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PROTECTION OF VITAL SHIPPING LANES

**Sub-regional meeting to conclude agreements on maritime security,
piracy and armed robbery against ships
for States from the Western Indian Ocean, Gulf of Aden and Red Sea areas**

Note by the Secretary-General

SUMMARY

<i>Executive summary:</i>	This document reports on the outcome of the IMO Sub-regional meeting on maritime security, piracy and armed robbery against ships for Western Indian Ocean, Gulf of Aden and Red Sea States, held in Djibouti in January 2009
<i>Strategic direction:</i>	6.2
<i>High-level action:</i>	6.2.1
<i>Planned output:</i>	6.2.2.1
<i>Action to be taken:</i>	Paragraph 17
<i>Related document:</i>	Resolution A.1002(25); C 100/7; C 100/D, paragraphs 7.1 and 7.2; C 101/10, paragraphs 11 and 12; C 101/D, paragraph 10(a).2(vii) and Circular letter No.2921

Introduction

1 The Council, at its one hundredth regular session, noted (C 100/7) that, pursuant to resolution A.1002(25) on Piracy and armed robbery against ships in waters off the coast of Somalia, a sub-regional meeting on piracy and armed robbery against ships in the Western Indian Ocean, Gulf of Aden and Red Sea areas had been organized by the Organization in Dar es Salaam, United Republic of Tanzania from 14 to 18 April 2008.

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2 In particular, the Council:

- .1 noted the development of a draft Memorandum of Understanding (MoU) concerning the repression of piracy and armed robbery against ships in the Western Indian Ocean, the Gulf of Aden and the Red Sea, as a work in progress for further consideration by the States concerned; and took into account the views of Council Members from countries in the region (C 100/D, paragraph 7.2(iv)); and
- .2 requested the Secretary-General to take appropriate action to promote the aforementioned MoU, including convening a high-level meeting to conclude it at the earliest possible time (C 100/D, paragraph 7.2(v)).

3 The Council may recall that, following advice by the Secretary-General at C 101 to the effect that a follow-up meeting, due to take place in Sana'a in October 2008, had to be postponed for security reasons, it endorsed (C 101/D, paragraph 10(a).2(vii)) the action of the Secretariat to convene, in the context of resolution A.1002(25), a high-level meeting, in Djibouti, in January 2009, to conclude a regional agreement concerning the repression of piracy and armed robbery against ships in the Western Indian Ocean and the Gulf of Aden.

The Djibouti Meeting

4 The Sub-regional meeting on maritime security, piracy and armed robbery against ships for Western Indian Ocean, Gulf of Aden and Red Sea States was held in Djibouti from 26 to 29 January 2009 and was attended by 17 (out of the 21) States in the region. In addition, 12 States from outside the region; four United Nations bodies and programmes; nine intergovernmental; and three non-governmental organizations attended the meeting as observers.

5 The Meeting was opened by H.E. Mr. Dileita Mohamed Dileita, Prime Minister of the Republic of Djibouti, the Secretary-General and Mr. Ali Hassan Bahdon, Minister of Equipment and Transport of the Republic of Djibouti. Mr. Mohamed Clem (Ministry of Equipment and Transport of Djibouti) chaired the Meeting.

6 The Meeting adopted the following resolutions, the texts of which are attached in the annex:

- Resolution 1, on Adoption of a code of conduct concerning the repression of piracy and armed robbery against ships in the Western Indian Ocean and the Gulf of Aden;
- Resolution 2, on Technical co-operation and assistance;
- Resolution 3, on Enhancing training in the region; and
- Resolution 4, on Expressions of appreciation.

The Djibouti Code of Conduct (Resolution 1)

7 The Meeting adopted a Code of Conduct concerning the Repression of Piracy and Armed Robbery against Ships in the Western Indian Ocean and the Gulf of Aden, which was signed on 29 January 2009 by the representatives of Djibouti, Ethiopia, Kenya, Madagascar, Maldives, Seychelles, Somalia, the United Republic of Tanzania and Yemen. It remains open for signature at IMO Headquarters by other countries in the region.

8 The Code, which became effective from the date it was signed (29 January 2009), takes into account and promotes the implementation of those aspects of UN Security Council resolutions 1816 (2008), 1838 (2008), 1846 (2008) and 1851 (2008) and of UN General Assembly resolution 63/111, which fall within the competence of IMO.

9 In particular, the signatories to the Code have agreed to co-operate, in a manner consistent with international law, in:

- (a) the investigation, arrest and prosecution of persons, who are reasonably suspected of having committed acts of piracy and armed robbery against ships, including those inciting or intentionally facilitating such acts;
- (b) the interdiction and seizure of suspect ships and property on board such ships;
- (c) the rescue of ships, persons and property subject to piracy and armed robbery and the facilitation of proper care, treatment and repatriation of seafarers, fishermen, other shipboard personnel and passengers subject to such acts, particularly those who have been subjected to violence; and
- (d) the conduct of shared operations – both among signatory States and with navies from countries outside the region – such as nominating law enforcement or other authorized officials to embark on patrol ships or aircraft of another signatory.

10 In addition, the Code provides for sharing of related information, through a number of centres and national focal points using existing infrastructures and arrangements for ship to shore to ship communications (i.e. the Regional Maritime Rescue Coordination Centre in Mombasa, Kenya and the Rescue Coordination Sub-Centre in Dar es Salaam, United Republic of Tanzania) and the regional maritime information centre, which is being established in Sana'a, Yemen.

11 The signatories also undertook to review their national legislation with a view to ensuring that there are laws in place to criminalize piracy and armed robbery against ships and to make adequate provision for the exercise of jurisdiction, conduct of investigations and prosecution of alleged offenders.

Technical co-operation and assistance (Resolutions 2 and 3)

12 In another resolution the Meeting requested States, IMO, the United Nations Development Programme (UNDP), the United Nations Office on Drugs and Crime (UNODC), the European Commission (EC), the Regional Co-operation Agreement on Combating Piracy and Robbery Against Ships in Asia – Information Sharing Centre (ReCAAP-ISC) and the maritime industry to provide assistance, either directly or through IMO, to those States, which require support in the effective implementation of the Djibouti Code of Conduct. It further recommended the establishment of a regional training centre in Djibouti for the purposes of promoting the implementation of the Code. It, furthermore, accepted, with appreciation, the offer of the Government of Djibouti to host a regional training centre within the scope of the Code; and recommended that the Secretary-General takes appropriate action to establish it.

Expressions of appreciation (Resolution 4)

13 The Meeting expressed appreciation to the Government and People of Djibouti for their valuable contribution to the success of the meeting; to the Governments of Japan, Norway and the Republic of Korea for financially supporting the convening of the Meeting; and to the Secretary-General and the Secretariat, for their tireless efforts and outstanding support for the preparation and conduct of the Meeting.

Action requested of the Secretary-General

14 The Meeting requested the Secretary-General to take a number of actions within the scope of its outcome, in particular, that the Record of the Djibouti Meeting be established in a single original text in the Arabic, English and French languages, to be deposited with him; and also that he transmits copies of the Record, together with its attachments and certified copies of the authentic text of the Djibouti Code of Conduct, to the Governments of the 21 States, which had been invited to attend the Meeting.

15 To give effect to the decisions of the Meeting, the Secretariat has finalized the authentic text of the Record of the Djibouti Meeting and of its attachments in the Arabic, English and French languages and action is being taken to send certified copies thereof to the States, which were invited to attend the Meeting.

16 In accordance with established practice, the Council should authorize the Secretary-General to act as Depository for the Record of the Djibouti Meeting. Subject to the decision of the Council, the Secretary-General intends to inform the States, which were invited to participate in the Djibouti Meeting (irrespective of whether they have signed the Djibouti Code of Conduct) and all other Member States, when a State signs the aforesaid Code, although the Code does not explicitly require him to do so.

Action requested of the Council

17 The Council is invited to:

- .1 note the outcome of the Djibouti Meeting and, in particular, the adoption of the Djibouti Code of Conduct (which will remain open for signing at the Organization's Headquarters) and the resolutions adopted thereby (paragraphs 4 to 13);
- .2 authorize the Secretary-General to perform the functions of Depository of the Record of the Djibouti Meeting (paragraphs 14 to 16); and
- .3 express appreciation to Government of the Republic of Djibouti for hosting the Djibouti Meeting; to the Governments of Japan, Norway and the Republic of Korea for their financial contribution; and to the States and international organizations, which supported and assisted the Meeting.

ANNEX

RECORD OF THE MEETING

1 The International Maritime Organization (hereinafter referred to as “Organization”) convened, pursuant to the decisions of the one hundredth and the one hundred and first sessions of the Council of the Organization in relation to the Protection of Vital Shipping Lanes, a Sub-regional meeting to conclude agreements on maritime security, piracy and armed robbery against ships for States from the Western Indian Ocean, Gulf of Aden and Red Sea areas, which was hosted by the Government of the Republic of Djibouti and took place in Djibouti from 26 to 29 January 2009 (hereinafter referred to as “the Djibouti Meeting”).

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

COMOROS	OMAN
DJIBOUTI	SAUDI ARABIA
EGYPT	SEYCHELLES
ETHIOPIA	SOMALIA
FRANCE	SOUTH AFRICA
JORDAN	SUDAN
KENYA	UNITED REPUBLIC OF
MADAGASCAR	TANZANIA
MALDIVES	YEMEN

by observers from the following States:

CANADA	NIGERIA
INDIA	NORWAY
INDONESIA	PHILIPPINES
IRAN (ISLAMIC REPUBLIC OF)	SINGAPORE
ITALY	UNITED KINGDOM
JAPAN	UNITED STATES

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

UNITED NATIONS DEPARTMENT FOR PEACEKEEPING OPERATIONS
(UN/DPKO)
UNITED NATIONS OFFICE ON DRUGS AND CRIME (UNODC)
UNITED NATIONS POLITICAL OFFICE FOR SOMALIA (UNPOS)
WORLD FOOD PROGRAMME (WFP)

by observers from the following intergovernmental organizations:

EUROPEAN COMMISSION (EC)
INTERNATIONAL CRIMINAL POLICE ORGANIZATION – INTERPOL
LEAGUE OF ARAB STATES
REGIONAL CO-OPERATION AGREEMENT ON COMBATING PIRACY AND
ROBBERY AGAINST SHIPS IN ASIA – INFORMATION SHARING CENTRE
(ReCAAP-ISC)
REGIONAL ORGANIZATION FOR THE CONSERVATION OF THE
ENVIRONMENT OF THE RED SEA AND GULF OF ADEN (PERSGA)

AFRICAN UNION (AU)
INTERGOVERNMENTAL AUTHORITY ON DEVELOPMENT (IGAD)
NORTH ATLANTIC TREATY ORGANIZATION (NATO)
ORGANIZATION OF THE ISLAMIC CONFERENCE

and by observers from the following non-governmental organizations:

BIMCO
INTERNATIONAL ASSOCIATION OF INDEPENDENT TANKER OWNERS
(INTERTANKO)
PORT MANAGEMENT ASSOCIATION OF EASTERN AND SOUTHERN AFRICA
(PMAESA)

3 The purpose of the Djibouti Meeting was to consider and adopt the draft text of an instrument concerning the repression of piracy and armed robbery against ships in the Western Indian Ocean and the Gulf of Aden which was prepared by the Sub-regional meeting on piracy and armed robbery against ships in the Western Indian Ocean, the Gulf of Aden and the Red Sea Area, organized by the Organization in Dar es Salaam, United Republic of Tanzania, from 14 to 18 April 2008.

4 The Djibouti Meeting was opened by H.E. Mr. Dileita Mohamed Dileita, Prime Minister of the Republic of Djibouti and Mr. Efthimios E. Mitropoulos, the Secretary-General of the Organization.

5 Mr. Ali Hassan Bahdon, Minister of Equipment and Transport of the Republic of Djibouti also delivered an opening speech and welcomed all participants. The rest of the meeting was chaired by Mr. Mohamed Clem from the Ministry of Equipment and Transport.

6 The Djibouti Meeting considered the draft text of the instrument referred to in paragraph 3 above and adopted a Code of conduct concerning the repression of piracy and armed robbery against ships in the Western Indian Ocean and the Gulf of Aden. The meeting recognized the significant developments made during the Sub-regional seminar on piracy and armed robbery against ships and maritime security held in Sana'a, Yemen, from 9 to 13 April 2005 and the follow-up Sub-regional workshop on maritime security, piracy and armed robbery against ships held in Muscat, Oman, from 14 to 18 January 2006, which provided a firm basis for the work of the meeting.

7 During the Djibouti Meeting, a workshop was held and various views were expressed regarding activities to fight against piracy and armed robbery off the coast of Somalia and in the Western Indian Ocean and the Gulf of Aden.

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

Resolution 1 on ADOPTION OF THE CODE OF CONDUCT CONCERNING THE
REPRESSION OF PIRACY AND ARMED ROBBERY AGAINST
SHIPS IN THE WESTERN INDIAN OCEAN AND THE GULF OF
ADEN

which is contained in attachment 1.

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

Resolution 2 on TECHNICAL CO-OPERATION AND ASSISTANCE

Resolution 3 on ENHANCING TRAINING IN THE REGION

Resolution 4 on EXPRESSIONS OF APPRECIATION

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

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

DONE in Djibouti this twenty-ninth day of January two thousand and nine.

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

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

ATTACHMENT 1

RESOLUTION 1

Adopted on 29 January 2009

**ADOPTION OF THE CODE OF CONDUCT
CONCERNING THE REPRESSION
OF PIRACY AND ARMED ROBBERY AGAINST SHIPS
IN THE WESTERN INDIAN OCEAN AND THE GULF OF ADEN**

The Djibouti Meeting,

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

RECOGNIZING the urgent need to devise and adopt effective and practical measures for the suppression of piracy and armed robbery against ships; and

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

1. ADOPTS the Code of conduct concerning the repression of piracy and armed robbery against ships in the Western Indian Ocean and the Gulf of Aden (hereinafter referred to as “the Code of conduct”), as contained in the annex;
2. URGES Participating Governments to:
 - .1 implement the provisions of the Code of conduct; and
 - .2 within two years of the effective date of this Code of conduct, and having designated the national focal points referred to in article 8 of the Code of conduct, consult, with the assistance of IMO, with the aim of arriving at a binding agreement;
3. AGREES to refer to the Code of conduct as the “Djibouti Code of conduct”.

ANNEX

**CODE OF CONDUCT
CONCERNING THE REPRESSION
OF PIRACY AND ARMED ROBBERY AGAINST SHIPS
IN THE WESTERN INDIAN OCEAN AND THE GULF OF ADEN**

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

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

REAFFIRMING that international law, as reflected in UNCLOS, sets out the legal framework applicable to combating piracy and armed robbery at sea;

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

NOTING ALSO that the General Assembly of the United Nations, at its sixth-third session, adopted, on 5 December 2008, resolution 63/111 on Ocean and the law of the sea which amongst others:

- recognizes the crucial role of international cooperation at the global, regional, sub-regional and bilateral levels in combating, in accordance with international law, threats to maritime security, including piracy, armed robbery at sea, terrorist acts against shipping, offshore installations and other maritime interests, through bilateral and multilateral instruments and mechanisms aimed at monitoring, preventing and responding to such threats, the enhanced sharing of information among States relevant to the detection, prevention and suppression of such threats, the prosecution of offenders with due regard to national legislation and the need for sustained capacity-building to support such objectives;
- emphasizes the importance of prompt reporting of incidents to enable accurate information on the scope of the problem of piracy and armed robbery against ships and, in the case of armed robbery against ships, by affected vessels to the coastal State, underlines the importance of effective information-sharing with States potentially affected by incidents of piracy and armed robbery against ships, and takes note of the important role of the IMO;

- calls upon States to take appropriate steps under their national law to facilitate the apprehension and prosecution of those who are alleged to have committed acts of piracy;
- urges all States, in cooperation with the IMO, to actively combat piracy and armed robbery at sea by adopting measures, including those relating to assistance with capacity-building through training of seafarers, port staff and enforcement personnel in the prevention, reporting and investigation of incidents, bringing the alleged perpetrators to justice, in accordance with international law, and by adopting national legislation, as well as providing enforcement vessels and equipment and guarding against fraudulent ship registration;
- welcomes the significant decrease in the number of attacks by pirates and armed robbers in the Asian region through increased national, bilateral and trilateral initiatives as well as regional cooperative mechanisms, and calls upon other States to give immediate attention to adopting, concluding and implementing cooperation agreements on combating piracy and armed robbery against ships at the regional level;
- expresses serious concern regarding the problem of increased instances of piracy and armed robbery at sea off the coast of Somalia, expresses alarm in particular at the recent hijacking of vessels, supports the recent efforts to address this problem at the global and regional levels, notes the adoption by the Security Council of the United Nations of resolutions 1816 (2008) of 2 June 2008 and 1838 (2008) of 7 October 2008, and also notes that the authorization in resolution 1816 (2008) and the provisions in resolution 1838 (2008) apply only to the situation in Somalia and do not affect the rights, obligations or responsibilities of Member States of the United Nations under international law, including any rights or obligations under the United Nations Convention on the Law of the Sea (hereinafter referred to as "UNCLOS"), with respect to any other situation, and underscores in particular that they are not to be considered as establishing customary international law;
- notes the initiatives of the Secretary-General of the IMO, following up on resolution A.1002(25) to engage the international community in efforts to combat acts of piracy and armed robbery against ships sailing the waters off the coast of Somalia; and
- urges States to ensure the full implementation of resolution A.1002(25) on acts of piracy and armed robbery against ships in waters off the coast of Somalia;

NOTING FURTHER that the Security Council of the United Nations has adopted resolutions 1816 (2008), 1838 (2008), 1846 (2008) and 1851 (2008) in relation to piracy and armed robbery in waters off the coast of Somalia,

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

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

INSPIRED by the Regional Cooperation Agreement on Combating Piracy and Armed Robbery against Ships in Asia adopted in Tokyo, Japan on 11 November 2004;

RECOGNIZING the urgent need to devise and adopt effective and practical measures for the suppression of piracy and armed robbery against ships;

RECALLING that the Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation (hereinafter referred to as “SUA Convention”) provides for parties to create criminal offences, establish jurisdiction, and accept delivery or persons responsible for or suspected of seizing or exercising control over a ship by force or threat thereof or any other form of intimidation;

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

WELCOMING the initiatives of IMO, the United Nations Office on Drugs and Crime, the United Nations Development Programme, European Commission, League of Arab States, and other relevant international entities to provide training, technical assistance and other forms of capacity building to assist Governments, upon request, to adopt and implement practical measures to apprehend and prosecute those persons engaging in piracy and armed robbery against ships;

WELCOMING the creation in New York on 14 January 2009 of the Contact Group on Piracy off the coast of Somalia which will help mobilize and co-ordinate contributions to international efforts in the fight against piracy and armed robbery against ships in the waters off the coast of Somalia, pursuant to United Nations Security Council resolution 1851(2008);

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

Have agreed as follows:

Article 1

Definitions

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

1. “*Piracy*” consists of any of the following acts:
 - a. any illegal acts of violence or detention, or any act of depredation, committed for private ends by the crew or the passengers of a private ship or a private aircraft, and directed:
 - i. on the high seas, against another ship or aircraft, or against persons or property on board such ship or aircraft;
 - ii. against a ship, aircraft, persons or property in a place outside the jurisdiction of any State;
 - b. any act of voluntary participation in the operation of a ship or of an aircraft with knowledge of facts making it a pirate ship or aircraft;
 - c. any act of inciting or of intentionally facilitating an act described in subparagraph (a) or (b).
2. “*Armed robbery against ships*” consists of any of the following acts:
 - (a) unlawful act of violence or detention or any act of depredation, or threat thereof, other than an act of piracy, committed for private ends and directed against a ship or against persons or property on board such a ship, within a State’s internal waters, archipelagic waters and territorial sea;
 - (b) any act of inciting or of intentionally facilitating an act described in subparagraph (a).
3. “*Secretary-General*” means the Secretary-General of the International Maritime Organization.

Article 2

Purpose and Scope

1. Consistent with their available resources and related priorities, their respective national laws and regulations, and applicable rules of international law, the Participants intend to co-operate to the fullest possible extent in the repression of piracy and armed robbery against ships with a view towards:
 - a. sharing and reporting relevant information;
 - b. interdicting ships and/or aircraft suspected of engaging in piracy or armed robbery against ships;

- c. ensuring that persons committing or attempting to commit piracy or armed robbery against ships are apprehended and prosecuted; and
 - d. facilitating proper care, treatment, and repatriation for seafarers, fishermen, other shipboard personnel and passengers subject to piracy or armed robbery against ships, particularly those who have been subjected to violence.
2. The Participants intend this Code of conduct to be applicable in relation to piracy and armed robbery in the Western Indian Ocean and the Gulf of Aden.

Article 3

Protection Measures for Ships

The Participants intend to encourage States, ship owners, and ship operators, where appropriate, to take protective measures against piracy and armed robbery against ships, taking into account the relevant international standards and practices, and, in particular, recommendations^{1,2} adopted by IMO.

Article 4

Measures to Repress Piracy

1. The provisions of this Article are intended to apply only to piracy.
2. For purposes of this Article and of Article 10, “pirate ship” means a ship intended by the persons in dominant control to be used for the purpose of committing piracy, or if the ship has been used to commit any such act, so long as it remains under the control of those persons.
3. Consistent with Article 2, each Participant to the fullest possible extent intends to co-operate in:
 - a. arresting, investigating, and prosecuting persons who have committed piracy or are reasonably suspected of committing piracy;
 - b. seizing pirate ships and/or aircraft and the property on board such ships and/or aircraft; and
 - c. rescuing ships, persons, and property subject to piracy.
4. Any Participant may seize a pirate ship beyond the outer limit of any State’s territorial sea, and arrest the persons and seize the property on board.

¹ MSC/Circ.622/Rev.1 on Recommendations to Governments for preventing and suppressing piracy and armed robbery against ships as it may be revised.

² MSC/Circ.623/Rev.3 on Guidance to shipowners and ship operators, shipmasters and crews on preventing and suppressing acts of piracy and armed robbery against ships as it may be revised.

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

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

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

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

Article 5

Measures to Repress Armed Robbery against Ships

1. The provisions of this Article are intended to apply only to armed robbery against ships.
2. The Participants intend for operations to suppress armed robbery against ships in the territorial sea and airspace of a Participant to be subject to the authority of that Participant, including in the case of hot pursuit from that Participant's territorial sea or archipelagic waters in accordance with Article 111 of UNCLOS.
3. The Participants intend for their respective focal points and Centres (as designated pursuant to Article 8) to communicate expeditiously alerts, reports, and information related to armed robbery against ships to other Participants and interested parties.

Article 6

Measures in All Cases

1. The Participants intend that any measures taken pursuant to this Code of conduct should be carried out by law enforcement or other authorized officials from warships or military aircraft, or from other ships or aircraft clearly marked and identifiable as being in government service and authorized to that effect.
2. The Participants recognize that multiple States, including the flag State, State of suspected origin of the perpetrators, the State of nationality of persons on board the ship, and the State of ownership of cargo may have legitimate interests in cases arising pursuant to Articles 4 and 5. Therefore, the Participants intend to liaise and co-operate with such States and other stakeholders, and to coordinate such activities with each other to facilitate the rescue, interdiction, investigation, and prosecution.

3. The Participants intend, to the fullest possible extent, to conduct and support the conduct of investigations in cases of piracy and armed robbery against ships taking into account the relevant international standards and practices, and, in particular, recommendations³ adopted by IMO.

4. The Participants intend to co-operate to the fullest possible extent in medical and decedent affairs arising from operations in furtherance of the repression of piracy and armed robbery against ships.

Article 7

Embarked Officers

1. In furtherance of operations contemplated by this Code of conduct, a Participant may nominate law enforcement or other authorized officials (hereafter referred to as “the embarked officers”) to embark in the patrol ships or aircraft of another Participant (hereafter referred to as “the host Participant”) as may be authorized by the host Participant.

2. The embarked officers may be armed in accordance with their national law and policy and the approval of the host Participant.

3. When embarked, the host Participant should facilitate communications between the embarked officers and their headquarters, and should provide messing and quarters for the embarked officers aboard the patrol ships or aircraft in a manner consistent with host Participant personnel of the same rank.

4. Embarked officers may assist the host Participant and conduct operations from the host Participant ship or aircraft if expressly requested to do so by the host Participant, and only in the manner requested. Such request may only be made, agreed to, and acted upon in a manner that is not prohibited by the laws and policies of both Participants.

Article 8

Coordination and Information Sharing

1. Each Participant should designate a national focal point to facilitate coordinated, timely, and effective information flow among the Participants consistent with the purpose and scope of this Code of conduct. In order to ensure coordinated, smooth, and effective communications between their designated focal points, the Participants intend to use the piracy information exchange centres Kenya, United Republic of Tanzania and Yemen (hereinafter referred to as “the Centres”). The Centres in Kenya and the United Republic of Tanzania will be situated in the maritime rescue co-ordination centre in Mombasa and the sub-regional co-ordination centre in Dar es Salaam, respectively. The Centre in Yemen will be situated in the regional maritime information centre to be established in Yemen based on the outcomes of the sub-regional meetings held by IMO in Sana’a in 2005 and Muscat in 2006 and Dar es Salaam. Each Centre

³ Resolution A.922(22) on the Code of Practice for the Investigation of the Crimes of Piracy and Armed Robbery against Ships as it may be revised.

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

2. Each Participant intends to:
 - a. declare and communicate to the other Participants its designated focal point at the time of signing this Code of conduct or as soon as possible after signing, and thereafter update the information as and when changes occur;
 - b. provide and communicate to the other Participants the telephone numbers, telefax numbers, and e-mail addresses of its focal point, and, as appropriate, of its Centre and thereafter update the information as and when changes occur; and
 - c. communicate to the Secretary-General the information referred to in subparagraphs (a) and (b) and thereafter update the information as and when changes occur.
3. Each Centre and focal point should be responsible for its communication with the other focal points and the Centres. Any focal point which has received or obtained information about an imminent threat of, or an incident of, piracy or armed robbery against ships should promptly disseminate an alert with all relevant information to the Centres. The Centres should disseminate appropriate alerts within their respective areas of responsibility regarding imminent threats or incidents to ships.
4. Each Participant should ensure the smooth and effective communication between its designated focal point, and other competent national authorities including search and rescue coordination centres, as well as relevant non-governmental organizations.
5. Each Participant should make every effort to require ships entitled to fly its flag and the owners and operators of such ships to promptly notify relevant national authorities, including the designated focal points and Centres, the appropriate search and rescue coordination centres and other relevant the contact points⁴, of incidents of piracy or armed robbery against ships.
6. Each Participant intends, upon the request of any other Participant, to respect the confidentiality of information transmitted from a Participant.
7. To facilitate implementation of this Code of conduct, the Participants intend to keep each other fully informed concerning their respective applicable laws and guidance, particularly those pertaining to the interdiction, apprehension, investigation, prosecution, and disposition of persons involved in piracy and armed robbery against ships. The Participants may also undertake and seek assistance to undertake publication of handbooks and convening of seminars and conferences in furtherance of this Code of conduct.

⁴ For example the Maritime Liaison Office Bahrain (MARLO), the United Kingdom Maritime Trade Office Dubai (UKMTO).

Article 9

Incident Reporting

1. The Participants intend to undertake development of uniform reporting criteria in order to ensure that an accurate assessment of the threat of piracy and armed robbery in the Western Indian Ocean and the Gulf of Aden is developed taking into account the recommendations^{5,6} adopted by IMO. The Participants intend for the Centres to manage the collection and dissemination of this information in their respective geographic areas of responsibility.
2. Consistent with its laws and policies, a Participant conducting a boarding, investigation, prosecution, or judicial proceeding pursuant to this Code of conduct should promptly notify any affected flag and coastal States and the Secretary-General of the results.
3. The Participants intend for the Centres to:
 - a. collect, collate and analyse the information transmitted by the Participants concerning piracy and armed robbery against ships, including other relevant information relating to individuals and transnational organized criminal groups committing piracy and armed robbery against ships in their respective geographical areas of responsibility; and
 - b. prepare statistics and reports on the basis of the information gathered and analysed under subparagraph (a), and to disseminate them to the Participants, the shipping community, and the Secretary-General.

Article 10

Assistance among Participants

1. A Participant may request any other Participant, through the Centres or directly, to co-operate in detecting any of the following persons, ships, or aircraft:
 - a. persons who have committed, or are reasonably suspected of committing, piracy;
 - b. persons who have committed, or are reasonably suspected of committing, armed robbery against ships;
 - c. pirate ships, where there are reasonable grounds to suspect that those ships are engaged in piracy; and
 - d. ships or persons who have been subjected to piracy or armed robbery against ships.

⁵ MSC/Circ.622/Rev.1 on Recommendations to Governments for preventing and suppressing piracy and armed robbery against ships as it may be revised.

⁶ MSC/Circ.623/Rev.3 on Guidance to shipowners and ship operators, shipmasters and crews on preventing and suppressing acts of piracy and armed robbery against ships as it may be revised.

2. A Participant may also request any other Participant, through the Centres or directly, to take effective measures in response to reported piracy or armed robbery against ships.
3. Co-operative arrangements such as joint exercises or other forms of co-operation, as appropriate, may be undertaken as determined by the Participants concerned.
4. Capacity building co-operation may include technical assistance such as educational and training programmes to share experiences and best practice.

Article 11

Review of National Legislation

In order to allow for the prosecution, conviction and punishment of those involved in piracy or armed robbery against ships, and to facilitate extradition or handing over when prosecution is not possible, each Participant intends to review its national legislation with a view towards ensuring that there are national laws in place to criminalize piracy and armed robbery against ships, and adequate guidelines for the exercise of jurisdiction, conduct of investigations, and prosecutions of alleged offenders.

Article 12

Dispute Settlement

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

Article 13

Consultations

Within two years of the effective date of this Code of conduct, and having designated the national focal points referred to in Article 8, the Participants intend to consult, with the assistance of IMO, with the aim of arriving at a binding agreement.

Article 14

Claims

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

Article 15

Miscellaneous Provisions

Nothing in this Code of conduct is intended to:

- (a) create or establish a binding agreement, except as noted in Article 13;
- (b) affect in any way the rules of international law pertaining to the competence of States to exercise investigative or enforcement jurisdiction on board ships not flying their flag;
- (c) affect the immunities of warships and other government ships operated for non-commercial purposes;
- (d) apply to or limit boarding of ships conducted by any Participant in accordance with international law, beyond the outer limit of any State's territorial sea, including boardings based upon the right of visit, the rendering of assistance to persons, ships and property in distress or peril, or an authorization from the flag State to take law enforcement or other action;
- (e) preclude the Participants from otherwise agreeing on operations or other forms of co-operation to repress piracy and armed robbery against ships;
- (f) prevent the Participants from taking additional measures to repress piracy and armed robbery at sea through appropriate actions in their land territory;
- (g) supersede any bilateral or multilateral agreement or other co-operative mechanism concluded by the Participants to repress piracy and armed robbery against ships;
- (h) alter the rights and privileges due to any individual in any legal proceeding;
- (i) create or establish any waiver of any rights that any Participant may have under international law to raise a claim with any other Participant through diplomatic channels;
- (j) entitle a Participant to undertake in the territory of another Participant the exercise of jurisdiction and performance of functions which are exclusively reserved for the authorities of that other Participant by its national law;
- (k) prejudice in any manner the positions and navigational rights and freedoms of any Participant regarding the international law of the sea;
- (l) be deemed a waiver, express or implied, of any of the privileges and immunities of the Participants to this Code of conduct as provided under international or national law; or
- (m) preclude or limit any Participant from requesting or granting assistance in accordance with the provisions of any applicable Mutual Legal Assistance Agreement or similar instrument.

Article 16

Signature and Effective Date

1. The Code of conduct is open for signature by Participants on 29 January 2009 and at the Headquarters of IMO from 1 February 2009.
2. The Code of conduct will become effective upon the date of signature by two or more Participants and effective for subsequent Participants upon their respective date of deposit of a signature instrument with the Secretary-General.

Article 17

Languages

This Code of conduct is established in the Arabic, English and French languages, each text being equally authentic.

DONE in Djibouti this twenty-ninth day of January two thousand and nine.

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

Signed (signatures omitted) in Djibouti on 29 January 2009 by Djibouti, Ethiopia, Kenya, Madagascar, Maldives, Seychelles, Somalia, United Republic of Tanzania and Yemen.

ATTACHMENT 2

RESOLUTION 2

Adopted on 29 January 2009

TECHNICAL CO-OPERATION AND ASSISTANCE

The Djibouti Meeting,

HAVING ADOPTED the Code of conduct concerning the repression of piracy and armed robbery against ships in the Western Indian Ocean and the Gulf of Aden (hereinafter referred to as “the Code of conduct”),

DESIRING to promote the wide acceptance and efficient and effective implementation of the Code of conduct,

RECOGNIZING the need for the development of appropriate national legislation and the putting in place of appropriate organizational, administrative and operational procedures and arrangements,

RECOGNIZING FURTHER that there may be limited facilities and training programmes for obtaining the experience required, particularly in developing countries,

BELIEVING that the promotion of technical co-operation at the international level will assist those States not yet having adequate expertise or facilities for providing training and experience to put in place or enhance appropriate infrastructure and, in general, implement the Code of conduct,

EMPHASIZING, in this regard, the grave threat piracy and armed robbery against ships can pose to the safety of navigation, seafarers and to the marine environment, if not repressed promptly and effectively,

1. URGES Member States of the International Maritime Organization (hereinafter referred to as “IMO”), other appropriate organizations and the maritime industry to provide assistance, either directly or through IMO, to those States which require support in the effective implementation of the Code of conduct;
2. INVITES the Secretary-General of IMO to make adequate provision in the Organization’s Integrated Technical Co-operation Programme for advisory services related to the effective implementation of the Code of conduct and, in particular, to address requests for assistance in developing appropriate national legislation;

3. ALSO INVITES Member States of IMO, and other international organizations concerned including the United Nations Office on Drugs and Crime, United Nations Development Programme, European Commission and Regional Co-operation Agreement on Combating Piracy and Robbery Against Ships in Asia – Information Sharing Centre and the maritime industry to provide financial and in-kind support for technical assistance activities related to the effective implementation of the Code of conduct;
4. FURTHER INVITES Member States of IMO to take appropriate action within all available frameworks and mechanisms to prevent and repress illegal activities offshore that impact peace and stability in Somalia.

RESOLUTION 3

Adopted on 29 January 2009

ENHANCING TRAINING IN THE REGION

The Djibouti Meeting,

ACKNOWLEDGING that best results towards implementation of the provisions of the Code of conduct concerning the repression of piracy and armed robbery against ships in the Western Indian Ocean and the Gulf of Aden (hereinafter referred to as “the Code of conduct”) in a uniform manner may be achieved through the provision of proper training to officials designated by the Governments;

1. ACCEPTS, with appreciation, the kind offer of the Government of Djibouti to host the training centre;
2. RECOMMENDS that the Secretary-General of the International Maritime Organization (hereinafter referred to as “IMO”) to take appropriate action to establish the training centre in Djibouti;
3. INVITES the Secretary-General of IMO to consider, through IMO’s Technical Co-operation Programme, ways and means to promote the training centre to be established in Djibouti for the region, aiming at ensuring the wide, effective and uniform implementation of the provisions of the Code of conduct;
4. ENCOURAGES Member States of IMO, international organizations and regional organizations to co-operate with the Secretary-General of IMO for the purpose of implementing this resolution in due course.

RESOLUTION 4

Adopted on 29 January 2009

EXPRESSIONS OF APPRECIATION

The Djibouti Meeting,

ACKNOWLEDGING the kind invitation of the Government of the Republic of Djibouti to the Secretary-General of the International Maritime Organization (hereinafter referred to as “IMO”) to hold the Meeting in Djibouti,

ACKNOWLEDGING ALSO the generous in-kind contribution and excellent arrangements made by the Government of Djibouti for the Meeting, as well as the hospitality and other amenities provided by the Government and People of Djibouti,

ACKNOWLEDGING the financial support provided by the Governments of Japan, the Republic of Korea and Norway,

EXPRESS APPRECIATION to:

- .1 the Government and People of Djibouti for their valuable contribution to the success of the Meeting;
- .2 the Governments of Japan, the Republic of Korea and Norway for their financial contribution for the convening of the Meeting;
- .3 the Secretary-General of IMO, and especially the staff of the IMO Secretariat, for their tireless efforts and outstanding support for the preparation and conduct of the Meeting.
