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**PIRACY AND ARMED ROBBERY AGAINST SHIPS**

**Report of the Working Group**

**Part II**

Attached are annexes 1 to 5 to the report of the Working Group on Piracy and armed robbery against ships (MSC 86/WP.7).

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## ANNEX 1

Ref. [...]

MSC.1/Circ.[...]

\*\* June 2009

**DRAFT MSC.1/Circ.[...]**  
**PIRACY AND ARMED ROBBERY AGAINST SHIPS**  
**IN WATERS OFF THE COAST OF SOMALIA**

1 Following adoption of United Nations Security Council resolution 1851 (2008), the Contact Group on Piracy off the coast of Somalia (CGPCS) was established and held its inaugural meeting on 14 January 2009 to facilitate discussion and coordination of actions among States and organizations to suppress piracy off the coast of Somalia. The participants in the CGPCS, *inter alia*, agreed to establish four working groups, one of which (Working Group 3) was to address the strengthening of shipping self-awareness and other capabilities.

2 In order to progress the work of Working Group 3, eleven industry organizations developed the Best Management Practices to Deter Piracy in the Gulf of Aden and off the Coast of Somalia (Best management practices), attached at annex 1.

3 The Maritime Safety Committee (the Committee), at its eighty-sixth session (27 May to 5 June 2009), considering the distinctive nature of the incidents of piracy and armed robbery against ships in waters off the coast of Somalia, and deciding that guidance specific to the area was warranted, endorsed the work of Working Group 3 and agreed to promulgate the Best management practices to all interested parties.

4 The Committee, noting that vessels engaged in fishing in piracy affected areas off the coast of Somalia were particularly vulnerable to attack, also endorsed the additional guidance to vessels engaged in fishing attached at annex 2. This guidance is intended to be read in conjunction with the Best management practices attached at annex 1.

5 Nothing in the Best management practices or in the additional guidance for vessels engaged in fishing should be read as contradicting the Organization's universal guidance on piracy and armed robbery against ships contained in:

- .1 [MSC/Circ.622/Rev.1] on Recommendations to Governments for preventing and suppressing piracy and armed robbery against ships;
- .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; and
- .3 [Resolution A.922(22)] on Code of practice for investigation of crimes of piracy and armed robbery against ships,

or subsequent amendments thereto.

6 In considering the guidance in the Best management practices on the use of non-lethal measures to deter boarding by pirates or armed robbers, the Committee stressed that seafarers should not be put at increased risk. With respect to the use of fire-fighting systems, the Committee also recognized that the types and capabilities of onboard fire-fighting systems vary on vessels. Such safety implications should be considered in the vessel's preparations for the transit.

7 Nothing in the attached best management practices should be read as limiting the master's authority to take action deemed necessary by the master to protect the lives of passengers and crew.

8 Administrations are invited to bring the attached Best management practices to the attention of shipowners, ship operators and managers, companies, shipmasters, ship security officers and all other relevant parties.

9 Member Governments are invited to bring the attached Best management practices and the additional guidance to vessels engaged in fishing to the attention of fishing vessel owners, operators and managers, regional fishery management organizations, fishermen and all other relevant parties.

10 Member Governments, Administrations, international organizations and non-governmental organizations with consultative status are also invited to bring to the attention of the Committee, at the earliest opportunity, the results of the experience gained from the use of the Best management practices and the additional guidance to vessels engaged in fishing, for consideration of action to be taken.

[11 MSC.1/Circ.1302 on Piracy and armed robbery against ships in waters off the coast of Somalia is revoked as from the date of issue of the present circular.]

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#### ANNEX 1

[ *The Best management practice as found in the annex to document MSC 86/18/2 will be inserted here unchanged* ]

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## ANNEX 2

### **ADDITIONAL GUIDANCE FOR VESSELS ENGAGED IN FISHING, SUPPLEMENTARY TO THE BEST MANAGEMENT PRACTICES TO DETER PIRACY IN THE GULF OF ADEN AND OFF THE COAST OF SOMALIA**

#### **I RECOMMENDATIONS TO VESSELS IN FISHING ZONES**

1. Non-Somali fishing vessels should avoid operating or transiting within 200 nm of the coast of Somalia, irrespective of whether or not they had been issued with licences to do so.
2. Do not start fishing operations when the radar indicates the presence of unidentified boats.
3. If polyester skiffs of a type typically used by pirates are sighted, move away from them full speed, sailing into wind and sea to make their navigation more difficult.
4. Avoid stopping at night, be alert and maintain bridge, deck and engine-room watch.
5. During fishing operations, when the vessel is more vulnerable, be alert and maintain radar watch in order to give maximum notice to the Authorities if an attack is in course.
6. While navigating at night, use only the mandatory navigation and safety lights so as to prevent the glow of lighting attracting pirates who sometimes are in boats without radars and are just lurking around.
7. While the vessel is drifting while fishing at night, keep guard at the bridge on deck and in the engine-room. Use only mandatory navigation and safety lights. The engine must be ready for an immediate start up.
8. Keep away from unidentified ships.
9. Use VHF as little as possible to avoid being heard by pirates and make location more difficult.
10. Activate AIS when maritime patrol aircraft are operating in the area to facilitate identification and tracking.

#### **II IDENTIFICATION**

1. Managers are strongly recommended to register their fishing vessels with MSC-HOA for the whole period of activity off the coast of Somalia. This should include communicating a full list of the crewmen on board and their vessels' intentions, if possible.
2. Carry out training prior to passage or fishing operations in the area.

3. Whenever fishing vessels are equipped with VMS devices, their manager should provide MSC-HOA with access to VMS data.
4. Fishing vessels should avoid sailing through areas where they have been informed that suspected pirate “mother ships” had been identified and should use all means to detect, as soon as possible, any movement of large or small vessels that could be suspicious.
5. Fishing vessels should I always identify themselves upon request from aircraft or ships from Operation ATALANTA or other international or national anti-piracy operation.
6. Military, merchant and fishing vessels should respond without delay to any identification request made by a fishing vessel being approached (in order to facilitate early action to make escape possible, especially if the vessel is fishing).

### **III IN CASE OF ATTACK**

1. In case of an attack or sighting a suspicious craft, warn the Authorities (UKMTO and MSC-HOA) and the rest of the fleet.
2. Communicate the contact details of the second master of the vessel (who is on land) whose knowledge of the vessel could contribute to the success of a military intervention.

#### **Recommendations only for Purse Seiners**

3. Evacuate all personnel from the deck and the crow’s nest.
4. If pirates have taken control of the vessel and the purse seine is spread out, encourage the pirates to allow the nets to be recovered. If recovery of the purse seine is allowed, follow the instructions its stowage and explain the functioning of the gear in order to avoid misunderstanding.

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## ANNEX 2

### EXTRACT FROM UN GUIDANCE ON SURVIVING AS A HOSTAGE

#### Introduction

Over the past few years the number of seafarer who have been kidnapped or taken hostage has increased substantially. Every hostage or kidnap situation is different. There are no strict rules of behaviour; however, there are a number of steps which you can take to minimize the effects of detention and enhance your ability to cope and to see the incident through to a successful release.

#### Survival considerations

These techniques have been successfully employed by others who have been taken hostage:

- No one can tell an individual whether he or she should resist or not if taken hostage/kidnapped. This decision must be made by each person's own assessment of the circumstances. Resisting the attempt may be extremely risky. You may be injured if you attempt to resist armed individuals. It is possible that you will immediately be blindfolded and drugged.
- Being taken hostage is probably one of the most devastating experiences a seafarer can undergo. The first 15 to 45 minutes of a hostage situation are the most dangerous. Follow the instructions of your captors. They are in a highly emotional state, regardless of whether they are psychologically unstable or caught in an untenable situation. They are in a fight or flight reactive state and could strike out. Your job is to survive. After the initial shock wears off, your captors are able to better recognize their position. Be certain you can explain everything on your person.
- Immediately after you have been taken, pause, take a deep breath and try to relax. Fear of death or injury is a normal reaction to this situation. Recognizing your reactions may help you adapt more effectively. A hostage usually experiences greatest anxiety in the hours following the incident. This anxiety will begin to decline when the person realized he/she is still alive – at least for now – and a certain routine sets in. Feelings of depression and helplessness will continue throughout captivity and most hostages will feel deeply humiliated by what they undergo during captivity. Most hostages, however, will quickly adapt to the situation. Remember your responsibility is to survive.
- Do not be a hero; do not talk back or act “tough”. Accept your situation. Any action on your part could bring a violent reaction from your captors. Past experiences show that those who react aggressively place themselves at greater risk than those who behave passively.
- Keep a low profile. Avoid appearing to study your abductors, although, to the extent possible, you should make mental notes about their mannerisms, clothes and apparent rank structure. This may help the authorities after your release.

- Be cooperative and obey hostage-takers' demands without appearing either servile or antagonistic. Be conscious of your body language as well as your speech. Respond simply if you are asked questions by the hijackers. Do not say or do anything to arouse the hostility or suspicious of your captors. Do not be argumentative. Act neutral and be a good listener to your captors. Do not speak unless spoken to and then only when necessary. Be cautious about making suggestions to your captors, as you may be held responsible if something you suggest goes wrong.
- Anticipate isolation and possible efforts by the hostage-takers to disorient you. Your watch may be taken away so you are unable to determine whether it is night or day. Nevertheless, try to maintain a routine.
- Try to appear uninterested as to what is going on around you. Sleep, read a book, etc. When so occupied, you will be less influenced by what is going on around you, and hijackers do not bother people who are not a threat to them.
- Try to keep cool by focusing your mind on pleasant scenes or memories or prayers. Try to recall the plots of movies or books. This will keep you mentally active. You must try to think positively. Try to maintain a sense of humour. It will lessen anxiety.
- Ask for anything you need or want (medicines, books, paper). All they can say is no.
- Build rapport with your captors. Find areas of mutual interest which emphasize personal rather than political interests. An excellent topic of discussion is family and children. If you speak their language, use it – it will enhance communications and rapport.
- Bear in mind that hostages often develop a positive attitude towards their captors. This is known as “Stockholm Syndrome”, after an incident involving hostages at a Swedish bank. In addition, as the hostage identifies with his/her captors, a negative attitude towards those on the outside may develop.
- You may be asked to sign notes verifying that you are alive or you may be asked to write a “confession” that you or the organization have been involved in nefarious activities. The decision to sign these is an individual one based on the situation. Some hostages refuse to sign unless the language of the note is changed. This may help bolster your morale and make you feel less helpless. It can also serve to command a certain degree of respect from the captors.
- Exercise daily. Develop a daily physical fitness programme and stick to it. Exercises will keep your mind off the incident and will keep your body stimulated. If possible, stay well-groomed and clean.
- As a result of the hostage situation, you may have difficulty retaining fluids and may experience a loss of appetite and weight. Try to drink water and eat even if you are not hungry. It is important to maintain your strength.
- Do not make threats against hostage-takers or give any indication that you would testify against them. If hostage-takers are attempting to conceal their identity, give no indication that you recognize them.



- Try to think of persuasive reasons why hostage-takers should not harm you. Encourage them to let authorities know your whereabouts and condition. Suggest ways in which you may benefit your captors in negotiations that would free you. It is important that your abductors view you as a person worthy of compassion and mercy. Never beg, plead or cry. You must gain your captors' respect as well as sympathy.
- If you end up serving as a negotiator between hostage-takers and authorities, make sure the messages are conveyed accurately. Be prepared to speak on the radio or telephone.
- Escape only if you are sure you will be successful. If you are caught, your captors may use violence to teach and others a lesson.
- At every opportunity, emphasize that, as a seafarer you are neutral and not involved in politics.
- If there is a rescue attempt by force, drop quickly to the floor and seek cover. Keep your hands over your head. When appropriate, identify yourself. In many cases, former hostages feel bitter about the treatment they receive after their release. Most hostages feel a strong need to tell their story in detail. If assistance in this regard is not provided, request a post-traumatic stress debriefing. Bear in mind that the emotional problems of a former hostage do not appear immediately. Sometimes they appear months later. Whatever happens, readjustment after the incident is a slow process requiring patience and understanding. As soon as the hostage realizes that he or she is a normal person having a normal reaction to an abnormal situation, the healing process can begin.
- Be patient.

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## ANNEX 3

**DRAFT MSC.1/Circ.[...]  
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/Circ.623/Rev.4]. 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.

3b 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***

3c 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**

3d 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**

3e 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**

3f 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

4 The coastal State/port State should develop action plans detailing how to prevent such an attack in the first place and actions to take in case of an attack. 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.

4a 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.

5 All national agencies involved in preventing and suppressing piracy and armed robbery against ships should take appropriate measures for the purpose of maximizing efficiency and effectiveness and, at the same time, minimizing any relevant adversity. The coastal 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.

5A1 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>

5a 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 UN resolutions. The flag State of the ship being escorted should endeavour to conclude any

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<sup>1</sup> The term “company” is defined in SOLAS regulation IX/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. Similar arrangements are being developed by IMO in other regions.

necessary agreements in respect of such ships entitled to fly their flag with the State(s) providing the escorts.

5b 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 air crafts in accordance with international law to patrol the affected areas.

6 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.

7 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. 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.

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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.

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

9 Coastal States/port States should report to IMO any act of 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 4].

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

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

12 It is important that, once the collection and collation stages have been completed, the product be distributed to all agencies 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.

13 To encourage masters to report all incidents of piracy and armed robbery against ships, coastal States/port States should make every endeavour to ensure that these masters and their ships will not be unduly delayed 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.

13a 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. [A further reference to the Djibouti Code of Conduct should be included when operative.]

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

- .1 it should be firmly established which entity in each country has responsibility and legal authority for carrying out post-attack investigations, since 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.

15 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**

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

*Substantially interested State* means a State:

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



- .5 where, as a result of an incident, nationals of that State lost their lives or received serious injuries; or
- .6 that has at its disposal important information that may be of use to the investigation; or
- .7 that, for some other reason, establishes an interest that is considered significant by the lead investigating State; 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.

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

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

18a 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 occur, as part of the emergency response procedures in the safety management system, or part of the (disclosable) procedures treated via 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.

19 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.

20 If at all possible, ships should be routed away from areas where attacks are known to have taken place and, in particular, seek to avoid 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.

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

- .1 in order to be able to respond, as quickly as possible, to any report from ships on piracy and armed robbery attacks, every piracy or armed robbery threat area should be adequately covered by Coast Earth Stations which are continuously operational, and which preferably are situated in the littoral State responsible for the area or in neighbouring States;
- .2 neighbouring countries having common borders in areas which can be characterized as piracy and armed robbery threat areas should establish 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.
- .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> As an example of such an agreement 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).

- .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.

22 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.

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

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

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

26 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.

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

28 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.





## ANNEX 4

**DRAFT [MSC.1/Circ.[...]]  
GUIDANCE TO SHIPOWNERS, COMPANIES<sup>1</sup>, SHIP OPERATORS, SHIPMASTERS  
AND CREWS ON PREVENTING AND SUPPRESSING ACTS OF PIRACY\* AND  
ARMED ROBBERY\*\* AGAINST SHIPS**

**Introduction**

1 This circular aims at bringing to the attention of shipowners, companies, ship operators masters and crews the precautions to be taken to reduce the risks of piracy on the high seas and armed robbery against ships at anchor, off ports or when underway through a coastal State's territorial waters. It outlines steps that should be taken to reduce the risk of such attacks, possible responses to them and the vital need to report attacks, both successful and unsuccessful, to the authorities of the relevant coastal State and to the ships' own maritime Administration. Such reports are to be made as soon as possible, to enable necessary action to be taken.

It is important to bear in mind that shipowners, companies, ship operators masters and crews can and should take measures to protect themselves and their ships from pirates and armed robbers. 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 shipowners, companies, ship operators, masters and ship operators to take seamanlike precautions when their ships navigate in areas where the threat of piracy and armed robbery exists. Planning should give consideration to the crew's welfare during and after a period of captivity by pirates or armed robbers. Before operating in waters where attacks have been known to occur, it is imperative for shipowners, companies, ship operator and masters concerned to gather accurate information on the situation in the area. To this end the information

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

\* 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)."

\*\* 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.

on attacks and attempted attacks gathered, analysed and distributed by the IMO, IMB's Piracy Reporting Centre and the ReCAAP Information Sharing Centre (ReCAAP ISC)<sup>1</sup>, the Maritime Security Centre, Horn of Africa, Governments and others is vital information, upon which precautionary measures should be based.

2 These recommendations have been culled from a number of sources. Where conflicting advice has been apparent, the reason for choosing the recommended course has been stated.

### **The pirates'/robbers' objective**

3 In addition to the hijacking of ships and the holding hostage of the crew, and the theft of cargo, other targets of the attackers include cash in the ship's safe, crew possessions and any portable ship's equipment. When there has been evidence of tampering with containers, it may be an indication that the raiders may initially have gained access when the ship was berthed in port and then gone over the side, with what they could carry. The application of the ISPS Code is an important precautionary measure and a thorough checking of ships' compartments and securing them before leaving ports is therefore strongly encouraged.

### **Reducing the temptation for piracy and armed robbery**

#### **Cash in the ship's safe**

4 The belief that large sums of cash are carried in the master's safe attracts attackers. In some cases this belief has been justified and sums have been stolen. While carrying cash may sometimes be necessary to meet operational needs and crew requirements and to overcome exchange control restrictions in some States, it acts as a magnet for attackers and they will intimidate and take hostage the master or crew members until the locations have been revealed. Shipowners should consider ways of eliminating the need to carry large sums of cash on board a ship. When this need arises because of exchange control restrictions imposed by States, the matter should be referred to the ship's maritime Administration to consider if representations should be made to encourage a more flexible approach as part of the international response to eliminate attacks by pirates and armed robbers.

#### **Discretion by masters and members of the crew**

5 Masters should bear in mind the possibility that attackers are monitoring ship-to-shore communications and using intercepted information to select their targets. Masters should however also be aware that switching off AIS in high-risk areas reduces ability of the supporting naval vessels to track and trace vessels which may require assistance. Caution should also be exercised when transmitting information on cargo or valuables on board by radio in areas where attacks occur.

It is up to the master's professional judgement to decide whether the AIS system should be turned off, in order for the ship not to be detected, when entering areas where piracy is an imminent threat, however the master should balance the risk of attack against the need to maintain the safety of navigation and, in particular, the requirements of COLREG Rule 7 on Risk of collision, and should act in accordance with the guidance in resolutions A.917(22) and A.956(23). The master should also be aware that other ships operating in high-risk areas may have taken a decision to

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<sup>1</sup> 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.



switch off the AIS system. In the event of an attack, masters should ensure to the extent feasible that AIS is turned on again and transmitting to enable security forces to locate the vessel.

6 Members of the crew going ashore in ports in affected areas should be advised not to discuss the voyage or cargo particulars with persons unconnected with the ship's business.

### **Smaller crews**

7 The smaller crew numbers now found on board ships also favour the attacker. A small crew engaged in ensuring the safe navigation of their ship through congested or confined waters will have the additional onerous task of maintaining high levels of security surveillance for prolonged periods. Shipowners may wish to consider enhancing security watches if their ship is in waters or at anchor off ports, where attacks occur. Shipowners may wish to consider providing appropriate surveillance and detection equipment to aid their crews and protect their ships.

### **Recommended practices**

8 The recommended practices outlined below are based on reports of incidents, advice published by commercial organizations and measures developed to enhance ship security. The extent to which the recommendations are followed or applied are matters solely for the owners or masters of ships operating in areas where attacks occur. The shipping industry would also benefit from consulting other existing recommendations, including those given by the ReCAAP ISC<sup>1</sup>, the IMB Piracy Reporting Centre, BIMCO, ICS and other industry bodies.

8a Given that the masters are often required to follow multiple reporting procedures in these difficult circumstances, it is necessary to simplify these procedures as far as operationally feasible. It is therefore recommended that in the event of an occurrence masters should report all (1) attempted attacks of piracy and armed robbery or threats thereof, (2) actual attacks of piracy and armed robbery, to:

- (i) the nearest RCC or regional piracy focal point where applicable (e.g., RECAAP in the Asian region<sup>2</sup>),
- (ii) the flag State, and
- (iii) the IMB Piracy Reporting Centre<sup>3</sup>.

9 The recommended actions are defined as phases related to any voyage in a piracy and armed robbery threat area. The phases define the main stages in all situations of pre-piracy or armed robbery, attempted piracy or armed robbery and confirmed piracy or armed robbery. Depending on the development of any one situation, they may or may not materialize.

### **The pre-piracy/armed robbery phase**

9a Written procedures on how to prevent or suppress attacks of pirates and armed robbers should be found either in the ship's Safety Management System or in the ship security plan.

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<sup>1</sup> The ReCAAP ISC collates and analyses information concerning piracy and armed robbery against ships, and publishes regular reports which identify patterns and trends, highlight good practices and recommend preventive measures.

<sup>2</sup> See Appendix 2 to this circular regarding the information-sharing and incident-reporting process in the Asian region.

<sup>3</sup> The IMB Piracy Reporting Centre is manned 24 hours a day and set up to receive and promulgate reports of attacks or attempted attacks worldwide.

9b The entry into force of the ISPS Code and the ISM Code has made security assessments and risk assessments an integral part of the safety and security precautions. Measures to prevent and suppress piracy and armed robbery against ships should be part of either the emergency response procedures in the safety management system, or as a situation that requires increased alertness, should become a part of the procedures in the ship security plan.

9c All ships operating in waters or ports where attacks occur should carry out a security assessment as a preparation for development of measures to prevent attacks of pirates or armed robbers against ships and on how to react should an attack occur. This should be included as a part of the emergency response procedures in the safety management system or a part of the procedures in the ship security plan. The security assessment should take into account the basic parameters of the operation including:

- .1 the risks that may be faced including any information given on characteristics of piracy or armed robbery in the specific area;
- .2 the ship's actual size, freeboard, maximum speed, and the type of cargo;
- .3 the number of crew members available, their proficiency 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.

10 The ship security plan\* or emergency response procedures should be prepared based on the risk assessment, detailing predetermined responses to address increases and decreases in threat levels.

The measures should, *inter alia*, cover:

- .1 the need for enhanced surveillance and the use of lighting, surveillance and detection equipment;
- .2 controlling of access to the ship and the restricted areas on the ships by ships' personnel, passengers, visitors, etc.;
- .3 prevention of unauthorized intrusion by active and passive devices and measures, such as netting, wire, electric fencing, long-range acoustic devices, as well as the use, when appropriate, of security personnel on vessels transiting high-risk areas, and taking other measures to make it more difficult for pirates to board vessels. The safety of onboard personnel should always be observed when installing passive devices on board and awareness information should be provided;
- 4 monitoring the security of the ship;
- .5 crew responses, if a potential attack is detected or an attack is underway;

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\* Possible guidance can be found in the ISPS Code.

- .6 the radio alarm procedures to be followed; and
- .7 the reports to be made after an attack or an **attempted attack**.

Ship security plans or emergency response procedures should ensure that masters and crews are made fully aware of the risks involved during attacks by pirates or armed robbers. In particular, they should address the dangers that may arise if a crew adopts an aggressive response to an attack. Early detection of a possible attack may often be the **most effective deterrent**. Aggressive responses, once an attack is underway and, in particular, once the attackers have boarded the ship, could significantly increase the risk to the ship and those on board.

11 In accordance with the ship security plan, all doors allowing access to the bridge, engine-room, steering gear compartments, officers' cabins and crew accommodation should be secured and controlled in affected areas and should be regularly inspected. The use of surveillance equipment to monitor the areas as well as regular patrolling can be of merit. The intention should be to establish secure areas which attackers will find difficult to penetrate. Securing by locking or other means of controlling access to unattended spaces adjoining areas could also prove useful.

11a The shipowner, company, operator and master should bear in mind, the seafarer's need for shore leave and access to shore-based welfare facilities and medical care.

12 It is important that any response to an incident is well planned and executed, and those involved should be as familiar as possible with a ship environment. Therefore, those responsible within the security forces for responding to acts of piracy and armed robbery against ships, whether at sea or in port, should be trained in the general layout and features of the types of ships most likely to be encountered and shipowners in consultation with the flag State should cooperate with the security forces in providing access to their ships to allow the necessary onboard familiarization.

### **Routeing and delaying anchoring**

13 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. When deciding on a ship's route the company should take into consideration the type of ship, the size and maximum speed as well as the freeboard and the dangerous nature of the cargo. If convoys are offered such a measure should also be considered to avoid serious attacks on ships at sea. If ships are approaching ports where attacks have taken place on ships at anchor, rather than 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 longer routeing to remain well off shore or other methods by which the period during which the ship will be at risk is reduced. Contact with port authorities should ensure that berthing priorities are not affected. Charter party agreements should recognize that ships may need to delay arrival at ports where attacks occur either when no berth is available for the ship or offshore loading or unloading will be delayed for a protracted period.

### **Practise the implementation of the ship security plan**

14 Prior to entering an area, where attacks have occurred, the ship's crew should have practised the procedures set down in the ship security plan. Alarm signals and procedures should have been thoroughly practised and training and drills carried out. If instructions are to be given over the ship's address systems or personal radios, they must be clearly understood by those who may not have fully mastered the language in which the instructions will be given.

14a In order to ensure higher vigilance upon entering the area where attacks occur, additional specific security briefings should be given to all ship personnel on the threats of piracy, re-emphasizing the procedures for reporting suspicious persons, objects or activities. Full or partial searches of the ship should be carried out regularly while in the area with heightened threat of attack.

15 It cannot be emphasized enough that all possible access points to the ship and any key and secure areas on it must be secured or controlled in port, at anchor and when underway in affected areas. Crews should be trained in the use of any additional surveillance or detection equipment installed on the ship. Planning and training must be on the basis that an attack will take place and not in the belief that with some luck it will not happen. Indications to attackers that the ship has an alert and trained crew implementing a ship security plan will help to deter them from attacking the ship.

### **Precautions at anchor or in port**

16 In areas where attacks occur, the ships' masters should exercise vigilance when their ships are preparing to anchor or while at anchor. Furthermore, it is important to limit, record and control those who are allowed access to a ship when in port or at anchor. Photographing those who board the ship can be a useful deterrent or assist the identification of attackers who may have had access to the ship prior to their attack. Given that attackers may use knowledge of cargo manifests to select their targets, every effort should be made to limit the circulation of documents which give information on the cargoes on board or their location on the ship. Similar precautions should be taken in regard to the circulation of information on crew members' personal valuables and ship's equipment, as these items are also targeted by attackers.

17 Prior to leaving port, the ship should be thoroughly searched and all doors or access points secured or controlled. This is particularly important in the case of the bridge, engine-room, steering space and other vulnerable areas. Doors and access points should be regularly checked thereafter. The means of controlling doors or access points which would need to be used in the event of an emergency on board will need careful consideration. Ship or crew safety should not be compromised. Searches on board for intruders should be conducted in such a way that the safety of the crew performing these duties is not compromised.

18 Security guards employed in port or at anchorage on different ships should be in communication with each other and the port authorities during their watch. The responsibility for vetting such guards lies with the security personnel companies, which themselves should be vetted by the appropriate authorities.

### **Watchkeeping and vigilance**

19 Maintaining vigilance is essential. All too often the first indication of an attack has been when the attackers appear on the bridge or in the master's cabin. Advance warning of a possible attack will give the opportunity to sound alarms, alert other ships and the coastal authorities, illuminate the suspect craft, undertake evasive manoeuvring or initiate other response procedures. Signs that the ship is aware it is being approached can deter attackers.

20 When ships are in, or approaching areas of known risk of piracy or armed robbery, bridge watches and look-outs should be augmented, bearing in mind that many attacks are mounted from astern. Additional watches on the stern or covering radar "blind spots" should be considered. Companies should consider investing in low-light binoculars for bridge staff and

look-outs. Radar should be constantly manned but it may be difficult to detect low profile fast moving craft on ship's radars. A yacht radar mounted on the stern may provide additional radar cover capable of detecting small craft approaching from astern when the ship is underway. Use of an appropriately positioned yacht radar when the ship is at anchor may also provide warning of the close approach of small craft.

21 It is particularly important to maintain a radar and visual watch for craft which may be trailing the ship when underway but which could close in quickly when mounting an attack. Small craft which appear to be matching the speed of the ship on a parallel or following course should always be treated with suspicion. When a suspect craft has been noticed, it is important that an effective all-round watch is maintained for fear the first craft is a decoy with the intention to board the ship from a second craft while attention is focused on the first.

21a In addition to the use of overt means of transmitting alerts, the ship security alert system could be used in the event of a piracy or armed robbery attack. It should, however, be borne in mind that certain non-disclosure issues prevail with regards to the configuration and locations of the system.

22 Companies owning or operating ships that frequently visit areas where attacks occur should consider the purchase and use of more sophisticated visual and electronic devices in order to augment both radar and visual watch capability against attackers' craft at night, thereby improving the prospects of obtaining an early warning of a possible attack. In particular, the provision of night vision devices, small radars to cover the blind stern arcs, closed circuit television and physical devices, such as barbed wire, may be considered. In certain circumstances non-lethal weapons such as acoustic devices, may also be appropriate. Infrared detection and alerting equipment may also be utilized.

### **Communications procedures**

23 The master should ensure that an authorized person responsible for communications is on duty at all time when the ship is in, or approaching, areas where attacks occur. It should be ensured that ship-shore communication methods are tested and report intervals agreed prior to entering the high-risk area. The frequency of reporting should be maintained.

23a Shipowners should report attacks and attempted attacks to any national, regional or subregional reporting systems made available by Governments, including those run by security forces.

23b Where possible, ships raising alerts should specify that an act of "piracy/armed robbery" is in progress, in line with other distress categories such as "sinking" or "on fire". This could have a potential to improve the alerting process and speed of response.

24 Prior to entering areas where attacks have occurred and where the GMDSS installation on board does not have facility for automatically updating the "ship position" data from an associated electronic navigation aid, it is strongly recommended to enter the ship's position at regular intervals into the appropriate communications equipment manually. It is recommended that owners initiate the GMDSS INMARSAT "C" alarm programme before entering affected areas for use when appropriate.

24a When entering waters where piracy or armed robbery activities have been reported – especially if the AIS is turned off for security reasons – the ship should routinely transmit its position to the shipping company at given intervals, thereby giving the shipping company a first notice that something is amiss if the transmissions are interrupted. Masters should act in accordance with the guidance in resolution A.917(22) on Guidelines for the onboard operational use of shipborne automatic identification systems (AIS) and resolution A.956(23) on Amendments to the guidelines for the onboard operational use of shipborne automatic identification systems (AIS) (resolution A.917(22)) concerning the turning off of AIS. In the event of an attack, masters should ensure to the extent feasible that AIS is turned on and transmitting to enable security forces to locate the vessel.

### **Radio watchkeeping and responses**

25 A constant radio watch should be maintained with the appropriate shore or naval authorities when in areas where attacks have occurred. Continuous watch should also be maintained on all distress and safety frequencies channels or frequencies which could have been determined by local authorities for certain areas. Ships should also ensure all maritime safety information broadcasts for the area monitored. As it is anticipated that INMARSAT's enhanced group calling system (EGC) will normally be used for such broadcasts using the SafetyNET service, owners should ensure a suitably configured EGC receiver is continuously available when in, or approaching areas where there is risk of attack. Owners should also consider fitting a dedicated receiver for this purpose, i.e. one that is not incorporated into a Ship Earth Station used for commercial purposes to ensure no urgent broadcasts are missed.

26 IMO recommends in MSC/Circ.622/Rev.3 that Governments should arrange for RCCs to be able to pass reports of attacks to the appropriate security forces. As for the reports from the ship, see paragraphs 9, and 27 through 42.

27 If suspicious movements are identified which may result in an imminent attack, the ship is advised to contact the relevant RCC, the flag State or other relevant information centres such as the IMB Piracy Reporting Centre or the ReCAAP ISC. Where the master believes these movements could constitute a direct danger to navigation, consideration should be given to broadcasting an "All stations (CQ)" "danger message" as a warning to other ships in the vicinity as well as advising the appropriate RCC. A danger message should be transmitted in plain language using the "safety" priority. All such measures shall be preceded by the safety signal (Sécurité)<sup>1</sup>.

28 When, in his/her opinion, there is conclusive evidence that the safety of the ship is threatened, the master should immediately contact the relevant RCC or, in certain areas, with the radio stations which could have been recommended by local authorities, and if considered appropriate, authorize broadcast of an "All Stations" "Urgent Message" any radiocommunications service he/she considers appropriate or which could have been recommended by local authorities, e.g., INMARSAT, etc. All such messages shall be preceded by the appropriate Urgency signal (PAN PAN) and/or a DSC call using the "all ships urgency" category. If the Urgency signal has been used and an attack does not, in fact, develop, the ship should cancel the message as soon as it knows that action is no longer necessary. This message of cancellation should likewise be addressed to "all stations".

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<sup>1</sup> Specific guidance in respect of waters off the coast of Somalia has been issued as MSC.1/Circ.[...] [and also MSC.1/Circ.1302]

29 Should an attack occur and, in the opinion of the master, the ship or crew are in grave and imminent danger requiring immediate assistance, the master should immediately authorize the broadcasting of a distress message, preceded by the appropriate distress alerts (MAYDAY, DSC, etc.), using all available radiocommunications systems. To minimize delays, if using a ship earth station, ships should ensure the coast earth station associated with the RCC is used. For ships subject to the ISPS Code, a distress signal should also be sent to the flag State using the most expeditious means for example the ships security alert system. All ships should however report the attack to the flag State to help the investigation of incidents involving ships entitled to fly their flag.

30 The ship may be able to send a covert piracy alert to an RCC. However, as pirates may be on board the ship and within audible range of the communication equipment, when the RCC sends an acknowledgement of receipt and attempts to establish communication, they could be alerted to the fact that a piracy alert has been transmitted. This knowledge may serve to further endanger the lives of the crew on board the ship. RCCs and others should, therefore, be aware of the danger of unwillingly alerting the pirates that a distress alert or other communication has been transmitted by the ship.

31 Masters should bear in mind that the distress signal is provided for use only in case of **imminent** danger and its use for less urgent purposes might result in insufficient attention being paid to calls from ships really in need of immediate assistance. Care and discretion must be employed in its use, to prevent its devaluation in the future. Where the transmission of the Distress signal is not fully justified, use should be made of the Urgency signal. The Urgency signal has priority over all communications other than distress.

### **Standard ships' message formats**

32 The standard ships' message formats given in Appendix 3 should be used for all piracy/armed robbery initial and follow-up alert reports.

### **Lighting**

33 Ships should use the maximum lighting available consistent with safe navigation, having regard in particular to the provisions of Rule 20(b) of the 1972 Collision Regulations. Bow and overside lights should be left on if it can be done without endangering navigation. Ships must not keep on deck lights when underway, as it may lead other ships to assume the ship is at anchor. Wide beam floods could illuminate the area astern of the ship. Signal projector lights can be used systematically to probe for suspect craft using the radar guidance if possible. So far as is practicable crew members on duty outside the ship's secure areas when in port or at anchor should avail themselves of shadow and avoid being silhouetted by deck lights as this may make them targets for seizure by approaching attackers.

34 Based on specific information on acts of piracy and armed robbery at sea in specific regions, ships may consider travelling blacked out except for mandatory navigation lights. This may prevent attackers establishing points of reference when approaching a ship. In addition, turning on the ship's lights as attackers approach could alert them that they have been seen, dazzle them and encourage them to desist. It is difficult, however, to maintain full blackout on a merchant ship. The effectiveness of this approach will ultimately depend in part on the level of moonlight, but primarily on the vigilance of the ship's crew. While suddenly turning on the ship's light may alarm or dazzle attackers, it could also place the crew at a disadvantage at a crucial point through temporary loss of their night vision.

## **Secure areas**

35 In accordance with the ship security plan, all doors allowing access to the bridge, engine-room, steering gear compartments, officers' cabins and crew accommodation should be secured and controlled at all times and should be regularly inspected. The intention should be to establish secure areas which attackers will find difficult to penetrate. Consideration should be given to the installation of special access control systems to the ship's secure areas. Ports, scuttles and windows which could provide access to such secure areas should be securely closed and should have laminated glass, if possible. Deadlights should be shut and clipped tightly. The internal doors within secure areas which give immediate access to key areas such as the bridge, radio room, engine-room and master's cabin should be strengthened and have special access control systems and automatic alarms.

36 Securing doors providing access to, and egress from, secure or key areas may give rise to concern over safety in the event of an accident. In any situation where there is a conflict between safety and security, the safety requirements should be paramount. Nevertheless, attempts should be made to incorporate appropriate safety provisions while allowing accesses and exits to be secured or controlled.

37 Owners may wish to consider providing closed-circuit television (CCTV) coverage and recording of the main access points to the ship's secure areas, the corridors approaching the entrances to key areas and the bridge. The allocation of additional personnel to guarding and patrolling of restricted areas can be a useful preventive measure.

38 To prevent seizure of individual crew members by attackers – seizure and threatening a crew member is one of the more common means of attackers gaining control over a ship – all crew members not engaged on essential outside duties should remain within a secure area during the hours of darkness. Those whose duties necessarily involve working outside such areas at night should remain in regular communication with the bridge, it may be the first indication of an attack if the watchkeeper does not report in, if manning permits work in pairs, make irregular rounds on the deck and should have practised using alternative routes to return to a secure area in the event of an attack. Crew members who fear they may not be able to return to a secure area during an attack should select places in advance in which they can take temporary refuge.

39 There should be designated muster areas within the ship's secure areas where the crew can muster during an attack and communicate their location and numbers to the bridge.

## **Alarms**

40 Alarm signals, including the ship's whistle, should be sounded on the approach of attackers. Alarms and signs of response can discourage attackers. Alarm signals or announcements which provide an indication at the point at which the attacker may board, or have boarded, may help crew members in exposed locations select the most appropriate route to return to a secure area. Announcements made by the crew should be made in the working language of the ship.

40a The crew initial familiarization checklist should specifically state the various alarms used on board the vessel, the response and muster station to each of these alarms. The alarms and alarm signals should be standardized throughout the fleet and not be specific.



### **Use of distress flares**

41 The only flares authorized for carriage on board ship are intended for use if the ship is in distress and is in need of immediate assistance. As with the unwarranted use of the distress signal on the radio (see paragraph 24 above), use of distress flares simply to alert shipping rather than to indicate that the ship is in grave and imminent danger may reduce their effect in the situations in which they are intended to be used and responded to. Radio transmissions should be used to alert shipping of the risk of attacks rather than distress flares. Distress flares should only be used when the master considers that the attackers' actions are putting his/her ship in imminent danger.

### **Use of defensive measures**

42 Experiences show that robust actions from the ship which is approached by pirates may discourage the attackers. Outrunning attacks may be an appropriate preventive manoeuvre. If the situation permits, the speed should be increased and maintained at the maximum level. Provided that navigational safety allows, masters should also consider "riding off" attackers craft by heavy wheel movements and turning into wind so as to remove any lee from either side of the ship. Heavy wheel movements should only be used when attacks are alongside and boarding is imminent. The effect of the bow wave and wash may deter would-be attackers' and make it difficult for them to attach poles or grappling irons to the ship. Manoeuvres of this kind should not be used in confined or congested waters or close inshore or by ships constrained by their draught in the confined deep water routes found, for example, in the Straits of Malacca and Singapore.

### **Use of passive and non-lethal devices**

42a The use of passive and non-lethal measures such as netting, wire, electric fencing, and long-range acoustic devices may be appropriate preventive measures to deter attackers and delay boarding.

43 The use of water hoses should also be considered though they may be difficult to train if evasive manoeuvring is also taking place. Water pressures of 80 lb per square inch and above have deterred and repulsed attackers. Not only does the attacker have to fight against the jet of water but the flow may swamp his/her boat and damage engines and electrical systems. Special fittings for training hoses could be considered which would also provide protection for the hose operator. A number of spare fire hoses could be rigged and tied down to be pressurized at short notice if a potential attack is detected.

44 Employing evasive manoeuvres and hoses must rest on a determination to successfully deter attackers or to delay their boarding to allow all crew members to gain the sanctuary of secure areas. Continued heavy wheel movements with attackers on board may lessen their confidence that they will be able to return safely to their craft and may persuade them to disembark quickly. However, responses of this kind could lead to reprisals by the attackers if they seize crew members and should not be engaged in unless the master is convinced he can use them to advantage and without risk to those on board. They should not be used if the attackers have already seized crew members.

## **Firearms**

45 With respect to the carriage of firearms on board, masters, shipowners and companies should be aware that ships entering the territorial sea and/or ports of a 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**

45a The carrying and use of firearms by seafarers for personal protection or for the protection of a ship is strongly discouraged. 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 ship 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.

45b It should also be borne in mind that shooting at suspected pirates may impose a legal risk for the master, shipowner or company, such as collateral damages. In some jurisdictions, killing a national may have unforeseen consequences even for a person who believes he or she has acted in self defence. Also the differing customs or security requirements for the carriage and importation of firearms should be considered, as taking a small handgun into the territory of some countries may be considered an offence.

## **Use of unarmed security personnel**

45c The use of unarmed security personnel is a matter for individual shipowners, companies, and ship operators to decide. The use of unarmed security personnel to provide security advice and an enhanced lookout capability could be considered.

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

45d If armed security personnel are allowed on board, the master, shipowner, operator and company should take into account the possible escalation of violence and other risks. However, the use of privately contracted armed security personnel on board merchant ships and fishing vessels is a matter for flag State to determine in consultation with masters, shipowners, operators and companies. Masters, shipowners, operators and companies should contact the flag State and seek clarity of the national policy with respect to the carriage of armed security personnel. All legal requirements of flag, port and coastal States should be met.

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

46 The use of military teams or law enforcement officers duly authorized by the Government of the flag State to carry firearms for the security of merchant ships or fishing vessels is a matter for the flag State to authorize in consultation with masters, shipowners, operators and companies. The carriage of such teams may be required or recommended when the ship is transiting or operating in areas of high risk. Due to rules of engagement defined by their Government, or in coalition with other Governments, boarding conditions should be defined by the States involved, including the flag State. The shipowner, operator and company should always consult the flag State prior to embarking such teams.

## **The phases of suspected or attempted piracy/armed robbery attack**

### **Suspected piracy/armed robbery vessel detected**

47 Early detection of suspected attacks must be the first line of defence. If the vigilance and surveillance has been successful, a pirate/armed robbery vessel will be detected early. This is the stage at which the security forces of the nearest littoral or coastal State must be informed through the RCC, using the ships' message format contained in Appendix 3. The ship's crew should be warned and, if not already in their defensive positions, they should move to them. Appropriate passive and active measures, such as evasive manoeuvres and hoses should be vigorously employed as detailed in the preparation phase or in the ship's security plan.

47a Shipowners, company, ship operator and master should be aware of any UN Security Council, IMO or any other UN resolutions on piracy and armed robbery against ships and any recommendations therein relevant to the shipowner, operator, master and crew when operating in areas where piracy or armed robbery against ships occur.

### **Being certain that piracy/armed robbery will be attempted**

48 If not already in touch with the security forces of the littoral coastal State, efforts should be made to establish contact. Crew preparations should be completed and, where a local rule of the road allows ships under attack to do so, a combination of sound and light signals should be made to warn other ships in the vicinity that an attack is about to take place. Vigorous manoeuvring should be continued and maximum speed should be sustained if navigation conditions permit. Nothing in these guidelines should be read as limiting the master's authority to take action deemed necessary by the master to protect the lives of passengers and crew.

### **Pirate/armed robbery vessel in proximity to, or in contact with, own ship**

49 Vigorous use of hoses in the boarding area should be continued. It may be possible to cast off grappling hooks and poles, provided the ship's crews are not put to unnecessary danger.

49a While giving due consideration to safety of crew, vessel and environment it is recommended that masters should not slow down and stop, as far as practicable, when pursued by or fired upon by pirates/armed robbers intending to board and hijack the vessel. Where the pirates/armed robbers operate from a mother ship, masters should consider steering away from the mother ship thus increasing the distance between the attacking craft and the mother ship.

### **Pirates/armed robbers start to board ship**

50 Timing during this phase will be critical and as soon as it is appreciated that a boarding is inevitable all crew should be ordered to seek their secure positions and activate any systems for raising the alarm including the ship security alert system.

### **Pirates/armed robbers have succeeded in entering ship**

51 Early detection of potential attacks must be the first line of defence, action to prevent the attackers actually boarding the second, but there will be incidents when attackers succeed in boarding a ship. The majority of pirates and armed robbers are opportunists seeking an easy target and time may not be on their side, particularly if the crews are aware they are on board and are raising the alarm. However, the attackers may seek to compensate for the pressure of time

they face by escalating their threats or the violence they employ. When attackers are on board the actions of the master and crew should be aimed at:

- .1 securing the greatest level of safety for those on board the ship;
- .2 seeking to ensure that the crew remain in control of the navigation of the ship; and
- .3 securing the earliest possible departure of the attackers from the ship.

52 The options available to the master and crew will depend on the extent to which the attackers have secured control of the ship, e.g., by having gained access to the bridge or engine-room, or by seizing crew members who they can threaten, to force the master or crew to comply with their wishes. However, even if the crew are all safely within secure areas, the master will always have to consider the risk to the ship the attackers could cause outside those areas, e.g., by using firebombs to start fires on a tanker or chemical carrier.

53 If the master is certain that all his/her crew are within secure areas and that the attackers cannot gain access or by their actions outside the secure areas they do not place the entire ship at imminent risk, then he/she may consider undertaking evasive manoeuvres of the type referred to above to encourage the attackers to return to their craft.

54 The possibility of a sortie by a well-organized crew has, in the past, successfully persuaded attackers to leave a ship but the use of this tactic is only appropriate if it can be undertaken at no risk to the crew. For an action like this to be attempted the master must have clear knowledge of where the attackers are on the ship, that they are not carrying firearms or other potentially lethal weapons and that the number of crew involved significantly outnumbers the attackers they will face. If a sortie party can use water hoses, they stand an increased chance of success. The intention should be to encourage the attackers back to their craft. Crew members should not seek to come between the attackers and their craft nor should they seek to capture attackers as to do so may increase the resistance the attackers offer which will, in turn, increase the risk faced by members of the sortie party. Once outside the secure area, the sortie party should always stay together. Pursuit of an individual attacker by a lone crew member may be attractive but if it results in the crew member being isolated and seized by the attackers, the advantage turns to the attackers. Crew members should operate together and remain in constant communication with the bridge and should be recalled if their line of withdrawal to a secure area is threatened.

55 If the crew do apprehend an attacker, he/she should be placed in secure confinement and well cared for. Arrangements should be made to transfer him/her to the custody of officers of the security forces of a coastal State at the earliest possible opportunity. Any evidence relating to these activities should also be handed over to the authorities who take him/her into custody.

### **The pirates/armed robbers begin to gain control and take one or more of the ship's crew into their custody**

56 If the attackers have gained control of the engine-room or bridge, have seized crew members or can pose an imminent threat to the safety of a ship, the master or officer in charge should remain calm and, if possible, seek to negotiate with the attackers with the intention of maintaining the crew's control over the navigation of the ship, the safe return of any hostages they may hold and the early departure of the attackers from the ship. There will be many circumstances when compliance with the attackers' demands will be the only safe alternative and resistance or obstruction of any kind could be both futile and dangerous.

57 In the event of attackers gaining temporary control of the ship, crew members should, if it is safe and practicable, leave Close Circuit Television (CCTV) records running.

58 As there have been occasions when entire crews have been locked up, consideration should be given to secreting equipment within areas in which the crew could be detained to facilitate their early escape.

58a In the event of hijacking a ship, the shipping company should seek expert advice and assistance from professionals to the effect of the safe return of the crew, as handling these situations have shown to be time-consuming and stressful for all parties involved.

**The pirates/armed robbers have stolen property/money, etc.**

59 At this stage it is essential that the pirates/armed robbers are assured that they have been given everything they demand and a strong reassurance that nothing has been secreted may persuade the pirates/armed robbers to leave.

**The pirates/armed robbers start to disembark from the ship**

60 If the crew are in their secure positions, it would be unwise of them to leave this security until it is confirmed that the pirates/armed robbers have left the ship.

**The pirates/armed robbers have disembarked from the ship**

61 A pre-arranged signal on the ship's siren will alert the crew to the "all clear". The company Security Officer should be informed accordingly.

**Action after an attack and reporting incidents**

62 Immediately after securing the safety of the ship and crew a post attack report (Follow-up report, as shown in Ships' message formats in Appendix 2) should be made to the relevant RCC and, through them, to the security forces of the coastal State concerned. As well as information on the identity and location of the ship, any injuries to crew members or damage to the ship should be reported, as should the direction in which the attackers departed together with brief details of their numbers and, if possible, a description of their craft. If the crew have apprehended an attacker, that should also be reported in this report.

63 If an attack has resulted in the death of, or serious injury to, any person on board the ship or serious damage to the ship itself, an immediate report should also be sent to the ship's maritime Administration. In any event a report of an attack is vital if follow-up action is to be taken by the ship's maritime Administration. The shipowner, companies, ship operators, shipmasters and crew should cooperate with the investigators and provide the requested information.

64 Any CCTV or other recording of the incident should be secured. If practicable, areas that have been damaged or rifled should be secured and remain untouched by crew members pending possible forensic examination by the security forces of a coastal State. Crew members who came into contact with the attackers should be asked to prepare an individual report on their experience noting, in particular, any distinguishing features which could help subsequent identification of the attackers. A full inventory, including a description of any personal possessions or equipment taken, with serial numbers when known, should also be prepared.

65 As soon as possible after the incident, a fuller report should be transmitted to the authorities of the coastal State in whose waters the attack occurred or, if on the high seas, to the authorities of the nearest coastal State. Due and serious consideration should be given to complying with any request made by the competent authorities of the coastal State to allow officers of the security forces to board the ship, take statements from crew members and undertake forensic and other investigations. Copies of any CCTV recordings, photographs, etc., should be provided if they are available.

66 Ships should take the necessary precautions, and implement the necessary procedures to ensure rapid reporting of any case of attack or attempted attack to the authorities in the relevant coastal States to enhance the possibility of security forces apprehending the attackers.

67 Any report transmitted to a coastal State should also be transmitted to the ship's maritime Administration at the earliest opportunity. A complete report of the incident, including details of any follow-up action that was taken or difficulties that may have been experienced, should eventually be submitted to the ship's maritime Administration. 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.

68 The format required for reports to IMO through maritime Administrations or international organizations is attached at Appendix 4. Indeed, at present the lack of adequate and accurate reporting of attacks is directly affecting the ability to secure governmental and international action. Reports may also contribute to future refining and updating any advice that might be issued to ships.

69 Reports to the RCC, coastal State and the ship's maritime Administration should also be made if an attack has been unsuccessful.

70 Using RCCs, as recommended by IMO in MSC/Circ.1073, will eliminate communication difficulties.

### **On leaving piracy/armed robbery high-risk/high-probability areas**

71 On leaving piracy/armed robbery threat areas, shipmasters should make certain that those spaces that need to be unlocked for safety reasons are unlocked, unrig hoses and revert to normal watchkeeping/lighting. However, though ships may be operating outside high-risk/high-probability areas, ship masters may, at their discretion, have ready their anti-piracy/robbery measures in view that the pirates/robbers may attack outside these areas.

72 A summary of the piracy/armed robbery phases and how they may, or may not, develop is given in Appendix 3.

### **Post-incident follow-up**

73 A debriefing should be conducted by the owner/master, SSO and CSO to learn from the attack and identify areas of improvement. The debriefing should be conducted immediately after the incident so that the events are fresh and should involve the entire crew.

74 The shipowner should be aware that the seafarer may suffer from trauma or similar condition after being victimized under an attack from pirates or armed robbers. The shipowner should offer advice from professionals if the seafarer wishes such assistance. An important first step in reducing the risk from trauma is for masters to debrief crew immediately after the attack or release of a vessel in order to get crew to confront their experiences. An important second step is for counselling professionals to debrief crew as soon as possible after the attack or release of the vessel in order to assist the crew to manage their experiences.





## ANNEX 5

**DRAFT ASSEMBLY RESOLUTION A....(..)**  
**CODE OF PRACTICE FOR INVESTIGATION OF CRIMES OF PIRACY**  
**AND ARMED ROBBERY AGAINST SHIPS**

THE ASSEMBLY,

RECALLING the rights and obligations of States under the international law of the sea, including the provisions of the 1982 United Nations Convention on the Law of the Sea (UNCLOS),

RECALLING ALSO Article 15(j) of the Convention on the International Maritime Organization concerning the functions of the Assembly in relation to regulations and guidelines concerning maritime safety,

RECALLING FURTHER the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (SUA Convention), 1988 and the 1988 Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf, and encouraging States that have not done so, to ratify the said instruments as a matter of priority,

NOTING resolution A/RES/63/111 on Oceans and the law of the sea, by which the United Nations General Assembly, at its sixty-third session, urged all States, in cooperation with the International Maritime Organization, 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,

NOTING ALSO the approval by the Maritime Safety Committee of [MSC.1/Circ.[...]] and [MSC.1/Circ.[...]] containing recommendations to Governments and guidance to shipowners and ship operators, shipmasters and crews on preventing and suppressing acts of piracy and armed robbery against ships,

RECOGNIZING WITH DEEP CONCERN the grave danger to safety of life at sea, maritime safety and the protection of the marine environment arising from acts of piracy and armed robbery against ships,

RECOGNIZING ALSO that the number of acts of piracy and armed robbery against ships continues to increase worldwide,

BEING AWARE that the fight against piracy and armed robbery against ships is often impeded by the absence of effective legislation in some countries for the investigation of reported cases of piracy and armed robbery against ships,

NOTING the need for capacity-building and technical cooperation in the field of suppression of piracy and armed robbery,

BEING ALSO AWARE that, when arrests are made, some Governments are lacking the legislative framework and adequate guidelines for investigation necessary to allow conviction and punishment of those involved in acts of piracy and armed robbery against ships,

TAKING INTO ACCOUNT the recommendation made at regional seminars and workshops organized by IMO within the context of the 1998 anti-piracy project that the development of a Code of Practice for the Investigation and Prosecution of Acts of Piracy and Armed Robbery against Ships should be pursued on a priority basis, to ensure appropriate punishment for the crime of piracy and armed robbery against ships,

BEING CONVINCED of the need for an amended Code of Practice to be adopted and promulgated as soon as possible,

BEING ALSO CONVINCED of the need for Governments to cooperate and to take, as a matter of the highest priority, all necessary action to prevent and suppress any acts of piracy and armed robbery against ships,

HAVING CONSIDERED the recommendation of the Maritime Safety Committee at its eighty-sixth session,

1. ADOPTS the Code of Practice for the Investigation of the Crimes of Piracy and Armed Robbery against Ships set out in the Annex to the present resolution;
2. INVITES Governments to cooperate in the interests of safety of life at sea and environmental protection by increasing their efforts to suppress and prevent acts of piracy and armed robbery against ships;
  - 2a. URGES Governments to implement the Code, in order to be able to better learn from the experiences of shipowners, masters and crew, who have been subject to attacks and thereby being able to enhance preventative guidance to others who may find themselves in similar situations in the future;
3. ALSO INVITES Governments to develop, as appropriate, agreements and procedures to facilitate cooperation in applying efficient and effective measures to prevent acts of piracy and armed robbery against ships;
4. ENCOURAGES Governments to apply the provisions of international instruments aimed at improving safety of life at sea and the prevention and suppression of acts of piracy and armed robbery against ships;
5. REQUESTS the Secretary-General to bring this resolution and the annexed Code of Practice for the Investigation of the Crimes of Piracy and Armed Robbery against Ships to the attention of Member Governments, the United Nations and other international organizations concerned, for information and appropriate action;
6. FURTHER REQUESTS the Maritime Safety Committee and the Legal Committee to continuously keep the Code under review and to take action as they may deem appropriate;
7. URGES Governments to take action, as set out in the Code of Practice, to investigate all acts under their jurisdiction of piracy and armed robbery against ships, and to report to the Organization pertinent information on all investigations and prosecutions concerning these acts;
8. FURTHER URGES all Governments responsible for ports, anchorages and sea areas to inform the Organization of specific advice they have made available to ships on the subject of piracy and armed robbery against ships for promulgation by the industry to ships concerned.

ANNEX

**DRAFT**  
**CODE OF PRACTICE FOR THE INVESTIGATION OF THE CRIMES**  
**OF PIRACY AND ARMED ROBBERY AGAINST SHIPS**

**1 PURPOSE OF THIS DOCUMENT**

The purpose of this document is to provide IMO Member States with an *aide-memoire* to facilitate the investigation of the crimes of piracy and armed robbery against ships.

**2 DEFINITIONS**

For the purpose of this Code:

2.1 “**Piracy**” means unlawful acts as defined in Article 101 of the 1982 United Nations Convention on the Law of the Sea (UNCLOS).\*

2.2 “**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.

2.3 “**Investigators**” means those people appointed by the relevant State(s) to investigate an act of piracy or armed robbery against a ship, after the event has occurred.

2.3a “**Initial responders**” means those people who are appointed by the relevant State(s) to intervene in an act of piracy or armed robbery against a ship, during the event.

**3 PRIOR CONSIDERATIONS**

**Legislation**

**Apprehension and prosecution**

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

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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):

“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 sub-paragraph (a) or (b).”

committing such offences. States are furthermore encouraged to take the necessary national legislative, judicial and law enforcement actions as to be able to receive, prosecute or extradite any pirates or suspected pirates and armed robbers arrested by warships or military aircraft or other ships or aircraft clearly marked and identifiable as being government service. States should take into consideration appropriate penalties when drafting legislation on piracy.

3.2 States are encouraged to ratify, adopt and implement the 1982 United Nations Convention on the Law of the Sea, the 1988 Convention for the Suppression of Unlawful Acts Against the Safety of Navigation the 1988 Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf, and the 2005 Protocol for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation.

#### **Action by coastal/port States**

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

#### **Coastal State agreements**

3.4 Article 100 of United Nations Convention on the Law of the Sea requires all States to cooperate to the fullest possible extent in the repression of piracy. Coastal States are also encouraged to cooperate to the fullest possible extent in the repression of armed robbery, and, where appropriate, to enter into bilateral or multilateral agreements to facilitate the investigation of piracy and armed robbery against ships, and to facilitate the prosecution of the perpetrators.

### **4 TRAINING OF INVESTIGATORS**

4.1 Training of investigators should cover the primary purposes of an investigation:

- .1 In any cases where persons on board have been abducted or have been held hostage, the primary objective of any law enforcement operation or investigation must be their safe release. **Their rescue and safety must take precedence over all other considerations.**
- .2 Arrest of offenders.
- .3 Securing of evidence, especially if an examination by experts is needed.
- .4 Dissemination of information which may help prevent other offences.
- .5 Recovery of property stolen.
- .6 Cooperation with the authority responsible for dealing with any particular incident.
- .7 Information seeking by use of websites such as those offered by IMB or ReCAAP ISC.

4.2 Investigators should be trained and experienced in conventional criminal investigative techniques, and should be as familiar as possible with a ship environment. Maritime knowledge will of course be an advantage, and access to persons with knowledge on maritime procedures useful, but it is investigative skills which are vital.

4.3 Written procedures in the national language on how to conduct an investigation could be useful. Such procedures should be updated and adjust in light of experiences gained and with due regard for national legislation.

4.4 Trainers may wish to emphasize that offenders could still be at the scene of the crime when investigators arrive on scene.

4.5 Investigators should be trained on how to handle persons, who have experienced very stressful situations. Learning techniques on how to question persons suffering from post traumatic stress could prove useful.

## **5 INVESTIGATIVE STRATEGY**

5.1 It is essential that investigators shall have demonstrated criminal investigation skills and competencies, as well as maritime knowledge/experience. Offenders are ultimately land-based, and it is likely that it is on land that they will be most vulnerable to detection. Associates may be prepared to give information against them, for example, and it is there that they will be spending the proceeds of their crime. It is also probable that offenders will be involved in other offences such as smuggling irregular immigrants, and useful intelligence may be lost if investigators are too compartmentalized in their approach.

5.2 Conventional detective methods offer the best chance of identifying and apprehending pirates and perpetrators of armed robbery.

5.3 It may be appropriate to link anti-piracy measures to anti-smuggling patrols or efforts to prevent illicit traffic in narcotic drugs and psychotropic substances, thus minimizing duplication of effort and saving resources. Wherever possible, an inter-agency approach to investigation should be adopted.

### **Overall management/other liaison/cooperation**

5.4a For the purpose of enhancing the capacity of States to combat piracy and armed robbery against ships, States should endeavour to cooperate on the investigation to the fullest possible extent.

5.4a.1 Maritime trade being of an international nature will bring into play various legal/boundary issues. While conducting investigations all States which have an interest should fully cooperate with those conducting the investigations.

5.4 It is important to identify the person and/or organization in charge of an investigation. Confusion or delay in the early stages will at best result in delayed investigative opportunities and loss of evidence. At worst, it may increase the danger to any member of the crew held captive by the offenders, possibly resulting in loss of life or injury, which could have been avoided.

5.5 Recognition should be given to the different national interests that may be involved in each case, including: flag State of the ship; country in whose territorial waters the attack took place; country of suspected origin of the perpetrators; country of nationality of persons on board; country of ownership of cargo; and country in which the crime was committed. In cases of piracy, the flag State of the ship should take lead responsibility, and in cases of armed robbery the lead should be taken by the State in whose territorial waters the attack took place. In all cases it should be recognized that other States will have legitimate interests, and therefore liaison and cooperation between them is vital to a successful investigation and apprehension of the perpetrator.

5.5a The shipowner or company should be informed of the attack and the plan for the investigation.

5.6 It is important to involve relevant organizations (e.g., Interpol, ICC/International Maritime Bureau) at an early stage, where appropriate, in order to take account of the possibility that transnational organized crime may be involved.

5.7 If in the course of the investigation there is an unavoidable need to change the investigators in charge, a full debriefing should take place.

## **6 DEALING WITH AN INITIAL REPORT**

When information is received that a ship is under attack, or a recently-committed major offence is reported and the ship is accessible, initial responders and investigators should attend without delay. The responsibilities of those who first attend crime scenes will be the following:

### **Preservation of life**

- .1 They must secure medical treatment for all persons injured, and advise the crew if the situation warrants that the threat no longer exists and the crew is safe.

### **Prevention of the escape of offenders**

- .2 They must be alert to the possibility that, in some circumstances, offenders may still be in the vicinity and advise the crew accordingly.

### **Warnings to other ships**

- .3 Whenever practicable warnings should be issued to other ships in the vicinity which may be vulnerable to attack.

### **Protection of crime scenes**

- .4 Recovery of forensic material from a crime scene has the potential to provide evidence to identify offenders. Equally, interpretation of what happened at the scene will help investigators and determine the outcome of the investigation. It is therefore vital that crime scenes be protected until appropriately qualified personnel arrive to examine them. This point must be fully understood by the master, crew and shipowner of any ship involved.

- .5 The initial phases of the law enforcement and emergency services' response present the greatest risk of scene contamination. Personnel coordinating the law enforcement response should be aware of the risk of contamination and advise persons attending scenes, including other law enforcement officials and naval personnel, accordingly.
- .6 They must ensure that the authorities in the country with lead responsibility for investigating any crime are informed of the details of the incident and given the opportunity to conduct an investigation into it. Any evidence, details of action taken, etc., should be passed to the State with the lead responsibility.

### **Securing evidence**

- .7 Focused questioning at the crime scene may lead to information which, by being rapidly passed to all appropriate authorities, could lead to the identification or arrest of the offenders, e.g., description of offenders, description of ship and direction ship was last seen heading in.
- .8 Law enforcement officials first attending a scene must appreciate the importance of their role in gathering and passing on as quickly as possible relevant evidence, even if the offenders have escaped. Mistakes or omissions at the outset may have serious implications for the subsequent investigation.
- .9 Investigators should bear in mind that recovery of property during the investigation is important, as it may become evidence in the event of any prosecution.

## **7 THE INVESTIGATION**

### **Proportionality**

The course of an investigation will to a large extent depend on the circumstances of the offence. In this regard the investigating agency will wish to take account of the "seriousness" of the incident. This will range from stolen property, to hostage taking and ultimately to loss of life. Consequently, the action to be pursued should be proportionate to the crime committed and consistent with the laws that were violated. The following will, however, be common to all piracy and armed robbery investigations:

### **Establishing and recording of all relevant facts**

- .1 All relevant facts must be recorded in a systematic way. Most law enforcement agencies use multi-purpose crime reporting forms, but officers dealing with offences at sea must be sure to include the additional information which may subsequently prove essential in legal proceedings in these cases, e.g., weather, sea state, position, direction of travel and speed of the ship, a detailed description of the ship and so forth.
- .2 Photographs and videotapes taken of and on a ship will help investigators and witnesses to explain subsequently what happened.

- .3 Investigators must bear in mind that the laws governing offences committed at sea allow, in some circumstances, for legal proceedings in countries other than those where the investigators may be based. Investigations must therefore be sufficiently comprehensive and detailed to make it possible to explain what happened to courts other than the investigators' own, possibly several years after the offences have been committed. The *modus operandi* of investigators has to be described in the investigation report.

#### **Recording of individual witness accounts**

- .4 These should be recorded in a formal manner, acceptable for use in subsequent court proceedings. Witness accounts will form the basis of any prosecution case and untrained personnel should not be used for this important task.
- .5 Witness accounts must be recorded at the earliest opportunity, as memories fade and accounts may be influenced by contact with other witnesses and media reports.
- .6 Where witnesses speak languages different from that of the investigators, as will happen frequently in piracy and armed robbery cases, their accounts must be recorded in their own languages and through use of properly qualified interpreters when this can be done within a reasonable timescale. Investigators should be aware that an account signed by a witness, or indeed a suspect, in a language foreign to that person may be valueless in court proceedings. It is important, therefore, to establish the legal requirements for the validity of evidence in each case.
- .7 Experience has proved that witnesses in piracy and armed robbery cases, and particularly those who have been subjected to violence, are likely to be exceptionally distressed. Their experience will have been all the worse if they have been held captive for a long period and/or been in fear of death, and the situation will be exacerbated still further if they are far from home. Investigators should bear these factors in mind and deal with them sympathetically and patiently if they are to elicit all relevant facts.
- .8 Witnesses should be interviewed separately from each other, when this can be done within a reasonable timescale, in order to protect the integrity of the individual accounts of the incident.
- .9 Investigators should focus upon obtaining specific descriptions of the individuals involved in the piracy incident, particularly noting any distinguishing characteristics of the "leader".
- .10 If more than one offender is involved, investigators should attempt to obtain particular information from the witnesses about the actions of each individual offender, rather than be satisfied with general statements about what "the hijackers" or "the pirates" did on the ship.

#### **Detailed forensic examination of scenes**

- .11 Detailed forensic examination of the crime scene, particularly in serious cases including cases of homicide, offers investigators the best opportunities of establishing crucial information and evidence which may ultimately result in the case being solved.



- .12 Investigators should secure particular objects or places on the ship where the offenders may have left fingerprints or other latent prints of value.
- .13 Investigators will be well advised to take advantage of the full range of specialist services available to them.
- .14 Investigators should take into consideration the need not to detain ships or impede work on board longer than is strictly necessary to carry out the forensic examination.

#### **Search of intelligence databases**

- .15 Crimes must not be treated in isolation.
- .16 Offenders may be responsible for similar crimes not yet solved, but when the evidence from those cases is accumulated and considered, opportunities of identifying offenders may emerge. Appropriate databases, including those held by the International Maritime Bureau in Kuala Lumpur, Malaysia, and the ReCAAP Information Sharing Centre, Singapore, should be searched to identify any series of offences. However, usage of private databases has to be compatible with the law governing the investigation. Consideration should be given to contacting Interpol or neighbouring coastal States in case they have any information on the offenders.
- .17 Equally, offenders may have previous convictions, the details of which could link them to crimes under investigation.

#### **Distribution of information and intelligence to appropriate agencies**

- .18 An important product of an effective investigation, even if it does not lead to any arrests, should be the generation of intelligence, and systems should be in place to ensure that potentially useful intelligence is disseminated to all appropriate parties. These might include law enforcement agencies, naval authorities, coastguards, harbour masters and others who might need it, and could act on it according to their national regulations.
- .19 Also lessons learned from the investigation, even if it did not lead to any arrest should be reported to the IMO for other Member States, ReCAAP and representatives of the industry, e.g., BIMCO, ICS, ITF and other industry bodies as well as IMB to enable all interested parties to benefit from the information obtained during the investigation.
- .20 If the information gathered during an investigation leaves the State in charge of the investigation with reason to believe that an offence of piracy or armed robbery will be committed at a later stage in time, that State should, in accordance with its national legislation, furnish as promptly as possible any relevant information in its possession to those States which it believes would be States having established jurisdiction over the offences of piracy and armed robbery in accordance with this Code, paragraph 3.1.