the detailed and usually local direction and control of movements and maneuvers necessary to accomplish assigned missions or tasks

Territorial Sea: A belt of ocean space adjacent to and measured from the coastal states baseline to a maximum width of 12 nautical miles; a coastal State has sovereignty in this area and transiting ships have the right of innocent passage.

Trafficking in Persons (TIP): May also be referred to as human trafficking, TIP means the recruitment, transportation, transfer, harboring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labor or services, slavery or practices similar to slavery, servitude or the removal of organs. See Art. 3 of the UNTOC Palermo Protocol.

Transnational Organized Crime in the maritime domain: includes, but is not limited to, any of the following acts when committed at sea: money laundering, illegal arms and drug trafficking, piracy and armed robbery at sea, illegal oil bunkering, crude oil theft, human trafficking, human smuggling, maritime pollution, IUU fishing, illegal dumping of toxic waste, maritime terrorism and hostage taking, and vandalizing of offshore oil infrastructure. Code of Conduct Concerning the Repression of Piracy, Armed Robbery Against Ships, and Illicit Maritime Activity in West and Central Africa.

Trial Practice: The specialized knowledge and skills required for the practice of law and effective advocacy on behalf of clients in both civil and criminal litigation, including basic procedures and processes in discovery, submitting evidence, preparation and examination of witnesses, drafting motions, and delivering oral arguments.

Universal Crimes: Crimes under international law over which any State may assert criminal jurisdiction, such as piracy, slavery, or genocide.

Vessel without Nationality: Vessels that are not legitimately registered in any one State are without nationality, and are often referred to as “stateless vessels.” They are not entitled to fly the flag of any State, and because they are not entitled to the protection of any State, they are subject to the jurisdiction of all States. Accordingly, stateless vessels may be boarded upon being encountered in international waters by a warship or other government vessel, and subjected to all appropriate law enforcement actions. Other conduct that could lead a vessel to be treated as one without nationality includes: 1.) The vessel displays no name, flag, or other identifying characteristics; 2.) The master or person in charge, upon request, makes no claim of nationality or registry for that vessel; or 3.) The claim of registry or the vessel’s display of registry is either denied or not affirmatively and unequivocally confirmed by the State whose registry is claimed.

Further, a vessel may be assimilated to a vessel without nationality when the vessel makes multiple claims of nationality (*e.g.*, sailing under two or more flags) or the master’s claim of nationality differs from the vessel’s papers.

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