



# SELECTED INTERNATIONAL LEGAL INITIATIVES ON MARITIME SAFETY AND SECURITY

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# OUTLINE

- Background Information
- International legal initiatives on maritime safety and security
- Some thoughts on the way forward
- Conclusion

# Background Information

- The Presentation gives a brief summary of selected international legal initiatives on maritime safety and security
- Why do we need maritime safety and security?
  - a) unsecured or ungoverned seas/oceans are potential havens for criminal activities
  - b) international trade
  - c) environment/ecosystem
  - d) marine resources
  - e) Africa is surrounded by water (38 AU Member States coastal or island states)

# Background, *cont.*

- Is there a difference between maritime safety and security?
- Interrelated, but safety mainly focuses on preventing threats or losses from accidents, disasters while security focuses on preventing threats or losses from illegal acts or aggression
- Some of the threats to maritime safety and security include;
  - a) Natural and manmade disasters, environmental degradation
  - b) Environmental crimes (dumping of toxic waste)
  - c) Transnational crimes (small arms trafficking, drug trafficking, terrorism, piracy and armed robbery, human trafficking)

# International Initiatives

## 1. The African Union

- Peace and security has always been a prime concern for the African Continent (OAU Charter, Constitutive Act)
- The OAU adopted the African Maritime Transport Charter in Tunis, in June 1994.
- The Charter has not yet entered into force
- No provision on maritime safety and security

# International Initiatives, *cont.*

- The Charter has been updated and the Charter was also adopted by the Second Conference of African Ministers responsible for Maritime Transport in Durban, 2009.
- The Ministers also adopted the Durban Resolution on Maritime Safety, Maritime Security and Protection of the Environment.
- Chapters VIII and IX are on enhancing maritime safety and security and on protection of the maritime environment respectively
- It was also adopted by the Executive Council in Ex.CL/Dec. 542 (XVI)
- In this Decision, the Executive Council also endorsed the Durban Resolution.
- The Charter has not yet been adopted by the Assembly.

## International Initiatives, *cont.*

- The Policy organs of the African Union has made a number of decisions on threats to maritime safety and security (Peace and Security Council, Assembly of the Union)
- In Assembly Decision Assembly/AU/Dec.252 (XIII), the Assembly expressed serious concern at the mounting insecurity in the maritime spaces around Africa, and Somalia in particular, and strongly condemned all illegal activities in these regions, including piracy, illegal fishing and dumping of toxic waste.
- Further, the Assembly in Decision Assembly/AU/Dec. 256 (XIII) expressed grave concern over the growing phenomenon of piracy and the resultant demands for ransom. See also Decision Assembly/AU/Dec.259 (XIII)
- The African Union and its Member States also has been working closely with relevant international organizations on maritime safety and security

# International Initiatives, *cont.*

## 2. United Nations Convention on the Law of the Sea

### 3. International Maritime Convention (IMO)

- The IMO is a specialized agency of the UN
- Maritime safety and security is an integral part of IMO's responsibilities
- There is the 1974 UN Safety of Life at Sea Convention and some Member States of the AU are parties to this Convention.
- Some amendments adopted in 2002 and entered into force in July 2004. The amendments introduce, among other things, mandatory security measures (enshrines the International Ship and Port Security Code [ISPS] for governments, port authorities and shipping companies)
- The measures ensure that maritime security is a risk management activity
- Some of the measures include:
  - a) setting of security levels and providing security level information to ships



## International Initiatives, *cont.*

- b) the role of the Master in exercising professional judgment and decisions necessary to maintain security of the ship
- c) provision of ship security alert system
- d) port facilities to conduct risk assessments
- e) provision of information to IMO, control of ships on port
- The amendments also contain recommendations on how to implement the mandatory measures
- The IMO in 2009 organized a meeting for 17 States from the Western Indian Ocean, Gulf of Aden and Red Sea areas and adopted the Djibouti Code of Conduct, concerning the Repression of Piracy and Armed Robbery against Ships in the Gulf of Aden

# International Initiatives, *cont*

- The Code of Conduct calls for cooperation, sharing and reporting relevant information, possibility for shared operations, setting up of national focal points, review of national legislation, the establishment of piracy information centres, regional training centres

# International Initiatives, *cont.*

## 4. UN Security Council Resolutions

- There are a number of UN Security Council Resolutions on the piracy problem in Somalia (1816, 1846, 1851, 1863)
- The Resolutions, among other things
  - a) affirms that international law (UNCLOS) sets out the legal framework applicable to combating piracy and armed robbery as well as ocean activities
  - b) condemns the acts of piracy and armed robbery
  - c) calls for international cooperation and coordination (States, IMO)
  - d) calls for provision of technical assistance to Somalia and nearby coastal states
  - e) creates a Contact Group on Piracy off the Coast of Somalia

# International Initiatives, *cont.*

f) authorizes certain States to enter Somali waters in a manner consistent with international law

g) expresses concern over ransom payments

- The piracy problem continues to grow despite the several Resolutions

## **5. Other Initiatives**

- There are other initiatives on how to treat and prosecute pirates
- Very few countries willing to prosecute pirates

# Some thoughts on Way Forward

- Some international instruments and policies exist for the regulation of maritime safety and security.
- What are the gaps/weaknesses in these instruments? Need to study them and other regional instruments carefully before making recommendations.
- Whereas piracy is a big problem now, let us not forget the other threats to maritime safety and security. How do we encourage agencies to work together? Where do we get the resources?
- Let us not forget that we need to enhance maritime safety and security for the whole African continent.
- There is need to ratify and domesticate the instruments on maritime safety and security.

# Some thoughts on way forward, *cont.*

- There is need for international cooperation and coordination to combat illegal maritime activities
- There is need for capacity building or technical assistance to some coastal states
- Why are States unwilling to prosecute pirates or to legislate for the crime beyond territorial waters? Is this not a crime for which States have universal jurisdiction?
- What should be the roles of AU, RECs, Member States, civil society, cooperating partners?
- What are the main problems in ensuring maritime safety and security? What are the solutions?

# Conclusion

- Maritime safety and security are very important issues for the African continent.
- African countries should cooperate and coordinate their efforts on issues of maritime safety and security.
- Member States should ratify and domesticate the international instruments on maritime safety and security  
*“Words alone have not made America the world’s only superpower neither has talk built Europe nor made China an emerging economic superpower nor Singapore an Asian tiger.”*
- What we need is **“ACTION, ACTION, and MORE Action!”**  
And perhaps not just Action but **CONCRETE ACTION!**



THANK YOU