



Gulf of Guinea Maritime Security and Criminal Justice Primer



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



United States Department of Homeland Security,
United States Coast Guard

United States Department of Defense,
Africa Center for Strategic Studies

Photo credits: Africa Center for Strategic Studies (ACSS), U.S. Africa Command (USAFRICOM), and U.S. Coast Guard (USCG).

Gulf of Guinea Maritime Security and Criminal Justice Primer

Table of Contents

Introduction.....	2
Preface	3
1. Trans-Atlantic Maritime Program Criminal Justice Workshop Program	4
2. Rule of Law in the Oceans	6
3. International Maritime Organization (IMO)	9
4. Transnational Crime at Sea	10
5. Gulf of Guinea Code of Conduct	15
6. Piracy and Armed Robbery at Sea.....	16
7. Framework for Decision-Making on the Disposition of Suspected Pirates.....	17
8. Ten Key Principles in Information Sharing for Identifying and Prosecuting Pirates	19
9. Suppression of Terrorists and Weapons of Mass Destruction at Sea.....	21
10. International Ship and Port Facility Security (ISPS) Code	23
11. Maritime Situational Awareness	24
12. Model Port Security Compendium	26
13. Model Maritime Service Code	28
14. Maritime Security Sector Reform Guide.....	30
15. Summary of West and Central African Maritime Legislative and Governance Frameworks.....	31
16. International Maritime Security Collaboration and Partnership.....	39
17. Maritime Security Country Self-Assessment.....	41
18. Law Enforcement Authorities Matrix Questionnaire	47
APPENDIX I: List of Acronyms.....	54
APPENDIX II: Program Summaries of Cape Verde, Ghana, and Benin Workshops	55
APPENDIX III: IMO Chart: Summary of the Status of Conventions.....	62
APPENDIX IV: IMO Chart, Status of Conventions by Nation.....	64
APPENDIX V: United Nations Security Council Resolutions 2018 AND 2039.....	65
APPENDIX VI: Gulf of Guinea Code of Conduct	67
APPENDIX VII: Multilateral Agreement Regarding the Creation of Zone E of the Maritime Region of West Africa and Cooperation to Suppress Illicit Activities at Sea.....	68
APPENDIX VIII: ECCAS/ECOWAS Memorandum of Understanding.....	69
APPENDIX IX: Counter-Piracy Evidence Collection Guidance	70
APPENDIX X: IMO Guidelines to Assist in the Investigation of the Crimes of Piracy and Armed Robbery at Sea	83
APPENDIX XI: ACSS Maritime Strategy Development Process	84
APPENDIX XII: Maritime Security Sector Reform Summary	85
APPENDIX XIII: Glossary	95

[This page intentionally left blank.]



April 2015

This Gulf of Guinea Maritime Criminal Justice Primer is an informational document resulting from a series of three regional workshops that were conducted for Economic Community of West African States (ECOWAS) countries through a joint effort by the U.S. Department of State's Bureau of International Narcotics and Law Enforcement Affairs (INL) and the Department of Defense's Africa Center for Strategic Studies (ACSS), and the U.S. Africa Command (USAFRICOM), with participation by the U.S. Coast Guard (USCG). Those workshops were follow-on activities to the U.S.-EU Trans-Atlantic Symposium on Dismantling Transnational Illicit Networks, and they were designed to enhance the capacity of West African states to combat maritime crime. We believe the workshops and the information and networks they have provided have assisted to reinforce and complement efforts towards implementing an ECOWAS Integrated Maritime Strategy.

Recent events in the Gulf of Guinea highlight the need for urgent, deliberate, and coordinated action by countries of the region and the international community to combat maritime crime. These workshops and the activities that follow are among the many efforts designed to address these security challenges. We hope that the workshops and follow-on activities will assist each of our participating states' maritime law enforcement and criminal justice sector personnel and ECOWAS officials by:

- Familiarizing users with international legal frameworks and best practices in the criminal justice aspects of maritime security and assisting them in implementing those best practices;
- 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.

This Primer is a compilation of the most salient information on international maritime legal frameworks, relevant Central and West Africa policy documents, and helpful tools for use during the workshop and as reference materials after the workshop ends. We expect that this primer will be useful in efforts to develop and manage national maritime security and criminal justice system programs.

We wish you every success as you continue working on the difficult task of addressing the current maritime security environment in the Gulf of Guinea.

Handwritten signature of William R. Brownfield in black ink.

William R. Brownfield
Assistant Secretary
Bureau of International Narcotics
and Law Enforcement Affairs
U.S. Department of State

Handwritten signature of Kate Almquist Knopf in black ink.

Kate Almquist Knopf
Director
Africa Center for Strategic Studies
U.S. Department of Defense

“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, July 2011

INTRODUCTION

The “*Gulf of Guinea Maritime Criminal Justice Primer*” was compiled over the course of the delivery of three regional workshops on maritime criminal justice for West African nations. The document is intended as a resource for law enforcement and criminal justice sector practitioners who work with criminal matters in the maritime domain. In particular, it is provided for use as a reference document and guide by Central and West African lawyers, law enforcement personnel, coast guards, navies, maritime justice practitioners, and policy makers.

For the purposes of this guide, the term “justice sector” encompasses the core institutions and actors involved in the prosecution, defense, and adjudication of maritime criminal matters, e.g., the judiciary and court systems, prosecutorial services, criminal defense counsel, legal assistance providers (including civil society), government entities such as the Ministry of Justice, and legal frameworks.

The authors encourage workshop participants and practitioners to use this primer in conjunction with other handbooks, resources, and training addressing maritime law enforcement in order to work towards implementing comprehensive programs to address maritime crime in the Gulf of Guinea region.

Note: This primer is being provided for educational and reference purposes. Characterizations of international obligations and instruments in this primer are not necessarily authoritative. 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, or the United States Government.

Institutions and Actors

- Navies
- Maritime Police Organizations
- Coast Guards
- Ministries of Justice 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
- Civil society and media organizations
- International Organizations:
 - United Nations
 - International Maritime Organization (IMO)
 - INTERPOL

PREFACE

The Trans-Atlantic Maritime Criminal Justice Program comprised a series of workshops to address maritime crime, related criminal justice gaps, and capacity building in West Africa. The workshops each targeted a separate ECOWAS Maritime Security Zone to identify best practices and develop a roadmap for building the capacity of West African coastal states' maritime criminal justice sectors. This Program was co-sponsored by the U.S. Department of State's Bureau of International Narcotics and Law Enforcement, U.S. Africa Command (USAFRICOM), and the Africa Center for Strategic Studies (ACSS), in partnership with the U.S. Coast Guard.

The workshops aimed to boost West African maritime criminal justice capacity in aspects of interdiction at sea including: appropriate law enforcement authority, evidence gathering, arrests, investigations, prosecutions, logistics planning, seizure of vessels, crew, and cargoes, acquisitions, maintenance, disposal of property, and the judicial process. Participants included West African law enforcement, customs agencies, wildlife and fishery agencies, and criminal justice authorities, among others.

As the workshops represented a mechanism for states to develop new ideas and enduring relationships to increase capabilities and capacity, this Primer provides key background material. We hope that this Primer will be a useful tool to raise awareness to achieve maritime security and criminal justice capabilities that can be implemented and sustained. We continue to welcome new ideas on how we can work together—states, international organizations and industry—to strengthen navigational freedoms, maritime security and the criminal justice sector. A primary aim is to facilitate creative thinking regarding how states can work together more actively and effectively to strengthen security at sea *and* ashore in the face of emerging challenges.

Workshop opportunities and objectives included:

- Illuminating current and emerging maritime threats;
- Identifying critical maritime criminal justice capacity gaps;
- Identifying gaps and opportunities for improvement in West African coastal states' maritime laws and regulations;
- Examining case studies to determine strengths, weaknesses, and areas for improvement in criminal justice systems;
- Developing a compendium of lessons learned, obstacles, and/or best practices to feed into USAFRICOM's Africa Maritime Law Enforcement Partnership (AMLEP) Program;
- Considering the available tools to tackle gaps and needs in maritime criminal justice systems;

- Identifying best practices and develop concrete, practical measures to build maritime criminal justice capacity in West Africa;
- Delivering a "Maritime Security Primer" for West African states; and
- Devising a roadmap of actions that build sub-regional maritime criminal justice capacity.

We hope that the Primer, workshop discussions, and issues raised will foster increased cooperation, sustainability, skill and partnerships. Collectively, these efforts support a more secure maritime environment off the coast of West Africa that is protected from transnational criminal and terrorist activity, ensures the safe and secure passage of legitimate commercial and passenger vessels and protects the security of energy- and resource-related infrastructure.

The contributions of workshop participants and practitioners continue to form the cornerstone of future efforts to coordinate law enforcement training and assistance not only in the Gulf of Guinea region, but also across the trans-Atlantic region. Please direct questions, comments, and recommendations on the Primer to: Brian Wilson, U.S. Coast Guard, at Brian.S.Wilson2@uscg.mil or Dr. Assis Malaquias, the U.S. Department of Defense, Africa Center for Strategic Studies, at MalaquiasA@ndu.edu, or Lisa Jacobson of the U.S. Department of State, Bureau of International Narcotics and Law Enforcement Affairs, Office of Anti-crime Programs at JacobsonLE@state.gov. Thank you for your attendance, participation, and support.

1. Trans-Atlantic Maritime Criminal Justice Workshop Program

As an outcome of the Trans-Atlantic Symposium held in 2012, the Department of State Bureau of International Narcotics and Law Enforcement Affairs (INL) began working with the Department of Defense, the U.S. Coast Guard, and U.S. Africa Command to design and coordinate U.S. foreign assistance programs to assist in addressing maritime crime in the Gulf of Guinea. One such initiative was to conduct this series of workshops that sought to familiarize West African coastal countries with international legal frameworks and best practices in the criminal justice aspect of maritime security; build cooperation and coordination among national agencies involved in maritime law enforcement and criminal justice; and promote collaboration and cross-border information sharing among neighboring countries. The three workshops organized by DoD's Africa Center for Strategic Studies (ACSS) in this series included:

- **Cape Verde Workshop, February 27 – March 1, 2013.** The first workshop in the series was organized by ACSS and held in Praia, Cape Verde for countries in ECOWAS Zone G, including Cape Verde, Mauritania, Senegal, and The Gambia, as well as Ghana, and Sierra Leone from Zone F. .
- **Ghana Workshop, June 4-6, 2013.** This workshop was organized by ACSS and held in Accra, Ghana, and included the participation of Zone F countries, Ghana, Burkina Faso, Cote d'Ivoire, Liberia, Sierra Leone, and from Zone E, Togo.
- **Benin Workshop, February 4-6, 2014.** The final workshop in the series was conducted by ACSS in Cotonou, Benin for Zone E. It included the participation of Benin, Niger, Nigeria, and Togo from Zone E, and Ghana and Cote d'Ivoire from Zone F.

The Program Summaries of these Workshops are included at APPENDIX II of this Primer.

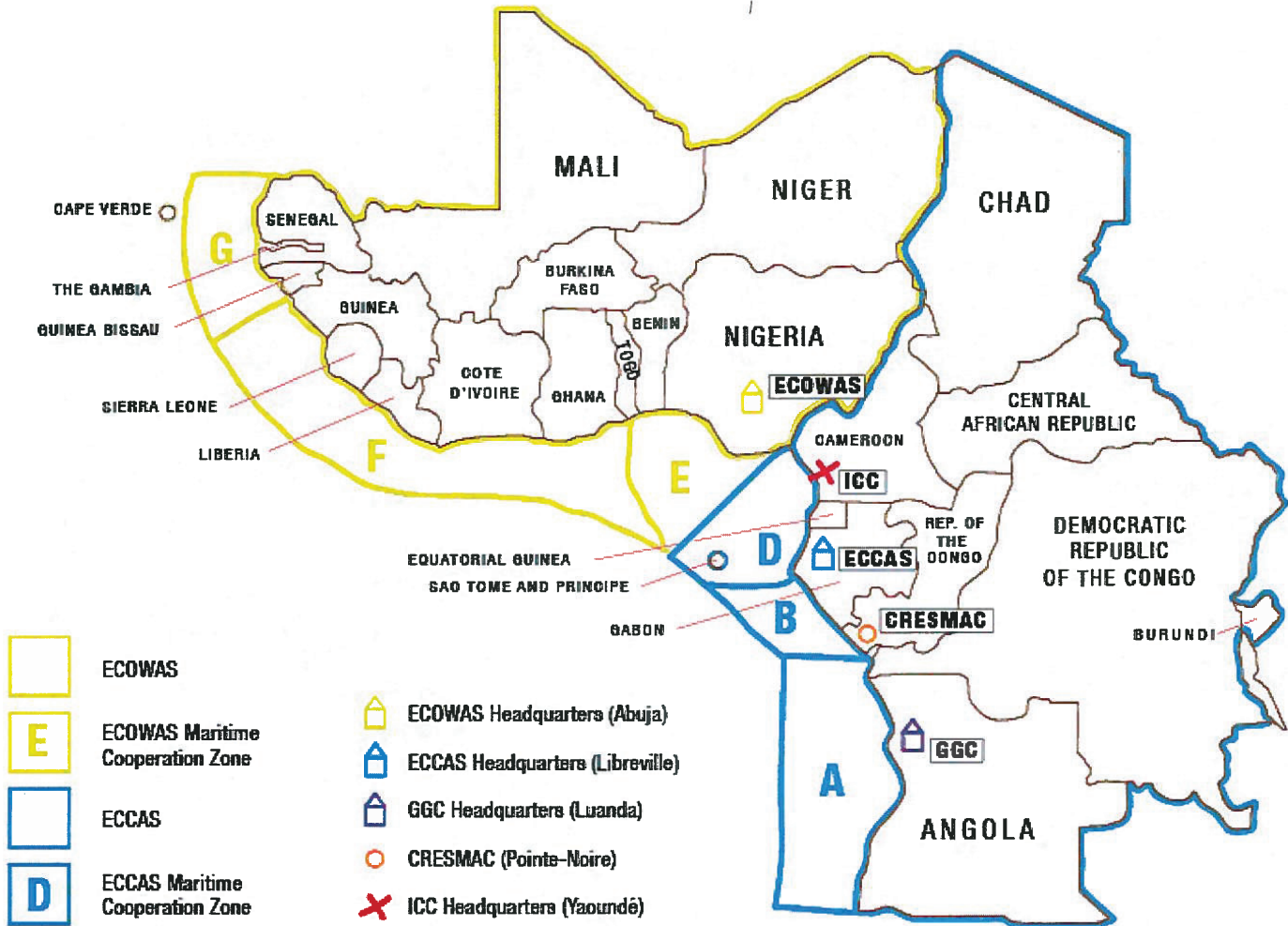
General recommendations of the workshop included, inter alia, that:

- Law Enforcement and criminal justice officials must gain a more comprehensive understanding of the maritime threats facing the sub-region to better anticipate these challenges;
- Countries must strengthen cooperation and information-sharing processes in the West Africa through improved communication channels;
- Regional states must allocate resources to increase operational capacity (i.e., surveillance, information gathering, and intervention);

- Authorities must implement and enforce existing regulations, and promote a process of legal and judicial harmonization across the sub-region;
- Law enforcement and criminal justice officials must urgently tackle the issue of widespread corruption;
- Decision makers must urgently develop national action plans before formalizing a joint operational strategy.



The Maritime Regional Architecture in the Gulf of Guinea



Source: Crisis Group (2014)

2. Rule of Law in the Oceans

NINETY PERCENT OF THE WORLD'S COMMERCE TRAVELS BY SEA

More than 90 percent of global trade is moved through maritime shipping over sea lanes. With increasing reliance on just-in-time delivery of products, countries are closely bound together by maritime shipping. The oceans serve not only as a spatial resource for the international cargo chain, but also as an important source of food and other resources. Ensuring maritime security requires a concerted effort among coastal states, landlocked states, 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, and judicial sectors.

Threats emanating from the maritime domain affect all nations and require collective efforts to counter them effectively. All nations have an interest in the development and maintenance of global security, stability, and collective economic prosperity, and these depend on maintaining order throughout the vast ocean space. Partners can collaborate to better protect sea lines of communication, facilitate and protect global commerce and global supply chain security, ensure the safety of commercial mariners and cruise ships, address illegal, unreported and unregulated (IUU) fishing, and maintain a lawful order of the oceans.

As the world's national economies become ever more closely integrated, it is critical that nations coordinate and, where appropriate, collectively integrate their activities to secure the seas. There exist a number of international agreements and entities that promote enhanced maritime security cooperation, and foremost among these are the United Nations Convention on the Law of the Sea (LOS Convention) and the International Maritime Organization (IMO).

Ambassador Tommy T.B. Koh of Singapore and President of the Third UN Conference on the Law of the Sea, declared the LOS Convention a “constitution” for the world’s oceans because it reflects the foundation for the rule of law at sea. The Convention has contributed directly to international peace and security by replacing abundant conflicting claims with globally agreed limits on the territorial sea, the contiguous zone, the exclusive economic zone and the continental shelf. The interest of the world community in freedom of navigation and overflight has been preserved by the delicate compromises reflected in the convention, including on the status of the exclusive economic zone, the regime 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. The convention also contributes to the peaceful settlement of disputes between states by offering a system of dispute settlement.¹ Some of the key features of the Convention include the following:

- Coastal States exercise sovereignty over their territorial sea, which they have the right to establish at a breadth up to a limit not to exceed 12 nautical miles; foreign vessels have the right of "innocent passage" through those waters.
- Ships and aircraft of all countries have the right of "transit passage" through straits used for international navigation; states bordering the straits can regulate certain safety-related and other aspects of passage, but such laws must be 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, which are states made up solely of a group or groups of closely interrelated islands and meeting certain other criteria, have sovereignty over a sea area enclosed by straight lines drawn in accordance with the LOS Convention between the outermost points of the islands and through which the international community has the right of archipelagic sea lanes passage.
- In the exclusive economic zone, which may extend up to 200 nautical miles from the coastal baseline, coastal States have sovereign rights for the purpose of exploring and exploiting, conserving, and managing the natural resources, and jurisdiction with regard to marine science research, environmental protection, and the establishment and use of artificial islands, installations, and structures. All other states enjoy the freedom of navigation and overflight in the EEZ, as well as other freedoms, such as the freedoms to lay submarine cables and pipelines and the exercise of other lawful uses of the seas.
- Coastal states have sovereign rights over the continental shelf (the national area of the seabed and its sub-soil) for exploring it and exploiting its natural resources; the shelf can extend up to 200 nautical miles from the shore, and more under specified circumstances.
- All states enjoy traditional freedoms, including freedoms of navigation, overflight, scientific research, and fishing on the high seas, and states are obliged to cooperate with other states in adopting measures to manage and conserve living resources.

¹
http://www.un.org/Depts/los/convention_agreements/texts/koh_english.pdf.

States have obligations regarding the prevention and control of marine pollution.

- States' Parties are obliged to settle by peaceful means their disputes concerning the interpretation or application of the Convention.

The IMO has facilitated bringing together member states to develop new 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 for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (SUA) and the associated 2005 Protocols. The 2002 International Ship and Port Facility Security (ISPS) Code, which is made mandatory by amendments to the 1974 Safety of Life at Sea (SOLAS) convention, establishes a new framework for states to implement extensive security standards for the commercial shipping industry.

What follows is a summary of some of the more important initiatives and those under development that serve to enhance maritime security capacity, capability, and partnerships. These address issues such as promoting and preserving freedom of the seas, cooperative arrangements for attaining maritime situational awareness, repression of piracy and armed robbery at sea, disruption of the transport of terrorists and weapons of mass destruction at sea, and strengthening international shipping and global cargo chain security. These agreements and arrangements are worth consideration by all nations to improve collective global maritime security. This primer includes a brief country self-assessment, the "Maritime Security Country Self-Assessment" to facilitate internal governmental deliberation on these important maritime security instruments and issues.

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).²
- **Summary:** Establishes a comprehensive legal framework 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 other freedoms; and provides a basis for states to cooperate in enhancing maritime security.
- **Parties:** 166

The LOS Convention serves as a cornerstone for peacetime maritime security, providing a stable and widely

accepted legal order of the oceans. Among other provisions, the Convention recognizes rules for the status of ships and their nationality, immunities of warships, and other government owned or operated ships on government non-commercial service, prohibitions on certain crimes such as the transport of slaves and maritime piracy, control of the illicit traffic in narcotic drugs, provides for a right of visit in certain circumstances, and establishes a framework for the peaceful resolution of disputes under the LOS Convention.

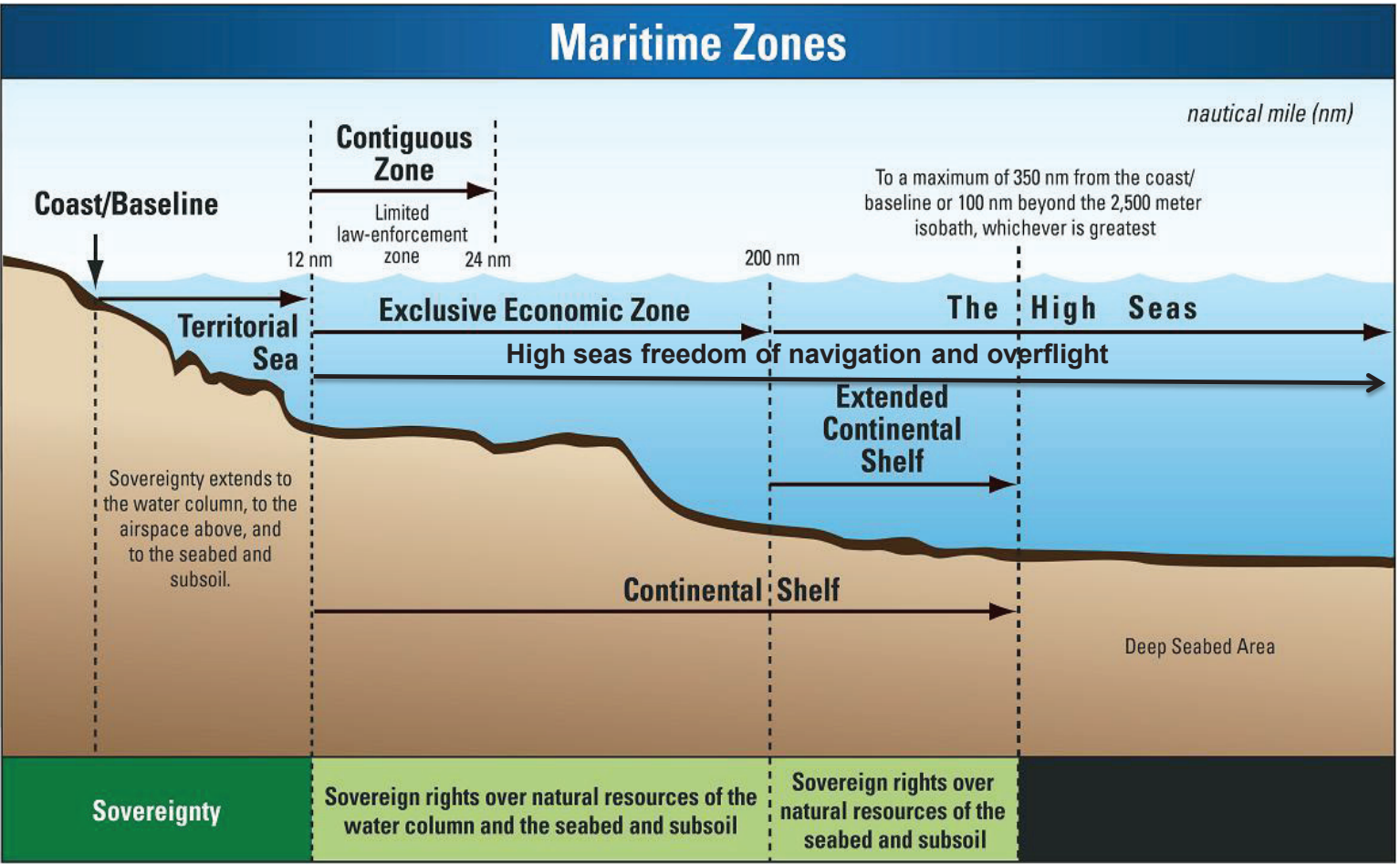
Finally, Articles 58 and 87 of the LOS Convention reflect the freedom of navigation and other freedoms on the high seas and throughout the exclusive economic zone, and other internationally lawful uses of the sea related to those freedoms. Maritime operations and commerce are completely dependent upon strategic mobility in the maritime environment. Although freedom of navigation is critical to global mobility, security, and prosperity, it is under constant pressure of improper encroachment by some coastal states claiming excessive coastal state jurisdiction, including for environmental regulation or security.

Some coastal states face the temptation to impair unlawfully navigational rights such as the right of innocent passage of vessels in the territorial seas and the right of transit passage through straits used for international navigation, or to impair other rights and freedoms beyond the territorial seas, a problem particularly acute in the exclusive economic zone. The LOS Convention reflects a critical framework for states to ensure that they and other states act consistent with their legal rights and obligations and provides a common framework and nomenclature, to facilitate greater cooperation and coordination.

2

http://www.un.org/Depts/los/convention_agreements/convention_overview_convention.htm.

Maritime Zones



3. International Maritime Organization (IMO)

THE IMO DEVELOPS STANDARDS FOR SAFE, CLEAN, AND EFFICIENT SHIPPING

- **Treaty:** Convention on the International Maritime Organization (1948).³
- **Summary:** Establishes the IMO, 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 to enhance uniformity and ensure non-discrimination in regulating ships.
- **Benefits:** Serves as a forum for developing international agreements and standards for ensuring the safety and security of global shipping and protection of the marine environment.
- **State Parties:** 167

The International Maritime Organization (IMO) is the “competent international organization” to facilitate the development of relevant internationally accepted standards under the LOS Convention. The IMO has 167 state parties as well as three associate members and several intergovernmental and non-governmental organizations representing a wide variety of interests ranging from different industry sectors to environmental groups, all promoting the goal of universal standards for safe, clean, and efficient shipping. Since its inception, the IMO has adopted nearly fifty treaties and hundreds of codes, guidelines, and recommendations that address nearly all aspects of shipping. Generally 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 pollution from ships. These regimes are now applicable to almost 100 percent of global tonnage.⁴

³ <http://www.imo.org/>.

⁴ The standard international measurement of a ship's size under the Universal Tonnage Measurement System (UMS), defined by the 1969 Tonnage Regulations, is the Gross Ton (GT). The “ton” in gross tonnage is not a measure of weight but of volume (2.78 cubic meters). Volume in GT is only a useful reference for certain types of vessels such as conventional cargo ships and passenger ships. Certain other ships, including tankers and bulk carriers, are measured by deadweight tonnage (dwt), which represents lifting capacity.

The 1974 Safety of Life at Sea Convention (SOLAS), for example, which applies to 98.8 percent of world shipping, is generally considered to be the most important of all international treaties concerning the safety of merchant ships. Among the topics covered in its Annex chapters and its associated codes are ship construction, subdivision and stability, fire protection, life-saving appliances and arrangements, radio communications, safety of navigation, carriage of cargoes and dangerous goods, safety management, and maritime security.

See Chart 1, Summary of Status of Conventions at Appendix III and Chart 2, Status of Conventions by Nation at Appendix IV.

Success Story Spotlight: Ghana

Ghana Takes Action on Maritime Crime

Special Naval Units: Announced in October 2013, Ghanaian Navy plans to set up special boat units to deal with maritime security challenges such as piracy in order to secure the country's new-found offshore oil and gas resources. The boat patrols will protect maritime boundaries, offshore oil rigs, and pipeline infrastructure, in addition to combatting trans-national crime such as smuggling, illegal fishing, weapons, and drug trafficking.

New Maritime Crime Courts: Ghana also announced plans to set up the first African special courts to deal with maritime crimes. Ghanaian High Court Chief Justice Georgina Woods says the country will set up special courts to deal specifically with maritime crimes before the end of 2014. Through collaborations with the Ghana Shippers Authority, three judges drawn from the High Court will be sponsored to undertake post-graduate studies with specialization in maritime law in preparation for deployment to the three new special courts.

Source: Oscar Nkala, defenseWeb, Oct. 2013

4. Transnational Crime at Sea

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

Three widely accepted international treaties call on states to cooperate in counter-drug activities and operations. Building greater coordination, capability, and capacity will enhance these efforts. The Single Convention on Narcotic Drugs (1961) has been in force since 1964 and has 180 state parties, and the Convention on Psychotropic Substances (1971), which entered into force in 1976, has 183 state parties. The UN Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (1988 Vienna Convention) has been in force since 1990 and has 189 States parties as of January, 2014, 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 or with respect to ships flying their flag, 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 responses. 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 lawful 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. States also may agree to exchange shipriders and operational liaison officers with regional partners.

Vienna Convention: The United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances directs member States' to take appropriate actions and cooperate with other States to suppress maritime drug trafficking per Article 17 of the Convention. In addition, the Vienna Convention 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. The Convention also includes provisions to facilitate mutual legal assistance between signatories

United Nations Convention Against Transnational Organized Crime (UNTOC): The UNTOC is the first legally binding, multilateral agreement that specifically addresses the problem of transnational organized crime. UNTOC signatories agree to criminalize conduct that is linked with organized crime and to partner to address organized crime. The purpose of the crime must be for financial or material benefit. The UNTOC also has provisions to facilitate mutual legal assistance between signatories that apply to the UNTOC and also to its Protocols. Adopted on November 15, 2000, and entered into force on September 29, 2003. There are 185 parties as of February 24, 2015.

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 11 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. There are 166 parties as of February 24, 2015.

UNTOC Protocol Against the Smuggling of Migrants by Land, Sea and Air:

This protocol, which entered into force in January 2000, 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 combating human smuggling, and the root causes of illegal migration. 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 rights of States to board vessels suspected of smuggling that are without nationality or are treated as having without nationality status. The UNTOC mutual legal assistance provisions apply. There are 141 parties as of February 24, 2015.

The 2005 Protocols to the 1988 Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation (SUA),

discussed in more detail in Section 6, was adopted on October 14, 2005, and entered into force on July 28, 2010, and commits 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. Moreover, the SUA Protocol bans dual use material from being used illegally to craft terrorist weapons. There are 27 state parties to the Protocol as of September 30, 2013.

The SUA Protocol 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].

Illegal Fishing

The Law of the Sea Convention is the framework on which many international agreements addressing **living marine resources** (LMR) are based. International law, specifically Part V of the 1982 LOS Convention (especially 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. The 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 take account of interdependence of stocks (Article 119). States are also to conserve and manage marine mammals in the high seas (Article 120).

In addition, Law of the Sea 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.”

Several major international agreements and arrangements have been negotiated under the framework of the LOS Convention, often under the auspices of the Fisheries Department of the Food and Agriculture Organization (FAO) of the United Nations. These 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 or UNFSA)⁵; the Code of Conduct for Responsible Fisheries (the 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 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.

The UNFSA entered into force 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 consistent with the Agreement.

The FAO Code of Conduct for Responsible Fisheries⁶ 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 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 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 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 long line fisheries;
- 3) the conservation and management of shark;

⁵ 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

⁶ The FAO Code of Conduct can be found at <http://www.fao.org/docrep/005/v9878e/v9878e00.HTM>

- 4) the management of fishing capacity;
- 5) overfishing and rebuilding of fish stocks; and
- 6) reducing waste in fisheries.

The global UN Moratorium on High Seas Drift Net (HSDN) fishing encourages all nations to take measures, individually and collectively, to prevent large-scale, pelagic driftnet fishing operations on the high seas of the world's oceans.

Drift nets are used in large-scale commercial fishing operations. Miles 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."

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 instruments 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, where effective mitigation depends on collaboration between States. RFMOs are the organizations which are best able to create this collaboration.

UN Food and Agriculture Organization (FAO) Agreement on Port State Measures (PSM) to Prevent, Deter and Eliminate Illegal, Unreported, and Unregulated Fishing

The FAO Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing (the PSM Agreement) was adopted by the FAO Conference in 2009. The main purpose of the PSM Agreement is to prevent, deter and eliminate illegal, unreported and unregulated (IUU) fishing through the implementation of effective port State measures. The PSM Agreement envisages that Parties, in their capacities as port States, will apply the PSM Agreement to foreign vessels when seeking entry to ports or while they are in

port. The application of the measures set out in the PSM Agreement will, inter alia, contribute to harmonized port State measures, enhance regional and international cooperation and block the flow of IUU-caught fish into national and international markets. The PSM Agreement will enter into force 30 days after the deposit of the 25th instrument of ratification, acceptance, approval or accession. As of February 2015, eleven states had acceded to the PSM Agreement. The PSM Agreement is binding and stipulates minimum port States measures. However, countries are free to adopt more stringent measures than those outlined in the PSM Agreement.

Regarding the use of force, the **Fish Stocks Agreement** contemplates the use of force in certain circumstances if a “reasonably required”:

“Art 22: The inspecting State shall ensure that its duly authorized inspectors: ... (f) 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” [emphasis added].

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

Although the [Law of the Sea] 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 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.⁷

Human Trafficking and Migrant Smuggling

“**Trafficking in persons**” and “**human trafficking**” have been used as umbrella terms for the act of recruiting, harboring, transporting, providing, or obtaining a person for compelled labor or commercial sex acts through the use of force, fraud, or coercion. The U.S. Trafficking Victims Protection Act (TVPA) of 2000 (Public Law 106-386), as amended, and the Protocol to Prevent Suppress, and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention Against Transnational Organized Crime (the Palermo Protocol), describe this crime of compelled service using a number of different terms, including the exploitation of the prostitution of others, involuntary servitude, slavery, or practices similar to slavery, debt bondage, and forced labor. With regard to the trafficking of children under the

age of 18, the Palermo Protocol clarifies that the acts engaged in for the purpose of exploitation are all that is needed; proof of force, fraud, or coercive means is not required.

Human trafficking can include, but does not require, movement. People may be considered trafficking victims regardless of whether they were born into a state of servitude, were transported to the exploitative situation, previously consented to work for a trafficker, or participated in a crime as a direct result of being trafficked. At the heart of this phenomenon is the trafficker’s goal of exploiting and enslaving their victims and the myriad and deceptive practices they use to do so.

Human trafficking is often confused with migrant smuggling, a related but different crime. The smuggling of migrants is a crime involving the procurement for financial or other material benefit of illegal entry of a person into a State of which that person is not a national or resident. Thus, while human trafficking is a crime of exploitation, migrant smuggling is a crime of transportation. **Migrant smuggling** affects almost every country in the world. It undermines the integrity of countries and communities, and costs thousands of people their lives every year. Migrant smuggling by sea is one of the most perilous forms of migrant smuggling. The United Nations Convention against Transnational Organized Crime (UNTOC) and its Protocol against the Smuggling of Migrants by Land, Sea, and Air (Palermo Protocol) provide for international cooperation in combatting migrant smuggling.

⁷ *Id.* at para 155. Article 293 of the Law of the Sea Convention.

**SELECTED PROVISIONS OF ARTICLE 17 OF THE
1988 UNITED NATIONS CONVENTION AGAINST
ILLICIT TRAFFIC IN NARCOTIC DRUGS AND
PSYCHOTROPIC SUBSTANCES
(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.

7. 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 3. 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.

5. Gulf of Guinea Code of Conduct

On June 24-25, 2013 in Yaoundé, Cameroon, twenty-five heads of state and senior representatives from the Economic Community of Central African States (ECCAS) and the Economic Community of West Africa (ECOWAS) member states agreed upon a cooperative maritime strategy that focuses on regional solutions to regional problems. The Code of Conduct for West and Central Africa (also known as the Gulf of Guinea Code of Conduct) signed in Yaoundé acknowledged the economic and geo-political importance of the maritime domain, which is critical to the continued development and future of Africa. Implementation of this instrument will result in a long-term improvement of maritime security that will promote economic development and future growth.

The Gulf of Guinea Code of Conduct was initially proposed by ECOWAS and is modeled after the Djibouti Code of Conduct (CoC). The Djibouti CoC, signed in 2009, primarily addresses counter piracy in East Africa. Unlike the Djibouti Code, however, the Gulf of Guinea CoC covers the full range of regional threats within the maritime domain: piracy; armed robbery at sea; illicit drugs, arms and human trafficking; illegal fishing; and environmental pollution. The plan is an ambitious undertaking that begins with a non-binding agreement between 26 West and Central African states and then urges signatories to proceed to a binding agreement within three years. As the President of Chad observed at the close of the Yaoundé summit, this was the first time leaders from the member states of Africa's two Regional Economic Communities have ever met to consider solutions to a regional problem.

By: Captain (Ret.) Phillip J. Heyl; West and Central African Leaders Unite Against Piracy in the Gulf of Guinea; 3rd UAE Counter Piracy Conference, Briefing Paper (2013)

See Appendix VI for the full text of the Gulf of Guinea Code of Conduct.

Code of Conduct Concerning the Repression of Piracy, Armed Robbery against Ships, and Illicit Maritime Activity in West and Central Africa “Yaoundé Code of Conduct”

Outline

Signatories: 25 West and Central African States

Preamble

Article 1: Definitions

Article 2: Purpose and Scope

Article 3: Guiding Principles

Article 4: Measures at the National Level

Article 5: Protection Measures for Ships

Article 6: Measures to Repress Piracy

Article 7: Measures to Repress Armed Robbery Against Ships

Article 8: Measures to Repress Illegal, Unregulated, and Unreported Fishing

Article 9: Embarked Officers

Article 10: Asset Seizure and Forfeiture

Article 11: Coordination and Information Sharing

Article 12: Incident Reporting

Article 13: Assistance Among Signatories

Article 14: Training and Education

Article 15: Indictment, Prosecution, and Conviction

Article 16: Dispute Settlement

Article 17: Consultations

Article 18: Claims

Article 19: Miscellaneous Provisions

Article 20: Signature, Entry Into Force, and Depository

Article 21: Languages

Signed in Yaoundé, Cameroon 25 June 2013

6. Piracy and Armed Robbery at Sea

Global Instruments

- United Nations Security Council resolutions (UNSCRs), United Nations Convention on the Law of the Sea, International Maritime Organization regulations and guidance and *Best Management Practices for Protection Against Somalia Based Piracy* provide a framework for repressing piracy and armed robbery at sea.
- **Summary:** UNSCR 2018 (2011) and 2039 (2012) focus on piracy and armed robbery occurring in the Gulf of Guinea. The LOS Convention defines piracy and provides a legal basis for all states to cooperate in the repression of piracy on the high seas. IMO Circulars and Code of Practice provide recommendations to governments and industry.
- **Benefits:** The LOS Convention and UN Security Council resolutions provide authority for states to cooperate in repressing piracy.

AFRICA HAS THE HIGHEST INCIDENCE OF MARITIME PIRACY IN THE WORLD

United Nations Security Council Resolutions 2018 and 2039

On October 31, 2011, the UN Security Council adopted Resolution 2018 (UNSCR 2018), expressing its deep concern about the threat that piracy and armed robbery at sea in the Gulf of Guinea pose to international navigation, security and the economic development of states in the region. The UNSC welcomed the intention to convene a summit of Gulf of Guinea Heads of State in order to consider a comprehensive response in the region and encouraged 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 the development of domestic laws and regulations, where these are not in place, criminalizing piracy and armed robbery at sea; the development of a regional framework to counter piracy and armed robbery at sea, including information-sharing and operational coordination mechanisms in the region; and 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.

On February 29, 2012, the UN Security Council adopted Resolution 2039 (UNSCR 2039) welcoming the initiatives

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. UNSCR 2039 noted the ECCAS comprehensive joint maritime security architecture to counter piracy in the Central African subregion, 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.

UNSCR 2039 further encouraged the States of the Gulf of Guinea, ECOWAS, ECCAS and GGC to develop and implement transnational and trans-regional maritime security coordination centers covering the whole region of the Gulf of Guinea, building on existing initiatives, such as those under the auspices of the International Maritime Organization.

See Appendix V for complete copies of UNSC Resolution 2018 and UNSC Resolution 2039.



7. Framework for Decision-Making on the Disposition of Suspected Pirates

Background: Once suspected pirates have been captured, the interdicting state must determine where the suspects should be transferred for the investigation and prosecution of their alleged crimes. Although piracy is a universal crime, certain states – the flag state, the interdicting state, the state of nationality of the crew or owner of the victim vessel, or others – may have particular national interests in the investigation and prosecution of the suspects. At the same time, the interdicting state also may have transfer arrangements with other States who have expressed a willingness to contribute to the international community’s counter-piracy efforts by prosecuting captured suspects in their national courts.

Given the potential complexities and the need to minimize the length of detention of suspects at sea, interdicting states may wish to have in place a framework for making disposition decisions. The framework below provides an example of such a decision-making framework. At every step, the framework provides a timeline by which certain actions must be performed or certain decisions must be taken in order to expedite the ultimate disposition of the suspects.

Preliminary Steps

Once the on-scene commander determines a potential for prosecution exists, the interdicting agency provides appropriate interdicting state (IS) governmental authorities (diplomatic, defense, judicial and law enforcement) with an initial report on the attack as soon as possible.

To the maximum extent possible, the report should contain the following information:

- state of registry of victim ship;
- nationality of the crew;
- type of cargo onboard;
- state of nationality of the owner of the vessel;
- whether there were witnesses (victim or military) and, if so, approximately how many;
- number and origin of the suspected pirates (if Somalia, specify region);
- description of the incident; and
- last and next ports of call of the victim ship.

Based on the initial report, the law enforcement authorities of the IS (in consultation with appropriate law enforcement, diplomatic, and defense, authorities) make an initial determination as to whether they intend to pursue an investigation. This initial determination should be made as

soon as possible after receiving the initial report. Among other factors, law enforcement authorities will consider national nexus to the attack, including whether the case involved an attack on an IS-flagged vessel or a vessel owned by an IS national or with IS nationals on board as well as the general interest of IS to prosecute the case at hand.

States should establish the necessary internal systems to deal with such situations as well as the relevant procedures, including appropriate time limits for each step.

If law enforcement authorities decide to pursue prosecution in the IS, proceed with Option A. If law enforcement authorities decline to pursue prosecution in the IS, proceed with Option B. The options may be pursued simultaneously in order to save time.

Option A: Possible Interdicting State Prosecution

If law enforcement authorities make an initial determination to pursue prosecution, the agency that interdicted the suspects will provide law enforcement authorities with a preliminary evidence package (contents to be agreed upon in advance, if possible) as soon as possible after the event.

- If the evidence is not sufficient to support prosecution, the IS should release the suspects.
- If suspects are released, adhere to customary international law norms regarding seaworthiness of the suspected pirate vessel and/or hazards to navigation.

At the same time that law enforcement authorities are reviewing the evidence package, the IS should commence discussions with diplomatic authorities on options for the potential transportation of the suspects and evidence to the IS. Ministry of Foreign Affairs (MFA) officials should be included in all transportation discussions, as most transit options will involve transit and/or transfer of custody through a foreign state.

Parallel contingency planning for transfer to another state for prosecution in the event the law enforcement authorities decline an IS prosecution should also be commenced during this period.

Based upon their review of the evidence package, law enforcement authorities should make a final decision on whether or not to pursue transfer for prosecution as soon as possible upon receipt of the evidence package. In the event that law enforcement authorities ultimately decline prosecution for any discretionary reason other than insufficient evidence, proceed immediately to Option B.

Option B: Possible Foreign State (Non-IS) Prosecution

Upon receipt of the initial report, IS authorities should identify those states directly affected by the attack, including the flag state and the state(s) of nationality of the crew and owner of the victim ship.

The foreign ministry should immediately demarche the identified affected states and request that they consider accepting the case for prosecution. In considering whether to make such a request, the IS must take into account any applicable human rights considerations relevant to the transfer of suspects to the affected state in question.

In support of its request, the IS should provide the appropriate foreign state authorities with the preliminary evidence package prepared by the interdicting agency, which should be provided as soon as possible after the event. Subsequent discussions with foreign state authorities should include consideration of transportation options, especially in the event that air transportation would be required. The IS should request that affected states make a decision as to prosecution within five days of receipt of the evidence package.

At the same time, the foreign ministry should also notify any prosecution partners that the IS may be making a request for that state to accept the suspects for prosecution pursuant to an existing transfer agreement or on an ad-hoc basis. In the event that none of the affected states are willing or able to accept the suspects for prosecution, the IS should provide the evidence package to its prosecution partners for consideration under the terms of any transfer agreement or ad-hoc understanding.

Contingency Plan for Release

If the IS determines the evidence is insufficient to support prosecution or decides not to prosecute for any other reason, and no foreign state accepts the case for prosecution, the IS will have to release the suspects. IS authorities should develop ahead of time contingency release options, and should collect all relevant biographic information, including fingerprints and photographs, from the suspects before their release for law enforcement information sharing purposes.

Other Issues (As Needed)

Medical Care: If interdicting assets are unavailable to meet medical care needs, or medical care needs exceed what the asset is able to provide under such circumstances, MFA officials should conduct outreach to states in the vicinity to seek medical report.

Disposition of Suspect Remains: In the event suspects are killed in the interdiction, the IS should work through the relevant embassy or consulate to notify the family of the deceased. If next-of-kin notification is not possible, alternative burial arrangements respecting religious traditions may be necessary. Prompt disposition of remains

is important to the health and safety of interdicting personnel.

Pirated Vessels: If a pirated vessel is taken into IS custody as a result of the interdiction and capture of suspects, the interdicting agency should propose a plan for its disposition, to include evidentiary exploitation (coordinated with relevant law enforcement authorities) and transportation of the vessel to the nearest coastal state for appropriate disposition in cooperation with that state. MFA officials will make the approach to the coastal state to obtain approval of the proposed disposition plan.

Victim Vessel (if in IS custody): In the event that a victim vessel is taken into IS custody, the interdicting agency proposes a disposition plan to include evidentiary exploitation (coordinated with relevant law enforcement authorities) and transportation of the vessel to the nearest appropriate state for hand-off to the IS country team in that state, flag state personnel, port state personnel, or owner. MFA officials will make the approach to the coastal or flag state for approval of the disposition plan.

Victims (if in IS custody): Any victim witnesses should be interviewed at sea, if possible, before their vessel continues underway. On-scene law enforcement authorities should collect the contact information of any potential victim witnesses if needed for follow-up interviews or to appear at trial. If necessary (e.g., if the victim vessel is rendered unseaworthy), the interdicting agency will work with MFA officials to arrange for repatriation of any victims.

Information sharing considerations should be addressed between an IS who declines to prosecute and other potential prosecuting nations.

Given the inherent tension between getting the victim vessel back into service versus completing the investigation/exploitation, consider resolving matters at the victim vessel's next port of call.

8. Ten Key Principles in Information Sharing for Identifying and Prosecuting Pirates

Closer collaboration. Both at the national level and internationally, authorities should make a more efficient use of the available resources, cutting out duplications and overlapping, closing holes 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.

1. **Building the network.** Each Country 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 applicable in case of vessel hijacking, including regarding ransom payments and money laundering and ensure that they are implemented consistently. 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 are released 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 crew members of the hijacked vessel. National law enforcement agencies (NLEAs) approaching 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 the crew. NLEAs can play a helpful role in advising the ship-owner and his representatives on negotiation strategy; 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 crew members immediately following their recovery or release. The shipping industry should ensure its cooperation with law enforcement agencies and make crew member witnesses available, which is essential to making later prosecutions possible. Crew members' 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 crime scene investigation (CSI) phase, because of time constraints and logistical difficulties. When no country is starting investigations, INTERPOL should either invite some 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.

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

9. Suppression of Terrorists and Weapons of Mass Destruction at Sea

- **Initiatives:** The 2005 Protocol to the 1988 Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (SUA).
- **Summary:** The 1988 SUA treaty is a multilateral treaty addressing criminal activity against the safety of maritime navigation. The 2005 SUA Protocol amends SUA by providing a comprehensive framework for cooperation against the transport of terrorists and WMD at sea.⁸
- **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 provide comprehensive provisions for states that may be used in cases of consensual boarding.
- **State Parties:** The 1988 SUA treaty has 165 States parties and entered into force on March 1, 1992; the 2005 SUA Protocol has 33 States parties (as of February 12, 2015) and entered into force July 28, 2010.

United Nations Security Council Resolution 1540

United Nations Security Council Resolution (UNSCR) 1540⁹ of 2004 was an historic event marking the Security Council's determination 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 illicit 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 Nonproliferation Treaty (NPT) provides additional impetus for controlling the proliferation of WMD.

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, particularly to non-state actors. States are required to refrain from "providing any form of support to non-State actors that attempt to develop, acquire, manufacture, possess, or transport, transfer or use nuclear,

⁸

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

⁹

<http://daccessdds.un.org/doc/UNDOC/GEN/N04/328/43/P/DF/N0432843.pdf?OpenElement>.

chemical or biological weapons and their means of delivery". States are also required, in accordance with their national procedures, to adopt and enforce "appropriate effective" laws prohibiting any non-state actor from manufacturing, acquiring, possessing, developing, transporting, transferring, or using WMD. The resolution also requires States to take and enforce effective measures to establish domestic controls to prevent proliferation of WMDs, including by developing and maintaining appropriate measures for physical protection and accounting for WMD, their means of delivery and related materials, and by developing and maintaining border controls and law enforcement efforts to stop illicit trafficking, as well as by developing and maintaining export and transshipment controls. These obligations are not limited to the parties to the Non-proliferation Treaty (NPT) and apply to all states. UNSCR 1540 is one of the broadest measures in international law addressing states' cooperation and coordination to prevent the proliferation of WMD.

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, seriously 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 onboard 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.

To address situations not addressed in SUA, governments acting under IMO auspices at a Diplomatic Conference in 2005 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 onboard ships; and the placing of devices on board a ship which are likely to

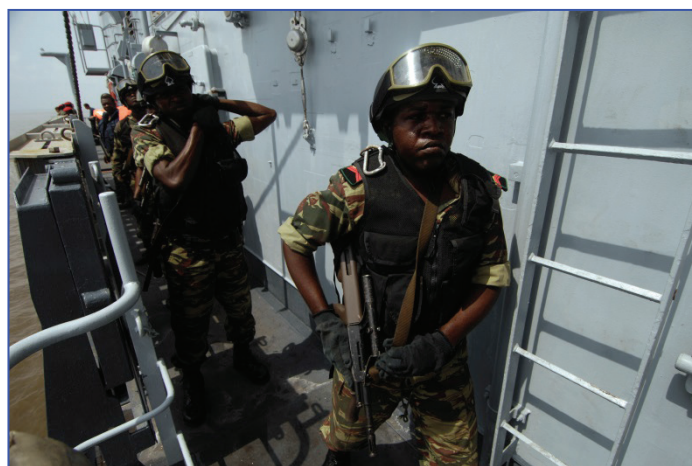
destroy or damage it. The 2005 Protocol to the SUA Convention adds a new provision providing that a person commits an offence within the meaning of the Convention if a person unlawfully and intentionally commits an act that attempts to intimidate a population or compel a Government or an international organization. Specifically, the 2005 Protocols includes activities such as, if a person unlawfully and intentionally:

- Uses any explosive, radioactive material or BCN (biological, chemical, nuclear) weapon on or against a ship.
- Discharges, from a ship, oil, liquefied natural gas, or other hazardous or noxious substance that would cause death or serious injury or damage.
- Uses a ship in a manner that causes death or serious injury or damage.
- Transports on board a ship 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.
- Transports on board a ship 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 International Atomic Energy Agency (IAEA) comprehensive safeguards agreement; and
- Transports on board a ship 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 Protocol 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 Protocol.

The authorization and co-operation of the flag State is required before such a 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. A state party can also notify that it authorizes a requesting party to board and search the ship, its cargo and persons on board, and to question the persons on board to establish if an offence has been, 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 onboard, or where the officials are obstructed from the execution of authorized actions.

The Protocol includes 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.



10. 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 Code (ISPS). 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 just 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.

11. Maritime Situational Awareness

Maritime situational awareness, sometimes called "maritime domain awareness" is the effective understanding of anything in the oceans that could affect the safety, security, economy or environment at sea. Maritime situational awareness is a key component of maritime defense in depth 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. The goal of developing maritime situational awareness is to create an environment where partners can embrace and achieve the common objective to conduct lawful activities in the oceans.

Obtaining and sharing information is a mechanism to increase transparency, safety, security and economic prosperity in the maritime domain. Toward that end, states should cooperate to develop the supporting architecture to do so, and two of the primary tools 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 maritime security situational awareness depends on the ability to monitor 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. This aids operational decision makers in anticipating threats and countering them. Furthermore, developing greater maritime 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 the 300 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.

12. Model Port Security Compendium

Executive Summary

Overview: The Model Port Security Compendium (MPSC) primer is a sampling and restatement of laws from around the world which independently address the implementation and enforcement of ship and port security measures.

Background: 46 U.S.C. §§70108, *et seq.* tasked the U.S. Coast Guard with assessing the effectiveness of anti-terrorism measures in the foreign ports of maritime trading partners and assisting those with inadequate security systems. Pursuant to a Commandant instruction, the Coast Guard's International Port Security (IPS) Program was established in 2005 to satisfy this statutory mandate.

In 2002, the UN's 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 Security (ISPS) Code, serves as the IPS Program's benchmark for port security assessment and assistance. However, while the international community has made great improvements to port security with the advent of the ISPS Code, it is only partially mandatory and does not define offenses, suggest penalties, empower law enforcement, enable prosecutions or allow for incident response. As the international port security concept is now over a decade old, port security discussion have evolved. Thus, it has become necessary to identify a more comprehensive tool for such analysis and developmental assistance.

The IPS Program first looked to the Model Maritime Service Code (MMSC), which is valuable in general maritime force development. However, by design, the MMSC does not delve into the specific elements of ship-to-port-interface security and is not detailed enough for the IPS Program's highly focused analytical applications. Rather, the IPS Program discovered that it already possessed the resources it needed to create such a tool. For years, the IPS Program has routinely been copied on pertinent foreign port security legislation. Review of these documents revealed that many nations have already begun to address regulatory insufficiencies created by the ISPS Code's limitations.

Assembling these international legislative innovations into a single compilation led to the creation of the Model Port Security Compendium (MPSC). In essence, the MPSC is a sampling and restatement of laws from around the world which independently address the implementation and enforcement of ship and port security measures. First and foremost an analytical tool for internal IPS Program

assessment activities, the MPSC has also proved valuable in communicating detailed port security regulatory concepts. Rather than a rigid cross-referenced Code, the MPSC is a collection of stand-alone port security measures designed to allow for selective use and application under any legislative system.

Discussion: In concept, the MPSC is organized to consider: (1) the controlling authority, (2) primary ship and port security objectives, and (3) the means by which the controlling authority may enforce those regulatory objectives. It is not intended to represent a definitive body of port security law, but provides a selection of international regulatory concepts designed to stimulate and assist in the discussion and development of port 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 to ensure that public and private stakeholders understand their respective roles with clear lines of responsibility, have an established legal basis to publish regulations, and ability to take enforcement action for non-compliance.

- Part I of the Model Port Security Compendium builds the foundation for the principal national ship and port security regulatory obligations and acknowledges the effect of international and bi-lateral agreements thereon. It is also important in the port security regime to clarify roles and responsibilities of those persons tasked with ship and port security responsibilities from the national level to the local security officer and associated contractors.
- Part II provides a general description of the State's Maritime Security Organization, including duties and authorities necessary to develop, implement and enforce ship and port security regulations. Specifically, this section addresses the role of the National Port Security Authority or Designated Authority and takes the wide diversity of governmental systems into account to allow for alternative organizations between port security officers, port facility security officers and port security committees. This section also addresses the respective duties and authorities of company and ship security officers, and governs the employment of private Recognized Security Organizations as regulators. Some of the port security entities defined herein have overlapping or redundant functions and authorities. These alternate roles are suggested so as to afford the legislative drafter a wider range of regulatory development options adaptable to the unique needs of their government and culture. Accordingly, no particular hierarchical option suggested therein is mandatory, but the various provisions should be selected as applicable to their specific circumstances. Insofar as certain elements of security are widely

applicable, the regulatory drafter may choose to consolidate those areas of generality.

- Part III addresses security requirements common to both ships and ports including the maintenance of proper documentation, the setting of security levels, the conduct of training, drills and exercises, the management of security personnel, prohibited conduct and general administration.
- Part IV considers physical security, access control, ship control, operations and incident response measures which may be applicable at the local level, where effective port security implementation and management requires the delineation of detailed physical and operational security measures for specific ports and port facilities. Though conceptually similar to facility security, ship security is distinct in its nature and applicability, requiring a divergent approach to the development of detailed shipboard security measures.
- Part V considers physical security, access control, ship control, operations and incident response measures which may be applicable aboard individual regulated vessels.
- Part VI describes 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, it becomes necessary to enable the meaningful enforcement of those guidelines. This Part details the powers of the National Port Security Authority in general and security guards, law enforcement officers, quick response teams and ship's masters in particular. Thereafter, authority to conduct administrative and criminal inquiries, prosecutions and adjudications is addressed. Finally, this Part briefly addresses the issue of administrative and criminal violations and refers to the subject nation's Criminal Code and Code of Criminal Procedure for further reference and development.

Development and future plans: The MPSC has been employed by the designated authorities of countries throughout Africa, Asia, the Caribbean and South America, and is currently under consideration for adoption by the IMO's Maritime Safety Committee. For those interested in a detailed briefing of the MPSC, please contact L. Stephen Cox, U.S. Coast Guard, International Port Security Program at larry.s.cox@uscg.mil or +1 (757) 398-6651.

13. Model Maritime Service Code

Executive Summary*

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

The Model Code provides a model for a national legal framework to address safety and security of maritime states, protect mariners and the marine environment, and allow maritime states to exercise their rights and meet their obligations under international law. 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 addressing: (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.

The Model Code is based on the U.S. Coast Guard's experience as a multi-mission service. It represents the collective efforts of the Coast Guard's military and civilian members with extensive backgrounds in both Coast Guard operations and maritime 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 world is marked by political and economic change and increasing economic interdependence. Environmental protection, international trade, and economic and technical development are issues of global significance. The Model Code can assist nations in developing a Maritime Force to help meet the changing needs of the twenty-first century.

Regulation of the oceans and coastal regions by maritime states grew more complex in the twentieth century. Over the past 30 years, the number of newly independent maritime states, as well as the number of international maritime conventions, has grown as well. Many of these new states are developing new systems of law and 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.

International law and the requirements and rights it imposes on individual states is constantly evolving. On November 16, 1994, the United Nations Convention on the Law of the Sea (LOS Convention) entered into force. The LOS Convention reflects customary international law in many of its provisions. To fully manage their maritime affairs and fulfill the obligations imposed by the Convention and other sources of international law, maritime states need a responsive legal and organizational infrastructure that the Model Code can help create.

The Model Code cannot be applied in blanket fashion to the situation of every maritime state, however the Model Code is a useful reference document to help nations review and restructure their Maritime Forces in light of a dynamic and changing world.

For further information, please contact:
Steve.G.Venckus@uscg.mil

** Portions of the Executive Summary are from an article written by LT Tamara Wallen, The Model Maritime Service Code, Proceedings, Summer 2009, available at: http://www.uscg.mil/proceedings/summer2009/articles/32_Wallen_The%20Model%20Maritime%20Service%20Code.pdf*

14. Maritime Security Sector Reform Guide

Executive Summary

Overview: The Maritime Security Sector Reform (MSSR) Guide is a diagnostic tool that can be used to produce a baseline analysis of a nation's maritime sector, including critical elements of governance, civil and criminal authority, defense, safety, response and recovery, and economy.

The Maritime Security Sector Reform (MSSR) Guide is an analytical tool designed: to map and assess the maritime sector; to assess existing maritime security sector capabilities and gaps; and/or to enable coordination and collaboration to improve maritime safety and security. It can be used to support a full-scale maritime sector assessment; to obtain a snapshot of one or more aspects of a country's maritime sector; or to facilitate discussion among national actors with maritime responsibilities. The Guide is designed to be used in conjunction with other tools, particularly when a more in-depth treatment of a function or capability may be warranted. The MSSR Guide may be used by a wide range of maritime stakeholders. It is based on standards and practices of from a variety of sources and does not embody the practice or standards of any particular country or group of countries.

Background: An expansion in the level of international trade over the last few decades has highlighted the importance of the maritime sector to the global economy. Estimates suggest that more than 90 percent of global trade is transported by sea. Maritime activity extends beyond the international transport of goods to national revenue generating activities that including fishing and aquaculture, recreation and tourism, as well as extraction of non-renewable marine-based resources, and can be a critical source of income and food for populations at the community level.

The maritime realm—defined for these purposes as encompassing oceans, seas, lakes, rivers, coastlines and harbors—is vulnerable to a wide array of threats, including illegal, unreported, and unregulated fishing; environmental degradation; smuggling; trafficking in persons; narcotics trafficking; piracy; proliferation of weapons of mass destruction; and aggressive actions, including terrorism. These maritime threats all have significant land-based dimensions, whether related to the origin of the threat, the locus of its effects, or the land-based capabilities required for preventive or enforcement interventions. As a result, land-based actors and capabilities are as important to maritime security as the specialized maritime capabilities usually associated with maritime activities and institutions. The characteristics of a nation's maritime sector can be seen as a microcosm of that nation. If the national

characteristics include a lack of political and/or public consensus over governance, insufficient political competition, capability deficits, or deficient public administration, the maritime sector will likely share these characteristics. By the same token, improvements to maritime governance, law enforcement, and safety may have a positive impact on citizens far beyond the maritime sector, through enhanced livelihoods and food security, improved access to goods and services, or freedom from fear.

Recent work on security sector reform (SSR) has identified the interdependent nature of the security sector and the critical need for coordination and cooperation among security-related and civil institutions. The Maritime Security Sector Reform (MSSR) Guide is designed to apply these concepts to the maritime domain by providing a systematic overview of maritime security that includes regulatory, operational, institutional, policy, and human resource components.

The full text of the MSSR Guide may be found at:
<http://www.state.gov/documents/organization/154082.pdf>.

See Appendix XII for details of the Maritime Security Sector Reform Guide.

15. Summary of Central and West 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 providence. 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 their military centers for regional maritime training.



Benin

Beninese maritime governance is achieved through the efforts of several agencies, including the Benin Navy, the Benin Army and Gendarmerie National. Regarding Regional Fisheries Management Organizations (RFMOs), Benin is a member of the Ministerial Conference on Fisheries Cooperation Among African States Bordering the Atlantic (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 Illegal, Unreported, and Unregulated (IUU) fishing. Benin is a party to the International Maritime Organization (IMO) Convention and amendments 91; International Convention for the Safety of Life at Sea (SOLAS) Convention 74 and Convention 78; International Convention for the Prevention of Pollution from Ships (MARPOL) I-VI; the United Nations Convention on Drugs

and Psychotropic Substances; United Nations Convention Against Transnational Organized Crime (UNTOC); 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 Regional Fisheries Management Organizations (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, the Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation (SUA); the United Nations Convention on Drugs and Psychotropic Substances; and the United Nations Convention Against Transnational Organized Crime (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 Regional Fisheries Management Organizations (RFMOs), Cameroon is a member of the Ministerial Conference on Fisheries Cooperation Among African States Bordering the Atlantic (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 the Convention for the Prevention of Pollution from Ships (MARPOL) Annex I-V; the United Nations Convention on Drugs and Psychotropic Substances; and the United Nations Convention Against Transnational Organized Crime (UNTOC).



Cape Verde

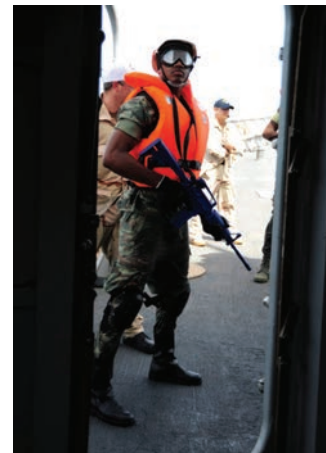


Cape Verdean maritime governance is achieved through the efforts of several agencies, including the Cape Verdean Coastguard, the Maritime Police, the Judicial Police, the General Fisheries Directorate, and the Maritime and Port Institute (IMP). The Counter-narcotics and Maritime Security Interagency 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. Cape Verde fishery

enforcement laws extend out to 200 nautical miles. Regarding Regional Fisheries Management Organizations (RFMOs), Cape Verde is a member of the Ministerial Conference on Fisheries Cooperation Among African States Bordering the Atlantic (COMHAFAT), Sub-regional Fisheries Commission (SRFC), and Fishery Committee for the Eastern Central Atlantic (CECAF). Cape Verde is a party to the United Nations Convention on Drugs and Psychotropic Substances and the United Nations Convention Against Transnational Organized Crime (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).

Congo

In the Republic of Congo, agencies 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 their military centers for regional maritime training.





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 Regional Fisheries Management Organizations (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 (CIFAA). Cote d'Ivoire is a party to the Convention for the Safety of Life at Sea (SOLAS) Convention 74 and Protocol 78; the Convention for the Prevention of Pollution from Ships (MARPOL) Annex I-V; the Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation (SUA) and its Protocol (2005); and the United Nations Convention on Drugs and Psychotropic Substances; United Nations Convention Against Transnational Organized Crime (UNTOC), and the Protocol to Prevent, Suppress and Punish the Trafficking of Persons, Especially Women and Children.

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, the Convention Against Transnational Organized Crime, 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 their 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 Regional Fisheries Management Organizations (RFMOs), the Gambia is a member of the Ministerial Conference on Fisheries Cooperation Among African States Bordering the Atlantic (COMHAFAT), Sub-regional Fisheries Commission (SRFC), and the Committee on Inland Fisheries and Aquaculture of Africa (CIFAA). The Gambia has adopted a National Plan of Action (NPOA) for combating Illegal, Unreported, and Unregulated Fishing (IUU). The Gambia is a party to the Convention for the Prevention of Pollution from Ships (MARPOL) Annex I-V; Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation (SUA); the United Nations Convention on Drugs and Psychotropic Substances; and the United Nations Convention Against Transnational Organized Crime (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 Regional Fisheries Management Organizations (RFMOs), Ghana is a member of the Ministerial Conference on Fisheries Cooperation Among African States Bordering the Atlantic (COMHAFAT), the Fishery Committee for the Eastern Central Atlantic (CECAF), and the Committee on Inland Fisheries and Aquaculture of Africa (CIFAA). Ghana is a party to the Convention for the Safety of Life at Sea (SOLAS) Convention 74 and Convention 78; Convention for the Prevention of Pollution from Ships (MARPOL); Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation (SUA); the United Nations Convention on Drugs and Psychotropic Substances; and the United Nations Convention Against Transnational Organized Crime (UNTOC).



Guinea-Bissau

Regarding Regional Fisheries Management Organizations (RFMOs), Guinea-Bissau is a member of the Ministerial Conference on Fisheries Cooperation among African States Bordering the Atlantic (COMHAFAT) and the Sub-regional Fisheries Commission (SRFC). Bissau-Guinean maritime governance is achieved through the efforts of several agencies, including the Bissau-Guinean Navy and Bissau-Guinean Army. Guinea-Bissau is a party to the Suppression of Unlawful Acts Against the Safety of Maritime Navigation (SUA); the United Nations Convention Against Transnational Organized Crime (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).



Liberia

Liberia's laws prohibit large fishing trawlers from operating within six nautical miles of its coast and require fishing licenses for all vessels. Regarding Regional Fisheries Management Organizations (RFMOs), Liberia is a member of the Ministerial Conference on Fisheries Cooperation Among African States Bordering the Atlantic (COMHAFAT) and the Fishery Committee for the Eastern Central Atlantic (CECAF). 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. With regards to major international conventions, Liberia is a party to the United Nations Convention on the Law of the Sea, Convention for the Safety of Life at Sea (SOLAS) 74, Protocols 78 and 88; the Convention for the Prevention of Pollution from Ships (MARPOL); Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation (SUA); the United Nations Convention on Drugs and Psychotropic Substances; United Nations Convention Against Transnational Organized Crime (UNTOC); 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 Regional Fisheries Management Organizations (RFMOs), Mali is a member of the Committee on Inland Fisheries and Aquaculture of Africa (CIFA). Mali is a party to the Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation (SUA); United Nations Convention

Against Transnational Organized Crime (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 Regional Fisheries Management Organizations (RFMOs), Mauritania is a member of the Ministerial Conference on Fisheries Cooperation Among African States Bordering the Atlantic (COMHAFAT), Sub-regional Fisheries Commission (SRFC), and the Fishery Committee for the Eastern Central Atlantic (CECAF). Mauritania is a party to the International Convention for the Safety of Life at Sea (SOLAS) Convention 74 and Protocol 78; Convention for the Prevention of Pollution from Ships (MARPOL) Annex I-V; Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation (SUA); the United Nations Convention on Drugs and Psychotropic Substances; and the United Nations Convention Against Transnational Organized Crime (UNTOC).

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 Regional Fisheries Management Organizations (RFMOs), Niger is a member of the Committee on Inland Fisheries and Aquaculture of Africa (CIFAA). Niger is a party to the Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation (SUA); United Nations Convention Against Transnational Organized Crime (UNTOC); the United Nations Convention on Drugs and Psychotropic Substances; and 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 Regional Fisheries Management Organizations (RFMOs), Nigeria is a member of the

Ministerial Conference on Fisheries Cooperation Among African States Bordering the Atlantic (COMHAFAT), the Fishery Committee for the Eastern Central Atlantic (CECAF), and the Committee on Inland Fisheries and Aquaculture of Africa (CIFAA). Nigeria is a party to the Convention for the Safety of Life at Sea (SOLAS) Convention 74 and Convention 78; Convention for the Prevention of Pollution from Ships (MARPOL) I-V; Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation (SUA); the United Nations Convention on Drugs and Psychotropic Substances; the United Nations Convention Against Transnational Organized Crime (UNTOC); 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 Regional Fisheries Management Organizations (RFMOs), Senegal is a member of the Ministerial Conference on Fisheries Cooperation Among African States Bordering the Atlantic (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). Senegal is a party to the Convention for the Safety of Life at Sea (SOLAS) Convention 74 and Protocol 78; Convention for the Prevention of Pollution from Ships (MARPOL) Annex I-V; Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation (SUA); the United Nations Convention on Drugs and Psychotropic Substances; the United Nations Convention Against Transnational Organized Crime (UNTOC); 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).



Sierra Leone

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 illegal, unregulated, and unreported fishing (IUU). Regarding Regional Fisheries Management Organizations (RFMOs), Sierra Leone is a member of the Ministerial Conference on Fisheries Cooperation Among African States Bordering the Atlantic (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).

Sierra Leonean maritime governance is achieved through the efforts of several agencies, including the Sierra Leone Navy, Republic of Sierra Leone Armed Forces Maritime Wing, Sierra Leone International Ship Registry, and the Ministry of Fisheries and Marine Resources. With regards to major international conventions, Sierra Leone is a party to the Convention for the Safety of Life at Sea (SOLAS); and the United Nations Convention on Drugs and Psychotropic Substances.



Sao Tome and Principe

The Coast Guard of Sao Tome and Principe (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 the United Nations (UN) Law of the Sea Convention, the Convention Against Transnational Organized Crime, 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.





Togo

Togolese maritime governance is achieved through the efforts of several agencies, including The Togolese Navy, Togolese Army and Gendarmerie Nationale. Regarding Regional Fisheries Management Organizations (RFMOs), Togo is a member of the Ministerial Conference on Fisheries Cooperation Among African States Bordering the Atlantic (COMHAFAT), 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 Convention for the Safety of Life at Sea (SOLAS) Convention 74 and Convention 78; Convention for the Prevention of Pollution from Ships (MARPOL) I-V; Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation (SUA); the United Nations Convention on Drugs and Psychotropic Substances; and the United Nations Convention Against Transnational Organized Crime (UNTOC).

16. International Maritime Security Collaboration and Partnership

U.S. PARTNER AGENCIES AND INSTITUTIONS

The United States administers a broad array of foreign assistance programs aimed at bolstering maritime security in West and Central Africa. Though the U.S. Department of State and the U.S. Department of Defense are the primary agencies for administering such assistance, other U.S. Government agencies such as the Department of Homeland Security and U.S. Agency for International Development also administer programs that support security in the region. These programs aim to support institutions to promote increased security and the rule of law in partner countries.

The U.S. Department of State

The Bureau of International Narcotics and Law Enforcement Affairs (INL) within the Department of State is one of several DOS Bureaus to support maritime security and criminal justice assistance in West and Central Africa. The overall mission of the INL Bureau is to minimize the impact of transnational crime and illegal drugs by providing effective foreign assistance and fostering greater bilateral, regional, and multilateral law enforcement and rule of law cooperation. INL partnered with the Bureau of African Affairs (AF) to develop the West Africa Cooperative Security Initiative (WACSI), an interagency strategy to fight transnational organized crime (TOC) and drug trafficking using a comprehensive approach centered on five pillars: 1) build accountable institutions, 2) establish legal and policy frameworks, 3) strengthen the security sector, 4) reinforce the justice sector, and 5) address the socio-economic causes and consequences. WACSI aims to enhance regional capacity by focusing on Member States of the Economic Community of West African States (ECOWAS).

In addition to the INL Bureau, several other Department of State bureaus and offices, including Bureau of African Affairs (AF); Political-Military Affairs Bureau (PM), Conflict and Stabilization Operations (CSO); International Information Programs (IIP); Counterterrorism (CT); and the Office to Monitor and Combat Trafficking in Persons (J/TIP), fund and manage maritime security and rule of law programs, coordinate visitor exchanges, and identify rule of law experts for specific projects. These entities may fund assistance implemented by other U.S. Government agencies (e.g., the Department of Justice) and international organizations (e.g., the United Nations), and/or issue contracts to private contractors and grants to nonprofit entities and universities. In addition, the Bureaus of Economic and Business Affairs (EB), Oceans and International Environmental and Scientific Affairs (OES), and Population Refugees and Migration (PRM) work with

the other U.S. government agencies and the international community both in bilaterally and multilaterally to develop policies that promote greater cooperation on maritime security issues.

The U.S. Department of Defense

The Africa Center of Strategic Studies (ACSS) is the pre-eminent Department of Defense institution for strategic security studies, research, and outreach in Africa. The Africa Center engages African partner states and institutions through rigorous academic and outreach programs that build strategic capacity and foster long-term, collaborative relationships. ACSS implements a variety of programs and activities related to maritime safety and security that engage experts, train practitioners, promote cooperation, and support inter-agency and international efforts.

The United States Africa Command (USAFRICOM) provides a variety of security cooperation programs to African partners in the area of maritime security. USAFRICOM seeks to build maritime safety and security (MSS) capacity in the Gulf of Guinea working collaboratively with ECOWAS and ECCAS. AFRICOM's three programs in this area include the Africa Partnership Station (APS), OBANGAME EXPRESS, and Africa Maritime Law Enforcement Partnership (AMLEP). In addition, USAFRICOM has co-sponsored maritime security activities with the Department of State and others.

The U.S. Department of Homeland Security

U.S. Coast Guard

The U.S. Coast Guard (USCG) has built partnerships with its counterparts, advancing safety and security for the United States, as well as its neighbors and allies. The core competencies of the USCG make it an organizational match for many navies, coast and border guards, and other maritime agencies around the world. Similar to USCG, maritime agencies in other nations seek to address issues that include maritime law enforcement, port security, fisheries, and exclusive economic zone enforcement, search and rescue, and pollution response. USCG brings these competencies to the capacity building efforts it undertakes in support of the strategic objectives of the United States.

Other U.S. Government Entities

The U.S. interagency community offers a particularly valuable collection of technical expertise that often intersects with and complements the DOS and DOD's efforts. Within this community, INL often collaborates with the Department of Justice (DOJ), as well as USAID.

USAID is an independent agency that receives policy guidance from the U.S. Secretary of State. It is the government's primary development organization and

works in a number of areas, including poverty reduction, promoting good governance, providing humanitarian assistance, improving health care and educational systems, and rule of law. USAID funds private contractors, nonprofit organizations, international organizations, and other government agencies to carry out projects based on goals identified by USAID development experts.

Similarly, the U.S. Department of Justice, due to its extensive experience and expertise, contributes to justice sector assistance efforts through its resident legal advisors and other personnel. DOJ has two offices that focus on international justice sector reform: the Office of Overseas Prosecutorial Development, Assistance and Training (OPDAT) and the International Criminal Investigative Training Assistance Program (ICITAP). These offices are funded through interagency agreements with the Department of State, USAID, DOD, or the Millennium Challenge Corporation. In addition, other component agencies of DOJ, including the Drug Enforcement Administration (DEA) and the Federal Bureau of Investigation (FBI) may provide training and expertise.

INTERNATIONAL ORGANIZATIONS, DONORS, AND IMPLEMENTERS

Central and West African criminal justice practitioners should consider forging or broadening relationships with representatives of the international community who also may be engaged in maritime security assistance efforts in their country or in the region. The United Nations departments and agencies, such as the International Maritime Organization (IMO), the UN's Department of Peacekeeping Operations (DPKO) provide training and assistance to law enforcement

in the maritime security sector. The United Nations Office on Drugs and Crime (UNODC), along with the World Bank and other international and regional organizations, has mandates that include justice and security sector reform. UNODC's Maritime Crime Program (MCP) is continuing assisting countries in Eastern Africa in maritime security issues, and has started providing assistance and support to capacity building to maritime law enforcement and maritime legal reform in Central and West Africa.

The International Criminal Police Organization (INTERPOL) is the world's largest police organization with 190 member countries. INTERPOL's Maritime Piracy Task Force focuses on three main areas to counter maritime piracy: improving evidence collection, facilitating data exchange, and building regional capabilities.

In West and Central Africa, regional organizations such as the African Union (AU), the Economic Community of West African States (ECOWAS), and the Economic Community of Central African States (ECCAS) have an increasing role to play in coordinating policy and assistance on maritime security.

Individual donor nations and regional organizations, such as France, the United Kingdom, Norway, the European Union (EU), and others, may provide maritime security and rule of law support to a country through their international development department or other government entities.

17. Maritime Security Country Self-Assessment

National Strategy for Maritime Security
<ul style="list-style-type: none"> Does the state have a national strategy for maritime security that articulates all of the nation's interests in safety, security and natural resource conservation and environmental protection in the oceans?
<ul style="list-style-type: none"> Does the national strategy include a plan to conduct domestic outreach to involve key local, tribal and commercial stakeholders in maritime security and the rule of law at sea?
<ul style="list-style-type: none"> Does the national strategy set forth priorities and a plan to enhance the safety and security of commercial shipping?
<ul style="list-style-type: none"> Does the national strategy articulate standards for maintaining the security and safety of the maritime transportation system, including ports, harbors and waterways?
<ul style="list-style-type: none"> Does the national strategy set forth a consequence management plan for recovery of critical maritime security infrastructure?
<ul style="list-style-type: none"> Does the national strategy set forth the requirements for international outreach and engagement with other states, international organizations and commercial fishing and shipping industries?
<ul style="list-style-type: none"> Does the national strategy address collection and dissemination of maritime intelligence information?
<ul style="list-style-type: none"> Does the national strategy include a plan to develop maritime situational awareness in the waters under the jurisdiction of the coastal state?
<ul style="list-style-type: none"> Does the national strategy include a plan for all elements of the government to coordinate a response to operational, time sensitive real-time maritime security issues, such as hostage taking at sea?

The United Nations Convention on the Law of the Sea
<ul style="list-style-type: none"> • Is the state a party to the United Nations Convention on the Law of the Sea?
<ul style="list-style-type: none"> • Are the state's maritime claims for territorial sea, contiguous zone, exclusive economic zone and extended continental shelf consistent with the Law of the Sea Convention?
<ul style="list-style-type: none"> • Does the state exercise its sovereignty sovereign rights and jurisdiction, as appropriate, in the coastal state zones in accordance with the Law of the Sea Convention?
<ul style="list-style-type: none"> • Does the state have laws protecting the marine environment?
<ul style="list-style-type: none"> • Is the regulation for security and environmental protection consistent with the Law of the Sea Convention?
<ul style="list-style-type: none"> • Do neighboring states and other states accept the maritime claims of the coastal state with regard to maritime boundaries and assertion of sovereignty, sovereign rights and jurisdiction?
<ul style="list-style-type: none"> • Which of the maritime dispute resolution options contained in the Law of the Sea Convention has the state accepted?

International Maritime Organization and related agreements
<ul style="list-style-type: none"> • Is the state a member of the IMO?
<ul style="list-style-type: none"> • Within the government, are all departments and ministries, including those with a maritime security mission, participating in, or coordinating with, that state's delegation to the IMO?
<ul style="list-style-type: none"> • Is the state a party to the Safety of Life at Sea Convention and its amendments?
<ul style="list-style-type: none"> • Is the state a party to the 1988 Convention on the Suppression of Unlawful Acts against the Safety of Maritime Navigation (SUA Convention)? If not, has the state signed the convention? • If a party, is the state complying with all of its obligations under the Convention?
<ul style="list-style-type: none"> • Is the state a party to MARPOL 73/78 and its six Annexes?
<ul style="list-style-type: none"> • Is the state a party to the COLREG Convention 1972?
<ul style="list-style-type: none"> • Is the state a party to the London Convention 1972?
<ul style="list-style-type: none"> • Is the state a party to the 1996 Protocol to the London Convention?

United Nations

- If a Security Council state: Are there opportunities for the Security Council to better promote the maintenance of international peace and security in maritime matters?
- Is the state executing its responsibilities for applicable UN Security Council resolutions?
- Is the state discharging its legal obligations under UN Security Council Resolution 1373, decided under Chapter VII, regarding controls to disrupt terrorist financing, active or passive support to groups involved in terrorist acts and deny safe havens to those who plan, finance, facilitate or commit terrorist acts?
- Does the state cooperate with other states and the IMO and other international organizations to share information about acts of piracy and armed robbery against ships in waters off the coast of Somalia, render assistance to vessels threatened by or under attack from pirates in those waters, to provide technical assistance to Somalia and nearby coastal states to address the problem, and, upon the request of regional states, to enhance the capacity of these states?
- If the state is a flag, port or coastal state of nationality of the victims and perpetrators of piracy, or another state with relevant jurisdiction, is it cooperating in the investigation and prosecution of piracy off the coast of Somalia?

Piracy and Armed Robbery at Sea
<ul style="list-style-type: none"> Does the state's law include a piracy offence defined by or drawn from article 101 of UNCLOS?¹⁰
<ul style="list-style-type: none"> If the state's law includes a piracy offence, is it applicable seaward of the country's territorial sea to all ships: If the state's law includes a piracy offence, is it applicable to: <ul style="list-style-type: none"> Citizens of the country Permanent resident aliens Anyone
<ul style="list-style-type: none"> Does the state's law include the following offences if they occur to or aboard vessels seaward of the country's territorial sea: Theft <ul style="list-style-type: none"> Murder Robbery Assault Destruction of property hostage taking
<ul style="list-style-type: none"> Does the state's law include any or all of the offences above if they are committed in the country's territorial sea or internal waters?
<ul style="list-style-type: none"> What penalties are available under the national law for acts of piracy and related offences?
<ul style="list-style-type: none"> Which of the state's courts are competent to hear a piracy prosecution?
<ul style="list-style-type: none"> Does national law permit the movement of undocumented aliens (e.g., pirates interdicted at sea) through the territory en route to another country for prosecution?

¹⁰ Article 101: 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 air-craft;

(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).)

Illegal, Unreported and Unregulated (IUU) Fishing
<ul style="list-style-type: none"> • Does the state have the capacity to conduct IUU maritime security patrols throughout the EEZ?
<ul style="list-style-type: none"> • Has the state consented to be bound by the Torremolinos Protocol?
<ul style="list-style-type: none"> • Does the state have the ability to monitor contact between ISPS vessels and non-ISPS vessels through mechanisms such as a Declaration of Security as part of a port entry requirement?
<ul style="list-style-type: none"> • Does the state participate in any Regional Fisheries Management Organizations (RFMOs)?

Proliferation Security
<ul style="list-style-type: none"> • Is the state executing its responsibilities for applicable UN Security Council resolutions?
<ul style="list-style-type: none"> • Is the state discharging its legal obligations under UNSCR 1540, decided under Chapter VII, to adopt and enforce, in accordance with their national procedures, “appropriate effective laws” prohibiting any non-state actor from manufacturing, acquiring, possessing, developing, transporting, transferring, or using WMD? Is the state discharging its legal obligations under UNSCR 1540 to take and enforce effective measures to establish domestic controls to prevent proliferation of WMDs, including by developing and maintaining appropriate measures for physical protection and accounting for WMD, their means of delivery and related materials, and by developing and maintaining border controls and law enforcement efforts to stop illicit trafficking, as well as by developing and maintaining export and transshipment controls put in place appropriate effective laws criminalizing non-state proliferation of weapons of mass destruction, security measures for weapons of mass destruction and their means of delivery, physical protection of weapons of mass destruction and border controls to block illicit trafficking?
<ul style="list-style-type: none"> • Is the state a party to the 2005 Protocol to the Suppression of Unlawful Acts against the Safety of Maritime Navigation? <ul style="list-style-type: none"> ○ If a party, is the state complying with of its obligations under the Protocol?
<ul style="list-style-type: none"> • Has the state considered the “Statement of Interdiction Principles” and determined whether it could join more than 90 other states in the Proliferation Security Initiative (PSI)?

Local, Bilateral and Regional Approaches
<ul style="list-style-type: none"> Does the state have developed technical capabilities for maritime situational awareness using Automatic Identification System (AIS) and other systems? Is there a system for sharing maritime situational awareness information with neighboring states?
<ul style="list-style-type: none"> Does the state have a single point of contact for resolving time-sensitive maritime security issues with neighboring states?
<ul style="list-style-type: none"> Is there an established mechanism to share information about maritime security with neighboring states?
<ul style="list-style-type: none"> Are there outstanding maritime boundary disputes with neighboring states? Is there a process underway to peacefully resolve or adjudicate those competing claims?
<ul style="list-style-type: none"> Are there bilateral and regional agreements or arrangements in place to coordinate maritime security operations to safeguard against maritime smuggling and trafficking and criminal organizations exploiting the maritime domain? These agreements or arrangements may include ones addressing human trafficking and migrant smuggling, illicit drug trafficking, fuel smuggling, fishery poaching and national and international organized crime.

Interagency Approaches
<ul style="list-style-type: none"> Do all of the relevant agencies and ministries within the government regularly meet to discuss maritime security issues (e.g. port authority, navy and coast guard forces, national police, shipping registry, foreign affairs and other agencies)?
<ul style="list-style-type: none"> Has each agency or ministry conducted a survey of the resources and capacity required to develop appropriate programs and measures for maritime security? If capacity is lacking, is there a plan in place to partner with other nations, international organizations, the shipping industry and counterpart foreign naval, coast guard and security forces to develop that capacity?

18. Law Enforcement Authorities Matrix Questionnaire

Please send questions or replies to: Brian Wilson, U.S. Coast Guard,
email: brian.s.wilson2@uscg.mil

- Does your country have laws and/or regulations specifically related to the maritime trafficking of narcotic drugs, psychotropic substances, or precursor chemicals? If yes, please provide the title and date enacted.

- Does your country have laws and/or regulations specifically related to illicit fishing activity in the Exclusive Economic Zone? If yes, please provide the title and date enacted.

- Does your country have laws and/or regulations related to the obligation of a suspect vessel to stop or heave to when ordered to do so by law enforcement authorities at sea? Are penalties for failure to heave to sufficient to compel compliance?

- What actions are law enforcement officers authorized to take in order to compel compliance by suspect vessels ignoring lawful orders to stop or heave to? (For example, use of force up to and including warning shots and disabling fire.)

- Do law enforcement officers acting responsibly within the bounds of their authority and agency policy have indemnity or protection from civil or criminal liability for damages or injuries they may cause in stopping a suspect vessel?

- Which agencies have the responsibility, authority and jurisdiction to investigate and make arrests for suspicion of narco-trafficking in the ports? In territorial waters? In the contiguous zone? On the high seas?

- Which agencies have the responsibility, authority and jurisdiction to investigate and make arrests for suspicion of illicit fishing activity in the Exclusive Economic Zone?

- If a federal government agency without adequate authority or jurisdiction to investigate and make arrests at sea observes suspect activity, what actions are they authorized to take?

- Are different levels of suspicion required to perform certain types of law enforcement activities by your officers on a suspect vessel (i.e. boarding, searching, destructive searches, arrests, etc.)?

- Do your laws allow you to prosecute suspects interdicted at sea who are not your nationals? If not, what do you do with non-nationals?

- Do your laws give you authority and jurisdiction over stateless suspect vessels interdicted within your territorial sea? Within your contiguous zone and EEZ? On the high seas?

- What is the minimum quantity of narcotic drugs, psychotropic substances, or precursor chemicals necessary to **be considered for prosecution** for smuggling?

- What is the minimum quantity of narcotic drugs, psychotropic substances, or precursor chemicals necessary **to have as evidence for prosecution** for smuggling; i.e., what size representative sample is adequate for prosecution?

- If no physical evidence such as narcotic drugs, psychotropic substances, or precursor chemicals are recovered from a suspect vessel due to jettisoning, vessel sinking, etc., could the suspects still be prosecuted based on photo/video/ionscan results or other evidence that the suspects possessed narcotic drugs or psychotropic substances.?

- Is there a law that prohibits stateless self-propelled semi-submersible or fully submersible vessels (drug subs) that operate with an intent to evade detection?

- Is there a minimum quantity of illicitly caught fish necessary to be considered for enforcement action?

- Is it necessary to have the suspect vessel available for the prosecution and the defense as evidence?

- How long may law enforcement officials detain a suspect until they must present the suspect before a competent legal authority? When does this time period start? Are there different amounts of time depending on where a suspect is apprehended; e.g., is more time allowed if suspects are apprehended far offshore?

- Do suspects have a right to legal counsel? If so, when must counsel be provided?

- Can suspects be questioned without counsel present? If so, under what circumstances?

- Does your country have laws and/or regulations specifically related to the maritime transportation of bulk currency? Is there a maximum amount of bulk currency that your country allows to be transported without declaration? If yes, please provide the title and date enacted, and the maximum amount that can be transported without a declaration.

- Does your country have laws and/or regulations specifically related to the prohibition of carrying excessive amounts of fuel oil (in order to resupply go-fast vessels)? If yes, please provide the title and date enacted.

- When the U.S. requests that your country waive its primary right to exercise criminal jurisdiction over a vessel, cargo, and crew, what ministries or offices must concur before the United States can exercise jurisdiction? Is there a process for this decision?

- Does your country have laws and/or regulations specifically related to piracy and/or armed robbery at sea? If yes, please provide the title and date enacted. Do they apply to those who are not your nationals or are on vessels not flagged in your country? Is there a geographic limitation?

- When more than one agency could be involved in the response (e.g., operational assets, investigative, diplomatic or judicial) is there a national-level coordination process that aligns action? If so, what is the name of that process, who approved it, and what agencies could be involved?

APPENDIX I: 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

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

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

MOWCA – Maritime Organization of West and Central Africa

MMSC – Model Maritime Service Code

MSSR – Maritime Security Sector Reform

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



**Bureau of International Narcotics and Law
Enforcement Affairs
And
Africa Center for Strategic Studies**



**MARITIME CRIMINAL JUSTICE WORKSHOP
ZONE G**

February 27-March 1, 2013

EXECUTIVE SUMMARY

The Africa Center for Strategic Studies (ACSS) and the Department of State Bureau of International Narcotics and Law Enforcement Affairs organized a three-day workshop from February 27 to March 1 on Transatlantic Maritime Criminal Justice for the Economic Community of West African States (ECOWAS) Zone G¹¹, in Praia, Cape Verde. This workshop was supported by the United States (U.S.) Department of Justice and the U.S. Coast Guard. This program is part of a series focusing on enhancing African maritime justice capacity in the three ECOWAS maritime zones. The program directly supports U.S. Government priorities on addressing transnational security challenges and specific Department of Defense priorities for ACSS to reinforce U.S. interagency and African partner efforts to prevent and respond to maritime-based threats. Thirty seven participants responsible for maritime criminal justice portfolios in six West African countries (Cape Verde, Ghana, Mauritania¹², Senegal, Sierra Leone, and the Gambia), Portugal, the United Kingdom, and the United States attended.

Program Background:

Most existing programs focus on maritime domain awareness and information sharing, and maritime patrolling and security actions, often neglecting maritime criminal justice. This workshop was developed to fill this gap. Key workshop themes included: current and emerging maritime threats; filling institutional and regulatory gaps in maritime criminal justice capacity; evaluating tools available to maritime criminal justice professionals; and devising a series of recommendations for actions that would build sub-regional maritime criminal justice capacity.

Key Priorities for Improving Maritime Safety and Security Capacity in West Africa:

Law enforcement and criminal justice officials must adopt a pro-active and holistic approach to maritime threats. Participants agreed that the sub-region faces many maritime threats. They argued for a more comprehensive understanding of the new challenges facing the sub-region (especially drug trafficking and illegal, unregulated, and unreported fishing).

Countries must improve cooperation and information sharing processes in the sub-region.

¹¹ The draft ECOWAS Integrated Maritime Strategy defines three maritime zones: Zone E (Nigeria, Benin, Togo, and Niger); Zone F (Ghana, Côte d'Ivoire, Sierra Leone, Liberia, and Burkina Faso); and Zone G (Senegal, Cape Verde, the Gambia, Guinea Bissau, Mali, and Guinea).

¹² Mauritania, a coastal state which borders Senegal to the North withdrew from ECOWAS in 2000.

To be successful, responses to maritime safety and security threats must be regional/collective. More specifically, participants called for their respective law enforcement agencies to strengthen cooperation mechanisms in order to better pool their resources and share critical information through improved communication channels.

Regional states must allocate resources to increase operational capacity (i.e. surveillance, information gathering, and intervention). Participants described a lack of operational capacity, especially surveillance and intervention capabilities. Revenue-raising strategies proposed by participants include: levying a tax on fishing and allocating proceeds from fines and disposal of seized assets to the acquisition of means for surveillance and intervention.

Authorities must implement and enforce existing regulations, and promote a process of legal and judicial harmonization across the sub-region. Participants agreed domestic/regional implementation and enforcement of existing regulatory instruments must be emphasized. They stressed the need for standardization and harmonization of legal and judicial instruments amongst West African states, in order to prevent criminals from exploiting gaps or differences in legislation and judicial procedures.

Law enforcement and criminal justice officials must strive to increase general awareness of maritime threats, and to improve training programs for maritime criminal justice professionals. Participants agreed that awareness, education, and outreach programs would be beneficial to ensure competent, informed, and accountable decision-making and accountability processes on maritime safety and security issues. The establishment of a network of maritime/legal experts would be instrumental in this regard.

The issue of widespread corruption in the maritime criminal justice system must be urgently tackled. Participants called for more targeted training programs focusing on: what corruption is, what it looks like in the maritime environment, and how to report it. They insisted that more needs to be done to encourage the population to report crime in general and maritime crime in particular. Participants also made the case for increasing the remuneration of law enforcement and maritime criminal justice officials and improving their selection criteria. Finally, they would like to see the more systematic creation of anti-corruption units within the judicial police department in their countries.

Decision makers must urgently develop national action plans before formalizing a joint operational strategy. Participants highlighted the urgent need for each country in the sub-region to articulate its own national action plan to manage maritime safety and security before the region can articulate and implement a coherent regional operational strategy. Overall, participants agreed that the sub-region must take ownership of its responsibility in controlling its maritime domain, implement an integrated maritime strategy, and comply with international commitments, standards, and obligations.

Conclusion: The Way Forward

ACSS' maritime criminal justice program supports the threefold goal of: protecting the region from transnational criminal and terrorist activity; ensuring the safe and secure passage of legitimate vessels; and protecting the security of energy and other assets. Next steps:

- 1- Participants' contributions and specific recommendations will be compiled and used to inform the development of targeted strategies that will build capacity among law enforcement professionals;
- 2- Results of this workshop will help develop a template that would harmonize approaches to maritime security in the sub-region; and,
- 3- ECOWAS will be better positioned to establish conditions to address trans-national threats in West Africa's maritime domain.



**Bureau of International Narcotics and Law
Enforcement Affairs
And
Africa Center for Strategic Studies**



**MARITIME CRIMINAL JUSTICE WORKSHOP
ECOWAS ZONE F
June 4-6, 2013
Accra, Ghana**

EXECUTIVE SUMMARY

The Africa Center for Strategic Studies (ACSS) and the Department of State Bureau of International Narcotics and Law Enforcement Affairs (INL) conducted a three-day workshop on Maritime Criminal Justice for the Economic Community of West African States (ECOWAS) Zone F¹³. Thirty-three expert representatives from six West African countries¹⁴ attended.

Program Background and Key Objectives

Frequent and complex threats to maritime safety and security in the Gulf of Guinea have serious consequences for the economic development and political stability of coastal states in West Africa, which have weak capacity to enact, administer, and enforce laws. This emphasizes the need for capacity building in maritime criminal justice in the region. In response, ACSS and INL have launched a series of workshops—this being the second of three—focusing on enhancing African maritime criminal justice capacity in the three ECOWAS maritime security zones.

This workshop series emphasized strengthening legislation and the rule of law. It also highlighted the importance of building the capacity of regional states to ensure that all relevant legislation is enacted, that adequate enforcement mechanisms are in place, and that frameworks comply with international and regional legal instruments. Thus, to inform their maritime criminal justice capacity building efforts in the sub-region, participants received a copy of the *Maritime Security and Criminal Justice Primer* for West African states devised and compiled by ACSS and the United States Coast Guard. This *Primer* catalogues relevant source documents (i.e., international instruments, legislations, regulations, and recommended regional and international best practices) and is the only available guidance in the area of maritime criminal justice.

Key workshop themes included: filling institutional and regulatory gaps in maritime criminal justice; evaluating tools available to maritime criminal justice professionals; and devising appropriate recommendations that would boost sub-regional maritime criminal justice capacity.

Key Priorities for Improving Maritime Criminal Justice Capacity in ECOWAS Zone F:

¹³ The draft ECOWAS Integrated Maritime Strategy defines three maritime zones: Zone E (Nigeria, Benin, Togo, and Niger); Zone F (Ghana, Côte d'Ivoire, Sierra Leone, Liberia, and Burkina Faso); and Zone G (Senegal, Cape Verde, the Gambia, Guinea Bissau, Mali, and Guinea).

¹⁴ Burkina Faso, Côte d'Ivoire, Ghana, Liberia, Sierra Leone, and neighboring Togo.

Decision makers must urgently develop national maritime security strategies. For the maritime domain to play its role in the security and development of the sub-region, a strategic approach is required. Each country must develop a national maritime strategy that is consistent with the draft ECOWAS Integrated Maritime Strategy (EIMS) and be in compliance with regional and international treaties and obligations. National strategies should serve as building blocks when ECOWAS develops a strategic plan to implement the EIMS.

Regional states must allocate adequate resources to increase the capacity of the maritime security sector. West African coastal states lack capacity in the maritime security sector which has ripple effects for maritime criminal justice. National maritime security strategies must clarify roles and responsibility of national government agencies to avoid overlaps, and maximize resource allocations.

Maritime legal authorities (i.e., coast guard, navy, air force, marine police, maritime administrations, immigration and narcotics control authorities, attorney general office, judiciary, fisheries, etc.) must adopt a comprehensive approach to maritime threats. There is a strong consensus that West African countries are facing the most significant critical security threats from the maritime domain. A comprehensive approach to these complex challenges emphasizing inter-agency processes is necessary. Specifically, enhanced law enforcement capacity (e.g., prosecutorial capacity building) must be supplemented by preventive action (e.g., through education and training) against maritime crimes.

Countries must improve cooperation and information sharing processes in the sub-region.

To be successful, responses to maritime safety and security threats must be regional. Law enforcement agencies must design and/or strengthen cooperation mechanisms in place between countries in the sub-region. ECOWAS should take a leading role in setting up enhanced communication channels among the member states in order to better pool their resources and share critical information.

Authorities must implement and enforce existing regulations, and promote a process of legal and judicial harmonization across the sub-region. Domestic implementation and enforcement, as well as the standardization and harmonization of existing regulatory instruments must be emphasized. In addition, a systematic assessment of existing national legal frameworks should be undertaken to identify the need for integrating existing regional and international regulations in domestic legal frameworks.

Conclusion: The Way Forward

This program supports the U.S. Government priorities of addressing transnational security challenges and specific Department of Defense priorities to support African partner efforts to prevent and respond to maritime-based threats. In the long run, these workshops will help strengthen maritime criminal justice institutions in West Africa. Next steps include:

- 1- ACSS invited participants to contribute to enhancing the *Primer* and tasked them with developing summaries identifying their respective maritime security legal frameworks to be added to the final version of the *Primer*;
- 2- The third and final workshop will address maritime criminal justice capacity in ECOWAS Zone E (Benin, Niger, Nigeria, and Togo) later this year; and,
- 3- This workshop series will frame ACSS outreach programming in West Africa for fiscal year 2014.



**Bureau of International Narcotics and Law
Enforcement Affairs
And**



Africa Center for Strategic Studies

**TRANS-ATLANTIC MARITIME CRIMINAL JUSTICE IN WEST AFRICA
ECOWAS ZONE E
February 4-6, 2014
Cotonou, Benin**

EXECUTIVE SUMMARY

The Africa Center for Strategic Studies (ACSS) and the United States (U.S.) Department of State Bureau of International Narcotics and Law Enforcement Affairs (INL) conducted a three-day strategic-level workshop on *Transatlantic Maritime Criminal Justice* for the Economic Community of West African States (ECOWAS) Zone E¹⁵ in Cotonou, Benin. This workshop was supported by the U.S. Department of Justice, the U.S. Coast Guard, the U.S. Africa Command, and the United Nations Office on Drugs and Crime. Thirty-eight experts representing six West Africa countries¹⁶, and the United States attended. Notable speakers included: S.E.M. Nasirou Bako-Arfari, Minister of Foreign Affairs, Benin; Ambassador Eusebe Abangla, Secretary General, Ministry of Foreign Affairs, Benin; Ambassador Michael Raynor, Ambassador of the United States to Benin; and Mr. Todd Whately, Deputy Chief of Mission, U.S. Embassy, Benin. Mr. Todd Robinson, Deputy Assistant Secretary, INL, delivered the keynote address.

Program background and key objectives

Frequent, evolving, and complex threats to maritime safety and security in the Gulf of Guinea have severe consequences for regional economic development and political stability. Since these countries have weak capacity to enact, administer, and enforce laws, experts agree that maritime criminal justice is the weakest link in ensuring maritime safety and security in the region. Responding to this urgent need for capacity building in maritime criminal justice in the region, ACSS and INL launched a series of workshops focusing on enhancing African maritime criminal justice capacity in the three ECOWAS maritime security zones. The first two workshops, for Zones G and F, took place in February and June 2013 respectively. This workshop concluded the series and focused on ECOWAS' Zone E.

The workshops aimed at critically assessing maritime crime in the Gulf of Guinea and identifying gaps in the existing legal infrastructure in the region. They also highlighted the importance of building the capacity of coastal and landlocked states to ensure that all relevant legislation is enacted, that adequate enforcement mechanisms are in place, and that national legal frameworks comply with international and regional instruments. Ultimately, this series emphasized strengthening the rule of law to improve coastal states' capacity to efficiently protect their own maritime domains. To inform participants' discussions, the U.S. Coast Guard and ACSS compiled and distributed a *Maritime Security and Criminal Justice Primer for West African States*. This *Primer* catalogs relevant source documents (i.e., international instruments, legislations, regulations, recommended regional and international best practices as well as program summaries from previous workshops) and is the only available guidance on maritime criminal justice in the Gulf of Guinea.

¹⁵ The draft ECOWAS Integrated Maritime Strategy defines three maritime zones: Zone E (Nigeria, Benin, Togo, and Niger); Zone F (Ghana, Cote d'Ivoire, Sierra Leone, Liberia, and Burkina Faso); and Zone G (Senegal, Cape Verde, the Gambia, Guinea Bissau, Mali, and Guinea).

¹⁶ Benin, Cote d'Ivoire, Ghana, Niger, Nigeria, and Togo

Key workshop themes included: current and emerging maritime threats; existing legal authorities, national capacity, and frameworks for consequence delivery in the maritime environment; building prosecutorial capacity in the maritime criminal justice sector; assessing the legality and practicality of seizure and disposition mechanisms; evaluating training tools available to maritime criminal justice professionals; and devising appropriate recommendations that would boost sub-regional maritime criminal justice capacity. In a special plenary, U.S. Africa Command presented the Zone E operational agreement between combined maritime forces (signed at the ministerial level in July 2013) and an innovative tool aimed at explaining the agreement to maritime criminal justice professional. Participants were also given the opportunity to visit the Port of Cotonou and tour patrol boats used by the Benin navy in countering maritime crime.

Key priorities for improving maritime criminal justice capacity in ECOWAS Zone E

Echoing recommendations made by their counterparts in ECOWAS Zones F and G, participants identified the following:

Maritime legal authorities (e.g., coast guards, navy, air force, marine police, maritime administrations, immigration and narcotics control authorities, attorney general office, judiciary, fisheries) must critically assess new and evolving maritime threats and identify gaps in state responses. Participants argued that the sub-region is facing many maritime threats. They called for a more comprehensive assessment of the new challenges facing the sub-region (e.g., piracy and armed robbery at sea; transnational organized crime; terrorist attacks on shipping installations on and off-shore; smuggling of persons, narcotics, drugs, and weapons; illegal unreported and unregulated (IUU) fishing; and environmental threats such as illegal dumping and pollution). Participants highlighted major challenges faced by maritime legal authorities in their fight against maritime crime, to include: inadequate radar coverage of the West African Maritime domain, lack of bilateral and multilateral diplomatic instruments; weak legal regimes; inadequate platform for effective patrols and reconnaissance; insufficient monitoring and response equipment; inadequate trained manpower; and a general lack of expertise in maritime issues.

Decision makers must urgently develop national maritime security strategies and national legal frameworks. For the maritime domain to play its role in the security and development of the sub-region, a strategic approach is required. Each country must develop a national maritime strategy in compliance with regional and international treaties and obligations. It is important that these strategies are accompanied by action plans or operational agreements and not be limited to piracy or armed robbery at sea but includes the entire spectrum of maritime threats. The emphasis should also be on developing national legal framework applicable to maritime crime (e.g., allowing prosecution of armed robbery at sea, piracy, and other maritime crimes). These legal strategies must be on par with the level of sophistication recently exemplified by maritime criminals in the sub-region.

Stakeholders must improve inter-agency cooperation and coordination processes across agencies involved in law enforcement and prosecuting maritime crimes in the sub-region. To be successful, responses to maritime safety and security threats must be regional/collective. Law enforcement agencies must design and/or strengthen inter-agency cooperation and coordination mechanisms –from interdiction to prosecution– in place between countries in the sub-region to better pool their resources and share critical information through improved communication channels. The recently signed Zone E operational agreement was highlighted as a positive example in this regard.

Authorities must implement and enforce existing regulations, and promote a process of legal and judicial harmonization across the sub-region. Domestic implementation and enforcement of existing regulatory instruments must be emphasized. Further, maritime legal authorities across the region should strive to standardize and harmonize legal and judicial instruments in order to prevent criminals from exploiting gaps or differences in legislation and judicial procedures. Lastly, a systematic assessment of existing national legal frameworks should be undertaken to identify the need for integrating existing regional and international regulations in domestic legal frameworks.

States in the region must allocate adequate resources to increase the capacity of the maritime security sector. West African coastal states lack capacity in the maritime criminal justice sector which has ripple effects for maritime safety and security in the sub-region, both at sea and on land. National maritime security strategies must

clarify roles and responsibility of national government agencies to avoid overlaps and maximize resource allocation.

Maritime law enforcement and criminal justice officials must strive to increase general awareness of maritime threats, and improve training programs for maritime criminal justice professionals. Awareness, education, and outreach programs at the strategic level must be developed to promote political buy-in and ensure competent, informed, and accountable decision making and accountability processes on maritime safety and security issues. In addition, concrete steps should be taken to sensitize and raise awareness about security issues and their impact on socio-economic development of regional states, through the use of media and other means. Specifically, civil society organizations should be invited to participate in this effort.

Conclusion:

This program concluded a series of workshops supporting the U.S. Government priorities of addressing transnational security challenges and specific Department of Defense priorities to support African partner efforts to prevent and respond to maritime-based threats. In the long run, this recommendations generated by participants in all three ECOWAS Zones will help strengthen maritime criminal justice institutions in West Africa.

APPENDIX III: IMO Chart: Summary of the Status of Conventions

Summary of the Status of Conventions

as at 10 March 2015

Instrument	Date of entry into force	No. of Contracting States/Parties	% world tonnage*
IMO Convention	17-Mar-58	170	96.51
SOLAS 1974	25-May-80	162	98.60
SOLAS Protocol 1978	1-May-81	119	96.86
SOLAS Protocol 1988	3-Feb-00	105	95.03
SOLAS Agreement 1996	1-Apr-97	11	6.14
LL 1966	21-Jul-68	161	98.59
LL Protocol 1988	3-Feb-00	98	95.22
TONNAGE 1969	18-Jul-82	152	98.46
COLREG 1972	15-Jul-77	156	98.59
CSC 1972	6-Sep-77	82	63.08
CSC 1993 amendments	<i>Not yet in force</i>	10	10.75
SFV Protocol 1993	<i>Not intended to enter into force</i>	17	18.68
Cape Town Agreement 2012	<i>Not yet in force</i>	3	2.03
STCW 1978	28-Apr-84	158	98.62
STCW-F 1995	29-Sep-12	17	4.12
SAR 1979	22-Jun-85	105	82.13
STP 1971	2-Jan-74	17	23.69
SPACE STP 1973	2-Jun-77	16	23.28
IMSO 1976 Convention	16-Jul-79	100	94.74
IMSO 2008 amendments**	<i>Not yet in force**</i>	12	3.88
FAL 1965	05-Mar-67	115	91.27
MARPOL 73/78 (Annex I/II)	2-Oct-83	153	98.52
MARPOL 73/78 (Annex III)	1-Jul-92	141	97.79
MARPOL 73/78 (Annex IV)	27-Sep-03	134	90.74
MARPOL 73/78 (Annex V)	31-Dec-88	147	98.03
MARPOL Protocol 1997 (Annex VI)	19-May-05	79	95.22
LC 1972	30-Aug-75	87	61.76
LC 1978 amendments	<i>Not yet in force</i>	20	14.05
LC Protocol 1996	24-Mar-06	45	36.6
INTERVENTION 1969	6-May-75	88	74.38
INTERVENTION Protocol 1973	30-Mar-83	56	51.48
CLC 1969	19-Jun-75	35	2.70
CLC Protocol 1976	8-Apr-81	53	59.29
CLC Protocol 1992	30-May-96	133	96.70
FUND Protocol 1976***	22-Nov-94	31	49.69
FUND Protocol 1992	30-May-96	114	94.16
FUND Protocol 2000****	27-Jun-01	-	-

FUND Protocol 2003	3-Mar-05	31	18.26
NUCLEAR 1971	15-Jul-75	17	18.88
PAL 1974	28-Apr-87	26	32.03
PAL Protocol 1976	30-Apr-89	18	31.75
PAL Protocol 1990	<i>Not intended to enter into force</i>	4	0.65
PAL Protocol 2002	23-Apr-14	21	42.09
LLMC 1976	1-Dec-86	53	53.68
LLMC Protocol 1996	13-May-04	50	53.58
SUA 1988	1-Mar-92	165	94.45
SUA Protocol 1988	1-Mar-92	152	87.47
SUA 2005	28-Jul-10	33	35.82
SUA Protocol 2005	28-Jul-10	29	35.12
SALVAGE 1989	14-Jul-96	65	51.24
OPRC 1990	13-May-95	108	72.75
HNS Convention 1996	<i>Not intended to enter into force</i>	14	14.14
HNS PROT 2010	<i>Not yet in force</i>	-	-
OPRC/HNS 2000	14-Jun-07	34	48.70
BUNKERS Convention 2001	21-Nov-08	78	91.46
AFS Convention 2001	17-Sep-08	69	84.07
BWM Convention 2004	<i>Not yet in force</i>	44	32.86
NAIROBI WRC 2007	14-Apr-15	17	32.61
HONG KONG Convention	<i>Not yet in force</i>	3	1.86
<i>*Source: IHS-Fairplay - World Fleet Statistics 31 December 2014</i>			
** At its twentieth session, the IMSO Assembly decided to apply the amendments provisionally, with effect from 6 October 2008, pending their formal entry into force			
*** Consequent on the cessation of the 1971 Fund Convention on 24 May 2002 this Protocol is considered having ceased with effect from the same date.			
**** Entered into force by means of tacit acceptance procedure on 27 June 2011			

STATUS OF CONVENTIONS

	IMO Convention 48	x
	SOLAS Convention 74	x
	SOLAS Protocol 78	x
	SOLAS Protocol 88	x
	SOLAS Agreement 96	x
	LOAD LINES Convention 66	x
	LOAD LINES Protocol 88	x
	TONNAGE Convention 69	x
	COLREG Convention 72	x
	CSC Convention 72	x
	CSC amendments 93	x
	SFV Protocol 93	x
	Cape Town Agreement 2012	x
	STCW Convention 78	x
	STCW-F Convention 95	x
	SAR Convention 79	x
	STP Agreement 71	x
	Space STP Protocol 73	x
	IMSO Convention 76	x
	INMARSAT OA 76	x
	IMSO amendments 2006	x
	IMSO amendments 2008	x
	FACILITATION Convention 65	x
	MARPOL 73/78 (Annex I/II)	x
	MARPOL 73/78 (Annex III)	x
	MARPOL 73/78 (Annex IV)	x
	MARPOL 73/78 (Annex V)	x
	MARPOL 73/78 (Annex VI)	x
	London Convention Protocol 96	x
	INTERVENTION Convention 69	x
	INTERVENTION Protocol 73	x
	CLC Convention 69	x
	CLC Protocol 76	x
	CLC Protocol 92	x
	FUND Convention 71	x
	FUND Protocol 76	x
	FUND Protocol 92	x
	FUND Protocol 2003	x
	NUCLEAR Convention 71	x
	PAL Convention 74	x
	PAL Protocol 76	x
	PAL Protocol 90	x
	PAL Protocol 02	x
	LLMC Convention 76	x
	LLMC Protocol 96	x
	SUA Convention 88	x
	SUA Protocol 2005	x
	SUA Protocol 2005	x
	SUA Protocol 2005	x
	SALVAGE Convention 89	x
	OPRC Convention 90	x
	HNS Convention 96	x
	HNS PROT 2010	x
	OPRC/HNS 2000	x
	BUNKERS CONVENTION 01	x
	AMTT FOULING 01	x
	BALLASTWATER 2004	x
	NARABI WRC 2007	x
	HONG KONG CONVENTION	x

x = Contracting State

United Nations

S/RES/2018 (2011)



Security Council

Distr.: General
31 October 2011

Resolution 2018 (2011)

Adopted by the Security Council at its 6645th meeting, on 31 October 2011

The Security Council,

Expressing its deep concern about the threat that piracy and armed robbery at sea in the Gulf of Guinea pose to international navigation, security and the economic development of states in the region,

Recalling its statement of 30 August 2011 on piracy and armed robbery at sea in the Gulf of Guinea,

Expressing its concern over the threat that piracy and armed robbery at sea pose to the safety of seafarers and other persons, including through their being taken as hostages, and deeply concerned by the violence employed by pirates and persons involved in piracy and armed robbery at sea in the Gulf of Guinea,

Affirming its respect for the sovereignty and territorial integrity of the States of the Gulf of Guinea and their neighbours,

Further affirming that the provisions of this resolution apply only with respect to the situation in the Gulf of Guinea,

Affirming that international law, as reflected in the United Nations Convention on the Law of the Sea of 10 December 1982, in particular its articles 100, 101 and 105, sets out the legal framework applicable to countering piracy and armed robbery at sea, as well as other ocean activities,

Noting that applicable international legal instruments provide for parties to create criminal offences, establish jurisdiction, and prosecute or extradite for prosecution, persons responsible for or suspected of seizing or exercising control over a ship or fixed platform by force or threat thereof or any other form of intimidation,

Emphasizing the importance of finding a comprehensive solution to the problem of piracy and armed robbery at sea in the Gulf of Guinea,

Noting the efforts of the States of the Gulf of Guinea to address this problem, including joint patrols at sea and the activities of the Federal Republic of Nigeria and Benin Republic off the coast of Benin,

11-57321 (E)



Please recycle 

Also noting the need for international assistance as part of a comprehensive strategy to support national and regional efforts to assist States in the region with their efforts to address piracy and armed robbery at sea in the Gulf of Guinea,

Welcoming the contributions made by some Member States and international organizations in support of the maritime sector, including security, capacity-building and the joint operations of the States of the Gulf of Guinea,

Stressing that the coordination of efforts at the regional level is necessary for the development of a comprehensive strategy to counter the threat of piracy and armed robbery at sea in the Gulf of Guinea,

Noting that States in the region have a leadership role to play in this regard, supported by organizations in the region,

1. *Condemns* all acts of piracy and armed robbery at sea committed off the coast of the States of the Gulf of Guinea;

2. *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;

3. *Encourages* States of ECOWAS, ECCAS and the GGC, through concerted action, to counter piracy and armed robbery at sea in the Gulf of Guinea through the conduct of bilateral or regional maritime patrols consistent with relevant international law; and *requests* the States concerned to take appropriate steps to ensure that the activities they undertake pursuant to this resolution, do not have a practical effect of denying or impairing freedom of navigation on the high seas or the right of innocent passage in the territorial sea to vessels of third States;

4. *Calls upon* States, in cooperation with the shipping industry, the insurance industry and the International Maritime Organization (IMO) to issue to ships entitled to fly their flag, appropriate advice and guidance within context of the Gulf of Guinea, on avoidance, evasion and defensive techniques and measures to take, if under the threat of attack, or attack when sailing in the waters of the Gulf of Guinea;

5. *Further calls upon* States of ECOWAS, ECCAS and GGC, in conjunction with flag States and States of nationality of victims or of perpetrators of acts of piracy or armed robbery at sea, to cooperate in the prosecution of alleged perpetrators, including facilitators and financiers of acts of piracy and armed robbery at sea committed off the coast of the Gulf of Guinea, in accordance with applicable international law, including human rights law;

6. *Encourages* the international community to assist, upon request, the States concerned in the region, ECOWAS, ECCAS, GGC and other relevant organizations and agencies in strengthening their efforts to counter piracy and armed robbery at sea, in the Gulf of Guinea;

7. *Welcomes* the intention of the Secretary-General of the United Nations to deploy a United Nations assessment mission to examine the threat of piracy and armed robbery at sea, in the Gulf of Guinea and explore options on how best to address the problem, and *looks forward* to receiving the mission's report with recommendations on the matter;

8. *Decides* to remain seized of the matter.

**Security Council**Distr.: General
29 February 2012**Resolution 2039 (2012)****Adopted by the Security Council at its 6727th meeting, on
29 February 2012**

The Security Council,

Recalling its statement of 30 August 2011 and its resolution 2018 (2011) of 31 October 2011, on piracy and armed robbery at sea in the Gulf of Guinea,

Expressing its deep concern about the threat that piracy and armed robbery at sea in the Gulf of Guinea pose to international navigation, security and the economic development of states in the region,

Recognizing that piracy and armed robbery at sea in the Gulf of Guinea affect littoral countries, including their hinterland areas and landlocked countries in the region,

Expressing its concern over the threat that piracy and armed robbery at sea pose to the safety of seafarers and other persons, including through their being taken as hostages, and deeply concerned by the violence employed by pirates and persons involved in piracy and armed robbery at sea in the Gulf of Guinea,

Affirming that international law, as reflected in the United Nations Convention on the Law of the Sea of 10 December 1982, in particular its articles 100, 101 and 105, sets out the legal framework applicable to countering piracy and armed robbery at sea, as well as other ocean activities,

Affirming its respect for the sovereignty and territorial integrity of the States of the Gulf of Guinea and their neighbours,

Further affirming that the provisions of this resolution apply only with respect to the situation in the Gulf of Guinea,

Recognizing the urgent need to devise and adopt effective and practical measures to counter piracy and armed robbery at sea in the Gulf of Guinea,

Emphasizing the importance of building on existing national, regional and extraregional initiatives to enhance maritime safety and security in the Gulf of Guinea,

Welcoming the initiatives already taken by States in the region and regional organizations, including the Economic Community of Central African States

* Reissued for technical reasons on 19 March 2012.



(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,

Noting the ECCAS comprehensive joint maritime security architecture to counter piracy in the Central African subregion, including the strategy adopted by the 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 centres in the region,

Further noting the preparatory steps taken by ECOWAS towards developing a maritime security approach through an Integrated Maritime Security Strategy and an Integrated Maritime Plan,

Noting the importance of adopting a comprehensive approach led by the countries of the region to counter the threat of piracy and armed robbery at sea in the Gulf of Guinea and their underlying causes,

Also noting the need for international assistance as part of a comprehensive strategy to support national and regional efforts to assist States in the region with their efforts to address piracy and armed robbery at sea in the Gulf of Guinea,

Stressing that the coordination of efforts at the regional level is necessary for the development of a comprehensive strategy to counter the threat of piracy and armed robbery at sea in the Gulf of Guinea, in order to enable the prevention and interdiction of such criminal activities and to ensure that persons engaging in piracy and armed robbery at sea are prosecuted and punished if convicted, with due regard for internationally recognized rules and principles of international law,

Reiterating that States in the region have a leadership role to play in countering the threat and addressing the underlying causes of piracy and armed robbery at sea in the Gulf of Guinea, in close cooperation with organizations in the region, and their partners,

Welcoming the contributions by Member States and international organizations in support of ongoing national and regional efforts to secure Gulf of Guinea coastal areas and conduct naval operations, including the joint patrols carried out by the Federal Republic of Nigeria and the Republic of Benin off the coast of Benin, and also welcoming further contributions, upon request,

Expressing its concern about the serious threats to international peace and stability in different regions of the world, in particular in West Africa and the Sahel Region, posed by transnational organized crime, including illicit weapons and drug trafficking, piracy and armed robbery at sea,

Affirming its full commitment to promoting the maintenance of peace and stability in the Gulf of Guinea region,

1. *Welcomes* the report of the Secretary-General's assessment mission on piracy in the Gulf of Guinea, which was dispatched to the region from 7 to 24 November 2011;
2. *Encourages* national authorities, as well as regional and international partners to consider implementing the recommendations of the assessment mission, as appropriate;

3. *Stresses* the primary responsibility of the States of the Gulf of Guinea to counter piracy and armed robbery at sea in the Gulf of Guinea and in this context urges them through ECCAS, ECOWAS and the GGC to work towards the convening of the planned joint Summit of Gulf of Guinea States to develop a regional anti-piracy strategy, in cooperation with the African Union;
4. *Requests* the Secretary-General through the United Nations Office of West Africa (UNOWA) and the United Nations Office of Central Africa (UNOCA) to support States and subregional organizations in convening the joint Summit, as referenced in resolution 2018 (2011), to the extent feasible;
5. *Urges* States of the region of the Gulf of Guinea to take prompt action, at national and regional levels with the support of the international community where able, and by mutual agreement, to develop and implement national maritime security strategies, including for the establishment of a legal framework for the prevention, and repression of piracy and armed robbery at sea and as well as prosecution of persons engaging in those crimes, and punishment of those convicted of those crimes and encourages regional cooperation in this regard;
6. *Encourages* Benin and Nigeria to extend their joint patrols beyond March 2012, while the countries of the Gulf of Guinea continue to work towards building their capacities to independently secure their coastlines and *also encourages* international partners to consider providing support, as needed, in that regard and to the extent feasible;
7. *Encourages* the States of the Gulf of Guinea, ECOWAS, ECCAS and GGC, to develop and implement transnational and transregional maritime security coordination centres covering the whole region of the Gulf of Guinea, building on existing initiatives, such as those under the auspices of the International Maritime Organization (IMO);
8. *Encourages* international partners to provide support to regional States and organizations for the enhancement of their capabilities to counter piracy and armed robbery at sea in the Gulf of Guinea, including their capacity to conduct regional patrols, to establish and maintain joint coordination centres and joint information-sharing centres, and for the effective implementation of the regional strategy, once adopted;
9. *Requests* the Secretary-General to support efforts towards mobilizing resources following the creation of the regional strategy to assist in building national and regional capacities in close consultation with States and regional and extraregional organizations;
10. *Further requests* the Secretary-General to keep the Security Council regularly informed through UNOWA and UNOCA, on the situation of piracy and armed robbery at sea in the Gulf of Guinea, including on progress made regarding the joint Summit as well as by ECOWAS, ECCAS and the GGC to develop a comprehensive strategy to counter piracy and armed robbery at sea;
11. *Decides* to remain seized of the matter.

**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 security of navigation, in accordance with international law;
- (d) the need for enhancing international cooperation at all levels in the fight against maritime security and safety of offshore oil infrastructures;

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) 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;

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 (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 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. ECOWAS : Economic Community of West African States;
 7. ECCAS : Economic Community of Central African States;
 8. GGC : Gulf of Guinea Commission;
 9. UNOWA : United Nations Offices for West Africa;
 10. UNOCA : United Nations Offices for Central Africa ;
 11. MOWCA : Maritime Organisation for West and Central Africa ;
 12. IUU : Illegal, undeclared and unregulated fishing;
 13. "Embarked Officers" consists of law enforcement officers or other authorized officials embarked on ships or patrol aircraft;

14. "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 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 in 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.

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 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.
7. The signatories intend to encourage states, ship owners and ship operators, as deemed appropriate, to take measures to protect against pirates, taking into international conventions, codes, standards and recommended practices and in particular, the recommendations adopted by IMO.

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.

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.

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 Centre and designated focal point should be capable of receiving and responding to alerts and requests for information or assistance at all times
3. 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.

4. 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.

5. 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.

6. 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.

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

8. 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 and 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;
- (i) create or establish any waiver of any rights that any Signatory may have under international law to raise a claim with any other Signatory through diplomatic channels;
- (j) entitle a Signatory to undertake in the territory of another Signatory the exercise of jurisdiction and performance of functions which are exclusively reserved for the authorities of that other Signatory by its national law;
- (k) prejudice in any manner the positions and navigational rights and freedoms of any Signatory regarding the international law of the sea;
- (l) be deemed a waiver, express or implied, of any of the privileges and immunities of the Signatories to this Code of Conduct as provided under international or national law; or
- (m) preclude or limit any Signatory from requesting or granting assistance in accordance with the provisions of any applicable Mutual Legal Assistance Agreement or similar instrument.

Article 20: SIGNATURE, ENTRY INTO FORCE AND DEPOSITORY

This Code of Conduct is open for signature on the 25th June 2013 in Yaoundé and at the Headquarters of the 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 the respective date of deposit of a signature instrument at the African Union Commission (AUC).

4. The AUC shall be the depository and shall transmit the signed copy to the IMO and to any other organizations agreed upon by the Signatories.

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.

APPENDIX VII: MULTILATERAL AGREEMENT REGARDING THE CREATION OF ZONE E OF THE MARITIME REGION OF WEST AFRICA AND COOPERATION TO SUPPRESS ILLICIT ACTIVITIES AT SEA

COMMUNAUTE ECONOMIQUE
DES ETATS DE L'AFRIQUE DE
L'OUEST

ECONOMIC COMMUNITY OF
WEST AFRICAN STATES



THIRTIETH ORDINARY SESSION OF THE MEDIATION AND SECURITY COUNCIL

Abuja, 15th July 2013

MULTILATERAL AGREEMENT ON THE ESTABLISHMENT OF MARITIME ZONE E (BENIN, NIGER, NIGERIA AND TOGO) TO ERADICATE ILLEGAL MARITIME ACTIVITIES IN WEST AFRICA

THE PARTIES TO THIS AGREEMENT,

MINDFUL of the complex nature of detecting, deterring and suppressing illicit activities at sea ;

RECOGNIZING the importance of strengthening and enhancing effective legal means for international cooperation in eradicating piracy, armed robbery at sea, and other illicit maritime activities;

EXPRESSING DEEP CONCERN about the threat posed by piracy, armed robbery and other illicit activities committed at sea in the Gulf of Guinea to the freedom of navigation in ECOWAS Member States;

WELCOMING in this regard United Nations Security Council Resolution 2039 (2012), which urges States of the region to take prompt action against this threat at national and regional levels through the development of maritime strategies, including a regional anti-piracy strategy and legal framework for the prevention, and repression of piracy and armed robbery at sea;

HAVING REGARD to the urgent need for international cooperation in suppressing illicit activities, including those recognized in

- The 1988 United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances ("the Vienna Convention"),
- The 1988 Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (SUA Convention) and its Protocols,
- The 1982 United Nations Convention on the Law of the Sea (UNCLOS), and under customary international law;



TAKING INTO ACCOUNT the right of access and use of the sea for landlocked countries as recognized by the Convention of Montego Bay;

NOTING WITH CONCERN the need to prevent and eradicate such illicit activities, particularly in view of the fact that all forms of illicit activities pose a serious threat to health and the welfare of human beings, adversely affect the economic, cultural and political foundations of society, and threaten the stability, security and sovereignty of States;

RECALLING that the Vienna Convention requires Parties to consider entering into bilateral or regional agreements or arrangements to carry out, or enhance the effectiveness of the provisions of Article 17 of that Convention, that the SUA Convention permits States to conclude agreements or arrangements between them to facilitate law enforcement operations carried out pursuant to Article 8bis of that Convention, and that, as reflected in Article 100 of UNCLOS, all States are obligated to cooperate to the fullest extent in the repression of piracy;

AFFIRMING that international law, as reflected in UNCLOS, in particular its articles 100, 101 and 105, sets out the legal framework applicable to countering piracy and armed robbery at sea, as well as other illicit ocean activities;

RECOGNIZING that the nature of illicit activities urgently requires the Parties to foster regional and sub-regional co-operation;

DESIRING to promote greater co-operation among the Parties, and thereby enhancing their effectiveness in combating piracy, armed robbery at sea, and other illicit activities by and over the sea, in a manner consistent with the principles of sovereign equality and territorial integrity of States including non-intervention in the domestic affairs of other States, and in full respect of the freedom of navigation;

MINDFUL of International Maritime Organization (IMO) MSC.1/Circ.1333 recommendations to Governments for preventing and suppressing piracy and armed robbery against ships;



RECALLING the Communiqué signed on March 29, 2012, at a meeting of the Economic Community of West African States (ECOWAS) and the Economic Community of Central African States (ECCAS) regarding regional maritime security in the Central and West African Maritime Region;

RECALLING Article 58 of the ECOWAS Treaty on Regional Security;

MINDFUL of the extradition agreement A/P1/94 signed in Abuja August 6, 1994 by the Conference of ECOWAS Heads of State and Government;

MINDFUL of the ECOWAS Agreement A/P1/7/92 of July 29, 2012 on Mutual Legal Assistance in Criminal Matters;

MINDFUL of the ECOWAS Protocol on the Mechanism for Conflict Prevention, Management, Resolution, Peace-keeping and Security of December 10, 1999;

REAFFIRMING the commitment of ECOWAS to work for the establishment, in the medium term of three (03) maritime zones (E, F, G) coordinated by a Regional Maritime Centre which would facilitate such co-operation between these zones and set up pilot zone E as a model.

ALSO RECALLING the proposal that zone E shall be constituted by Benin, Niger, Nigeria and Togo who are the parties to this agreement. Have agreed as follows:

CHAPTER 1: GENERAL PROVISIONS AND SCOPE OF APPLICATION

ARTICLE 1 - DEFINITIONS

In this Agreement:

"Party" means any State that has expressed its consent to be bound *by* the agreement.

"Illicit Maritime Activity" means illegal activities prohibited by international law, including international conventions to which the Parties are signatory, but only to the extent enforcement is authorized by the laws of both parties; and including without limitation to "illicit traffic" as defined in Article 1(m) of the Vienna Convention.



"Piracy" has the same meaning as in Article 101 of UNCLOS.

"Armed robbery at sea" means an act that would constitute piracy but for the fact that it was committed in a coastal State's internal waters, archipelagic waters, or territorial sea.

"Competent National Authority" means the authority or authorities designated by a Party and identified to the Depository pursuant to Article 11.

"Flag State" has the same meaning as defined in UNCLOS Articles 91 and 94

"Law Enforcement Authority" means the competent law enforcement entity or entities identified to the Depository by each Party which has responsibility for carrying out the maritime law enforcement functions of that Party pursuant to this Agreement.

"Law enforcement officials" mean the uniformed and other officials mandated by law of the law enforcement authority of each Party.

"Law enforcement vessels" means warships and other ships of the Parties, or of third States as may be agreed upon by the Parties, on which law enforcement officials of either or both Parties may be embarked, clearly marked and identifiable as being on government service and authorized to that effect, including any boat and aircraft embarked on such ships.

"Law enforcement aircraft" means the government aircraft of the Parties, or of third States as may be agreed by the Parties, on which law enforcement officials of either or both Parties may be embarked, engaged in law enforcement operations or operations in support of law enforcement activities, clearly marked and identifiable as being on government service and authorized to that effect.

"Shiprider" means a law enforcement official of one Party (the designating Party) authorized to embark on a law enforcement vessel of the other Party (the other or authorizing Party).

"Suspect vessel" means a vessel in respect of which there are reasonable grounds to suspect it is engaged in illicit maritime activity.



"Pirate ship" has the same meaning as in Article 103 of UNCLOS and, for purposes of this Agreement only, also includes vessels intending to be used or that have been used to commit armed robbery at sea.

"Waters of a Party" means the territorial sea and archipelagic waters of a Party determined in accordance with UNCLOS and, where an operation relates to the sovereign rights or jurisdiction of a Party referred to in Article 56 of UNCLOS, the exclusive economic zone of a Party.

"Seizure" and "forfeiture" have the same meaning as in Articles 1(l) and 1(f), respectively, of the Vienna Convention.

"Vessel" has the same meaning as defined in International Regulation for Preventing Collision at Sea (COLREGS) 72 Rule 3(a)

ARTICLE 2:

The Republic of Benin, Niger, Nigeria and the Togolese Republic establish a maritime domain called Zone E in conformity with United Nations' law of the sea, under an effective maritime cooperation against piracy, armed robbery and other illegal activities at sea.

ARTICLE 3:

The Status, Head- Quarters of the Organisation and the function of the Zone E shall be *the* subject of *an* additional protocol.

ARTICLE 4 - OBJECTIVE, PURPOSE AND GENERAL PRINCIPLES

1. The object of this Agreement is to promote cooperation between the Parties for the purpose of enabling them to more effectively suppress, combat, and respond to piracy, armed robbery at sea, and other illicit maritime activity.
2. The Parties shall carry out their obligations and responsibilities under this Agreement 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.



3. Operations to suppress piracy, armed robbery at sea and other illicit maritime activity in and over the territorial sea of a Party are the responsibility of, and subject to the sovereign authority of that Party.
4. The Parties to this agreement may collaborate with other neighbouring non-member States with a view to combating and eradicating maritime crimes in all its forms in their Zone.

CHAPTER 2: MARITIME AND AIR LAW ENFORCEMENT OPERATIONS

ARTICLE 5 - CASES OF SUSPECT VESSELS

Law enforcement operations to suppress piracy, armed robbery at sea and other illicit maritime activity pursuant to this Agreement shall be carried out only against vessels suspected of such activity, and against those vessels without nationality, and those assimilated to vessels without nationality.

ARTICLE 6 - VERIFICATION OF NATIONALITY

1. For the purpose of this Agreement, a vessel has the nationality of the State whose flag it is entitled to fly, in accordance with domestic laws and regulations.
2. Communications relating to the verification of nationality of vessels claiming registration in, or entitlement to fly the flag of a Party, shall be undertaken between the competent national authorities of the Parties.
3. Each request shall contain, if possible, the name of the vessel, registration number, nationality, homeport, grounds for suspicion, and any other identifying information. Requests may be made orally and shall later be confirmed by written communication.
4. Requests for verification of nationality shall be answered expeditiously and all efforts shall be made to provide such answer as soon as possible, but in any event within four (4) hours.



5. If the claimed flag State Party refutes or can neither confirm nor deny the claim of nationality made by a suspect vessel within the time set forth in paragraph 4 of this Article, then the Party that requested verification may assimilate the suspect vessel to a vessel without nationality in accordance with international law.

ARTICLE 7 - NATIONAL MEASURES WITH REGARD TO PIRATE SHIPS AND SUSPECT VESSELS

1. Each Party undertakes to establish the capability at any time to:
 - a. respond to requests for verification of nationality;
 - b. convey information regarding pirate ships or suspect vessels to other Parties, as needed;
 - c. authorize the boarding and search of suspect vessels and, if outside the territorial sea of the Party, pirate ships;
 - d. provide expeditious disposition instructions for vessels detained on its behalf;
 - e. authorize the entry into its waters and air space of law enforcement vessels and law enforcement aircraft and aircraft in support of law enforcement operations of the other Parties.
2. The competent national authority of each Party shall have the capability to receive process and respond to requests and reports at any time.

ARTICLE 8 – COMBINED MARITIME OPERATIONS

1. Each Party (designating Party) may designate qualified law enforcement officials (shipriders) to act as embarked law enforcement officials on vessels of another Party.
2. Each Party (other or authorizing Party) may authorize shipriders designated pursuant to the preceding paragraph to embark on its law enforcement vessel. That authorization may be subject to conditions.



3. When duly authorized, shipriders may:
 - a. embark on law enforcement vessels and aircraft of any of the Parties;
 - b. enforce the laws of the designating Party to suppress piracy, armed robbery at sea, and other illicit maritime activity in the waters of the designating Party, 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 and aircraft on which they are embarked into and navigation within the waters of the designating Party;
 - d. authorize the law enforcement vessels and aircraft on which they are embarked to conduct patrols in the waters of the designating Party;
 - e. authorize law enforcement officials of the vessel on which the shiprider is embarked to assist in the enforcement of the laws of the designating Party to suppress piracy, armed robbery, and other illicit maritime activity; and
 - f. advise and assist law enforcement officials of the other Party in the conduct of boardings of vessels to enforce the laws of the other Party to suppress piracy, armed robbery, and other illicit maritime activity.
4. When shipriders are embarked on the other Party's law enforcement vessel, and the enforcement action being carried out is pursuant to the authority of the shipriders, any search or seizure of property, any detention of a person, and any use of force pursuant to this Agreement, whether or not involving weapons, shall, consistent with Article 14, of this Agreement be carried out by the shipriders. However:
 - a. crew members of the other Party's law enforcement vessel may assist in any such action if expressly requested to do so by a shiprider and only to the extent and in the manner requested. Such a request may only be made, agreed to, and acted upon if the action is consistent with the applicable laws and procedures of both Parties; and
 - b. such crew members may use force in accordance with Article 14 of this Agreement and their domestic laws and regulations.



5. The competent national authority of each Party shall be responsible for the designation and authorization of shipriders.
6. Parties may conclude agreements or arrangements between them to facilitate law enforcement operations carried out in accordance with this Article.

ARTICLE 9 - LAW ENFORCEMENT OPERATIONS IN AND OVER THE WATERS OF A PARTY

1. No Party may conduct law enforcement operations to suppress piracy, armed robbery, and other illicit maritime activities in the waters or air space of any other Party without the authorization of that other Party, granted pursuant to this Agreement or by other agreements or arrangements.
 - a. The authorization may be subject to directions and conditions that shall be respected by the Party conducting the operations.
 - b. A request for such operations shall be decided upon expeditiously.
2. Subject to paragraph 3 of this Article, a law enforcement vessel of a Party may follow a pirate ship or suspect vessel into the waters of another Party and take actions to prevent the escape of the vessel, board and search the vessel, and secure the vessel and persons on board if either:
 - a. the Party has received authorization from the competent national authority of the other Party ; or
 - b. the Party provides notice to the other Party, through its competent national authority, when no embarked law enforcement official or law enforcement vessel of the other Party is immediately available to investigate or respond.
3. Parties shall elect either the procedure set forth in paragraph 2(a) or 2(b), and shall so notify the Depositary of their election. Prior to receipt of notification by the Depositary, Parties shall be deemed to have elected the procedure set forth in paragraph 2(a).



4. If evidence of piracy, armed robbery, or other illicit maritime activity is found within the waters of a Party, that Party shall be promptly informed of the results of the search. The pirate ship or suspect vessel, as well as its cargo and persons on board, shall be detained and taken to a designated port of the Party unless the Party directs otherwise.

ARTICLE 10 – EXTENSION TO INTERNAL WATERS

Upon signing, ratification, acceptance or approval of this Agreement, or at any time thereafter, a Party may notify the Depositary that it has extended the application of this Agreement to some or all of its internal waters directly adjacent to its territorial sea or archipelagic waters, as specified by the Party.

ARTICLE 11 – OPERATIONS SEAWARD OF THE WATERS OF A PARTY

1. When law enforcement officials of one Party encounter a suspect vessel claiming the nationality of another Party, located seaward of the waters of any Party, this Agreement constitutes the authorization of the claimed flag State Party for law enforcement officials of other Parties to board and search the suspect vessel, search its cargo, and question the persons found on board by such officials in order to determine if the vessel is engaged in illicit maritime activity, except where a Party has notified the Depositary that it will apply the provisions of paragraph 2 or 3 of this Article.
2. Upon signing, ratification, acceptance or approval of this Agreement, or at any time thereafter, a Party may notify the Depositary that Parties shall be deemed to be granted authorization to board a suspect vessel located seaward of the waters of any State that flies its flag or claims its nationality and to search the suspect vessel, its cargo and question the persons found on board in order to determine if the vessel is engaged in illicit maritime activities, if there is no response or the requested Party can neither confirm nor deny nationality within four (4) hours following receipt of a request pursuant to Article 6. This authorization to board can be withdrawn at any time.



3. When evidence of illicit maritime activities is found as the result of any boarding conducted pursuant to this Article, the law enforcement officials of the boarding Party may detain the vessel, cargo and persons onboard pending expeditious disposition instructions from the flag State Party. If disposition instructions have not been received within 48 hours of initial detention, the boarding Party may release the vessel. The boarding Party shall promptly inform the flag State Party of the results of the boarding and search conducted pursuant to this Article.

ARTICLE 12 - OTHER BOARDINGS UNDER INTERNATIONAL LAW

Except as expressly provided herein, this Agreement does not apply to or limit boarding of vessels, conducted by any Party in accordance with international law, seaward of any State's territorial sea, whether based, *inter alia*, on the rights and duties of a state in relation to its exclusive economic zone and continental shelf, *or* on the right of visit (including, in particular, with respect to piracy), consent of the master, the rendering of assistance to persons, vessels, and property in distress or peril, or an authorisation from the flag State to take law enforcement action.

CHAPTER 3: IMPLEMENTATION

ARTICLE 13 - COMPETENT NATIONAL AUTHORITY

1. Each Party shall notify the Depository of its competent national authority, and shall inform them of any changes
2. Each Party shall inform the Depository of, and keep current, the contact information for its competent national authority or authorities.

ARTICLE 14 - AUTHORITY AND CONDUCT OF LAW ENFORCEMENT AND OTHER OFFICIALS

1. Consistent with its legal system, each Party shall take appropriate measures to ensure that its law enforcement officials, and law enforcement officials of other Parties acting on its behalf, are empowered to exercise the authority of law enforcement officials as prescribed in this Agreement.



2. Each Party shall ensure that its law enforcement officials, when conducting operations pursuant to this Agreement, act in accordance with its applicable national laws and policies and with international law and accepted international practices.

ARTICLE 15 - ASSISTANCE BY VESSELS

1. One Party may request another Party to make available one or more of its law enforcement vessels to assist the requesting Party effectively to patrol and conduct surveillance by sea and air with a view to the detection and prevention of illicit maritime activities
2. When responding favourably to a request pursuant to paragraph 1 of this Article, a requested Party shall provide to the requesting Party:
 - a. the name and the visual and international call signs, of such law enforcement vessels;
 - b. the dates at which, and the periods for which, they will be available;
 - c. the names of the Commanding Officers of the vessels; and
 - d. any other relevant information.
3. Any State may enter into a bilateral Agreement with a neighbouring third party concerning cooperation with a view to maintaining maritime security and safety, especially in the area of assistance by vessels and aircraft. However, this bilateral agreement shall aim at preserving the overall interest of other Parties under this Agreement
4. The Parties to this Agreement can assist or request assistance from a third Country provided such assistance is not prejudicial to Parties *under* this Agreement.

ARTICLE 16 - USE OF FORCE

1. Authorization granted pursuant to this Agreement to board, search and detain suspect vessels, their cargo, and/or persons on board includes the authority to use force in accordance with this article.



2. All use of force pursuant to this Agreement shall in all cases be the minimum reasonably necessary under the circumstances.
3. A warning shall be issued prior to any escalation in the use of force, except when force is being used in self-defence.
4. In the event that the use of force is authorized and necessary in the waters of a Party, law enforcement officials of the other Parties shall act in accordance with the laws of that Party.
5. In the event that the use of force is authorized and necessary during a boarding and search seaward of the waters of any Party, the law enforcement officials shall comply with their own use of force procedures and the directions of the flag State.
6. The use of force in reprisal or as punishment is prohibited.
7. Nothing in this Agreement shall impair the exercise of the inherent right of self-defence by law enforcement or other officials of any Party.
8. Additional measures relating to the use of force shall be annexed to this agreement.

ARTICLE 17 – JURISDICTION OVER SUSPECT VESSELS AND PERSONS

1. In all cases arising in the waters of a Party, or concerning a Party's flag vessels seaward of its waters, that Party has the primary right to exercise jurisdiction over vessels, cargo and persons on board subject to law enforcement action pursuant to this Agreement. In any case, subject to its domestic law, that Party may consent to the exercise of jurisdiction by another State.
2. With respect to individuals suspected of piracy captured beyond the territorial sea of any State, the Parties shall cooperate in ensuring the prosecution of such persons and the punishment of those convicted.
3. Each Party shall ensure compliance with its notification obligations under UNCLOS and the Vienna Convention on Consular Relations *of 1963*.



ARTICLE 18 – DISSEMINATION OF INFORMATION RELATING TO THE APPLICABLE PROCEDURES

1. To facilitate implementation of this Agreement, each Party shall ensure that the other Parties are fully informed of its respective applicable laws and procedures, particularly those pertaining to the use of force.
2. When engaged in law enforcement operations under this Agreement, the Parties shall ensure that their law enforcement officials are knowledgeable concerning the pertinent operational procedures of other Parties.

ARTICLE 19 - RESULTS OF ENFORCEMENT ACTION

1. Each Party shall, on a periodic basis and consistent with its laws, inform the other Party on the stage which has been reached of all investigations, prosecutions and judicial proceedings resulting from law enforcement operations taken pursuant to this Agreement where evidence of illicit maritime activities was found on vessels or aircraft of that other Party. In addition, the Parties shall provide each other with information on results of such prosecutions and judicial proceedings, in accordance with their national legislation.
2. Nothing in this Article shall require a Party to disclose details of the investigations, prosecutions and judicial proceedings or the evidence relating thereto; or affect rights or obligations of Parties derived from any relevant international agreement or instrument.

ARTICLE 20 - ASSET SEIZURE AND FORFEITURE

1. Assets seized, confiscated or forfeited in consequence of any law enforcement operation pursuant to this Agreement, undertaken in the waters of a Party, shall be disposed of in accordance with the laws of that Party.
2. Whenever a Party to this Agreement has consented to the exercise of jurisdiction by another Party pursuant to Article 15, assets seized, confiscated or forfeited in consequence of any law enforcement operation of any Party pursuant to this Agreement shall be disposed of in accordance with the laws of the Port State



3. The management of seized goods during operations by several *Parties* shall form the subject of an arrangement among the state parties in this agreement.

ARTICLE 21 – CLAIMS

1. Claims against a Party for damage, injury or loss resulting from law enforcement operations pursuant to this Agreement, including claims against its law enforcement officials, shall be resolved in accordance with the laws of that Party. Parties, natural and legal persons, owners, organizations duly registered and all persons having any interest may bring proceedings before the competent courts of the State of the ship under the law for damages, injury or death resulting operations of law enforcement provided for in this Agreement.
2. Legal actions against enforcement of the law are also admissible.
3. The Parties shall seek to conclude bilateral agreements aimed at resolving cases of accidents occurring during security operations in their waters.

CHAPTER 4: FINAL PROVISIONS

ARTICLE 22 - PRESERVATION OF RIGHTS AND PRIVILEGES

1. Nothing in this Agreement shall be construed as altering the rights and privileges due to any individual in any legal proceeding.
2. Nothing in this Agreement shall be construed as altering the immunities to which vessels and aircraft are entitled under international law.
3. For the purposes of this Agreement, in no case shall law enforcement vessels or law enforcement aircraft be considered suspect vessels or suspect aircraft.
4. Nothing in this Agreement shall prejudice the position of any Party under international law, including the law of the sea; nor affect the claims to territory or maritime boundaries of any Party or any third State; nor constitute a precedent from which rights can be derived.



5. Nothing in this Article shall be construed as altering freedoms of navigation and overflight and other internationally lawful uses of the sea related to these freedoms enjoyed by all States in the exclusive economic zone, as provided for in UNCLOS.

ARTICLE 23 - SETTLEMENT OF DISPUTES

If there should arise between two or more Parties a question or dispute relating to the interpretation or application of this Agreement, those Parties shall consult together with a view to the settlement of the dispute by negotiation, inquiry, mediation, conciliation, arbitration, recourse to regional bodies, judicial process or other peaceful means of their choice.

ARTICLE 24 – MEETINGS OF THE PARTIES

1. There shall be a meeting of the Parties through an invitation from *the* ECOWAS commission at the end of the first year following the year in which this Agreement enters into force. After this term, subsequent meetings of the Parties shall be held no sooner than ninety (90) days after a request to the Depositary by fifty percent of the Parties.
2. Meetings of the Parties may, inter alia, review the effectiveness of the Agreement and its implementation by States Parties. Meetings of the Parties shall also consider amendments to this Agreement proposed in accordance with Article 25.
3. All decisions taken by the meetings of the Parties shall be by consensus.

ARTICLE 25 - ENTRY INTO FORCE

1. This Agreement shall be executed by the four Member States, Benin, Niger, Nigeria and Togo at [place] from [date X to date Y].
2. It shall thereafter remain open for accession by Member States of ECOWAS [and other neighbouring states.]
3. States referred to in paragraph 1 may, in accordance with their national procedures, express their consent to be bound by this Agreement by:
 - a. signature without reservation as to ratification, acceptance or approval;



- b. signature subject to ratification, acceptance or approval, followed by ratification, acceptance or approval; or
 - c. accession.
4. Ratification, acceptance, approval or accession shall be affected by the deposit of an instrument to that effect with the Depositary.
 5. This Agreement shall enter into force 30 days following the date on which three States have expressed their consent to be bound in accordance with paragraph 3 of this Article.
 6. For each State consenting to be bound after the date of entry into force of this Agreement, the Agreement shall enter into force for that State 30 days after the deposit of its instrument expressing its consent to be bound.

ARTICLE 26 - RESERVATIONS AND EXCEPTIONS

Subject to its Constitution and laws and in accordance with international law, a Party may make reservations to this Agreement, except when they are incompatible with the object and purpose of the Agreement.

ARTICLE 27 - AMENDMENTS

1. Any Party may at any time after entry into force of the Agreement for that Party propose an amendment to this Agreement by providing the text of such a proposal to the Depositary. The Depositary shall promptly circulate any such proposal to all Parties and signatories.
2. An amendment may be adopted at a meeting of the Parties by consensus of the Parties therein represented.
3. An amendment shall enter into force thirty days after the Depositary has received instruments of acceptance or approval from three (3) of the Parties.



ARTICLE 28 - WITHDRAWAL

1. Any Party may withdraw from this Agreement. Withdrawal will take effect twelve months after receipt of the notification of withdrawal by the Depositary.
2. This Agreement shall continue to apply after withdrawal with respect to any administrative or judicial proceedings arising out of actions taken pursuant to this Agreement in respect of the withdrawing Party.

ARTICLE 29 – DEPOSITARY

1. The original of this Agreement shall be deposited with the ECOWAS Commission, which shall serve as the Depositary.
2. The Depositary shall transmit certified copies of the Agreement to all signatories.
3. The Depositary shall inform all signatories and Parties to the Agreement of:
 - a. all designations of law enforcement authorities pursuant to Article 1, paragraph c;
 - b. all designations of competent national authorities pursuant to Article 11 .
 - c. all notifications regarding authorisation for pursuit and entry into waters of a Party pursuant to Article 7.
 - d. all notifications regarding authorisation for boarding pursuant to Article 9, paragraphs 2 and 3.
 - e. all proposals to amend the Agreement made pursuant to Article 25.
 - f. all signatures, ratifications, acceptances, and approvals deposited pursuant to Article 23, as well as dates of entry into force of the Agreement.
 - g. all reservations, declarations, and notifications of withdrawal made pursuant to this Agreement.



IN WITNESS WHEREOF, THE UNDERSIGNED, BEING DULY
AUTHORIZED BY THEIR RESPECTIVE GOVERNMENTS, HAVE
SIGNED THIS AGREEMENT.

DONE AT ABUJA THIS 15TH DAY OF JULY 2013 IN THE ENGLISH AND
FRENCH LANGUAGES EACH TEXT BEING DULY AUTHENTIC

APPENDIX VIII: ECCAS/ECOWAS Memorandum of Understanding



MEMORANDUM OF UNDERSTANDING

AMONG

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 IN CENTRAL AND WEST AFRICA

The Economic Community of Central African States, acting through its General Secretariat headquartered in Haut-de-Guegue District, P.M.B. 2112 Libreville, Republic of Gabon, hereinafter referred to as "ECCAS";

The Economic Community of West African States, acting through its Commission, with headquarters at 101, Yakubu Gowon Crescent Asokoro District P.M.B 401 Abuja, Federal Republic of Nigeria, hereinafter referred to as "ECOWAS";

The Gulf of Guinea Commission, acting through its Executive Secretariat, with its headquarters at 43, 2 ANDAR, Rua Pereira Guileme Ingles, Luanda, Angola, hereafter referred to as "GGC";

In the presence of Heads of State and Government or their duly mandated representatives and bilateral and multilateral strategic partners;

PREAMBLE

Mindful of the Treaty establishing ECCAS dated 18 October 1983,

Mindful of the Revised ECOWAS Treaty of 24 July 1993 signed in Cotonou,

Mindful of the Treaty establishing the GGC of 3 July 2001, signed in Libreville,

Mindful of Regulation CMS/REG.1/02/12 of 17 February 2012 mandating the ECOWAS Commission to develop the regional maritime integrated strategy signed in Abuja,

Considering that the objective of the ECCAS is to promote and reinforce a harmonious cooperation and a balanced and self-sufficient development in every area of economic and social activity, to increase and to maintain economic stability, to reinforce the close and peaceful relations between member states and to contribute to the progress and the development of Africa,

Considering that the main objective of ECOWAS is to promote cooperation, integration and maintain regional stability in order to establish an economic and monetary union in West Africa,

Considering the provisions of the Protocol establishing the Peace and Security Council of the African Union (AU) adopted by the first session of the Conference of the AU at Durban on 9 July 2002,

Considering also the provisions of the Memorandum of Understanding on Cooperation in the area of Peace and Security between the AU, Regional Economic Communities and the regional mechanisms adopted on 28 June 2008,

Considering in addition the Luanda Declaration on Peace and Security in the Gulf of Guinea Region of 29 November 2012,

Recalling the relevant provisions of Resolutions 2018 of 31 October 2011 and 2039 of 29 February 2012 of the United Nations (UN) Security Council, calling for the development and implementation of regional, sub-regional and national strategies on maritime safety and security,

Recalling the relevant provisions of the UN Charter and the Constitutive Act of the AU,

Conscious of the fact that piracy, armed robbery and the other illegal activities perpetrated at sea in the maritime area of Central and West Africa, constitute an obstacle to regional integration and the sustainable economic development of their regions,

Taking into account the Declaration of Heads of State and Government of ECCAS, ECOWAS and GGC on maritime safety and security in their common maritime domain signed in Yaoundé (Cameroon) on 25 June, 2013,

Recalling the objectives of the 2050 Africa Integrated Maritime Strategy (AIM 2050 Strategy) adopted in Addis-Ababa on 6 December 2012,

Determined to strengthen cooperation and coordination of their activities, with a view to ensuring safety and security in the West and Central Africa maritime area,

Having taken note of the recommendations of the UN Evaluation Mission report on piracy in the Gulf of Guinea dated 24 November, 2011.

Hereby agree as follows:

CHAPTER I: DEFINITIONS, SPECIFIC OBJECTIVES

Article 1: DEFINITIONS

The terms and abbreviations below have been defined to aid understanding of this Memorandum. They include:

- "ECCAS": Economic Community of Central African States,
- "ECOWAS": Economic Community of West African States,
- "GGC": Gulf of Guinea Commission,
- "Maritime area": the maritime area of West and Central Africa,
- "Chief Executives": ECCAS Secretary General, ECOWAS Commission President and GGC Executive Secretary or their duly mandated representatives,
- "Parties or signatories": ECCAS, ECOWAS, GGC
- "Bilateral and multilateral strategic partners": technical and financial partners at the national and international levels, in accordance with this Agreement.
- "Regional Security Strategy and Maritime Security": maritime strategy developed by ECCAS, ECOWAS and GGC.

Article 2: OBJECTIVES

This Memorandum of Understanding is established in order to achieve better cooperation among the regional ECCAS, ECOWAS and GGC maritime centres. The cooperation shall seek to promote synergy through the pooling and interoperability of Community resources.

To this end, it shall have the following specific objectives:

- a. coordination and implementation of joint activities,
- b. promotion of close partnership among the Parties,
- c. regular exchange of information and experience sharing,
- d. harmonisation of control procedures for ships, port installations sea farers, ship owners and insurers in the area of maritime safety and security,
- e. harmonisation of laws on piracy and other illegal activities at sea,
- f. adoption and implementation of a methodology for Automatic Identification of ships (AIS),
- g. strengthening of cooperation with the International Criminal Police Organisation (ICPO-INTERPOL),
- h. promotion of the fight against crimes at sea.

CHAPTER II: PRINCIPLES AND AREAS OF COOPERATION

Article 3: PRINCIPLES

The implementation of this Memorandum shall be guided by the principles of International Law stated below:

- a. subsidiarity
- b. complementarity
- c. equality
- d. independence
- e. consensus
- f. cooperation
- g. rights based approach to contractual relations among the Parties

Article 4: AREAS OF COOPERATION

To achieve the specific objectives stated in Article 2 of this Memorandum, the Parties shall cooperate in all areas regarding maritime safety and security, including:

- a. technical cooperation
- b. training and capacity building
- c. information management and data collection
- d. mobilisation of resources necessary to achieve the objectives
- e. coordination of joint activities
- f. management of sea borders
- g. any other area of common interest recognised as relevant by the Parties ;

CHAPTER III: IMPLEMENTATION AND MONITORING MECHANISM

Article 5: IMPLEMENTATION

1. In the implementation of the provisions of this Memorandum, the Parties agree to:
 - a. hold annual meetings of the Chief Executives of ECCAS, ECOWAS and GGC which shall provide guidance, monitoring and evaluation of regional cooperation,
 - b. create an inter-regional Coordination Centre (ICC) for the implementation of the regional strategy for maritime safety and security.
2. The structure and functioning of these platforms shall be specified by supplementary texts.

Article 6: PARTNER SUPPORT

The support of all strategic partners at the international, bilateral and multilateral levels, is envisaged in the implementation of this Memorandum.

CHAPTER IV: TRANSITIONAL AND FINAL PROVISIONS

Article 7: AMENDMENT, TERMINATION AND WITHDRAWAL

- a. The Memorandum shall be amended by mutual agreement of the Parties
- b. Any Party may withdraw from this MoU having given a minimum of three-month notice to the other Signatories without prejudice to activities in progress.
- c. Withdrawal by one of the Parties shall not prevent the implementation of this Memorandum by the remaining Parties in their maritime areas.

Article 8: DISPUTE SETTLEMENT

All disputes arising from the interpretation and/or implementation of this Memorandum shall be settled through diplomatic means.

Article 9: ENTRY INTO FORCE

This Memorandum of Understanding shall enter into force from the date of its signature by the Parties. It shall be produced in twelve (12) copies, three (3) copies each in English, French, Portuguese and Spanish languages, all four texts being equally authentic and handed to each Party.

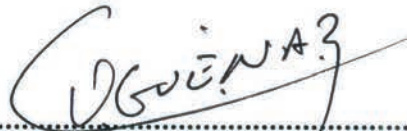
Article 10: PUBLICATION

- This Memorandum of Understanding shall be published in the working languages of the Member countries of ECCAS, ECOWAS and GGC member States.
- It shall also be published in the national gazettes of ECCAS, ECOWAS and GGC Member States.

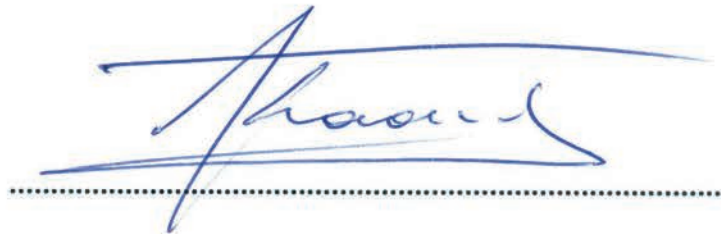
IN FAITH WHEREOF WE THE PARTIES HAVE SIGNED THIS MEMORANDUM OF UNDERSTANDING.

Adopted in Yaoundé, Republic of Cameroon on 25 June, 2013.

For ECCAS General Secretariat
Nassour GUELENDUKSIA OUAIDOU
Secretary General



For ECOWAS Commission
Kadré Désiré OUEDRAOGO
President of the Commission



For the Gulf of Guinea Commission
Miguel TROVOADA
Executive Secretary



APPENDIX IX: COUNTER-PIRACY EVIDENCE COLLECTION GUIDANCE

COUNTER-PIRACY EVIDENCE COLLECTION GUIDANCE

After the initial incident scene is secured, competent law enforcement personnel should be contacted immediately to initiate the investigative and intelligence gathering procedures required for a successful prosecution.¹⁷

The interdicting asset involved in the contact/interdiction should complete the “incident report and documentation” in order to provide the following information:

GENERAL OVERVIEW OF SITUATION

- Summary of events to include the following:
 - ✓ What was the location of the interdiction/incident
 - Lat./Long. and closest point of approach to nearby coastal countries
 - ✓ How did you become aware of the suspected pirates?
 - ✓ What actions were taken to contact suspected pirates?
 - ✓ What actions did the suspected pirates take when observed (e.g., show weapons, dump items out of boat, wave).
 - ✓ What was the intent of the contact (e.g., ID query, right of visit boarding),
 - ✓ Any reported piracy events in the area within the past 48 hours;
 - ✓ Did the government vessel(s) have video capability/video equipment on board? Was it employed?

SUBJECTS:

- ✓ Identify to include name, family (father’s/mother’s) name, age, race, nationality, and language spoken, and place of birth (parish, village, settlement, landmark, etc).
- ✓ Copy of any identity documents
- ✓ Photograph of subject(s) when contacted (e.g., skiff)
- ✓ Photograph of subject(s) in their own clothing
- ✓ All subject clothing and personal items should be maintained and ensure each subject’s clothing and personal items are inventoried and maintained separately.
- ✓ Diagram/documentation identifying the location of subject(s) during the incident (who was in each skiff).
- ✓ General medical condition of subjects(s). Photograph of subject wounds with scale.
- ✓ Maintain silence amongst subjects.
- ✓ Absent exigent circumstances, the law enforcement agency will either conduct or authorize interrogations.

¹⁷ If exigent circumstances exist (such as the sinking of the pirate vessel), logistical investigative/intelligence steps should be initiated immediately by the command’s Master-at-Arms personnel.

VICTIM WITNESSES:

- ✓ Identify to include name, family (father's/mother's) name, age, place of birth (parish, village, settlement, landmark, etc.), race, nationality, and language spoken.
- ✓ Copy of any identity documents.
- ✓ Photograph of victim(s) when contacted.
- ✓ Individual photograph of each victim.
- ✓ Photograph of any victim wounds with scale.
- ✓ Determine next port of call for victim.

GOVERNMENT PERSONNEL AS WITNESSES:

- ✓ Provide list of personnel directly involved in incident (per their assignment).
- ✓ Provide list of personnel who observed incident (but not directly involved).
- ✓ Provide list of personnel who detained suspects and those who maintained custody of detainees. A log book would help keep track of contact, medical treatment, etc.

EQUIPMENT OR ITEMS POSSESSED BY SUBJECTS:

- ✓ ENSURE PROPER CHAIN OF CUSTODY MAINTAINED: Document the seizing party, location, date, and time of seizure.
- ✓ Provide list of communication equipment.
- ✓ Provide list of boarding equipment (ladders, hooks, etc).
- ✓ Provide list of fishing equipment or fish.
- ✓ Provide list of weapons.
- ✓ Photograph of weapons on subject vessel, if possible.

ADMINISTRATIVE NOTES:

- ✓ Use one naming convention for subject(s) throughout process.
- ✓ Use one naming convention for subject and victim boats in all reports.
- ✓ If the vessel has audio recording capability, activate it for contact with pirates.

SAMPLE Counter-Piracy Operations Incident Report and Documentation

Reporting Ship: _____

Date: _____

1. Incident Summary:

Provide brief narrative of events to include:

- (a) Medical status of all persons involved (government vessel, subjects, victims);
- (b) how government vessel became aware of subjects/vessels;
- (c) actions taken to contact subjects/vessels;
- (d) intent of contact (render assistance, consensual boarding, etc.);
- (e) response of subjects; and
- (f) other pertinent details.

2. Information Developed Prior to Positive Interdiction Action:

A. Distress call received?

Yes No

- (1.) If yes, Date: _____ Time: _____
- (2.) From whom? Person: Vessel/Agency:
- (3.) Summary of distress call:

B. Radio Contact?

- | | | | |
|---------------------------|-----------------|-------------------------|-----------------------|
| (1.) With VICTIM vessel? | Did not attempt | Attempt
Unsuccessful | Attempt
Successful |
| (2.) With SUBJECT vessel? | Did no attempt | Attempt
Unsuccessful | Attempt
Successful |

C. Warning Shots Fired?

Yes (# _____) No

- (1.) Subject's response? Cut Engines Fled Other (explain)

D. Fly-Over Conducted?

Yes No

- (1.) If yes, what was observed?

E. Other preliminary measures taken(explain):

3. Boarding		
Boarding/RHIB/Small Boat Team Deployed?	Yes	No
Boarding Attempted? If yes, indicate date/time:	Yes Date: _____ Time: _____	No
Basis of Boarding Consensual Boarding Other (explain):	Right of Visit	Render Assistance

VESSEL #1			
<u>Vessel Information</u>			
Vessel is:	<input type="checkbox"/> Victim	<input type="checkbox"/> Suspect	<i>Note: Whenever possible, PHOTOGRAPH vessel prior to executing interdiction action.</i>
<u>Initial Vessel Acquisition</u>			
*Provide distance and direction from reference point on land.			
Time of radar acquisition:	Location*:	Course:	Speed:
Time of visual acquisition:	Location*:	Course:	Speed:
<u>Vessel Information</u>			
Length:	Type*: *e.g., Merchant Ship (M/V), Merchant Tanker (M/T), Cruise Ship (C/S), Dhow, Skiff	Hull Material:	Name on hull:
Hull Color:	#s on hull:	Propulsion:	Hailing Port:
Flag Flown:	Vessel activity:	Riding High/Low?	# Crew Observed:
<u>Vessel Registration and Documentation</u>			
Vessel name on registration documents:	Flag State indicated on registration documents:	Registration number:	Flag state claimed by Captain/Master:
Operator's License:	Foreign Fishing Permit:	Ship's Log:	

#:	Date:	#:	Date:	<input type="checkbox"/> Yes	<input type="checkbox"/> No		
Purpose of Voyage							
<input type="checkbox"/> Cargo		<input type="checkbox"/> Fishing		<input type="checkbox"/> Passenger		<input type="checkbox"/> Recreation	
<input type="checkbox"/> Other							
Usual Route:							
Cargo							
Cargo:		Type:		Amount:		Location of cargo/fish:	
Cargo:		When loaded/fish caught:		Where loaded/fish caught:			
Vessel Seizure							
Vessel Seized?		<input type="checkbox"/> Yes		<input type="checkbox"/> No			
		If yes, Date:	Time:				
Seaworthy?		<input type="checkbox"/> Yes		<input type="checkbox"/> No			
Where maintained:							
Vessel Operator Information							
Captain/Master/Owner Information							
Owner aboard?:		<input type="checkbox"/> Yes		<input type="checkbox"/> No			
Owner Name:		Owner Family Name:		Owner Nationality:		Owner Language:	
Owner Address:		Owner DOB:		Owner POB:			
Master/Captain aboard?:		<input type="checkbox"/> Yes		<input type="checkbox"/> No			
Master/Captain Name:		Master/Captain Family Name:		Master/Captain Nationality:		Master/Captain Language:	
Master/Captain Address:		Master/Captain DOB:		Master/Captain POB:			
If Master is Not Aboard:							
Master's Name according to Vessel Documents:		Location when departed:		Date Master Departed:		How Departed?:	
Reason Departed:		Owner aware?					
		<input type="checkbox"/> Yes	<input type="checkbox"/> No				

Person in charge in Master's absence:			
Name:	Family Name:	DOB:	POB:

VESSEL #2			
<u>Vessel Information</u>			
Vessel is:	<input type="checkbox"/> Victim	<input type="checkbox"/> Suspect	<i>Note: Whenever possible, PHOTOGRAPH vessel prior to executing interdiction action.</i>
<u>Initial Vessel Acquisition</u>			
*Provide distance and direction from reference point on land.			
Time of radar acquisition:	Location*:	Course:	Speed:
Time of visual acquisition:	Location*:	Course:	Speed:
<u>Vessel Information</u>			
Length:	Type*: *e.g., Merchant Ship (M/V), Merchant Tanker (M/T), Cruise Ship (C/S), Dhow, Skiff	Hull Material:	Name on hull:
Hull Color:	#s on hull:	Propulsion:	Hailing Port:
Flag Flown:	Vessel activity:	Riding High/Low?	# Crew Observed:
<u>Vessel Registration and Documentation</u>			
Vessel name on registration documents:	Flag State indicated on registration documents:	Registration number:	Flag state claimed by Captain/Master:
Operator's License: #: Date:	Foreign Fishing Permit: #: Date:	Ship's Log: <input type="checkbox"/> Yes <input type="checkbox"/> No	
<u>Purpose of Voyage</u>			
<input type="checkbox"/> Cargo	<input type="checkbox"/> Fishing	<input type="checkbox"/> Passenger	<input type="checkbox"/> Recreation
<input type="checkbox"/> Other			
Usual Route:			

Cargo			
Cargo:	Type:	Amount:	Location of cargo/fish:
Cargo:	When loaded/fish caught:	Where loaded/fish caught:	
Vessel Seizure			
Vessel Seized?	<input type="checkbox"/> Yes If yes, Date: Time:	<input type="checkbox"/> No	
Seaworthy?	<input type="checkbox"/> Yes	<input type="checkbox"/> No	
Where maintained:			
Vessel Operator Information Captain/Master/Owner Information			
Owner aboard?:	<input type="checkbox"/> Yes	<input type="checkbox"/> No	
Owner Name:	Owner Family Name:	Owner Nationality:	Owner Language:
Owner Address:	Owner DOB:	Owner POB:	
Master/Captain aboard?:	<input type="checkbox"/> Yes	<input type="checkbox"/> No	
Master/Captain Name:	Master/Captain Family Name:	Master/Captain Nationality:	Master/Captain Language:
Master/Captain Address:	Master/Captain DOB:	Master/Captain POB:	
If Master is Not Aboard:			
Master's Name according to Vessel Documents:	Location when departed:	Date Master Departed:	How Departed?:
Reason Departed:	Owner aware? <input type="checkbox"/> Yes <input type="checkbox"/> No		
Person in charge in Master's absence:			
Name:	Family Name:	DOB:	POB:

**** Attach pages for additional vessels as necessary.****

Note: Whenever possible, PHOTOGRAPH vessel prior to executing interdiction action.

Detainee Information

General instructions:

- **Photograph detainee on own vessel and in own clothes whenever possible.**
If photographs cannot be taken to document detainee's position on vessel, attach sketch of same.
- **Photograph detainee with name card; indicate facial and full body shots.**
- **Enforce silence amongst detainees, separate if possible.**

Detainee #1				
Name:	DOB/Age:	POB:	Nationality:	Family Name:
Language(s) spoken:				
When taken under control?:	Date:	Time:		
Photographed at sea?	<input type="checkbox"/> Yes	<input type="checkbox"/> No		
Photographed after controlled?:	<input type="checkbox"/> Yes	<input type="checkbox"/> No		
Clothing retained?:	<input type="checkbox"/> Yes	<input type="checkbox"/> No		
Observed with weapons?:	<input type="checkbox"/> Yes	<input type="checkbox"/> No		
Observed using weapons?:	<input type="checkbox"/> Yes	<input type="checkbox"/> No		
Sustained injuries?	<input type="checkbox"/> Yes	<input type="checkbox"/> No		
If yes, explain.				
Detainee #2				
Name:	DOB/Age:	POB:	Nationality:	Family Name:
Language(s) spoken:				
When taken under control?:	Date:	Time:		
Photographed at sea?	<input type="checkbox"/> Yes	<input type="checkbox"/> No		
Photographed after controlled?:	<input type="checkbox"/> Yes	<input type="checkbox"/> No		
Clothing retained?:	<input type="checkbox"/> Yes	<input type="checkbox"/> No		
Observed with weapons?:	<input type="checkbox"/> Yes	<input type="checkbox"/> No		
Observed using weapons?:	<input type="checkbox"/> Yes	<input type="checkbox"/> No		
Sustained injuries?	<input type="checkbox"/> Yes	<input type="checkbox"/> No		
If yes, explain.				

Detainee #3				
Name:	DOB/Age:	POB:	Nationality:	Family Name:
Language(s) spoken:				
When taken under control?:	Date:	Time:		
Photographed at sea?	<input type="checkbox"/> Yes	<input type="checkbox"/> No		
Photographed after controlled?:	<input type="checkbox"/> Yes	<input type="checkbox"/> No		
Clothing retained?:	<input type="checkbox"/> Yes	<input type="checkbox"/> No		
Observed with weapons?:	<input type="checkbox"/> Yes	<input type="checkbox"/> No		
Observed using weapons?:	<input type="checkbox"/> Yes	<input type="checkbox"/> No		
Sustained injuries?	<input type="checkbox"/> Yes	<input type="checkbox"/> No		
If yes, explain.				
Detainee #4				
Name:	DOB/Age:	POB:	Nationality:	Family Name:
Language(s) spoken:				
When taken under control?:	Date:	Time:		
Photographed at sea?	<input type="checkbox"/> Yes	<input type="checkbox"/> No		
Photographed after controlled?:	<input type="checkbox"/> Yes	<input type="checkbox"/> No		
Clothing retained?:	<input type="checkbox"/> Yes	<input type="checkbox"/> No		
Observed with weapons?:	<input type="checkbox"/> Yes	<input type="checkbox"/> No		
Observed using weapons?:	<input type="checkbox"/> Yes	<input type="checkbox"/> No		
Sustained injuries?	<input type="checkbox"/> Yes	<input type="checkbox"/> No		
If yes, explain.				
Detainee #5:				
Name:	DOB/Age:	POB:	Nationality:	Family Name:
Language(s) spoken:				
When taken under control:	Date:	Time:		
Photographed at sea?:	<input type="checkbox"/> Yes	<input type="checkbox"/> No		
Photographed after controlled?:	<input type="checkbox"/> Yes	<input type="checkbox"/> No		
Clothing retained?:	<input type="checkbox"/> Yes	<input type="checkbox"/> No		
Observed with weapons?	<input type="checkbox"/> Yes	<input type="checkbox"/> No		

Observed using weapons?	<input type="checkbox"/> Yes	<input type="checkbox"/> No		
Sustained injuries?	<input type="checkbox"/> Yes	<input type="checkbox"/> No		
If yes, explain.				

****Attach pages for additional detainees as necessary.****

Weapons Information

Use of Weapons			
By Detainees:			
Did detainees possess firearms?	<input type="checkbox"/> Yes	<input type="checkbox"/> No	
--Types of weapons observed?			
Detainees fired weapons?	<input type="checkbox"/> Yes	<input type="checkbox"/> No	
--Types of weapons fired?			
Number of detainees who fired weapons?			
Approximate number of rounds?	<input type="checkbox"/> 1 – 10	<input type="checkbox"/> More than 10	
By Government Vessel:			
Shots fired by ship?	<input type="checkbox"/> Yes	<input type="checkbox"/> No	
-Approximate number of rounds fired?	<input type="checkbox"/> 1 – 10	<input type="checkbox"/> More than 10	
-Types of weapons used?			
Shots fired by RHIB/small boat?	<input type="checkbox"/> Yes	<input type="checkbox"/> No	
-Approximate number of rounds fired?	<input type="checkbox"/> 1 – 10	<input type="checkbox"/> More than 10	
-Types of weapons used?			

Explain circumstances if weapons were fired.

Weapons				
Item #	Type:	Fired: (Yes/No)	Recovered from:	Recovered By:
1.				
2.				
3.				
4.				
5.				
6.				
7.				
8.				
9.				
10.				

Vessels – Assign naming convention (e.g., Skiff A, B, C, etc.) and describe each below:

Vessels			
Vessel #	Description:	Storage Location:	Photographed:
A.			
B.			
C.			

Communication Equipment				
Item#	Description:	Location Found:	Storage Location:	Photographed:
1.				
2.				
3.				
4.				
5.				

Pirate/Boarding Equipment				
Item#	Description:	Location Found:	Storage Location:	Photographed:
1.				
2.				
3.				
4.				
5.				

Include approximate dimensions and weight of items.

Clothing Items				
Item#	Description:	Location Found:	Storage Location:	Photographed:
1.				
2.				
3.				
4.				

Government Participants and Other Witnesses/RHIB Team Participants		
Name	Rank/Position/Title:	RHIB: Team/Assignment:
1.		
2.		
3.		

Other Government Witnesses		
Name	Rank/Position/Title:	Assignment:
1.		
2.		
3.		

Victims					
Name/Family Name:	Injured: (yes/no):	Vessel:	DOB:	POB:	Language:
Photograph of Victim? (Overall and face with name card)	<input type="checkbox"/> Yes	<input type="checkbox"/> No			
Photograph of any injuries? (with scale)	<input type="checkbox"/> Yes	<input type="checkbox"/> No			
Clothing retained?	<input type="checkbox"/> Yes	<input type="checkbox"/> No			

(Use a separate checklist for each victim.)

APPENDIX X: IMO GUIDELINES TO ASSIST IN THE INVESTIGATION OF THE CRIMES OF PIRACY AND ARMED ROBBERY AT SEA



E

4 ALBERT EMBANKMENT
LONDON SE1 7SR
Telephone: +44 (0)20 7735 7611 Fax: +44 (0)20 7587 3210

Ref. T2-MSS/2.11.4.1

MSC.1/Circ.1404
23 May 2011

GUIDELINES TO ASSIST IN THE INVESTIGATION OF THE CRIMES OF PIRACY AND ARMED ROBBERY AGAINST SHIPS

- 1 The Assembly, at its twenty-sixth regular session and through resolution A.1025(26), adopted the Code of Practice for the Investigation of the Crimes of Piracy and Armed Robbery against Ships.
- 2 Pursuant to the better implementation of resolution A.1025(26), the Maritime Safety Committee (the Committee), at its eighty-ninth session (11 to 20 May 2011), developed Guidelines to assist in the investigation of the crimes of piracy and armed robbery against ships (the Guidelines), and agreed to disseminate the Guidelines to all interested parties.
- 3 These Guidelines should be read in conjunction with resolution A.1025(26).
- 4 Member Governments are invited to consider the Guidelines as set out in the annex, and advise Administrations and other authorities to assist in the investigation of the crimes of piracy and armed robbery against ships and to act accordingly.
- 5 Intergovernmental and non-governmental organizations with consultative status are also invited to consider the Guidelines as set out in the annex and to advise their membership to act accordingly, taking into account the guidance provided in MSC.1/Circ.1333, 1334 and 1337 and resolution A.1025(26).
- 6 Member Governments and intergovernmental and non-governmental organizations with consultative status are invited to consider bringing the results of the experience gained from using the Guidelines, as set out in the annex, to the attention of the Committee.

ANNEX

GUIDELINES TO ASSIST IN THE INVESTIGATION OF THE CRIMES OF PIRACY AND ARMED ROBBERY AGAINST SHIPS

Introduction

Member Governments and the international community have taken positive steps in an effort to curb the crimes of piracy and armed robbery against ships. However compared to the scale of the problem, the increasing physical, mental and sexual violence towards the crew and the ever increasing extent of sea area threatened by these pirates, the efforts remain limited in their outcome.

Governments are urged to take a more robust stance towards dealing effectively with these crimes and to provide more assistance to vessels transiting pirate-infested waters as well as after the vessels are released after prolonged periods in captivity.

The capture, prosecution and sentencing of pirates and armed robbers is probably the most appropriate deterrent action available to Governments. A vessel being released after prolonged captivity is likely to have a lot of potential evidence which, if collected, recorded and maintained in an appropriate manner, could supplement a prosecution case at a later date. To do this, Governments are encouraged to have trained investigators available who can collect the available evidence from a vessel immediately after its release. Failing this, every effort should be made to have an investigator available at the vessel's first port of call after release.

Guidelines to the investigator

If the investigator is to board the vessel at the first port of call immediately after release, he/she should liaise with the Master directly on the procedures he/she will be employing to collect the evidence. The investigator should bear in mind what the master and crew have been through and that the Master's ability to assist in the investigation may be limited. A balance should be struck between the needs of the investigator and the needs of the Master and crew. The requirement to have an early liaison should be facilitated by the shipowner, the Company security officer and the flag State of the ship.

The investigator should always be sensitive to the fact that the crew would have been subject to extreme levels of stress during their period of capture and negotiation and would like to get the vessel back to normal operational condition as quickly as possible. The Master should give the investigator assistance and cooperation, to the best of his/her ability, for the collection of evidence.

If the investigator has to board the vessel at the first port of call after release he/she should:

- .1 Contact the CSO of the vessel and confirm if the Master has been able to cordon off areas of the ship to preserve the evidence.
- .2 Recognize and appreciate that the crew would have been under extreme stress for a number of days and may have been subject to physical, mental and even sexual abuse. The investigator should be sensitive to this fact while taking crew statements.
- .3 Be mindful of the flag State's obligations to conduct its own investigation as well as its need for immediate access to the ship and crew upon the ship's arrival.

The following sections briefly describe some of the actions and procedures in the collection of evidence to support the submission of written reports.

SECTION 1

Crew Statement

Statement of
(Given names) (Family name)

Name of Ship Operating Company

Flag State Type of Vessel

IMO No.

Description of alleged offenders: The information given by the crew should be in as much detail as possible from what they personally saw, heard or experienced. Use a new sheet for each pirate. The pirates should be described as accurately as possible. All information about the pirates, including how they treated each crew member giving evidence, as well as how they were seen to treat the other crew members, should be given. If no names were heard then the pirate should be given a number to distinguish him. This number should also be used as a reference in the crew statement.

Alleged offender No. ...

Name: (If given or heard called by others)

Approximate Age:

Approximate Height:

Build: (slim/medium/large/heavy)

Ethnic Origin:

Eye Colour: Hair Colour

Hair Length: (Cropped/short/medium/long/over ears/tied back)

Facial Hair: (Beard/moustache) Facial Scars:

Body Markings: (Description and location on body)

Tattoos: (Describe where and what if possible)

Clothing:
(Colour and type of outer clothing, for example red short-sleeve T-shirt, long blue trousers)

Footwear: (Barefoot/sandals/other)

Neck wear: Wrist wear: Ankle wear:

Weapons/equipment carried:
(Automatic rifle/grenade launcher/handgun/knife/machete/ammunition belt/radio, other)

Attitude:
(violent/brutal/aggressive/demanding or considerate/courteous/considerate/respectful)

Describe how this person treated you or others:.....
.....
.....
.....
.....

SECTION 2

Securing the Crime Scene and Recovery and Packaging of Exhibits

The following guidelines are intended to assist the investigator to recover valuable material which after forensic examination by a competent authority may assist in the subsequent identification, arrest and prosecution of the pirates that held the vessel and crew captive.

The investigator should:

- .1 Wear fresh protective clothing such as overalls, rubber gloves (for each separate item if practical) as well as have some facial protection, e.g., chemical/dust masks, to give some protection to the investigator himself and to avoid distribution of own fingerprints and biological material on the recovered items.
- .2 Items in the open and vulnerable to weather conditions should be given priority over those that are enclosed, e.g., Bridge, machinery spaces, cabins, mess room, etc.
- .3 All items are to be photographed, identified, labelled, and logged at the location found before removal and packaging. The camera should be set to the correct date and time before starting. This will help ensure an accurate visual record which would be of evidential value. The film or digital imaging record will also be subject to evidential value.

SECTION 3

Identification and Labelling

Each item recovered will need to be given an "identification reference" with a sequential number (i.e. 01, 02, 03, etc.) to link it to the point of recovery and by whom.

For example an abbreviation of the vessel's name, the point of discovery, e.g., Deck 3 mid-ships stairwell in Zone 2, the initials (not full name) of the finder and the sequential number of the item recovered.

Each item when packaged will be given a label with the same unique reference to link it to the point of discovery. An example of this could be if the ship was named **Sea Spirit** and the person recovering was Ronaldo Fernandez, giving an identification reference of:

SS/Date & Time/Crew Mess Room /RF/1, .../RF/2, ...RF/3 etc.

Where an item of obvious significance is found, then the person recovering AND the person able to identify it in relation to a pirate, (e.g., firearm, grenade, ammunition belt, rope, galley utensil, blanket, etc.) should include this on their pro-forma statement (see SECTION 1).

Should more than one person be involved in recovering items, then the identification reference would include that person's initials, also starting from 01.

All items recovered will need to be safely stored in a clean and dry environment until such time as they are landed ashore.

If a paper sack or cardboard box is used to package the item, then the identification reference should be written in ink or similar (not pencil) on the outside of the package. In the case of plastic bags, glass jars or smaller containers, then a reference label will need to be attached. Please note that adhesive tape and NOT staples should be used to attach the label.

Example:

IDENTIFICATION REFERENCE

.....SS...../..03-03-2011..1425 / Crew Mess Room /.....RF...../...01.....
(Ship name) / (Date/Time) / (Location) / (Recovered by) / (Seq. number)

Brief description: (for example – Brown blanket used by pirate leader)

Signature:

SECTION 4

Log of Items Recovered From Search or Seizure

Item No	Date/ Time	Location found	Description of item	Recovered by	Signature	Identification Reference	Remarks
01	03/03/2011 1425	Crew Mess Rm	Brown blanket used by Pirate leader	Ronaldo Fernandez		As above	

SECTION 5
Guidelines on recovery and packaging of exhibits

TYPE OF EXHIBIT	SAMPLING/TREATMENT	RECOMMENDED PACKAGING	PRACTICAL OPTIONS FOR CONSIDERATION
<p><u>WARNING:</u> THE HANDLING OF BODY FLUIDS CONSTITUTES A HEALTH HAZARD ALWAYS SEEK ADVICE IF UNSURE</p>			
BLOOD			
<p>A) Blood stained items originating from a pirate</p>	<p>If an easily removable item, e.g., knife, ashtray, bottle, etc. (see further down re: clothing), allow the item to dry completely and naturally before packaging.</p> <p>DO NOT accelerate drying.</p> <p>Make a note on exhibit seizure form if blood stain was wet when obtained.</p>	<p>Place each individual item in a <u>separate</u> suitable, properly sealed container, e.g., sealed strong paper bags or stout paper sacks. In the absence of sacks, cardboard boxes will suffice. Bags/sacks should be folded over twice and sealed with adhesive tape (adhesive tape or similar), boxes should also be sealed with tape.</p> <p>Clearly mark any sack or container that contains blood with 'BIOHAZARD'</p>	<p>Bags/paper sacks must not have been used previously. If no 'police issue' sacks are available, suitable sacks would be those used for paper waste disposal. If a cardboard box is used, it should be as clean as possible and lined with clean paper. Write the exhibit identification reference on the sack/box as you seal it.</p> <p>Note: Plastic bags should not be used for blood stained items as they promote dampness. Nor should staplers ever be used to seal bags.</p> <p>Seek advice and guidance from Ships Doctor/Medic and/or shore authorities if required.</p>
<p>B) Bloodstains (from pirate(s)) on immovable objects</p>			<p>Mark any sack or container that contains blood with 'BIOHAZARD'</p>

TYPE OF EXHIBIT	SAMPLING/TREATMENT	RECOMMENDED PACKAGING	PRACTICAL OPTIONS FOR CONSIDERATION
<p>1) Pools of wet blood</p> <p>WARNING – Syringes and needles pose a serious health hazard and must be handled with extreme care</p> <p>Wherever possible seek medical advice before handling</p>	<p>Can be collected using a syringe.</p>	<p>Blood (not syringe) to be placed into a clean, dry bottle/jar with a screw top. Syringe to be disposed of in proper 'sharps' box.</p>	<p>As above.</p>
<p>2) Partly clotted blood</p>	<p>Lift with a clean knife or scalpel blade.</p>	<p>As above.</p>	<p>As above.</p> <p>Keep all WET or SEMI-SOLID blood samples in a cool place. If delay likely in passing to authorities, consider deep freezing samples (away from food products). Take advice before doing so.</p>
<p>3) Dry blood</p>	<p>If practical and possible, cut away the surface containing the stain. A non stained part of the item should also be taken as a control sample.</p> <p>OR</p> <p>Scrape dry blood onto a clean sheet of paper.</p>	<p>Place each individual item (including the control sample) into a separate suitable container, e.g., paper sack, cardboard box and seal properly with adhesive tape.</p> <p>Fold paper carefully and seal in a labelled envelope.</p>	<p>Seek advice from Ships Doctor/Medic and shore authorities.</p> <p>Never use staplers.</p>
FIBRES & HAIRS			
<p>Items onto which fibres may have been transferred (e.g., from pirates clothing to other clothing, bedding, weapons)</p>	<p>Where possible recover the whole item with the minimum of disturbance. If it cannot be packaged, cut out approximately 20 cm square of material OR pull out tufts of fibres. Otherwise, seek advice from shore authorities as to fibre sampling.</p>	<p>Place in an envelope sealing all seams and openings. Large items should be placed in a clean paper sack or cardboard box. If there is more than one piece then wrap each item SEPARATELY and seal effectively with adhesive tape.</p>	<p>Do not use staplers, seal with adhesive tape. A plastic sack could be used if the item is completely dry.</p> <p>Polythene bags (providing no dampness) or paper sacks can be used.</p>

TYPE OF EXHIBIT	SAMPLING/TREATMENT	RECOMMENDED PACKAGING	PRACTICAL OPTIONS FOR CONSIDERATION
Rope or Twine used by pirate	Recover the whole length of rope if possible OR obtain a length at least 30 cm long. For suspicious deaths or suicide, recover the whole item.	Wrap each item separately in a polythene or paper sack and seal effectively.	Do not use staplers to seal any bag. Always use adhesive tape.
Where there is a possibility of a PHYSICAL FIT between broken or cut ends	If the rope must be cut to remove it, first clearly label the original cut or broken ends. Always leave knots intact.	Protect the cut or broken ends with paper or polythene bags so that they cannot be damaged and place each individual piece of rope or twine in a separate polythene or paper sack.	As well as potential evidence re: a crime, such evidence could be of considerable value to an accident investigation or inquest re: suicide.
Items recovered that may have hairs present	Recover the whole item wherever possible.	Wrap each item separately in a polythene or paper sack and ensure the bag is completely sealed.	Do not use staples to secure the bag, only adhesive tape.
CLOTHING, BEDDING AND FOOTWEAR			
Bedding used by pirate(s)	Where possible and practical recover whole item, e.g., blanket used by the pirate. Mark upper and lower surfaces head and foot to establish orientation of sheets, blankets, quilts, etc.	Wrap each item separately at the recovery location if possible. Place in a stout paper sack and seal with adhesive tape.	Ensure that all recovered items are kept separate to avoid cross contamination. If a number of cabins are involved, ensure different staff recover bedding and bag and seal items at a separate location before storage.
Clothing (used or left by pirates)	Recover the whole item of clothing if used by the pirate.	As above.	As above.
Wet or damp items WARNING – See first page re: handling materials containing body fluids	Allow to dry naturally as soon as possible on a paper-lined surface.	When completely dry package as above.	Avoid risks of contamination by drying at separate locations where practical.
Footwear	Package any footwear used by the pirate(s).	Use separate paper sacks or cardboard boxes for each item and seal securely.	Suitable boxes might be those that contained photocopier paper.

TYPE OF EXHIBIT	SAMPLING/TREATMENT	RECOMMENDED PACKAGING	PRACTICAL OPTIONS FOR CONSIDERATION
FOOTWEAR MARKS			
Surface transfer marks	Where possible recover whole item, e.g., on paper(s), cardboard, glass, bedding, etc.	Place each item separately in an appropriate and clean container (e.g., cardboard box) to protect.	As above.
	If not possible to recover consider photographing placing two rulers at right angles to show size of mark.	If digital photographs taken, do not use any photo enhancement facilities. Leave for experts to improve on.	If film photography is used, package the entire film cassette.
GLASSWARE & CERAMICS			
Glasses, cups mugs, etc., used by the pirate(s)	Recover whole or broken items used by the pirates.	Place any broken pieces in a polythene bag or paper envelope and place in a sturdy cardboard box. Whole items should be individually packaged. Seal the box completely with adhesive tape.	If a box or sack contains broken items that could cut or injure, please label 'CAUTION, INJURY HAZARD'.
EXPLOSIVES, FIREARMS & OTHER WEAPONS			
IMPORTANT – Safety takes precedence over evidence collection. Specialist advice MUST be sought before ANY action is taken.			Seek urgent advice from shore authorities before taking action unless to do so is critical to preserving life.
IT IS DANGEROUS PRACTICE TO LIFT A FIREARM BY THE TRIGGER GUARD	Do NOT touch unless you are familiar with firearms. Seek specialist advice. NEVER position yourself so that the gun barrel is pointing in your direction. REMEMBER a loaded gun can be discharged when being moved or simply touched. IF there is a person experienced in the handling of firearms available, get that person	Photograph the firearm in position before any attempt is made to move it. Tie the item with string to the inner surface of a cardboard box, so that movement in the box is restricted. Seal and label the box correctly. If possible, photograph the position of any cartridges or bullets in the chamber/ breach/magazine before	NEVER INSERT A PENCIL OR OTHER OBJECT INTO THE BARREL, THIS COULD DESTROY VALUABLE EVIDENCE. If it is suspected that the barrel of the firearm has been in the mouth of the victim, the muzzle (having been allowed to dry naturally) should be protected by placing an envelope loosely over it but NOT affixed with adhesive.

TYPE OF EXHIBIT	SAMPLING/TREATMENT	RECOMMENDED PACKAGING	PRACTICAL OPTIONS FOR CONSIDERATION
	to make the weapon safe by unloading the weapon noting the position of any cartridges present in the chamber of a revolver, in the barrel of a shotgun, etc.	removal providing it is safe to do so in the opinion of a firearms-trained person. Any bullet/cartridge removed should be packed separately. Place in a dry cardboard box and secure. Place in cardboard box of other secure container and seal with adhesive tape.	Handle with great care with gloves if possible, lift by placing a gloved finger at each end touching the minimum surface possible.
Weapons other than firearms (e.g., knives, hammers, hatchets)	DO NOT attach any adhesive material to the blades or handles (this could destroy fingerprints or other evidence of value).	Place in cardboard box or other secure container and seal with adhesive tape.	Where there are items that could cut or injure, please label 'CAUTION, INJURY HAZARD'.
RECOVERY AND PROTECTION OF PROJECTILES			
WARNING – see above re: blood and firearms	Any wounds resulting from a firearm injury should (subject to medical advice) be photographed before surgery. Wherever possible a ruler or scale should be in the photograph adjacent to the wound.	Seek advice re: packaging from shore side authorities. Photographs of injuries should be in colour as this will show differentiation between blood staining and blackening. Films should not be processed unless it is essential, but retained for the relevant authorities.	As above.
	Unless it is absolutely essential to do so, do not attempt to remove a bullet or air pellet that is imbedded in walls, doors, etc., as this would most likely destroy any ballistic evidential value. This should be left to forensic experts. Photograph any projectile <i>in situ</i> .		Wherever possible, seek advice from shore authorities before removal of area surrounding projectile. Mark the area clearly without touching or damaging the scene.

TYPE OF EXHIBIT	SAMPLING/TREATMENT	RECOMMENDED PACKAGING	PRACTICAL OPTIONS FOR CONSIDERATION
MODEL, REPLICA AND BLANK FIRING FIREARMS			
WARNING – see above	Treat as real until proved otherwise. All wads and cartridge cases should be recovered.	Wrap in tissue paper (NOT cotton wool) and place in a cardboard box, seal and label. For loose bullets/pellets, pack as above. Once known to be safe, place in a polycover and lay in a box padded with tissue paper to prevent movement, and seal and label.	If unsure as to whether or not the weapon is a replica, etc., seek advice from shore authorities BEFORE packaging.
CLOTHING OF PERSON SUSPECTED OF DISCHARGING A FIREARM AND ANY VICTIM			
WARNING – See first page re: caution to be applied when dealing with body fluids	Clothing should be gently handled to preserve lightly adhering firearm discharge residue. As above. BUT bloodstained clothing must be allowed to dry naturally before packing.	Items of clothing must be individually packaged in paper sacks, sealed with adhesive tape and labelled.	Plastic sacks can be used where clothing is dry.
Clothing of victim (crew)	As above.	As above.	As above.
DOCUMENTS (e.g., DEMANDS/RANSOM NOTES)			
Hand-written documents	Obtain the ORIGINAL document, place in a polycover and if possible make a photocopy to be used as a working document (e.g., to Fax to authorities or Head Office).	Place in a clean polyfolder or polythene bag. DO NOT WRITE ON OR MAKE ANY INDENTATIONS ON DOCUMENT.	



Africa Center for Strategic Studies
Centre d'études stratégiques de l'Afrique
Centro de Estudos Estratégicos de África

Maritime Strategy Development Process

INTRODUCTION

To meet the current security and development challenges facing African states and citizens, strategies must include a maritime dimension. Specifically, maritime strategies will enable local communities, states, sub-regions, and the continent to fully utilize maritime domain resources to achieve sustainable development. Equally critical, maritime strategies will equip Africans with essential tools to meet the many security threats emanating from the maritime domain.

This document endeavors to inform the process of maritime 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 the Africa Center for Strategic Studies (ACSS) in Dar Es Salaam, Tanzania. This template provides examples of important issues and techniques to consider in maritime strategy development. It does not, however, lay out an exhaustive or prescriptive list of issues that need to be addressed when drafting specific maritime strategies.

THREAT ASSESSMENT

The maritime domain is one of evolving geostrategic importance. To develop a maritime strategy, it is critical to assess and prioritize maritime threats and challenges in Africa. These include not only a complex array of threats at the operational level, but also institutional challenges and needed reforms.

Today's maritime threats are complex, difficult to cate-

gorize, and impact a variety of stakeholders. These threats include illegal, unreported, and unregulated (IUU) fishing; resource theft, including oil bunkering; trafficking of both humans and goods, including arms and narcotics; illegal immigration; piracy and insecurity of navigation routes; terrorism; money laundering; climate change and coastal erosion; and environmental degradation, which includes reckless and destructive fishing practices, illegal dumping (including toxic waste), pollution, and oil and chemical spills, among others.

Beyond these tangible operational threats, there are also challenges of state capacity. Generally, African governments lack workable contingency plans for addressing and preventing maritime threats. Such institutional weakness is further compounded by structural challenges of endemic poverty, high unemployment, food insecurity, political instability, conflict, and corruption. Though these issues may seem removed from the immediate maritime domain, they have very real and tangible effects on maritime safety and security and the capacity to devise practicable maritime strategies.

In addition to these direct maritime threats and institutional challenges that undermine response capabilities, numerous challenges must be accounted for: chronic under-surveillance by states of their territorial waters and Exclusive Economic Zones (EEZs); the inability of many states to equip and sustain a capable maritime force; international obligations like maritime safety and search and rescue capabilities; poor coordination and communication between stakeholders in the maritime domain; and lack of political will in government to prioritize and commit resources to this undertaking,

which competes for scarce resources with other national and regional priorities.

The threats and challenges listed above, both operational and institutional, are numerous, yet not exhaustive. Such complexity must be thoroughly assessed and understood in order to devise comprehensive and workable strategies to address maritime threats and challenges. It is critical that threat assessments at the national and regional level must be prioritized in order to inform strategies that, by necessity, must be collaborative.

Stakeholders

These threats affect, and consequently must be addressed with consideration for, a broad and diverse group of public and private stakeholders in the maritime realm. Moreover, the identification of national interagency and international stakeholders can help facilitate the collaboration required for the development a national strategy. Stakeholders may be numerous and particular to individual nations and regions. A comprehensive list of stakeholders cannot, thus, simply be applied wholesale to maritime domains across the continent. However, the following list represents many classifications of maritime stakeholders:

- Local communities
- Private Industry (both local and international, including the fishing, trade, shipping, extractive, tourism, insurance, and security industries)
- Experts and Practitioners (including scientists, consultants, think tanks, non-governmental organizations, research institutions, and educational institutions)
- Relevant state institutions (including customs and border patrols, port authorities, maritime administrative bodies, legislative bodies, judiciaries, law enforcement, navies, coast guards, etc.)
- International partners (including neighboring maritime and landlocked states as well as partners in maritime cooperation in other parts of the world)
- The African Union and the Regional Economic Communities
- The United Nations, the International Maritime Organization, and other international organizations

ACHIEVING MARITIME OBJECTIVES

Ends

At the outset of the strategy development process, it is critical to determine the desired aims. These should strive to achieve balance between the interests of eco-

nomie, social, environmental, and security sectors of society, as well as working within the parameters established by available resources. In designing a maritime strategy, these objective ends must be actionable, tangible, and measurable and describe the desired goal of implementing a maritime strategy. 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 dependant on the needs of the country, sub-region, or region. In spite of the individual nature of this task, however, it is possible to identify examples of key maritime objectives and their overarching pillars (in bold):

Governance

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

Economic

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.

Environmental

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

Legal

8. Improve 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 Sector

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.

12. Engage and support sub-regional and regional collective security mechanisms.

Ways

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 end result. Appropriate ways must take into account the breadth of maritime sector activities in which stakeholders participate. They must also adopt a collaborative approach. Such an approach could, but need not, involve multi-agency and/or multi-national coordination. Poor communication among maritime stakeholders is consistently identified as an obstacle to maritime safety and security. Better coordination articulated in the “ways” of a maritime strategy addresses that challenge.

Considering the breadth of stakeholders in the maritime domain, a core group of stakeholders must lead strategy development and then share it with the next group of stakeholders in order to make the process both efficient and expedient. This participatory and practicable approach is comprehensive in that three key resources for a maritime strategy (infrastructure, financial burdens, and human resources) are included.

Some ways are cross-cutting and not specific to a single objective. Training and education are critical. The necessity of keeping stakeholders informed and aware of maritime issues and developments as well as of maintaining a well-trained and adequate maritime workforce cannot be understated. The sample objectives provided earlier are re-examined below to include ways of reaching the proposed ends.

Governance

1. Improve the effectiveness of governance by ensuring ministries perform their roles.

- Institute and strengthen review and audit processes within ministries.
- Promote public awareness and knowledge to enable greater government accountability.
- Undertake regular internal and external consultation
- Develop African-led solutions.

2. Foster maritime domain awareness through increased political will and sensitization of policy makers.

- Promote Maritime Domain Awareness (MDA) and increased prioritization amongst populations and electorates as part of an on-going education and

sensitization process.

3. Ensure adequate mechanisms exist to ensure good governance.

- Improve transparency.
- Create anti-corruption mechanisms.

4. Reinforce Maritime Administrative Bodies.

- Support and improve maritime affairs units at all levels.

Economic

5. Foster development, promote economic growth, and encourage free movement of people and trade in the maritime domain.

- Initiate and accelerate port modernization programs
- Dredge harbor channels, survey and chart waterways.
- Expand export promotion zones
- Enforce licenses and monitoring framework for maritime commerce participants.
- Increase the exploration maritime resources in an environmentally sustainable way.

6. Identify funding mechanisms to effect maritime security programs.

- Local: taxes and levies on maritime activity.
- Generate funds in cooperation with other stakeholders, including foreign partners with shared interests.
- Establish budgetary baselines to be allocated to maritime safety and security and increase this amount annually.
- Reduce costs for boats where possible (ex. Port fees, electricity, housing, etc.) and apply funds raised through port fees to support maritime safety and security.

Environmental

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

- Intervene to curb illegal exploitation and pollution
- Regulate and manage marine resources.
- Enforce the existing environmental protection laws
- Reinforce research and education efforts regarding the maritime domain.

Legal

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

- Strengthen existing laws and enact laws to close gaps in existing legal codes.
- Align domestic legislation with international stat-

utes.

- Catalog maritime agreements (international and domestic) and make accessible to all.
- Develop maritime expertise in legal centers.

Information

9. Design integrated communication processes that allow effective information sharing regarding maritime safety and security.

- Engage in regular maritime security dialogue through a standing forum or venue in which to share strategies and best practices.
 - Invest in communication technology.
 - Promote informal communication networks.
- Develop a coordination center for information.

10. Establish traffic management (ship reporting) mechanism.

11. Establish the remaining Maritime Search and Rescue Coordination Centers (MRCCs) agreed to be established in Africa and implement long-range identification systems (LRITs)

Security Sector

12. Defend state sovereign rights including national use and exploitation of maritime resources for domestic and international priorities.

13. Increase patrol capabilities.

14. Increase surveillance, monitoring, and escort capabilities.

15. Engage and support sub-regional and regional collective security mechanisms.

- Expand or develop national maritime capabilities that could either directly or indirectly support regional security objectives.
- Integrate maritime forces into Africa Standby Force structure.
- Train with ground peacekeeping forces to improve interoperability.

Means

To achieve maritime objectives, a variety of required resources must be properly balanced. For example, an excess of physical means without complementary human capacity will produce inefficient or ineffective strategies. Below is a description of critical resources that need to be considered in devising a strategy.

Human

Allocating appropriate numbers of personnel – both civilian and military - and ensuring they are well-trained and educated are very important to achieve a given objective. Institutions for sustained training and education are crucial to fully realizing this human resource. Additionally, it is necessary to define and delineate the types of bodies to which these personnel will belong, be they navies, coast guards, or some other maritime force or organization. The roles and responsibilities of each of these organizations should be codified in order to maximize the use of these human resources in the achievement of maritime objectives.

Financial

Budgetary support is a principal requirement for achieving an objective. It is important to ensure that maritime strategy objectives are properly and sustainably resourced in the national, sub-regional, or regional budget. Taxes on maritime commerce and products as well as fines or penalties on pollution can be applied to raise such funds. However, a risk or impact assessment may be necessary to determine if trade might be significantly affected. It is important that budgetary support be well-regulated by a financial oversight or auditing body. If these additional resources are not channeled back to maritime capacity building, the new tax does not serve the intended goal.

Physical

Physical resources encompass both the equipment necessary to secure maritime objectives as well as the physical spaces that also contribute to this goal. More particularly, this includes maritime vessels and aircraft as well as necessary supplies and cargo, but it also relies on good physical infrastructure. This refers to well-managed waterways and ports that comply with International Ship and Port Security (ISPS) codes, and properly dredged harbor channels. The maintenance of these important resources improves overall maritime safety and security and also advances many maritime objectives.

Information and Technology

Technology is critical to achieving maritime objectives in part because it provides information-gathering and -sharing capabilities. Technology should be procured with an appropriate mix of “high” and “low” technology and with specific maritime objectives in mind. It might include search and rescue systems, integrated vessel monitoring systems, and the creation of research and design capacity through acquired technology. Judicious use of financial resources should be applied when deciding what technological resources are necessary to meet maritime objectives. Where possible, equipment should be low-cost and easy to maintain.

Families of platforms with similar characteristics create ease of maintenance and promote interoperability and standardization when used throughout a sub-region or the region.

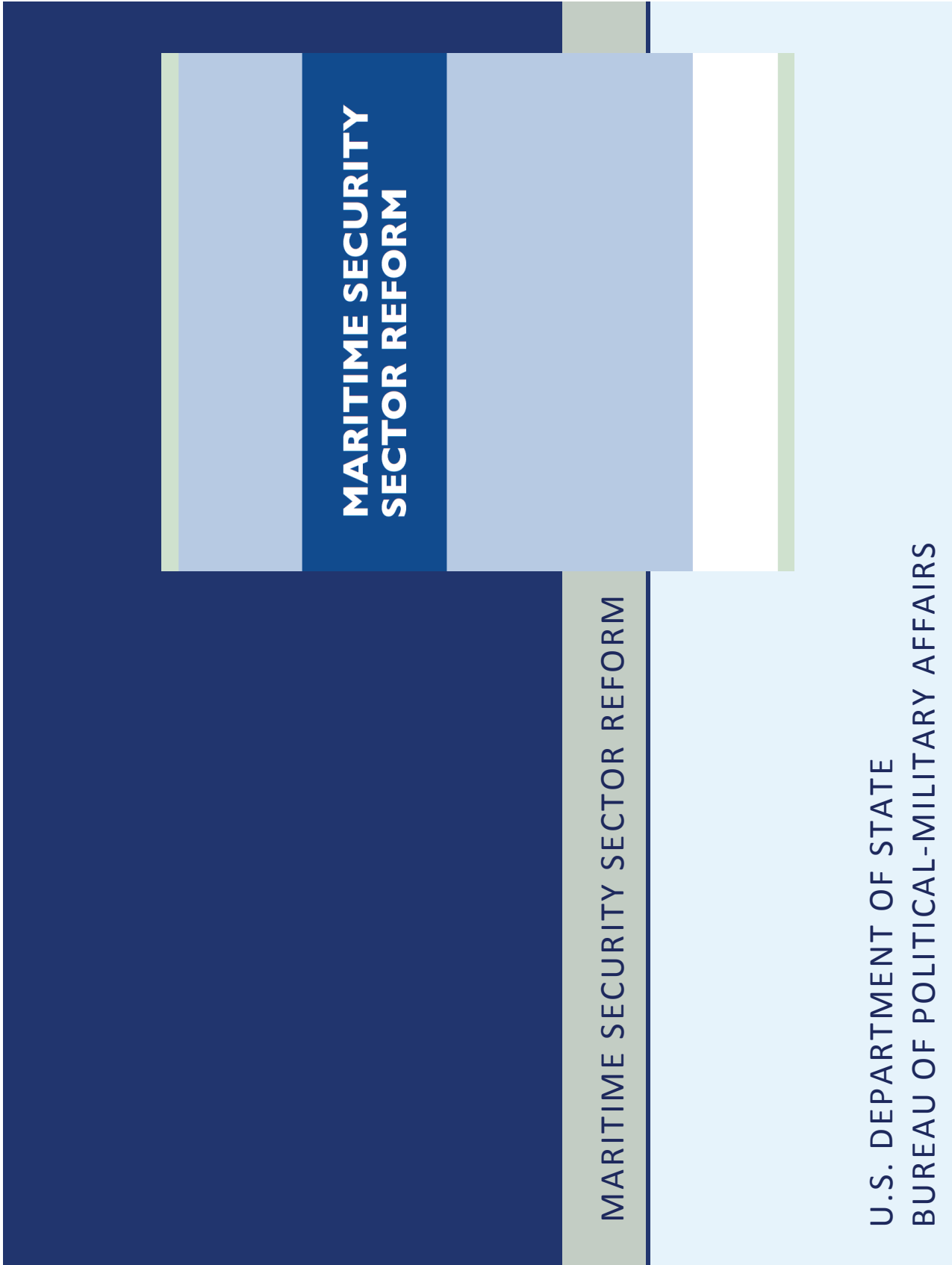
Intangibles

Intangible resources include things like political will for improved maritime security, reputation of concerned stakeholders, and the cultural and popular view of the maritime domain, both among maritime populations, and those who are indirectly affected by it. These resources, though by definition intangible, are critical to achieving maritime objectives, as described in the ways section, addressing issues of education and sensitization.

RISK ASSESSMENT OF PROPOSED STRATEGY

Risk Assessment is a final, yet critical piece of maritime strategy development. This exercise evaluates and compares the gap between the chosen aims and objectives and the risks and sacrifices needed to achieve them. It examines the strategy for its suitability, sustainability, feasibility, and acceptability, all of which are important aspects of a successful maritime strategy. Once completed, the risk assessment can reinforce the entire strategy – it can contribute to building political will, for instance. Topics that might be addressed by risk assessment include the importance of regional conservation and its role in strategy implementation, competing domestic and international interests, and financial risk of relying on budgetary support from other sectors.

A maritime strategy is not a static document; it requires flexibility and re-evaluation in an evolving environment. Once a maritime strategy is finalized and adopted, the risk assessment serves as a periodic monitoring and auditing mechanism to ensure its integrity.



OVERVIEW

- ▶ Background and Context
- ▶ Structure of the MSSR Guide
- ▶ Utility of the MSSR Guide

BACKGROUND AND CONTEXT

Security Sector Reform (SSR)

➤ The set of policies, plans, programs, and activities that a government undertakes to improve the way it provides safety, security, and justice.

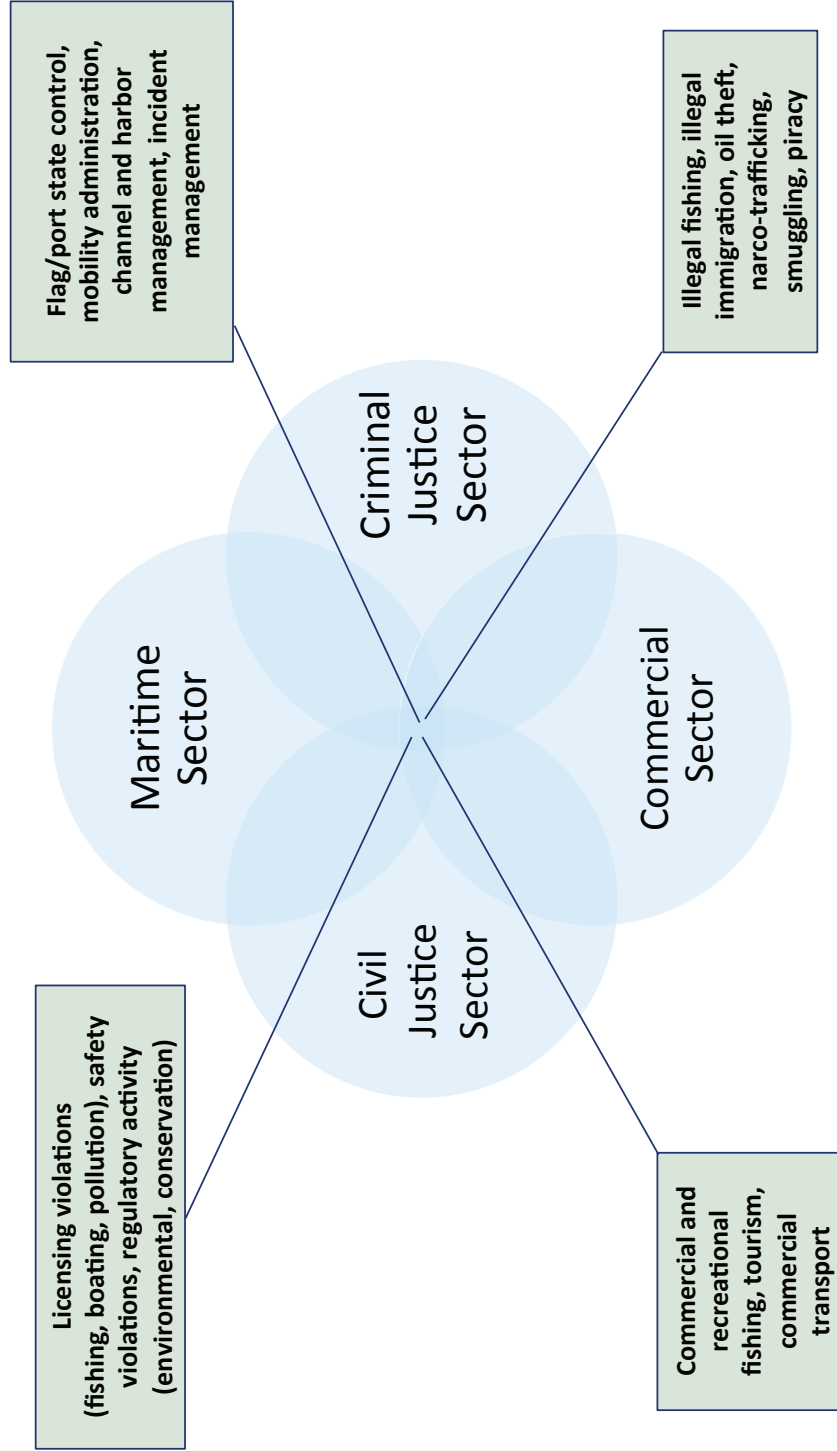
- www.state.gov/documents/organization/115810.pdf

- ▶ International work on Security Sector Reform
 - United Nations
 - Organization for Economic Cooperation and Development
 - National policy and program activities



<http://www.state.gov/documents/organization/154082.pdf>

LINKAGES: MARITIME, COMMERCIAL, AND JUSTICE SECTORS



MARITIME SECURITY SECTOR REFORM

- Application of SSR/SJSR concepts to the maritime sector
- Identification of 6 interdependent maritime functions



- ▶ **Identified Gap:** Lack of a diagnostic tool to produce baseline analysis of a national maritime sector, including critical elements of governance, civil and criminal authority, defense, safety, response and recovery, and economy
- ▶ The MSSR assessment tool is an analytical tool – not a strategy.

FUNCTIONS AND SUB-FUNCTIONS

FUNCTIONS	MARITIME GOVERNANCE	MARITIME CIVIL AND CRIMINAL AUTHORITY	MARITIME DEFENSE	MARITIME SAFETY	MARITIME RESPONSE AND RECOVERY	MARITIME ECONOMY
SUB-FUNCTIONS	<p>MARITIME MISSION</p> <p>MARITIME AGENCY ORGANIZATION</p> <p>MARITIME LAW AND POLICY</p> <p>DIPLOMATIC AND FOREIGN AFFAIRS SUPPORT</p> <p>MARITIME PROGRAMS</p> <p>MARITIME PROFESSIONALS</p> <p>MARITIME AGENCY OUTREACH AND STAKEHOLDER COORDINATION</p> <p>ACCOUNTABILITY AND OVERSIGHT</p>	<p>ENFORCEMENT OF CIVIL AND CRIMINAL LAWS</p> <p>INTEGRATED BORDER MANAGEMENT</p> <p>JUDICIAL SECTOR SUPPORT</p> <p>PORT SECURITY</p> <p>VESSEL SECURITY</p> <p>SUPPLY CHAIN SECURITY</p> <p>MARITIME ENVIRONMENTAL ENFORCEMENT</p>	<p>MARITIME DEFENSE ADMINISTRATION</p> <p>MARITIME DEFENSE FORCES</p> <p>MARITIME SITUATIONAL AWARENESS/ MARITIME DOMAIN AWARENESS</p>	<p>MARITIME SAFETY ADMINISTRATION</p> <p>FLAG STATE CONTROL</p> <p>PORT STATE CONTROL</p> <p>FISHING AND SMALL VESSEL SAFETY AND OPERATIONS MANAGEMENT</p> <p>MARITIME FACILITY SAFETY MANAGEMENT</p> <p>MARINER LICENSING ADMINISTRATION</p> <p>AIDS TO NAVIGATION INFRASTRUCTURE, EQUIPMENT AND MAINTENANCE</p> <p>CHANNEL AND HARBOR MANAGEMENT</p> <p>MARITIME SAFETY INTERAGENCY COORDINATION</p>	<p>EMERGENCY RESPONSE ADMINISTRATION</p> <p>INCIDENT MANAGEMENT</p> <p>SEARCH AND RESCUE</p> <p>FIRE</p> <p>ENVIRONMENTAL</p> <p>MARITIME DEFENSE ASSISTANCE TO CIVIL AUTHORITIES</p> <p>INVESTIGATION AND AFTER-ACTION ANALYSIS</p>	<p>ECONOMIC ACTIVITY REGULATION AND MANAGEMENT</p> <p>COMMERCIAL PORTS</p> <p>TRANSPORT</p> <p>MARKET CONDITIONS</p>

FUNCTIONS, SUB-FUNCTIONS, AND CAPABILITIES

Function	Sub-function	Capabilities
<p>2. Maritime Civil and Criminal Authority</p> <p>EXAMPLE</p>	<p>a. Enforcement of civil and criminal laws</p> <p>The tasks required to ensure effective implementation and enforcement of all applicable treaties, laws and regulations in a transparent and ethical manner.</p>	<ol style="list-style-type: none"> 1. Ability to provide trained and qualified law enforcement personnel. 2. Ability to enforce laws utilizing interagency and international coordination and cooperation. 3. Ability to hold personnel administratively, criminally, and professionally accountable to a defined set of ethical standards to maintain public integrity and combat corruption; and to hold private sector and other organizations responsible, as appropriate. 4. Ability to conduct operations, including joint operations.

APPROACH MEASUREMENT



Qualitative Indicator Range	Quantitative Indicator Range	Approach Indicator Definition
Nominal	0 – 2	Some activity may exist evidencing the capability measured, but such activities are not part of formal plans, policies, processes, or programs that would enable the capability to exist on a reliable and reproducible basis.
Modest	3 – 5	Organized, if basic, approaches to the capability exist, and efforts are in place to address weaknesses.
Moderate	6 – 8	Organized activities supporting the capability are professional, formalized, and supported by adequate budget levels.
Significant	9 – 10	Activities are formalized, planned, funded, assessed, and adjusted on a continual basis, evidencing a significant level of capability in this area.

DELIVERY MEASUREMENT

Function	Sub-function	Capabilities	Approach Measurement Indicators	Delivery Measurement Indicators
Qualitative Indicator Range	Quantitative Indicator Range	Delivery Indicator Definition		
Nominal	0 – 2	The capability is infrequently employed (0-30% of the time) and its contribution to positive outcomes is minimal.		
Modest	3 – 5	The capability is not consistently employed (30-60% of the time) and outcomes are erratic or unpredictable.		
Moderate	6 – 8	The capability is mostly employed (60-90% of the time) and produces adequate outcomes.		
Significant	9 – 10	The capability is consistently employed (90% of the time or higher) and produces effective and efficient outcomes. Capability reviews ensure the capability is upgraded if/as circumstances require.		

UTILITY OF MSSR GUIDE

- ▶ Provides a system-wide basis for analyzing regulatory, operational, and institutional policies and functions required for maritime security
 - Capabilities assessed by (1) Approach and (2) Delivery
- ▶ Enables development of national (self-assessment) and/or collaborative (joint assessment) understanding of where resources may best be targeted to improve specific aspects of a country’s national maritime sector
- ▶ Provides consistent measurement criteria over time for comparative analysis
- ▶ Permits identification of gaps in key functions and capabilities through sector-wide and cross-sector approach
- ▶ Facilitates coordination to avoid duplicative efforts, including through use by regional and international organizations



<http://www.state.gov/documents/organization/154082.pdf>

APPENDIX XIII: 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 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 LOS Convention.

Bench Trial: A trial without a jury, in which the judge serves as the fact-finder.

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 111(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. The three main pillars of a modern justice system include police, the judiciary, 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 111.

Human Trafficking: Or Trafficking in Persons (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.

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: 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 it seeks 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 by a state actor 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 persons 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 vessel of unknown nationality in order to determine its nationality, or to board any vessel suspected of engaging in piracy, slave trade or unauthorized broadcasting. (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 a person 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.

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: Also referred to as a “stateless vessel,” a vessel not subject to the jurisdiction of any flag state because of one or more of the following factors:

- No claim of nationality;
- Multiple claims of nationality or changing flags during a voyage (e.g., sailing under multiple flags – under LOS Convention article 92(2) such a ship may be “assimilated to” a ship without nationality);
- Contradictory claims or inconsistent indicators of nationality (i.e., master’s claim differs from vessel’s papers; homeport does not match nationality of flag), in some circumstances;
- Removable signboards showing different vessel names and/or homeports, in some circumstances;
- Vessel displaying no name, flag, or other identifying characteristics.

