



Ref. T2-MSS/2.11.4.1

MSC.1/Circ.1333  
26 June 2009

## **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 eighty-sixth session (27 May to 5 June 2009), reviewed MSC/Circ.622/Rev.1 (Recommendations to Governments for preventing and suppressing piracy and armed robbery against ships) and prepared the revised recommendations given in the annex.
- 2 The revision was carried out on the basis of the outcome of the comprehensive review of the guidance provided by the Organization for preventing and suppressing piracy and armed robbery against ships; and took into account the work of the correspondence group on the review and updating of MSC/Circ.622/Rev.1, MSC/Circ.623/Rev.3 and resolution A.922(22), established by MSC 84.
- 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 in the annex.
- 4 Member Governments are also recommended to bring this circular and MSC.1/Circ.1334 to the attention of all national agencies concerned with anti-piracy and anti-armed robbery activities, shipowners, ship operators, shipping companies, shipmasters and crews.
- 5 This circular revokes MSC/Circ.622/Rev.1.

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## ANNEX

**RECOMMENDATIONS TO GOVERNMENTS FOR  
PREVENTING AND SUPPRESSING PIRACY\*  
AND ARMED ROBBERY<sup>1</sup> 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. Advanced intelligence could also prove useful in obtaining information to Governments in order to be able to act in a coordinated manner even before an attack occurs. Based on the statistics of the incidents and any intelligence of piracy and armed robbery against ships Governments should issue to ships entitled to fly their flag, as necessary, advice and guidance on any appropriate additional precautionary measures ships may need to put in place to protect themselves from attack. Governments should involve representatives of shipowners and seafarers in developing these 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. Governments should avoid engaging in negotiations with these criminals and seek to bring perpetrators of piracy and armed robbery against ships to justice. Negotiating with criminals in a case regarding hijacking of a ship may encourage potential perpetrators to seek economic revenue through piracy.

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

<sup>1</sup> The Sub-regional meeting on piracy and armed robbery against ships in the Western Indian Ocean, Gulf of Aden and Red Sea area, held in Dar es Salaam, United Republic of Tanzania, from 14 to 18 April 2008, agreed to modify this definition. Consistent with the ReCAAP Agreement, the “private ends” motive has been added to the definition. The formulation “within internal waters, archipelagic waters and territorial sea” replaced “within a State’s jurisdiction”. The new formulation reflects the views of France, supported by other States participating in the meeting, that the definition for armed robbery against ships should not be applicable to acts committed seaward of the territorial sea. The new definition reads: “Armed robbery against ships” means any unlawful act of violence or detention or any act of depredation, or threat thereof, other than an act of piracy, committed for private ends and directed against a ship or against persons or property on board such a ship, within a State’s internal waters, archipelagic waters and territorial sea.

### **Self protection**

3 Ships can and should take measures to protect themselves from pirates and armed robbers. These measures are recommended in MSC.1/Circ.1334. 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, companies, ship operators and masters to take seamanlike precautions when their ships navigate in areas where the threat of piracy and armed robbery exists. Flag States should make shipowners/companies aware of any UN Security Council, IMO, or any other UN resolutions on piracy and any recommendations therein relevant for the shipowner, ship operator, the master and crew when operating in areas where piracy or armed robbery against ships occur.

4 With respect to the carriage of firearms on board, the flag State should be aware that merchant ships and fishing vessels entering the territorial sea and/or ports of another State are subject to that State's legislation. It should be borne in mind that importation of firearms is subject to port and coastal State regulations. It should also be borne in mind that carrying firearms may pose an even greater danger if the ship is carrying flammable cargo or similar types of dangerous goods.

### ***Non-arming of seafarers***

5 For legal and safety reasons, flag States should strongly discourage the carrying and use of firearms by seafarers for personal protection or for the protection of a ship. Seafarers are civilians and the use of firearms requires special training and aptitudes and the risk of accidents with firearms carried on board ship is great. Carriage of arms on board ships may encourage attackers to carry firearms or even more dangerous weapons, thereby escalating an already dangerous situation. Any firearm on board may itself become an attractive target for an attacker.

### **Use of unarmed security personnel**

6 The use of unarmed security personnel is a matter for individual shipowners, companies, and ship operators to decide. It should be fully acceptable to provide an enhanced lookout capability this way.

### **Use of privately contracted armed security personnel**

7 The use of privately contracted armed security personnel on board ships may lead to an escalation of violence. The carriage of such personnel and their weapons is subject to flag State legislation and policies and is a matter for flag States to determine in consultation with shipowners, companies, and ship operators, if and under which conditions this will be allowed. Flag States should take into account the possible escalation of violence which could result from carriage of armed personnel on board merchant ships, when deciding on its policy.

### **Military teams or law enforcement officers duly authorized by Government**

8 The use of military, or law enforcement officers duly authorized by the Government of the flag State to carry firearms for the security of the ship is a matter for the flag State to authorize in consultation with shipowners, companies, and ship operators. Flag States should provide clarity of their policy on the use of such teams on board vessels entitled to fly their flag.

## Action plans

9 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. Coastal States should consider their obligations under SOLAS regulation XI-2/7 on Threats to ships which requires, *inter alia*, where a risk of attack has been identified, the Contracting Government concerned shall advise the ships concerned and their Administrations of:

- .1 the current security level;
- .2 any security measures that should be put in place by the ships concerned to protect themselves from attack, in accordance with the provisions of part A of the ISPS Code; and
- .3 security measures that the coastal State has decided to put in place, as appropriate.

Also, due to the possibility of collision or grounding of a ship as a result of an attack, the coastal State/port State will need to coordinate these action plans with existing 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. The coastal State/port State should acquire the necessary equipment to ensure safety in waters under their jurisdiction.

10 Flag States should develop action plans detailing the response to be taken on the receipt of a report of an attack and how to assist the owners, companies<sup>1</sup>, managers and operators of a ship in case of a hijacking. A point of contact through which the ships entitled to fly their flag may request advice or assistance when sailing in waters deemed to present a heightened threat and to which such ships can report any security concerns about other ships, movements or communications in the area, should be provided.

11 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 State/port State should also establish the necessary infrastructure and operational arrangements for the purpose of preventing and suppressing piracy and armed robbery against ships.

12 States and relevant international organizations are encouraged to support capacity-building in areas or regions where piracy and armed robbery against ships is known to occur.<sup>2</sup>

13 Where ships are employed by a United Nations (UN) humanitarian programme for the delivery of humanitarian aid into areas at heightened threat, where such ships are to be escorted by warships or military aircraft, or other ships or aircraft clearly marked and identifiable as being on Government service, such escorts should be implemented in conformity with international law and

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<sup>1</sup> The term “company” is defined in SOLAS regulations IX/1 and XI-2/1.

<sup>2</sup> The ReCAAP Information Sharing Centre (ReCAAP ISC) undertakes capacity-building initiatives to enhance the capability of ReCAAP Contracting Parties in combating piracy and armed robbery against ships in the region. The Regional Cooperation Agreement on Combating Piracy and Armed Robbery against Ships in Asia (ReCAAP) is a government-to-government Agreement that addresses the incidence of piracy and armed robbery against ships in Asia. The status of ReCAAP ISC is an IGO. Further details may be found at [www.recaap.org](http://www.recaap.org). Similar arrangements are being developed by IMO in other regions.

UN resolutions. The flag State of the ship being escorted should endeavour to conclude any necessary agreements in respect of such ships entitled to fly their flag with the State(s) providing the escorts.

14 Article 100 of the 1982 United Nations Convention on the Law of the Sea (UNCLOS) requires all States to cooperate to the fullest possible extent in the repression of piracy. In this regard, States interested in the security of maritime activities should take an active part in repression of and fight against piracy, particularly in areas where the United Nations Security Council expresses concern about the imminent threat of attacks by pirates and calls upon States to do so. This could be done by prosecuting suspected pirates, contributing to capacity building efforts and by deploying naval vessels and aircraft in accordance with international law to patrol the affected areas.

15 On communication and cooperation 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;
- .3 procedures for rapidly relaying alerts received by communication centres to the entity responsible for action should be developed or, if existing, kept under review; and
- .4 Governments should by bilateral or multilateral agreements cooperate in establishing, when appropriate, a single point of contact for ships to report piracy threats or activities in specific high threat areas.

16 It is imperative that all attacks, or threats of attacks, are reported immediately to the nearest RCC<sup>1</sup> or coast radio station to alert the coastal State/port State and followed up by a more detailed written report.<sup>2</sup> 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;
- .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; and
- .3 inform the adjacent RCCs when appropriate.<sup>3</sup>

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<sup>1</sup> In the Asian region, the RCCs of some ReCAAP Contracting Parties are also the ReCAAP Focal Points. The RCCs of the coastal States disseminate information of an incident internally to their respective Focal Points, maritime authorities and law enforcement agencies, as deemed appropriate. A similar system is being developed for the Gulf of Aden and Western Indian Ocean area under the Djibouti Code of Conduct.

<sup>2</sup> Flow diagrams for reporting incidents are attached as appendices 1 and 2.

<sup>3</sup> A template for Ships' Message Formats is attached as appendix 4.

17 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.

18 Coastal States/port States should report to IMO any act of armed robbery in their waters or acts of piracy close to their waters which have been reported to them or, if such a report has not been made, where they have information of an incident because of the geographical proximity to the incident or due to the participation in the apprehension of the perpetrators. The format presently used for reports to IMO is attached at appendix 5.

19 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 continues to be IMO itself, although the use of IMB's Piracy Reporting Centre in Kuala Lumpur, Malaysia, the ReCAAP Information Sharing Centre (ISC) in Singapore, the Maritime Security Centre Horn of Africa or similar arrangement, as a satellite for dissemination of information should also be considered.

20 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.

21 It is important that, once the collection and collation stages have been completed, the product be distributed to all agencies requiring that information. These agencies include the Governments of coastal States for dissemination of the information, the Governments of flag States for distributing it through maritime Administrations to shipowners/company, ship operators, to other interested Government departments and other interested agencies and relevant international organizations such as ReCAAP ISC. See appendices to this circular regarding the information sharing and incident reporting process.

22 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 that the ship will not be burdened with additional costs related to such reporting, and the welfare of the crew will be taken into account.

23 Flag, port and coastal States are encouraged to enter into bilateral or multilateral agreements<sup>1</sup> to facilitate the investigation of acts of piracy and armed robbery against ships. States should cooperate to investigate fully all acts or attempted acts of piracy and armed robbery against ships entitled to fly their flag. Flag, port and coastal States are encouraged to inform other States and organizations of any relevant experience they may have obtained during the investigation, which other States may benefit from. States should implement the Code of Practice for Investigation of Crimes of Piracy and Armed Robbery against Ships, IMO resolution A.922(22) or subsequent resolutions.

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<sup>1</sup> The Regional Cooperation Agreement on Combating Piracy and Armed Robbery Against Ships in Asia (ReCAAP) is an initiative that demonstrates a multilateral Government-to-Government agreement. Also see appendix 2 to this circular regarding the information sharing and incident reporting process in the Asian region.

24 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 lack of clarity 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.

25 IMO regularly sends to coastal States reports of armed robbery stated to have been committed in their territorial waters, requesting 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.

### **Criminal jurisdiction**

26 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; or
- .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.

27 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.

28 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.

29 Flag States should require all ships operating in waters where attacks occur to have measures to prevent attacks and attempted attacks of piracy and armed robbery against ships and on how to act if such an attack or attempted attack occurs, as part of the emergency response procedures in the safety management system, or part of the ship security plan. Such measures should include a full spectrum of appropriate passive and active security measures. The ship security plan and emergency response plans should be based on a risk assessment which take into account the basic parameters of the operation including:

- .1 the risks that may be faced;
- .2 the ship's actual size, freeboard, maximum speed and the type of cargo, which is being transported;
- .3 the number of crew members available, their capability and training;
- .4 the ability to establish secure areas on board ship; and
- .5 the equipment on board, including any surveillance and detection equipment that has been provided.

Ships not covered by the ISM Code or the ISPS Code should be required to take similar precautionary measures.

30 Bearing in mind that ships already have in their procedures the ability to take preventive measures, Governments should use caution when considering the use of security levels 1, 2 and 3 in the ISPS Code for piracy and armed robbery situations.

31 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 bottlenecks. 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. Charter party 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.

### 32 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 cooperation agreements with respect to preventing and suppressing piracy and armed robbery<sup>1</sup>. Such agreements should include the coordination of patrol activities in such areas. An example of a model agreement is attached as appendix 6;
- .3 on further development of regional cooperation, a regional agreement to facilitate coordinated 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;

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<sup>1</sup> Examples of such agreements include the Regional Cooperation Agreement on Combating Piracy and Armed Robbery against Ships in Asia (ReCAAP), details of which may be found at [www.recaap.org](http://www.recaap.org); the Memorandum of Understanding on the Establishment of a Regional Integrated Coast Guard Network in West and Central Africa; and 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).

- .4 as piracy and armed robbery against ships is not only a regional but a global problem, the established regional cooperation forums should ensure cooperation amongst themselves and the IMO in order to draw on the different experiences gained;
- .5 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;
- .6 in order to minimize coordination 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;
- .7 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”; and
- .8 those countries that have established, or which plan to establish, radar surveillance 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.

33 Governments should coordinate with the shipowner or the company and the coastal State when receiving a ship security alert. It is important that any response to an incident is well planned and executed, and emphasizes the safety of the crew. 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 cooperate with the security forces by providing access to their ships for the necessary familiarization.

34 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.

35 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.

36 States with adjacent coastal waters affected by pirates and armed robbers should develop or maintain coordinated patrols by both ships and aircraft.

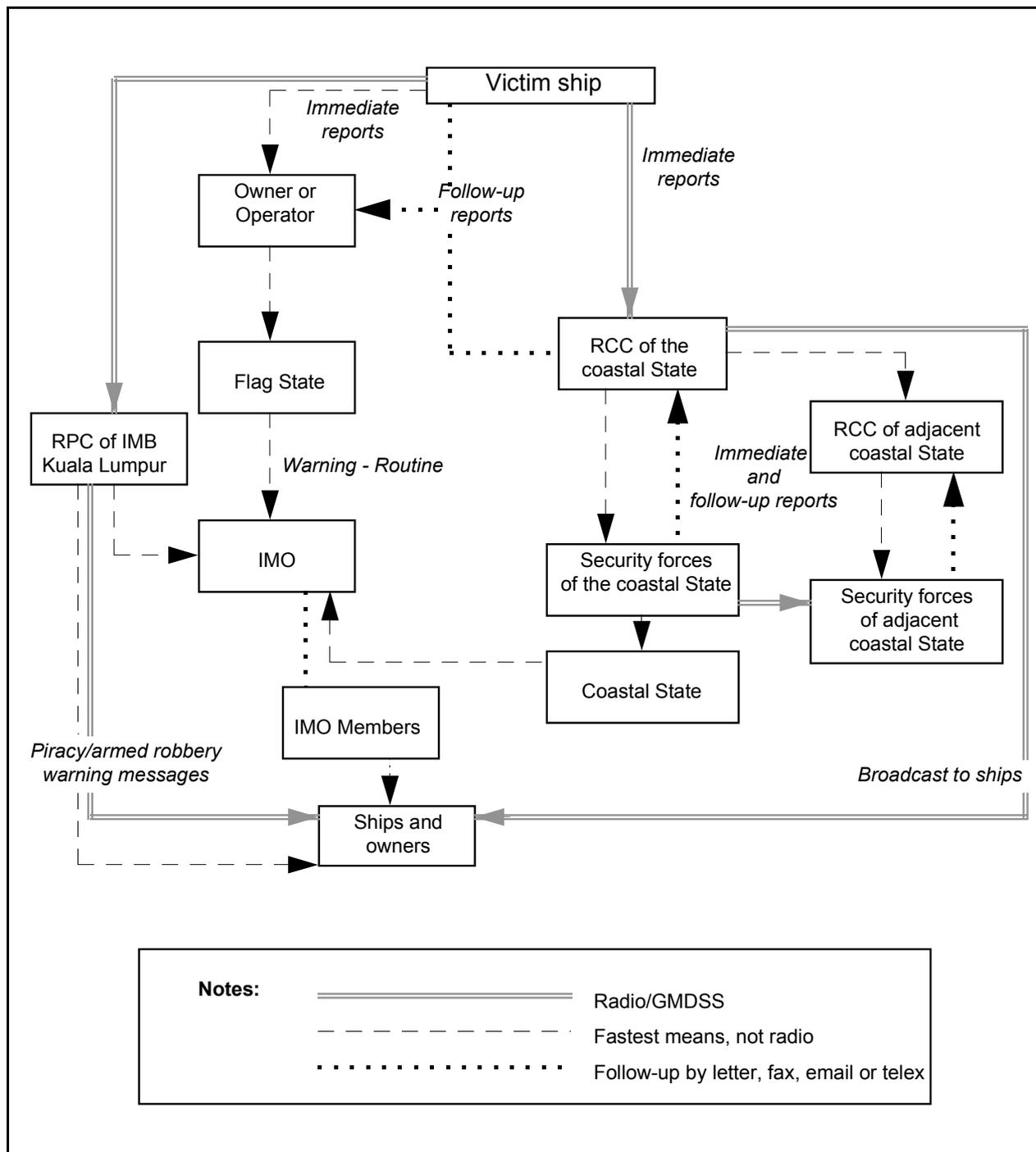
37 Security forces and Governments should maintain close liaison with their counterparts in neighbouring States to facilitate the apprehension and prosecution of criminals involved in such unlawful acts. Some countries have already a well established coordination which is also used for preventing and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

38 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.

39 RCCs should be encouraged to forward all received reports of piracy and armed robbery to IMO. States are encouraged to share any information with IMB's Piracy Reporting Centre and the ReCAAP Focal Points.

APPENDIX 1

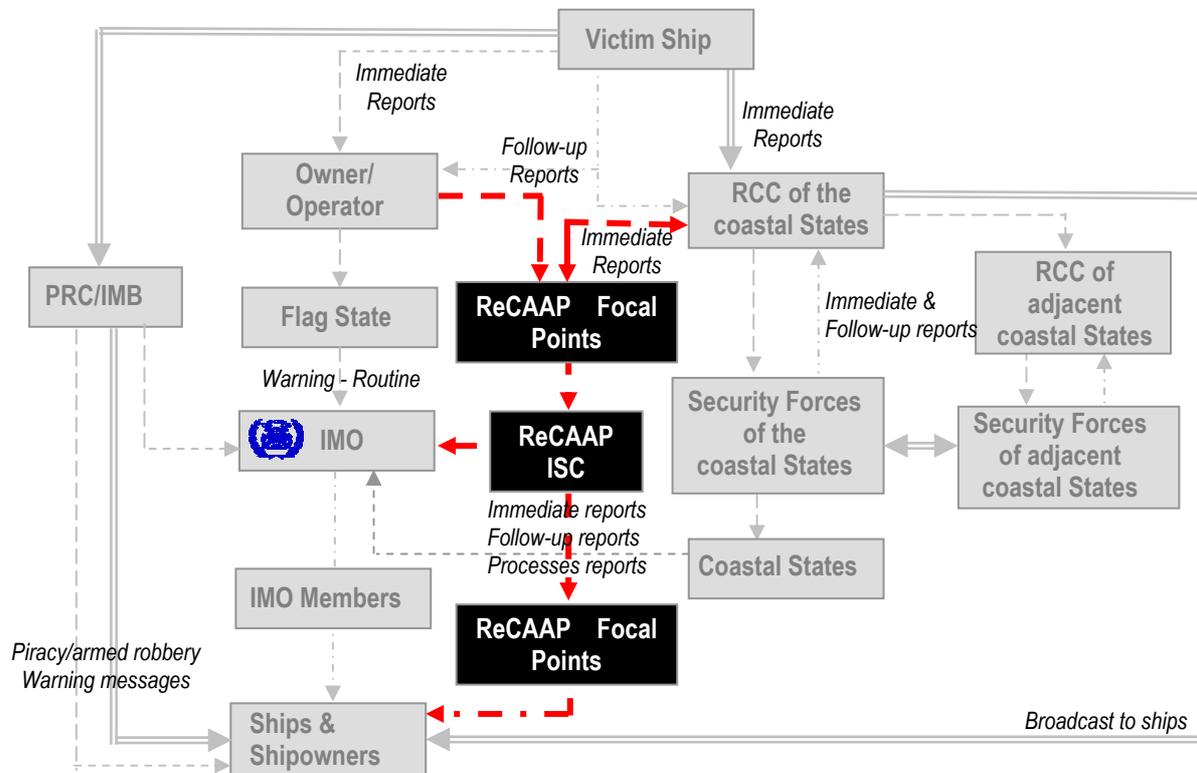
STATISTICS, FLOW DIAGRAMS AND OTHER RELEVANT INFORMATION



Flow diagram for attacks in coastal waters

APPENDIX 2

**FLOW DIAGRAM FOR REPORTING INCIDENTS IN ASIA**



**Legend:**

Radio/GMDSS	:	———
Fastest means	:	- - - - -
Follow-up comms	:	.....

- Notes:**
1. In the Asian region, the RCCs of some ReCAAP Contracting Parties are also their ReCAAP Focal Points (FPs). These Focal Points also disseminate incident information internally to their respective RCCs, maritime authorities and law enforcement agencies as appropriate.
  2. Coastal States (in the context of this addendum) refer only to those who are Contracting Parties to the ReCAAP.
  3. The incident reporting process in Asia does not change other reporting processes for incidents already in practice.

APPENDIX 3

**“PHASES” RELATED TO VOYAGES  
IN PIRACY AND ARMED ROBBERY THREAT AREAS**

<b>Phase Symbol</b>	<b>Phase Description</b>
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 piracy/armed 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 4

**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 5

**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

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\* 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 6

**DRAFT\* REGIONAL AGREEMENT ON COOPERATION 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 cooperation 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.

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\* The present draft includes text in square brackets which was left to the discretion of the individual Governments. Note: attention should also be given to existing regional agreements such as the Djibouti Code of Conduct, the ReCAAP, and the IMO/MOWCA Memorandum of Understanding on the Establishment of a Regional Integrated Coast Guard Network in West and Central Africa.

- 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 coordinator 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-defence, 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-defence 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 \_\_\_\_\_

\_\_\_\_\_