



Ref. T1/13.01

MSC/Circ.622/Rev.1
16 June 1999

PIRACY AND ARMED ROBBERY AGAINST SHIPS

Recommendations to Governments for preventing and suppressing piracy and armed robbery against ships

1 The Maritime Safety Committee, at its seventy-first session (19 to 28 May 1999), reviewed MSC/Circ.622 (Recommendations to Governments for preventing and suppressing piracy and armed robbery against ships) and prepared the revised recommendations given at annex.

2 The review was carried out on the basis of the recommendations of the regional seminars and workshops on Piracy and armed robbery against ships conducted by IMO in Brasilia (20 to 22 October 1998) and Singapore (3 to 5 February 1999).

3 Member Governments, in particular those within areas identified as affected by acts of piracy and armed robbery against ships, are recommended to take any necessary action to implement, as appropriate, the recommendations given at annex.

4 Member Governments are also recommended to bring this circular and MSC/Circ.623/Rev.1 to the attention of all national agencies concerned with anti-piracy and anti-armed robbery activities, shipowners, ship operators, shipping companies, shipmasters and crews.

ANNEX

**RECOMMENDATIONS TO GOVERNMENTS
FOR PREVENTING AND SUPPRESSING PIRACY*
AND ARMED ROBBERY AGAINST SHIPS**

Piracy and armed robbery against ships

1 Before embarking on any set of measures or recommendations, it is imperative for governmental or other agencies concerned to gather accurate statistics of the incidents of piracy and armed robbery against ships, to collate these statistics under both type and area and to assess the nature of the attacks with special emphasis on types of attack, accurate geographical location and modus operandi of the wrongdoers and to disseminate or publish these statistics to all interested parties in a format that is understandable and usable. Furthermore Governments should involve representatives of shipowners and seafarers in developing measures to prevent and suppress piracy and armed robbery against ships.

2 In any ongoing campaign against piracy and armed robbery, it is necessary, wherever possible, to neutralize the activities of pirates and armed robbers. As these people are criminals under both international law and most national laws, this task will generally fall to the security forces of the States involved.

3 Ships can and should take measures to protect themselves from pirates and armed robbers. These measures are recommended in MSC/Circ.623/Rev.1. While security forces can often advise on these measures, and flag States are required to take such measures as are necessary to ensure that owners and masters accept their responsibility, ultimately it is the responsibility of owners, masters and ship operators to take seamanlike precautions when their ships navigate in areas where the threat of piracy and armed robbery exists.

4 The Coastal State/Port State should develop Action Plans detailing how to prevent such an attack in the first place and actions to take in case of an attack. Flag States should develop Action Plans detailing the actions to be taken on the receipt of a report of an attack. Because of the possibility of collision or grounding of a ship as a result of an attack, the Coastal/Port States will need to develop plans to counter any subsequent oil spills or leakages of hazardous substances that the ship or ships may be carrying. This is especially important in areas of restricted navigation.

5 All national agencies involved in preventing and suppressing piracy and armed robbery against ships should take appropriate measures for the purpose of maximizing efficiency and effectiveness and, at the same time, minimizing any relevant adversity. The Coastal/Port States should also establish the necessary infrastructure and operational arrangements for the purpose of preventing and suppressing piracy and armed robbery against ships.

* The following definition of piracy is contained in article 101 of the 1982 United Nations Convention on the Law of the Sea (UNCLOS):

“Piracy consists of any of the following acts:

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

6 On communication and co-operation between various agencies, and the response time after an incident has been reported to the coastal State:

- .1 an incident command system for tactical as well as operational response should be adopted in each country concerned to provide a common terminology; integrated communications; a unified command structure; consolidated action plans; a manageable span of control; designated incident facilities; and comprehensive resource management;
- .2 existing mechanisms for dealing with other maritime security matters, e.g. smuggling, drug-trafficking and terrorism, should be incorporated into the incident command system in order to allow for efficient use of limited resources; and
- .3 procedures for rapidly relaying alerts received by communication centres to the entity responsible for action should be developed or, if existing, reviewed.

7 It is imperative that all attacks, or threats of attacks, are reported immediately by radio to the nearest RCC or coast radio station to alert the Coastal State/Port State and followed up by a more detailed written report. On receipt of radio reports of an attack or post attack reports, the RCC or other agency involved must take immediate action to:

- .1 inform the local security authorities so that contingency plans (counter action) may be implemented; and
- .2 alert other ships in the area to the incident utilizing any appropriate communication means available to it, in order to create or increase their awareness.

8 The report received by maritime Administrations may be used in any diplomatic approaches made by the flag State to the Government of the coastal State in which the incident occurred. This will also provide the basis for the report to IMO.

9 Coastal States/Port States should report to IMO any act of piracy or armed robbery in their waters. The format presently used for reports to IMO is attached at appendix 4.

10 The recording and initial examination of reports is best done, wherever possible, by a central agency possessing the necessary skills and resources. In order to maintain the required credibility, both from Government and commercial sectors, such an agency must be accurate, authoritative, efficient and impartial in both its product and its dealings with others. It is judged that the organization best suited to this role is IMO itself, although the use of IMB's Piracy Reporting Centre in Kuala Lumpur, Malaysia, as a satellite for dissemination of information should also be considered.

11 The detailed work of assessment should be carried out by the security forces of the coastal State concerned who will probably have access to further information to complete the picture and background of the attacks and those persons responsible.

12 It is important that, once the collection and collation stages have been completed, the product be distributed to all agencies that need to know. These agencies include the Governments of coastal States for onward passing, the Governments of flag States for passing through maritime Administrations to shipowners and to other interested Government departments.

13 To encourage masters to report all incidents of piracy and armed robbery against ships, coastal States/port States should make every endeavour to ensure that these masters and their ships will not be unduly delayed and that the ship will not be burdened with additional costs related to such reporting.

14 On investigation into reported incidents and prosecution of pirates and armed robbers when caught:

- .1 it should be firmly established which entity in each country has responsibility and legal authority for carrying out post-attack investigations, since confusion during the hours after an incident may result in missed investigative opportunities and loss or deterioration of evidence;
- .2 the appointed investigation agency should have personnel trained in standard investigative techniques and who are familiar with the legal requirements of the courts of their countries, as it is widely assumed that prosecution, conviction and confiscation of assets of offenders are the most effective means of discouraging would-be offenders;
- .3 as offenders may be involved in other kinds of offences, piracy and armed robbery against ships should not be viewed in isolation and useful information should therefore, be sought in existing criminal records; and
- .4 systems should be in place to ensure that potentially useful information is disseminated to all appropriate parties, including investigators.

15 IMO regularly sends to coastal States reports of armed robbery said to have been committed in their territorial waters and requesting for information on the result of any investigations they have conducted. Coastal States are requested to respond to these inquiries even when they are unable to conduct an inquiry either because the incident was not reported or was reported too late for an investigation to be conducted. Any such responses should continue to be circulated to the sessions of the Committee.

Jurisdiction and intervention

Criminal jurisdiction

16 A person apprehended at sea outside the territorial sea of any State for committing acts of piracy or armed robbery against ships, should be prosecuted under the laws of the investigating State by mutual agreement with other substantially interested States.

Substantially interested State means a State:

- .1 which is the flag State of a ship that is the subject of an investigation; or
- .2 in whose territorial sea an incident has occurred; or
- .3 where an incident caused, or threatened, serious harm to the environment of that State, or within those areas over which the State is entitled to exercise jurisdiction as recognized under international law; or

- .4 where the consequences of an incident caused, or threatened, serious harm to that State or to artificial islands, installations or structures over which it is entitled to exercise jurisdiction; or
- .5 where, as a result of an incident, nationals of that State lost their lives or received serious injuries; or
- .6 that has at its disposal important information that may be of use to the investigation; or
- .7 that, for some other reason, establishes an interest that is considered significant by the lead investigating State;
- .8 that was requested by another State to assist in the repression of violence against crews, passengers, ships and cargoes or the collection of evidence; or
- .9 that intervened under UNCLOS article 100, exercised its right of visit, under UNCLOS article 110, or effected the seizure of a pirate/armed robber, ship or aircraft under UNCLOS article 105 or in port or on land.

17 States are recommended to take such measures as may be necessary to establish their jurisdiction over the offences of piracy and armed robbery at sea, including adjustment of their legislation, if necessary, to enable those States to apprehend and prosecute persons committing such offences.

18 For visits to ports in certain countries, ships need to carry amounts of money in cash to cover disbursements and other requirements. Cash on board a ship acts as a magnet for attackers. Where the carriage of large sums of cash is necessary because of exchange control restrictions in some States, these States are urged to take a more flexible approach.

19 Flag States should encourage all ships operating in waters where attacks occur to have a ship security plan. The ship security plan should be prepared having regard to the risks that may be faced, the crew members available, their capability and training, the ability to establish secure areas on board ship and the surveillance and detection equipment that has been provided.

20 If at all possible, ships should be routed away from areas where attacks are known to have taken place and, in particular, seek to avoid bottle-necks. If ships are approaching ports where attacks have taken place on ships at anchor, rather than on ships underway, and it is known that the ship will have to anchor off port for some time, consideration should be given to delaying anchoring by slow steaming or longer routing to remain well off shore thereby reducing the period during which the ship will be at risk. Such action should not affect the ship's berthing priority. Charterparty agreements should recognize that ships may need to deviate away from areas where attacks occur and that ships may need to delay arrival at such ports, either when no berth is available for the ship, or offshore loading or unloading will be delayed for a protracted period.

21 **Coastal States situated in areas affected by piracy and armed robbery**

- .1 in order to be able to respond, as quickly as possible, to any report from ships on piracy and armed robbery attacks, every piracy or armed robbery threat area should be adequately covered by Coast Earth Stations which are continuously operational, and which preferably are situated in the littoral State responsible for the area or in neighbouring States;

- .2 neighbouring countries having common borders in areas which can be characterized as piracy and armed robbery threat areas, should establish co-operation agreements with respect to preventing and suppressing piracy and armed robbery. Such agreements should include the co-ordination of patrol activities in such areas. An example of such an agreement is attached as appendix 5 to this circular;
- .3 on further development of regional co-operation, a regional agreement to facilitate co-ordinated response at the tactical as well as the operational level should be concluded between the countries concerned:
 - .3.1 such an agreement should specify how information would be disseminated; establish joint command and control procedures (a regional incident command system); ensure efficient communications; set policies for joint operations and entry and pursuit; establish the links between entities involved in all maritime security matters; establish joint specialized training of and the exchange of views between investigators; and establish joint exercises between tactical and operational entities; and
 - .3.2 that existing agreements, bilateral or regional, be reviewed, if necessary, to allow for the extension of entry and pursuit into the territorial sea of the State(s) with which the agreement has been made and practical operational procedures which will ensure the granting of permission to extend pursuit into another jurisdiction being received by the pursuing vessel at very short notice;
- .4 every country is recommended to ensure that each national RCC, which may be contacted by RCCs from other countries, is capable at all times of communicating in English. Thus, at least one person with a satisfactory knowledge of the English language - both written and spoken - should always be on duty;
- .5 in order to minimize co-ordination problems and possible delays in cases when distress/safety messages related to a specific area are received by Coast Earth Stations and RCCs in other countries, it is recommended to arrange common meetings/seminars for key personnel from both areas for the exchange of views and to establish suitable procedures and actions in different types of situations. Consideration should also be given to arranging common exercises to verify that procedures and actions are effective;
- .6 if an attack is reported in an area covered by NAVTEX transmissions, a piracy/armed robbery attack warning with category "Important" or "Vital", as appropriate, should be transmitted whenever such warnings can be transmitted sufficiently early to enable ships to take precautions appropriate to preventing attacks. If an attack is reported in an area which is not covered by NAVTEX transmissions, a piracy/armed robbery attack warning should be transmitted as an EGC SafetyNET message through the INMARSAT system. In this respect, relevant authorities are recommended to make arrangements with one or more Coast Earth Station(s) covering relevant areas, so as to be registered as "information providers" (Ref. to MSC/Circ.805); and

- .7 those countries that have established, or which plan to establish, radar surveillance and/or VHF DF (direction finding) systems, are recommended to investigate the potential suitability of such facilities for anti-piracy/armed robbery purposes. If such facilities are judged to be suitable for such purposes, the facilities and procedures necessary for their rapid and efficient use should be established.

22 It is important that any response to an incident is well planned and executed, and that those involved should be as familiar as possible with a ship environment. Therefore those responsible for responding to acts of piracy or armed robbery of ships, whether at sea or in port, should be trained in the general layout and features of the types of ship most likely to be encountered. Shipowners should be encouraged to co-operate with the security forces by providing access to their ships for the necessary familiarization.

23 The coastal States should consider the use of suitably equipped helicopters and other suitable means in countering acts of piracy and armed robbery. Security forces should consider the use of modern night vision equipment and other applicable modern technology.

24 A local rule of the road amendment allowing ships under attack to flash or occult their "not under command" lights should be authorized in areas where pirate/armed robbery attacks are more common.

25 The States with adjacent coastal waters affected by pirates and armed robbers should develop or maintain co-ordinated patrols by both ships and aircraft.

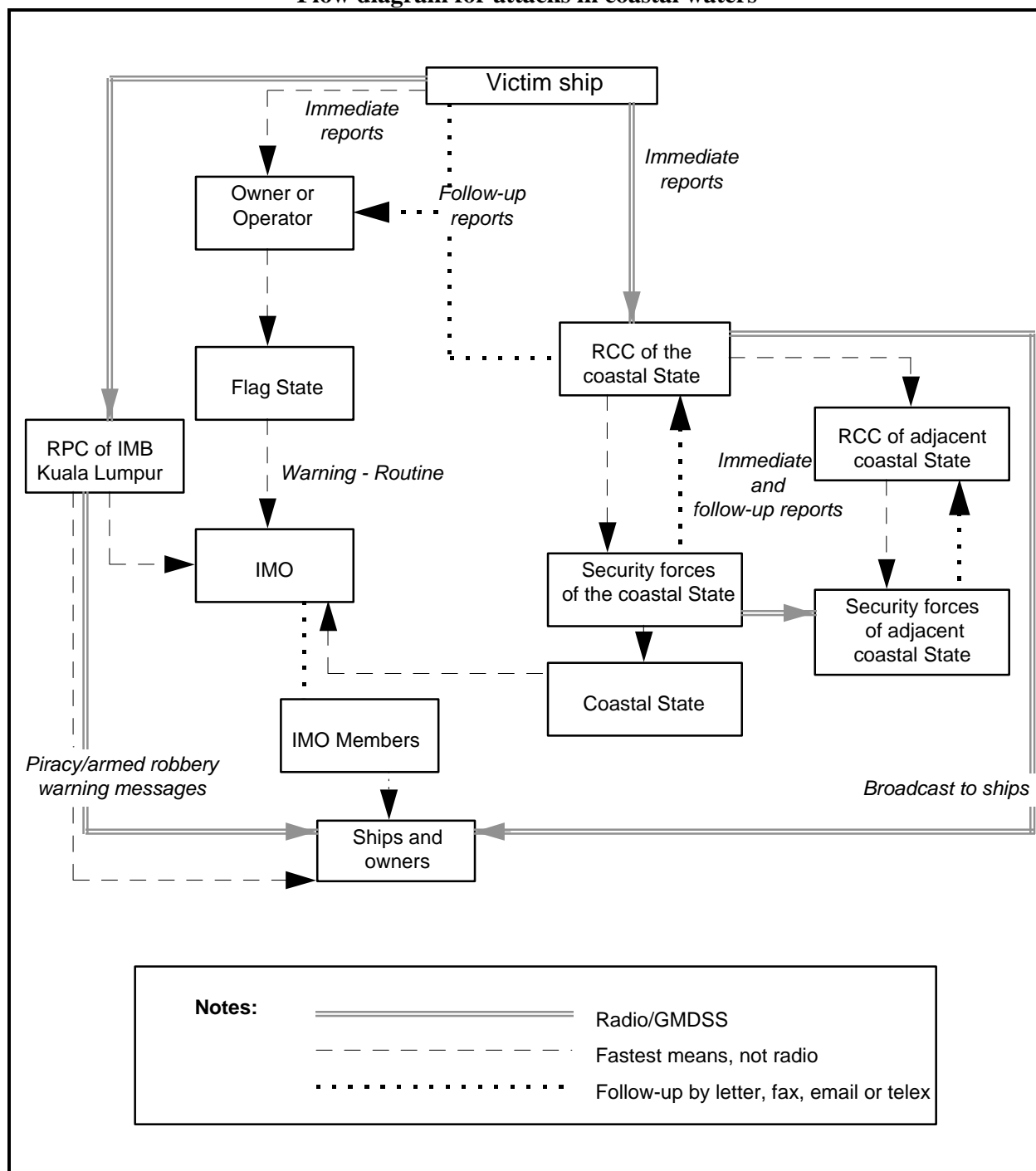
26 Security forces and Governments should maintain close liaison with their counterparts in the neighbouring States to facilitate the apprehension and prosecution of criminals involved in such unlawful acts. Some countries have already a well established co-ordination which is also used for preventing and suppressing piracy and armed robbery.

27 RCC personnel should be instructed on the most efficient means of communicating reports on piracy and armed robbery, which they receive. Depending on the circumstances, this may require forwarding the reports to another RCC or coast radio station, notifying Security forces or patrol craft in the area and taking steps to have a broadcast warning issued or other suitable action taken.

APPENDIX 1

STATISTICS, FLOW DIAGRAMS AND OTHER RELEVANT INFORMATION

Flow diagram for attacks in coastal waters



APPENDIX 2

"PHASES" RELATED TO VOYAGES IN PIRACY AND ARMED ROBBERY THREAT AREAS

Phase Symbol	Phase Description
A	Approaching a piracy/armed robbery threat area (1 hour prior to entering)
B	Entering a piracy/armed robbery threat area
C	Inside a piracy/armed robbery threat area, but no suspect piracy/armed robbery vessel detected
D	Inside a piracy/armed robbery threat area: suspect piracy/armed robbery vessel detected
E	Certainty that piracyarmed robbery will be attempted
F	Pirate/armed robbery vessel in proximity to, or in contact with, own ship
G	Pirates/armed robbers start attempts to enter ship
H	Pirates/armed robbers have succeeded in entering ship
I	Pirates/armed robbers have one or more of the ship's personnel in their control/custody
J	The pirates/armed robbers have gained access to the bridge or the master's office
K	The pirates/armed robbers have stolen property/money etc
L	The pirates/armed robbers start to disembark
M	The pirates/armed robbers have disembarked
N	The pirate/armed robbery vessel is no longer in contact with the ship
O	Own ship leaves the piracy/armed robbery threat area

APPENDIX 3

SHIPS' MESSAGE FORMATS

Report 1 - Initial message - Piracy/armed robbery attack alert

1 Ship's name and, callsign, IMO number, INMARSAT IDs (plus ocean region code) and MMSI

MAYDAY/DISTRESS ALERT (see note)

URGENCY SIGNAL

PIRACY/ARMED ROBBERY ATTACK

2 Ship's position (and time of position UTC)

Latitude	Longitude
Course Speed	KTS

3 Nature of event

Note: It is expected that this message will be a Distress Message because the ship or persons will be in grave or imminent danger when under attack. Where this is not the case, the word MAYDAY/DISTRESS ALERT is to be omitted.

Use of distress priority (3) in the INMARSAT system will not require MAYDAY/DISTRESS ALERT to be included.

Report 2 - Follow-up report - Piracy/armed robbery attack alert

1 Ship's name and, callsign, IMO number

2 Reference initial PIRACY/ARMED ROBBERY ALERT

3 Position of incident

Latitude	Longitude
Name of the area	

4 Details of incident, e.g.:

While sailing, at anchor or at berth?
Method of attack
Description/number of suspect craft
Number and brief description of pirates/robbers

What kind of weapons did the pirates/robbers carry ?
Any other information (e.g. language spoken)
Injuries to crew and passengers
Damage to ship (Which part of the ship was attacked?)
Brief details of stolen property/cargo
Action taken by the master and crew
Was incident reported to the coastal authority and to whom?
Action taken by the Coastal State

- 5 Last observed movements of pirate/suspect craft, e.g.:

Date/time/course/position/speed

- 6 Assistance required

- 7 Preferred communications with reporting ship, e.g.:

Appropriate Coast Radio Station
HF/MF/VHF
INMARSAT IDs (plus ocean region code)
MMSI

- 8 Date/time of report (UTC)

APPENDIX 4

**FORMAT FOR REPORTING TO IMO THROUGH MARITIME
ADMINISTRATIONS OR INTERNATIONAL ORGANIZATIONS**

- | | |
|----|---|
| 2* | Ship's name and IMO number |
| | Type of ship |
| | Flag |
| | Gross tonnage |
| 3 | Date and time |
| 4 | Latitude Longitude |
| | Name of the area** |
| | While sailing, at anchor or at berth? |
| 5 | Method of attack |
| | Description/number of suspect craft |
| | Number and brief description of pirates/robbers |
| | What kind of weapons did the pirates/robbers carry ? |
| | Any other information (e.g. language spoken) |
| 6 | Injuries to crew and passengers |
| | Damage to ship (Which part of the ship was attacked?) |
| | Brief details of stolen property/cargo |
| 7 | Action taken by the master and crew |
| 8 | Was incident reported to the coastal authority and to whom? |
| 9 | Reporting State or international organization |
| 10 | Action taken by the Coastal State |

* Corresponding to the column numbers in the annex to the IMO monthly circulars

** The following definition of piracy is contained in article 101 of the 1982 United Nations Convention on the Law of the Sea (UNCLOS):

“Piracy consists of any of the following acts:

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

APPENDIX 5

DRAFT* REGIONAL AGREEMENT ON CO-OPERATION IN PREVENTING AND SUPPRESSING ACTS OF PIRACY AND ARMED ROBBERY AGAINST SHIPS

Note: Due to different circumstances among States, this example agreement may be varied to meet specific situations.

Agreement between the Governments of _____, _____,
_____, _____, and _____

(Hereinafter, " the Parties");

Bearing in mind the complex nature of the problem of piracy and armed robbery against ships;

Having regard to the urgent need for international co-operation in preventing and suppressing piracy and armed robbery against ships;

Desiring to promote greater cooperation between the parties and thereby enhance their effectiveness in preventing and suppressing piracy and armed robbery against ships;

Being conscious of the fact that, in order to prevent and suppress piracy and armed robbery against ships effectively and efficiently, the active participation of all States affected is needed;

Taking into account that the Governments do not have sufficient technical and material resources to prevent and suppress piracy and armed robbery against ships independently;

Recognizing that piracy and armed robbery are international and transnational threats to seafarers, property and the environment; and conscious of the fact that the Parties are experiencing increased incidents of piracy and armed robbery within their maritime zones and adjoining international waters;

Have agreed as follows:

Definitions

For the purpose of this Agreement, unless expressly provided otherwise:

- 1 "Piracy" means those acts as defined in Article 101 of the United Nations Convention on the Law of the Sea (UNCLOS), 1982.

* The present draft includes text in square brackets which was left to the discretion of the individual Governments.

- 2 "Armed robbery against ships" means [...].
- 3 "National waters [and airspace]" means the territorial sea and internal waters of the Parties [and the air space over those States].
- 4 "Law enforcement vessels" mean ships of the Parties clearly marked and identifiable as being on government non-commercial service and authorized to that effect, including any boat and aircraft embarked on such ships, aboard which law enforcement officials are embarked.
- [5 "Law enforcement aircraft" means aircraft of the Parties engaged in law enforcement operations or operations in support of law enforcement activities clearly marked and identifiable as being on non-commercial government service and authorized to that effect.]
- 5[6] "Liaison officer" means one or more law enforcement officials, including boarding teams, of one Party authorized to embark on a law enforcement vessel of another Party.
- 6[7] "Suspect vessel" means a vessel used for commercial or private purposes in respect of which there are reasonable grounds to suspect it is involved in piracy or armed robbery against ships.
- 7[8] "Incident Command System" means a regional system for operational/tactical response to acts of piracy and armed robbery against ships providing common terminology, modular organization, integrated communications, unified command structure, consolidated action plans, manageable span of control, designated incident facilities and comprehensive resource management.

Nature and scope of the Agreement

- 1 The Parties shall cooperate in preventing and suppressing piracy and armed robbery at sea to the fullest extent possible, consistent with available law enforcement resources and related priorities.
- 2 The Parties undertake to agree on procedures for improving intelligence sharing.

Operations in [and over] national waters

Operations to suppress piracy and armed robbery in the national waters of a Party are subject to the authority of that Party.

Programme for law enforcement officials aboard another Party's vessels

- 1 The Parties shall establish a law enforcement liaison officer programme among their law enforcement authorities. Each Party may designate a co-ordinator to organize its programme activities and to notify the other Parties of the types of vessels and officials involved in the programme.
- 2 The Parties may designate qualified law enforcement officials to act as law enforcement liaison officers.

3 Subject to the law of the Parties involved, these liaison officers may, in appropriate circumstances:

- .1 embark on the law enforcement vessels of other Parties;
- .2 authorize the pursuit, by the law enforcement vessels on which they are embarked, of suspect vessels fleeing into the territorial waters of the liaison officer's Party;
- .3 authorize the law enforcement vessels on which they are embarked to conduct patrols to suppress acts of armed robbery against ships in the liaison officer's Party's national waters; and
- .4 enforce the laws of the Parties in national waters, or seaward there from in the exercise of the right of hot pursuit or otherwise in accordance with international law.

4 When a liaison officer is embarked on another Party's vessel, and the enforcement action being carried out is pursuant to the liaison officer's authority, 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 be carried out by the liaison officer, except as follows:

- .1 crew members of the other Party's vessel may assist in any such action if expressly requested to do so by the liaison officer and only to the extent and in the manner requested. Such request may only be made, agreed to, and acted upon in accordance with the applicable laws and policies; and
- .2 such crew members may use force in self-defense, in accordance with the applicable laws and policies.

5 Parties may only conduct operations to suppress piracy and armed robbery in the waters of another Party with the permission of that Party in any of the following circumstances:

- .1 an embarked liaison officer so authorizes;
- .2 on those exceptional occasions when a suspect vessel, detected seaward of national waters, enters the national waters of another Party and no liaison officer is embarked in a law enforcement vessel, and no law enforcement vessel from the Party whose national waters have been entered by a suspect vessel is immediately available to investigate, the law enforcement vessel may follow the suspect vessel into national waters, in order to board the suspect vessel and secure the scene, while awaiting expeditious instructions and the arrival from law enforcement authorities of the Party in whose national waters the event took place;
- .3 on those equally exceptional occasions when a suspect vessel is detected within a Party's national waters, and no liaison officer is embarked from that Party and no law enforcement vessel is immediately available to investigate from that Party, the law enforcement vessel from another Party may enter the national waters, in order to board the suspect vessel and secure the scene, while awaiting expeditious instructions from the law enforcement authorities and the arrival of law enforcement officials of the Party in whose national waters the event has occurred; and

- .4 Parties shall provide prior notice to the law enforcement authority of the Party in whose national waters the event took place of action to be taken under subparagraphs .2 and .3 of this paragraph, unless it is not operationally feasible to do so. In any case, notice of the action shall be provided to the relevant law enforcement authority without delay.
- [6 When aircraft of the Parties (hereafter referred to as "aircraft") are operating to suppress piracy and armed robbery against ships or supporting such operations, other Parties shall permit those aircraft:
- .1 to overfly the territory and waters of other Parties with due regard for the laws and regulations of those Parties for the flight and manoeuvre of aircraft, subject to paragraph 7 of this section; and
- .2 to land and remain in national airports, after receiving authorization from the minister of public security, on the occasions and for the time necessary for the proper conduct of operations deemed necessary under this Agreement.
- 7 The Parties shall, in the interest of flight safety, observe the following procedures for facilitating flights within the national airspace by law enforcement aircraft:
- .1 in the event of planned law enforcement operations, Parties shall provide reasonable notice and communication frequencies to the appropriate aviation authorities responsible for air traffic control of planned flights by its aircraft over national territory or waters;
- .2 in the event of unplanned operations, the Parties shall exchange information concerning the appropriate communication frequencies and other information pertinent to flight safety; and
- .3 any aircraft engaged in law enforcement operations or operations in support of law enforcement activities in accordance with this agreement shall comply with such air navigation and flight safety directions as may be required by pertinent aviation authorities, and with any written operating procedures developed for flight operations within their airspace under this Agreement.]

Operations seaward of the territorial sea

1 Whenever law enforcement officials of a Party encounter a suspect vessel flying the flag of another Party or claiming to be registered in the country of another Party, located seaward of any State's territorial sea, this Agreement constitutes the authorization of that Party for the boarding and search of the suspect vessel and the persons found on board by such officials. If evidence of piracy or armed robbery against ships is found, law enforcement officials may detain the vessel and persons on board pending expeditious disposition instructions from the Government of the flag State.

2 Except as expressly provided herein, this Agreement does not apply to or limit boardings of vessels seaward of any State's territorial sea, conducted by either Party in accordance with international law, whether based, *inter alia*, on the right of visit, the rendering of assistance to persons, ships, and property in distress or peril, the consent of the shipmaster, or an authorization from the flag State to take law enforcement action.

Jurisdiction over detained vessel

1 In all cases arising in national waters, or concerning vessels flying the flag of a Party seaward of any State's territorial sea, the Party whose flag is being flown by the suspect vessel shall have the primary right to exercise jurisdiction over a detained vessel, cargo and/or persons on board (including seizure, forfeiture, arrest, and prosecution), provided, however, that the Party may, subject to its constitution and laws, waive its primary right to exercise jurisdiction and authorize the enforcement of another Party's law against the vessel, cargo and/or persons on board.

2 Instructions as to the exercise of jurisdiction pursuant to paragraph 1 shall be given without delay.

Implementation

1 Operations to suppress piracy and armed robbery pursuant to this Agreement shall be carried out only against suspect vessels, including vessels without nationality, and vessels assimilated to vessels without nationality.

2 All Parties shall utilize the Incident Command System when operating in conjunction with another Party in an operation within the scope of this Agreement.

3 All Parties undertake to agree on uniform reporting criteria in order to ensure that an accurate assessment of the threat is developed. Furthermore, all Parties shall endeavour to ensure that reporting ships are not unduly detained for investigative purposes. A summary of reports to each Party shall be shared at least annually with the other Parties.

4 A Party conducting a boarding and search pursuant to this Agreement shall promptly notify the flag State of the results thereof. The relevant Party shall timely report to the other Party, consistent with its laws, on the status of all investigations, prosecutions and judicial proceedings resulting from enforcement action taken pursuant to this Agreement where evidence of piracy and armed robbery has been found.

5 Each Party shall ensure that its law enforcement officials, when conducting boardings and searches [and air interception] activities pursuant to this Agreement, act in accordance with the applicable national laws and policies of that Party and with the applicable international law and accepted international practices.

6 Boardings and searches pursuant to this Agreement shall be carried out by law enforcement officials from law enforcement vessels [or aircraft]. The boarding and search teams may operate from such ships [and aircraft] of the relevant Parties, and seaward of the territorial sea of any State, from such ships of other Parties as may be agreed upon by the Parties. The boarding and search team may carry standard law enforcement small arms.

[7 While conducting air intercept activities pursuant to this Agreement, the Parties shall not endanger the lives of persons on board and the safety of civil aircraft.]

7[8] All use of force pursuant to this Agreement shall be in strict accordance with the applicable laws and policies and shall in all cases be the minimum reasonably necessary under the circumstances. Nothing in this Agreement shall impair the exercise of the inherent right of self-defense by law enforcement or other officials of either Party.

8[9] When carrying out operations pursuant to this Agreement, the Parties shall take due account of the possible advantage of conducting boarding and search operations in safer conditions at the closest port of a Party to minimize any prejudice to the legitimate commercial activities of the suspect vessel, or its flag State or any other interested State; the need not to delay unduly the suspect vessel; the need not to endanger the safety of life at sea without endangering the safety of the law enforcement officials or their vessels [or aircraft]; and the need not to endanger the security of the suspect vessel or its cargo.

9[10] To facilitate implementation of this Agreement, each Party shall ensure the Parties are fully informed of its respective applicable laws and policies, particularly those pertaining to the use of force. Each Party shall ensure that all of its law enforcement officials are knowledgeable concerning the applicable laws and policies of the other Parties.

10[11] Assets seized in consequence of any operation undertaken in the national waters of a Party pursuant to this Agreement shall be disposed of in accordance with the laws of the Party. Assets seized in consequence of any operation undertaken seaward of the territorial sea of a Party pursuant to this Agreement shall be disposed of in accordance with the laws of the seizing Party. To the extent permitted by its laws and upon such terms as it deems appropriate, a Party may, in any case, transfer forfeited assets or proceeds of their sale to another Party. Each transfer generally will reflect the contribution of other Parties to facilitating or effecting the forfeiture of such assets or proceeds.

11[12] The law enforcement authority of one Party (the "first Party") may request, and the law enforcement authority of another Party may authorize, law enforcement officials of the other Party to provide technical assistance to law enforcement officials of the first Party in their boarding and investigation of suspect vessels located in the territory or waters of the first Party.

12[13] Any injury to or loss of life of a law enforcement official of a Party shall normally be remedied in accordance with the laws of that Party. Any other claim submitted for damage, injury, death or loss resulting from an operation carried out under this Agreement shall be processed, considered, and if merited, resolved in favour of the claimant by the Party whose officials conducted the operation, in accordance with the domestic law of that Party, and in a manner consistent with international law. If any loss, injury or death is suffered as a result of any action taken by the law enforcement or other officials of one Party in contravention of this Agreement, or any improper or unreasonable action is taken by a Party pursuant thereto, the relevant Parties shall, without prejudice to any other legal rights which may be available, consult at the request of a Party to resolve the matter and decide any questions relating to compensation.

13[14] Disputes arising from the interpretation or implementation of this Agreement shall be settled by mutual agreement of the Parties.

14[15] The Parties agree to consult, on at least an annual basis, to evaluate the implementation of this Agreement and to consider enhancing its effectiveness, including the preparation of amendments to this Agreement that take into account increased operational capacity of the law enforcement authorities and officials. In case a difficulty arises concerning the operation of this Agreement, any Party may request consultations with another Party to resolve the matter.

15[16] Nothing in this Agreement is intended to alter the rights and privileges due any individual in any legal proceeding.

16[17] Nothing in this Agreement shall prejudice the position of any Party with regard to the international law of the sea.

Entry into force and duration

1 [Entry into force]

2 [Denunciation]

3 This Agreement shall continue to apply after termination with respect to any administrative or judicial proceedings arising out of actions taken pursuant to this Agreement during the time that it was in force.

In witness whereof, the undersigned, being duly authorized by their respective Governments, have signed this Agreement.

Done at , this day of
