

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

(Extract for Law Enforcement)

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.
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, recommendations 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-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 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 points¹, 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.

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;

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- 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.
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.