

PIRACY(1) AND ARMED ROBBERY AGAINST SHIPS(2) IN WATERS OFF THE COAST OF SOMALIA



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(Agenda item 10)**

**PIRACY¹ AND ARMED ROBBERY AGAINST SHIPS²
IN WATERS OFF THE COAST OF SOMALIA**

THE ASSEMBLY,

RECALLING 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 and the prevention and control of marine pollution from ships,

RECALLING ALSO article 1 of the Charter of the United Nations, which includes, among the purposes of the United Nations, the maintenance of international peace and security,

¹ “Piracy” is defined in article 101 of the United Nations Convention on the Law of the Sea as follows:

“Piracy consists of any of the following acts:

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

² “Armed robbery against ships” is defined in the Code of Practice for the Investigation of Crimes of Piracy and Armed Robbery Against Ships (resolution A1025(26), Annex, paragraph 2.2), as follows:

“Armed robbery against ships means any of the following acts:

- .1 any illegal 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 ship, within a State’s internal waters, archipelagic waters and territorial sea;
- .2 any act of inciting or of intentionally facilitating an act described above.”

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ALSO RECALLING article 100 of the United Nations Convention on the Law of the Sea (“UNCLOS”), which requires all States to co-operate to the fullest possible extent in the repression of piracy on the high seas or in any other place outside the jurisdiction of any State,

RECALLING FURTHER article 105 of UNCLOS which, *inter alia*, provides that, on the high seas or in any other place outside the jurisdiction of any State, every State may seize a pirate ship or aircraft, or a ship or aircraft taken by piracy and under the control of pirates and arrest the persons and seize the property on board,

BEARING IN MIND article 110 of UNCLOS which, *inter alia*, enables warships, military aircraft, or other duly authorized ships or aircraft clearly marked and identifiable as being on government service to board any ship, other than a ship entitled to complete immunity in accordance with article 95 and article 96 of UNCLOS, when there are reasonable grounds for suspecting that the ship is, *inter alia*, engaged in piracy,

REAFFIRMING resolution A.545(13) on “Measures to prevent acts of piracy and armed robbery against ships”, adopted on 17 November 1983; resolution A.683(17) on “Prevention and suppression of acts of piracy and armed robbery against ships”, adopted on 6 November 1991; and resolution A.738(18) on “Measures to prevent and suppress piracy and armed robbery against ships”, adopted on 4 November 1993,

BEARING IN MIND ALSO resolution A.1002(25) on “Piracy and armed robbery against ships in waters off the coast of Somalia” through which the Assembly has recommended a number of actions to be taken by Governments, the Transitional Federal Government of Somalia, the Council, the Maritime Safety Committee and the Secretary-General, with a view to bringing the situation under control,

NOTING WITH APPRECIATION the actions taken by the Security Council of the United Nations and in particular the adoption, under the provisions of chapter VII of the Charter of the United Nations, of Security Council resolutions 1816 (2008), 1838 (2008), 1846 (2008), 1851 (2008), and 1897 (2009) in relation to piracy and armed robbery in waters off the coast of Somalia,

NOTING that the General Assembly of the United Nations, by resolution A/RES/63/111 on “Oceans and the law of the sea”, has recommended a number of actions to be taken by each State and through co-operation, coordination and collaboration at a bilateral, regional or global level with a view to repressing piracy and armed robbery against ships, in particular in waters off the coast of Somalia and, *inter alia*, has urged States to implement the related provisions of UNCLOS, as well as the provisions of resolution A.1002(25),

BEARING IN MIND resolution A. 1025(26), through which the Assembly adopted the *Code of Practice for the Investigation of the Crimes of Piracy and Armed Robbery against Ships* (“the Code”) and which, *inter alia*, urges Governments to take action, as set out in the Code, to investigate all acts of piracy and armed robbery against ships occurring in areas or on board ships under their jurisdiction; and to report to the Organization pertinent information on all investigations and prosecutions concerning these acts,

ALSO NOTING WITH APPRECIATION the outcomes of the “Subregional meeting on maritime security, piracy and armed robbery against ships for Western Indian Ocean, Gulf of Aden and Red Sea States” which was convened by IMO and held in Djibouti from 26 to 29 January 2009 and in particular the adoption of the *Code of Conduct concerning the repression of piracy and armed robbery against ships in the Western Indian Ocean and the Gulf of Aden* (“the Djibouti Code of Conduct”),

WELCOMING the establishment of the IMO Djibouti Code of Conduct Trust Fund and EXPRESSING thanks and appreciation to the Government of Japan for its generous donation thereto; as well as to the Governments of the Netherlands, Norway and the Republic of Korea for their pledges to financially support capacity-building activities aimed at implementing the provisions of the Djibouti Code of Conduct,

NOTING that the Maritime Safety Committee, in response to the provisions of resolution A.1002(25) and the discussions of the issue within the Security Council, has approved revised recommendations³ to Governments and guidance⁴ to shipowners and ship operators, shipmasters and crews on preventing and suppressing acts of piracy and armed robbery against ships, including specific advice⁵ developed by the industry in relation to the situation in waters off the coast of Somalia,

NOTING ALSO that the Sub-Committee on Safety of Navigation has reviewed the details, and recommended⁶ the use by all ships transiting the Gulf of Aden, of the Internationally Recommended Transit Corridor in the Gulf of Aden, as it may be amended from time to time by those who established it,

NOTING WITH SATISFACTION the actions taken by the Maritime Safety Committee, the Technical Co-operation Committee, the Council and the Secretary-General in relation to the suppression of piracy and armed robbery in waters off the coast of Somalia,

NOTING FURTHER the information on developments that have taken place since its last session and the contribution made by various entities to repress piracy off the coast of Somalia,

BEING AWARE that the Security Council, through resolution 1425 (2002), has stipulated that the arms embargo on Somalia prohibit the direct or indirect supply to Somalia of technical advice, financial and other assistance, and training related to military activities,

³ Refer to MSC.1/Circ.1333 on Recommendations to Governments for preventing and suppressing piracy and armed robbery against ships, as it may be revised.

⁴ Refer to MSC.1/Circ.1334 on Guidance to shipowners and ship operators, shipmasters and crews on preventing and suppressing acts of piracy and armed robbery against ships, as it may be revised.

⁵ Refer to MSC.1/Circ.1332 on Piracy and armed robbery against ships in waters off the coast of Somalia and MSC.1/Circ.1335 on Piracy and armed robbery against ships in waters off the coast of Somalia – Best Management Practices to Deter Piracy in the Gulf of Aden and off the Coast of Somalia developed by the industry, as it may be revised.

⁶ SN.1/Circ.281 on Information on Internationally Recommended Transit corridor (IRTC) for ships transiting the Gulf of Aden, as it may be revised.

NOTING that the Security Council, in resolution 1853 (2008), decided, *inter alia*, to extend the mandate of the Monitoring Group⁷ on Somalia and directed it to continue to investigate, in coordination with relevant international agencies, all activities, including in the financial, maritime and other sectors, which generate revenues used to commit violations of the embargo on all delivery of weapons and military equipment to Somalia, which the Security Council had established by resolution 733 (1992),

NOTING WITH GREAT CONCERN, that incidents of piracy and armed robbery against ships continue to occur in waters off the coast of Somalia, some of which have reportedly taken place more than 500 nautical miles from the nearest land,

MINDFUL OF the grave danger to life and the serious risks to navigational safety and the environment to which such incidents continue to give rise,

BEING AWARE of the serious safety and security concerns that the shipping industry and the seafaring community continue to have as a result of the attacks against ships sailing in waters off the coast of Somalia referred to above,

BEING CONCERNED at the negative impact that such attacks continue to have on the prompt and effective delivery of food aid and of other humanitarian assistance to Somalia and the serious threat that this poses to the health and well-being of the people of Somalia,

RECOGNIZING that the particular character of the present situation in Somalia requires an exceptional response in order to safeguard the interests of the maritime community making use of the waters off the coast of Somalia,

RECOGNIZING ALSO the strategic importance of the navigational routes along the coast of Somalia for regional and global seaborne trade and the need to ensure that they remain safe at all times,

RECOGNIZING FURTHER, in view of the continuing situation in Somalia giving rise to grave concern, the need for the continued implementation of appropriate measures to protect ships sailing in waters off the coast of Somalia from piracy and armed robbery attacks,

RESPECTING FULLY the sovereignty, sovereign rights, jurisdiction and territorial integrity of Somalia and the relevant provisions of international law, in particular UNCLOS,

HAVING CONSIDERED the recommendations of the Council, at its twenty-fifth extraordinary session, in the light of the prevailing situation in the waters off the coast of Somalia,

1. CONDEMNS AND DEPLORES all acts of piracy and armed robbery against ships irrespective of where such acts have occurred or may occur;
2. APPEALS to all parties which may be able to assist to take action, within the provisions of international law, to ensure that:

⁷ The Monitoring Group on Somalia established by the Security Council through resolution 1519 (2003) and its mandate was renewed, expanded and extended through resolutions 1558 (2004), 1587 (2005), 1630 (2005), 1676 (2006), 1724 (2006), 1766 (2007), 1772 (2007), 1801 (2008), 1811 (2008), 1844 (2008) and 1853 (2008).

- (a) all acts or attempted acts of piracy and armed robbery against ships are terminated forthwith and any plans for committing such acts are abandoned; and
- (b) any hijacked ships, seafarers serving in them and any other persons on board are immediately and unconditionally released and that no harm is caused to them;

3. EXPRESSES DEEP APPRECIATION FOR:

- (a) the work done by naval vessels and other military assets towards repressing piracy and armed robbery against ships in the Gulf of Aden and elsewhere off the coast of Somalia and in escorting ships carrying humanitarian aid to Somalia;
- (b) the efforts of all those who have responded to calls from, or have rendered assistance to, ships under attack in waters off the coast of Somalia;
- (c) the work done by international and regional organizations in warning parties concerned about incidents occurring in waters off the coast of Somalia;
- (d) the efforts made by organizations in the industry to raise awareness among, and provide guidance for, their respective memberships and to report to the Organization in relation to this issue; and
- (e) the efforts of those who have rendered assistance in resolving cases where ships have been hijacked and seafarers have been held hostage;
- (f) the arrangements which have been put in place by States of the region for receiving ashore and prosecuting alleged offenders captured by naval ships operating in the area or for providing support facilities to naval ships and other military assets operating in the area, in particular the efforts by Kenya, Djibouti and Yemen;
- (g) the establishment of the Contact Group on Piracy Off the Coast of Somalia as an international co-operation mechanism to act as a common point of contact between and among States and regional and international organizations on all aspects of combating piracy, in line with the provisions of Security Council resolutions 1851 (2008) and 1897 (2009);

4. STRONGLY URGES Governments to increase their efforts to prevent and suppress, within the provisions of international law, acts of piracy and armed robbery against ships irrespective of where such acts occur and, in particular, to co-operate with other Governments and international organizations in the interests of the rule of law, safety of life at sea and environmental protection, in relation to acts occurring or likely to occur in the waters off the coast of Somalia;

5. ALSO STRONGLY URGES Governments which have not already done so to promptly:
- (a) issue, taking into account the recommendations and guidance developed by the Organization⁸ and the industry⁹, to ships entitled to fly their flag, as necessary, specific advice and guidance on any appropriate additional precautionary measures ships may need to put in place when sailing in waters off the coast of Somalia to protect themselves from attack, including, *inter alia*, areas to be avoided;
 - (b) recommend¹⁰ to ships entitled to fly their flag to follow, when navigating through the Gulf of Aden, the Internationally Recommended Transit Corridor established therein as well as the advice and guidance provided by the relevant entities;
 - (c) issue, taking into account the recommendations and guidance developed by the Organization¹¹ and the industry¹², to ships entitled to fly their flag, as necessary, advice and guidance on any measures or actions they may need to take when they are under attack, or threat of attack, while sailing in waters off the coast of Somalia and in the Gulf of Aden;
 - (d) encourage ships entitled to fly their flag to ensure that information¹³ on attempted attacks or on acts of piracy or armed robbery committed while they are sailing in waters off the coast of Somalia is promptly conveyed to the flag State, the nearby coastal States, the nearest most appropriate Rescue Coordination Centre and the security forces which operate naval and other military assets in the area¹⁴;
 - (e) provide a point of contact through which ships entitled to fly their flag may request advice or assistance when sailing in waters off the coast of Somalia and to which such ships can report, in addition to reporting to the security forces which operate naval and other military assets in the area¹⁵, on any security concerns about other ships, movements or communications in the area or attempted attacks or acts of piracy or armed robbery;
 - (f) bring to the attention of the Secretary-General information¹⁶ on any attempted attacks or acts of piracy or armed robbery committed against ships entitled to fly their flag while they are sailing in waters off the coast of Somalia, to enable the Secretary-General to take appropriate action in the circumstances;

⁸ Refer to MSC.1/Circ.1333 and 1334, as they may be revised.

⁹ Refer to MSC.1/Circ.1332 and 1335, as they may be revised.

¹⁰ SN.1/Circ.281 on Information on Internationally Recommended Transit corridor (IRTC) for ships transiting the Gulf of Aden, as it may be revised.

¹¹ Refer to MSC.1/Circ.1333 and 1334, as they may be revised.

¹² Refer to MSC.1/Circ.1332 and 1335, as they may be revised.

¹³ Refer to appendix 5 of the annex to MSC.1/Circ.1334 and to annex C to the annex to MSC.1/Circ.1335, as they may be revised.

¹⁴ Refer to MSC.1/Circ.1302 on Piracy and armed robbery against ships in waters off the coast of Somalia, as it may be revised.

¹⁵ Refer to MSC.1/Circ.1302.

¹⁶ Refer to appendix 5 of the annex to MSC.1/Circ.1333 and appendix 6 of the annex to MSC.1/Circ.1334, as they may be revised.

- (g) encourage ships entitled to fly their flag to implement expeditiously, for the ship's protection and for the protection of other ships in the vicinity, any measure or advice the nearby coastal States or any other State or competent authority may have provided, including advice or guidance provided by warships or other naval or military assets which may be operating in the area;
- (h) establish, as necessary, plans and procedures to assist owners, managers and operators of ships entitled to fly their flag in the speedy resolution of hijacking cases occurring in the waters off the coast of Somalia;
- (i) establish, as necessary, plans and procedures for putting in place measures or taking appropriate actions with a view to ensuring that any attacked or hijacked ship entitled to fly their flag, and its shipboard personnel, continue to be fit to trade and work on board, respectively, or issue, as necessary, to ships entitled to fly their flag, advice and guidance on any measures or actions they may need to take to this end;
- (j) establish, as necessary, plans and procedures to assist those who have been held hostage, when such assistance is requested;
- (k) investigate all acts or attempted acts of piracy and armed robbery occurring in the waters off the coast of Somalia against ships entitled to fly their flag or, if applicable, with the consent of other States having jurisdiction, collect related evidence when the shipboard personnel involved in such cases are national, citizens or resident, and report to the Organization any pertinent information and make available any related evidence to those investigating such cases;
- (l) take all necessary legislative, judicial and law-enforcement action so as to be able, subject to national law, to receive, prosecute or extradite any pirates or suspected pirates and armed robbers captured by warships or military aircraft, or other ships or aircraft clearly marked and identifiable as being on government service; and
- (m) conclude, with respect to ships entitled to fly their flag employed by the World Food Programme for the delivery of humanitarian aid to Somalia, where such ships are to be escorted by warships or military aircraft, or to other ships or aircraft clearly marked and identifiable as being on government service, taking into account operative paragraph 7(e), any necessary agreements with the State(s) concerned;

6. REQUESTS Governments to instruct national rescue coordination centres or other agencies involved, on receipt of a report of an attack, to promptly initiate the transmission of relevant advice and warnings through the World-Wide Navigation Warning Service, the International SafetyNet Service or otherwise, for ships sailing in the waters off the coast of Somalia, so as to warn shipping in the immediate area of the attack;

7. REQUESTS, once more, the Transitional Federal Government of Somalia to:

- (a) take any action it deems necessary in the circumstances to prevent and suppress acts of piracy and armed robbery against ships originating from within Somalia and thus deprive them of the possibility of using its coastline as a safe haven from which to launch their operations;

- (b) take appropriate action to ensure that all ships seized by pirates and armed robbers and brought into waters within its territory are released promptly and that ships sailing off the coast of Somalia do not henceforth become victims of acts of piracy or armed robbery;
- (c) take appropriate action to ensure the unconditional delivery of food and water supplies to ships seized by pirates and armed robbers and brought into waters within its territory, as well as the unconditional delivery of humanitarian and medical aid to the shipboard personnel;
- (d) advise the Security Council that it continues to consent to warships or military aircraft, or other ships or aircraft clearly marked and identifiable as being on government service, entering its territorial sea to engage in operations against pirates or suspected pirates and armed robbers;
- (e) also advise the Security Council of its readiness to continue to conclude, taking into account operative paragraph 5(m), any necessary agreements so as to enable warships or military aircraft, or other ships or aircraft clearly marked and identifiable as being on government service, to escort ships employed by the World Food Programme which are delivering humanitarian aid to Somalia or leaving Somali ports after having discharged their cargo; and
- (f) promote, for those Somalis seeking to make their living from working at sea, legitimate maritime careers and make use of the available assistance in this respect;

8. CALLS UPON the Governments of the region, if they have not already done so, to sign the Djibouti Code of Conduct; to progress and complete the implementation of the provisions of the Djibouti Code of Conduct as soon as possible;

9. CALLS UPON all other Governments, in co-operation with the Organization and as requested by Governments of the region, to assist these efforts and to consider making financial contributions to the IMO Djibouti Code of Conduct Trust Fund;

10. REQUESTS the Secretary-General to:

- (a) transmit a copy of the present resolution to the Secretary-General of the United Nations for consideration and any further action he may deem appropriate; and to express to him and, through him, to the Security Council the gratitude and appreciation of IMO for the actions he and the Security Council have taken on this issue to date;
- (b) continue monitoring the situation in relation to threats to ships sailing in waters off the coast of Somalia and report to the Council, the Maritime Safety Committee, the Legal Committee and the Technical Co-operation Committee, as and when appropriate, on developments and any further actions which may be required;
- (c) continue the co-operation with the Monitoring Group on Somalia;

- (d) continue to consult with interested Governments and organizations in establishing a process and means by which technical assistance can be provided for Somalia and nearby coastal States to enhance the capacity of these States to give effect to the present resolution, as appropriate;
- (e) undertake, as and when necessary, steps for promoting the co-operation, coordination and avoiding duplication of efforts, among the States and organizations providing or seeking to provide assistance to the States in the region, so as to enable them individually and collectively to engage actively in the repression of piracy and armed robbery against ships; and
- (f) undertake, as and when necessary, any other actions which would promote the implementation of the provisions of this resolution or would be conducive to the efforts of those seeking to implement its provisions;

11. REQUESTS the Maritime Safety Committee to review the provisions of this resolution as well as any salient provisions of related resolutions which have been or may be adopted by the Security Council in this respect and to develop, where necessary, guidance and recommendations so as to enable Member Governments and the shipping industry to implement its provisions, taking into account current and emerging trends and practices;

12. REQUESTS the Legal Committee and the Technical Co-operation Committee to assist the Maritime Safety Committee, as appropriate;

13. REQUESTS the Council to continue to monitor the situation in relation to threats to ships sailing in waters off the coast of Somalia and in the Gulf of Aden; and to initiate any actions which it may deem necessary, including co-ordinating the work of the competent Committees of the Organization to ensure the protection of seafarers and ships sailing in waters off the coast of Somalia and in the Gulf of Aden and to ensure appropriate co-operation with other organizations and entities tasked with relevant activities;

14. REVOKES resolution A.1002(25).

PIRACY(1) AND ARMED ROBBERY AGAINST SHIPS(2) IN WATERS OFF THE COAST OF SOMALIA