



**IMO**  
**INTERNATIONAL MARITIME LAW INSTITUTE**  
Established under the auspices of the International Maritime Organization  
A specialized agency of the United Nations



# **Incorporation of the International Convention on Maritime Search and Rescue (1979) as amended to Laws of Sri Lanka**

**A Legislation Drafting Project submitted in partial fulfillment of the  
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**Submitted By: Irani Ganga Wakishta Arachchi  
Sri Lanka**

**Supervisor: Ms. Tetty Lubis**

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from a family of aviation to maritime !!!

## **1. General**

### **1.1 Introduction**

The purpose of this Note is to make a case for the incorporation of the International Convention on Maritime Search and Rescue 1979 (as amended) (SAR Convention) into laws of Sri Lanka. It also argues for the consolidated operation of all existing search and rescue services and facilities available in Sri Lanka. The incorporation of SAR Convention will fulfill the needs of the country to regulate the execution of maritime search and rescue operations in Sri Lanka. Disaster preparedness and risk management pertaining to maritime search and rescue in particular, are vital for a coastal State like Sri Lanka which is geographically situated in the middle of East West sea lanes of communications from Australia to the Arabian Sea.

Disaster management is not a new phenomenon in Sri Lanka as a comprehensive Disaster Management Plan was already compiled post Tsunami disaster in 2004.<sup>1</sup> Unfortunately however, no efforts had been made at the time, to incorporate the SAR Convention in the country for a proper and unified mechanism to handle all types of search and rescue operations including maritime search and rescue. What is new in this Note, therefore, is the effort to integrate maritime search and rescue operations with other disaster management operations in the country.

As of 22 January 2017, 108 State Parties representing 80.84% world tonnage have ratified the SAR Convention.<sup>2</sup> This indicates the wide international acceptance accorded to the SAR Convention which is sought to be incorporated into national legislation.

On the other hand, Sri Lanka is now faced with a situation where the incorporation of the SAR Convention into national legislation has become a necessity in view of the increased frequency of accidents occur in our historical and territorial waters. There were five reported incidents of piracy committed by

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<sup>1</sup> National Policy for Disaster Management Sri Lanka  
<<http://www.disastermin.gov.lk/web/images/pdf/sri%20lanka%20disaster%20management%20policy%20english.pdf>> accessed 01 May 2017

<sup>2</sup> IMO, 'Status of Treaties'  
<<http://www.imo.org/en/About/Conventions/StatusOfConventions/Documents/Status%20of%20Treaties.pdf>> accessed 01 May 2017

the Somali Pirates recently, after a silence of almost five years.<sup>3</sup> The first vessel, *Aris 13* had Sri Lankan Crew on board.<sup>4</sup> This is another concern that warrants the incorporation of SAR Convention into national legislation.

This Note further argues that giving effect to SAR Convention should be done in simple, clear and precise terms through a separate stand alone Act as proposed herein. From the introduction of the SAR Convention, as explained in this Note later, Sri Lanka will adopt a novel approach in incorporating international maritime legislation of the International Maritime Organization (IMO) into the national legislation.

## 1.2 Historical Background

It is a time honoured practice to save distressed lives at sea by all sea users of the sea. Kant was of the view that there existed an individual moral obligation to help those in distress.<sup>5</sup> Jeremy Bentham expressed the utilitarian argument for a duty to rescue as

every man is bound to assist those who have need of assistance, if he can do it without exposing himself to sensible inconvenience. This obligation is stronger, in proportion as the danger is greater for the one, and the trouble of preserving him the less for the other.

Bentham was a believer of ‘promote the greatest happiness for the greatest number’.<sup>6</sup> According to John Stuart Mill, a duty to rescue

a person may cause evil to others not only by his actions but by his inaction, and in either case he is justly accountable to them for the injury.<sup>7</sup>

Duty to help the distressed at sea, in some countries is a legal duty. For example, Section 323c of the German Criminal Code tilted ‘failure to render assistance’ stipulates that ‘every person is obligated to render assistance if the situation so requires.’ It further goes on to state that assistance is owed in cases of

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<sup>3</sup> Jeffrey Gettleman, ‘Somali Pirates Attack, Raising Fears that a Menace is Back’ *The New York Times*, (4 April 2017) < [https://www.nytimes.com/2017/04/04/world/africa/somalia-pirates.html?\\_r=0](https://www.nytimes.com/2017/04/04/world/africa/somalia-pirates.html?_r=0) > accessed 1 May 2017

<sup>4</sup> Sri Lanka Navy, ‘Aris 13 Highjackers, with Sri Lanka Crew on board, are not well known-Statement from the Navy’ 16 March 2017 <<http://www.hirunews.lk/156965/aris-13-hijackers-sri-lankan-crew-on-board-are-well-known-statement-from-navy>> accessed 01 May 2017

<sup>5</sup> Barbara Buckinx, Jonathan Trejo-Mathys and Timothy Waligore *Domination and Global Political Justice: Conceptual, Historical and Institutional Perspectives* (Routledge 2015) 256 <<https://books.google.com.mt/books?id=Ib6gBgAAQBAJ&pg=PA256&lpg=PA256&dq=kants+philosophy+in+helpingthose+in+distress&source=bl&ots=VGuvOESIEK&sig=IVlddsdtTeIWSUwfCKTnKdSVYfM&hl=en&sa=X&ved=0ahUKEwj6gu2PwPvRAhUMBsAKHXLEA1oQ6AEIOTAG#v=onepage&q=kants%20philosophy%20in%20helpingthose%20in%20distress&f=false>> accessed 1 May 2017

<sup>6</sup> *ibid*

<sup>7</sup> Taurum Clay *A Legal Duty to Act?* (The Bark Report 2013) 3 August 2013 <<https://bark.net.au/?p=100> > accessed 1 May 2017

emergency, danger, or distress where this is necessary, can reasonably be expected in the circumstances, and, especially, is possible without significant personal danger or neglect of other important duties.<sup>8</sup>

In the international plane, the obligation of ships to rescue or to render assistance to those in distress was reflected in several international Conventions.

Article 12 of the 1958 Geneva Convention on the High Seas:

1. Every State shall require the master of a ship sailing under its flag, in so far as he can do so without serious danger to the ship, the crew or the passengers,
  - (a) To render assistance to any person found at sea in danger of being lost;
  - (b) To proceed with all possible speed to the rescue of persons in distress if informed of their need of assistance, in so far as such action may reasonably be expected of him;
  - (c) After a collision, to render assistance to the other ship, her crew and her passengers and, where possible, to inform the other ship of the name of his own ship, her port of registry and the nearest port at which she will call.
2. Every coastal State shall promote the establishment and maintenance of an adequate and effective search and rescue service regarding safety on and over the sea and--where circumstances so require--by way of mutual regional arrangements co-operate with neighbouring States for this purpose.

Article 98 of the United Nations Convention on Law of the Sea (UNCLOS) is identical to that of Article 12 of the 1958 Geneva Convention on the High Seas.

Maritime search and rescue services are dealt with in its Chapter V Regulations 7 and 33.1 in the Safety Of Life At Sea (SOLAS) as follows:<sup>9</sup>

#### REGULATION 7 - Search and rescue services

- 1 Each Contracting Government undertakes to ensure that necessary arrangements are made for distress communication and co-ordination in their area of responsibility and for the rescue of persons in distress at sea around its coasts. These arrangements shall include the establishment, operation and maintenance of such search and rescue facilities as are deemed practicable and necessary, having regard to the density of the seagoing traffic and the navigational dangers and shall, so far as possible, provide adequate means of locating and rescuing such persons.\*
- 2 Each Contracting Government undertakes to make available information to the Organization concerning its existing search and rescue facilities and the plans for changes therein, if any.
- 3 Passenger ships to which chapter I applies shall have on board a plan for cooperation with appropriate search and rescue services in event of an emergency. The plan shall be developed in co-operation between the ship, the company, as defined in regulation IX/1 and the search and rescue services. The plan shall include provisions for periodic exercises to be

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<sup>8</sup> Jeffry Gettleman (n 3)

<sup>9</sup> IMO, 'International Convention on Safety Of Life At Sea 1974' (adopted 1 November 1974; Entry into force 25 May 1980) <[http://www.imo.org/en/about/conventions/listofconventions/pages/international-convention-for-the-safety-of-life-at-sea-\(solas\),-1974.aspx](http://www.imo.org/en/about/conventions/listofconventions/pages/international-convention-for-the-safety-of-life-at-sea-(solas),-1974.aspx)> accessed 1 May 2017



undertaken to test its effectiveness. The plan shall be developed based on the guidelines developed by the Organization.

- \* Refer to the International Convention on Maritime Search and Rescue, 1979 and the following resolutions adopted by the Organization: Homing capability of search and rescue (SAR) aircraft (resolution A.225(VII)); Use of radar transponders for search and rescue purposes (resolution A.530(13)); Search and rescue homing capability (resolution A.616(15)); and International Aeronautical and Maritime Search and Rescue (IAMSAR) Manual (resolution A.894(21)).<sup>10</sup>

#### REGULATION 33 - Distress messages:

##### 1 Obligations and procedures

The master of a ship at sea which is in a position to be able to provide assistance on receiving a signal from any source that persons are in distress at sea, is bound to proceed with all speed to their assistance, if possible informing them or the search and rescue service that the ship is doing so. If the ship receiving the distress alert is unable or, in the special circumstances of the case, considers it unreasonable or unnecessary to proceed to their assistance, the master must enter in the log-book the reason for failing to proceed to the assistance of the persons in distress, taking into account the recommendation of the Organization, to inform the appropriate search and rescue service accordingly.

Subsequently, the International Aeronautical and Maritime Search And Rescue Manual (IAMSAR)<sup>11</sup> introduced a guide to search and rescue that corroborates duties of States in Chapter V - Regulation 7 of SOLAS as indicated with (\*) above.

Search and Rescue, in a modern sense, combined with the aims of SAR Convention can be regarded as the activity of locating and recovering persons either in distress, potential distress and delivering them to a place of safety whether by land, sea or air; or search for persons that have gone missing after a maritime accident.<sup>12</sup>

The IMO, a United Nations Specialized Agency is empowered to set standards and conditions for safety of navigation in the interest of the whole international maritime community. It therefore, simultaneously looks into avoiding any anarchy leading to dangerous situations or disastrous accidents that are sometimes invariably encountered in international maritime navigation. In this respect, the IMO as a specialized intergovernmental organization, is assigned with the responsibility for regulating the safety and security of lives and property at sea.

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<sup>10</sup> Produced exactly as stipulated in SOLAS Convention

<sup>11</sup> IMO, International Aeronautical and Maritime Search and Rescue Manual (IAMSAR Manual)(Last Updated 2013)  
<<http://www.imo.org/en/ourwork/safety/radiocommunicationsandsearchandrescue/searchandrescue/pages/iamsarmanual.aspx>> accessed 1 May 2017

<sup>12</sup> USA National Search and Rescue Supplement IAMSAR Manual 29  
<<http://www.dtic.mil/doctrine/doctrine/other/nsrsupp.pdf>> accessed 1 May 2017

IMO has played a vital role in developing a globally integrated system for search and rescue operations with swift and effective response to a great extent through the SAR Convention.<sup>13</sup> In addition, IMO was further tasked to develop a global search and rescue plan for a Global Maritime Distress and Safety System (GMDSS) to provide the communication support needed to implement the SAR Convention.<sup>14</sup>

Through the IMO Conventions and its related legislation, States are able to introduce a number of international maritime laws into their respective national legislation. The primary Convention relating to the saving or rescuing distressed lives and property at sea is the SAR. It introduces considerable transformations particularly in preventive measures in regulating and controlling all issues relating to maritime search and rescue ensuring the safety of life and property distressed at sea.

### **1.3 The International Convention on Maritime Search and Rescue (SAR Convention)**

The International Convention on Maritime Search and Rescue was adopted on 27 April 1979 and entered into force on 22 June 1985.<sup>15</sup> The SAR Convention was designed to improve the existing arrangements and to develop an international plan to provide for a holistic approach in executing maritime search and rescue in the event of a maritime casualties or accidents at sea.<sup>16</sup> SAR Convention encourages a harmonized frame work for a global search and rescue activity at sea and further encourages regional co-operation. The IMO, through the SAR Convention aimed at an international SAR plan, so that, no matter where an accident occurs, rescue of persons in distress at sea will be coordinated by the nearest SAR organization with the mutual co-operation of neighbouring SAR organizations as the case may be.<sup>17</sup>

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<sup>13</sup> IMO, 'Global SAR Plan'

<<http://www.imo.org/fr/OurWork/Safety/RadioCommunicationsAndSearchAndRescue/SearchAndRescue/Pages/GlobalSARPlan.aspx>> accessed 1 May 2017

<sup>14</sup> *ibid*

<sup>15</sup> IMO, 'International Convention on Maritime Search and Rescue'

<[http://www.imo.org/en/About/conventions/listofconventions/pages/international-convention-on-maritime-search-and-rescue-\(sar\).aspx](http://www.imo.org/en/About/conventions/listofconventions/pages/international-convention-on-maritime-search-and-rescue-(sar).aspx)> accessed 1 May 2017

<sup>16</sup> *ibid*

<sup>17</sup> *ibid*

Thus, the SAR Convention encourages the successful maritime search and rescue operations with an internationally integrated approach. On a regional level, the important aspects are the arrangements in place, sharing the knowledge, training and liaison visits, determining procedures and the use of equipment and facilities for successful execution of the search and rescue operations.<sup>18</sup>

State Parties to SAR Convention are to ensure that adequate measures are in place in their territory and territorial waters for the successful execution of search and rescue services as required under the SAR Convention. This is a primary obligation cast upon a State.<sup>19</sup> These obligations include the establishment of search and rescue co-ordinating centres, emergency alert procedures, ship reporting systems and GMDSS and installation of radio facilities, to render timely intervention for successful operations of maritime search and rescue.<sup>20</sup>

### **1.3.1 Salient Features of the SAR Convention**

The 1979 SAR Convention comprised of eight Articles and an Annex. The Annex had six chapters.<sup>21</sup> However the 1979 SAR Convention did not attract the required number of ratifications and hence did not enter into force as expected by the IMO.<sup>22</sup> On the other hand, SAR Convention ideally should have been ratified by coastal States who have the capability to successfully execute maritime search and rescue operations. Due to the severity of the technicalities and strict obligations stipulated in the Annex, the 1979 SAR failed to attract as many coastal States as envisaged to ratify the Convention.

This led the Maritime Safety Committee (MSC) of the IMO to revise the Annex of the 1979 version of the SAR Convention in 1995.<sup>23</sup> The MSC extensively deliberated on the technical aspects of the 1979 Annex in its revision process.<sup>24</sup> The MSC considered the experience of the States that implemented the SAR Convention, lessons learnt from the search and rescue operations, difficulties

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<sup>18</sup> *ibid* Preamble para 3,4

<sup>19</sup> IMO, Chapter V Regulation 7 SOLAS

<sup>20</sup> IMO (n 15)

<sup>21</sup> IMO (n 15)

<sup>22</sup> 'SAR Convention 1979 as amended by resolution MSC 70(69)'

<<http://opac.vimaru.edu.vn/edata/EBook/Sar%20Convention,%201979.pdf>> accessed 1May 2017

<sup>23</sup> IMO (n 15)

<sup>24</sup> *ibid*

faced by developing States which were not parties to the SAR Convention, the inconsistent use of terminology in the SAR Convention and the need to harmonize the IMO and International Civil Aviation Organization (ICAO) search and rescue provisions in the revision process. The 1995 revisions were adopted in 1998 and entered into force in the year 2000. The 1979 Annex to SAR Convention was revised with a renumbering of the 1979 chapters. The vital feature adopted in 1995 was the harmonization of the IMO and (ICAO) provisions in SAR operations.<sup>25</sup>

### **(A) The 1998 Amendments<sup>26</sup>**

The revised SAR Convention contains eight main Articles and five Chapters by way of an Annex. The revised technical Annex clarifies the responsibilities of States and emphasize on the co-ordination of maritime and aeronautical SAR operations with a regional approach.<sup>27</sup>

The summary of the revised Annex is as follows.

#### **Terms and Definitions**

The 1979 original Chapter 1 is updated with the addition of a few definitions. The definitions ‘search’, ‘rescue’, ‘search and rescue service’, ‘alerting post’ and ‘Secretary General’ have been included in the revised Annex. ‘on-scene commander’ has been re-designated as ‘on-scene coordinator’ whilst ‘rescue unit’ is replaced with ‘search and rescue unit.’

#### **Organization and Co-ordination**

The responsibilities of the States are clearly stated in this chapter compared to chapter 2 of the 1979 Annex. The inclusion of certain provisions which facilitated either on an individual basis or through regional cooperation is further clarified and explained in this chapter. In terms of Article 2.1.2, these provisions include the legal framework, assignment of a responsible authority, organization of

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<sup>25</sup> Annex 12 of ICAO; Chapter V Regulation 33 SOLAS

<sup>26</sup> IMO, SAR ‘1998 Amendments’ (adopted on 18 May 1998 entered into force 1 January 2000)  
<<http://www.imo.org/en/OurWork/safety/radiocommunicationsandsearchandrescue/searchandrescue/pages/sarconvention.aspx>>accessed 1 May 2017

<sup>27</sup> IMO (n 15)

available resources, communication facilities, co-ordination and operational functions and processes to improve the services including planning, national and international co-operative relationships and training with regard to the execution of search and rescue services.

This chapter, in Article 2.1.5, further deals with the mutual demarcation of search and rescue regions and how search and rescue services are to be arranged and national capabilities be developed; the establishment of rescue co-ordination centres that operate on a 24-hour basis with trained staff who have a working knowledge of English.

### **Co-operation between States**

This chapter stipulates how to co-ordinate search and rescue organizations, and, as may be necessary search and rescue operations with those of neighbouring States. The Chapter stipulates that a State, subject to applicable national laws, rules and regulations, should authorize, immediate entry into its territorial sea or territory search and rescue units of other States for the sole purpose providing search and rescue services in the event of a disaster.

### **Operating Procedures**

The operating procedures of Rescue Co-ordination Centres and Rescue Sub-Centres during emergency phases are dealt with in Article 4.5 of this chapter. It emphasizes the need to have an up-to-date information on search and rescue facilities and communications in the appropriate search and rescue area. A vital requirement is the ability to receive distress alerts on a 24-hour basis(Article 4.2).

Moreover, this chapter includes information concerning emergencies (Article 4.2) and the duration of a search and rescue operation( Article 4.8).

### **Ship reporting systems**

This chapter includes recommendations on establishing ship reporting systems for search and rescue purposes.

In addition to the revision of the Annex as stipulated above, the IMO and the ICAO jointly developed and published the IAMSAR Manual.

### **The IAMSAR Manual**

This manual consists of three volumes. They are Organization and Management (Volume I), Mission Coordination (Volume II) and Mobile Facilities (Volume III). The 2016 edition of the IAMSAR manual is now available.<sup>28</sup> Each volume deals with specific duties of SAR systems. All volumes combined, it is a full manual on SAR. If not, each volume can be used separately as a stand alone SAR system.<sup>29</sup> The 2015 amendments to the IAMSAR manual entered into force on 16 July 2016.<sup>30</sup>

### **(B) The 2004 Amendments<sup>31</sup>**

A further revision to the 1998 amendments of the Annex were introduced in 2004 through MSC Resolution 155(78) which entered into force on 01 July 2004. It added new paragraphs to the already revised 1998 Chapters- Chapter 2 (Organization and Co-ordination), Chapter 3 (Co-operation between States) and Chapter 4(Operating Procedures) as indicated in the immediately preceding paragraph. These new revisions highlighted the emphasized further on the co-operation between States on a regional basis.

These revisions also included the definitions of persons in distress, cooperation between States relating to assistance to the Master in delivering the rescued at sea to a place of safety and provisions pertaining to rescue coordination centres in providing or identifying such safe places respectively. Further, the maritime search and rescue services as updated by 2005 revisions go a step ahead in availing basic medical assistance to those rescued.

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<sup>28</sup> IMO,  
<<http://www.imo.org/en/Publications/Documents/Newsletters%20and%20Mailers/Mailers/IAMSAR.pdf>>accessed 18 April 2017

<sup>29</sup> ibid

<sup>30</sup> ibid

<sup>31</sup> IMO, SAR ‘2004 Amendments’ (adopted May 2004; entered into force 1 July 2006)  
<<http://www.imo.org/en/OurWork/safety/radiocommunicationsandsearchandrescue/searchandrescue/pages/sarconvention.aspx>>a accessed 1 May 2017

## **1.4 Global Search and Rescue Regions established under SAR Convention**

The MSC of the IMO has divided the world into thirteen [13] provisional search and rescue regions for ease of operations.<sup>32</sup> With the search and rescue plans for the Indian Ocean finalized in September 1998, these provisional search and rescue areas were completed.<sup>33</sup> These regions are North Pacific (2), South Pacific (2), Caribbean Sea, North Atlantic, Mid Atlantic, South Atlantic, European Waters, Baltic Sea, Mediterranean Sea, India and Asia.<sup>34</sup>

This delimitation facilitated the States to delimit their search and rescue areas and to adopt search and rescue plans accordingly. These provisional rescue areas (no permanent demarcations introduced as yet) together with all the SAR facilities are incorporated in the SAR8/Circular 4 published by the IMO. It is also reflected in the International Maritime Rescue Federation documents and in United States' Coast Guard documents.<sup>35</sup>

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<sup>32</sup> IMO (n 15)

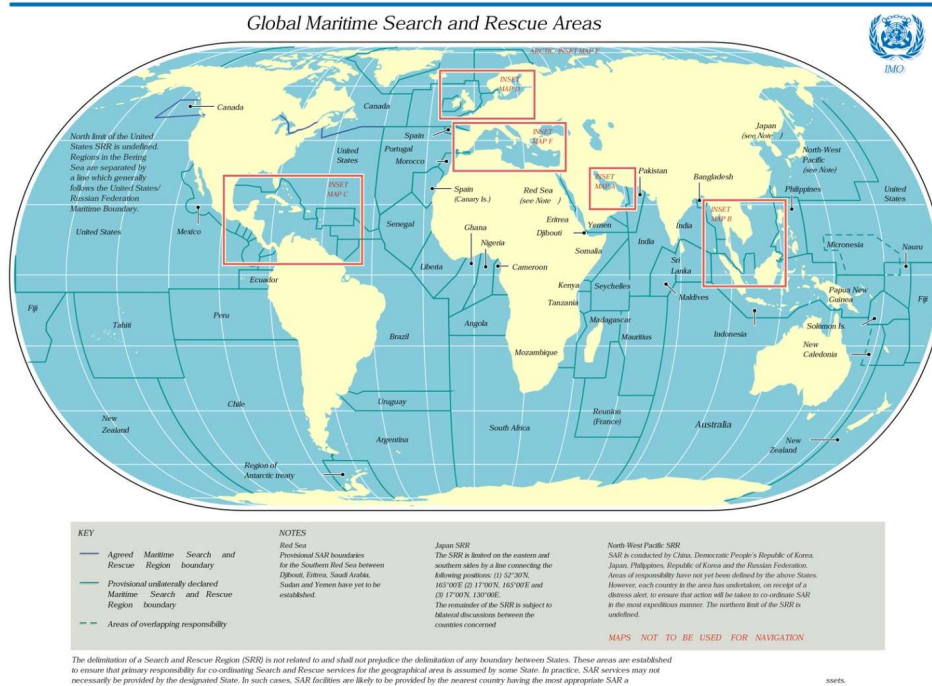
<sup>33</sup> *ibid*

<sup>34</sup> US Coast Guard 'Global Search and Rescue Areas'

<<https://www.uscg.mil/hq/cg5/cg534/nsarc/IMO%20Maritime%20SAR%20Regions.pdf>> accessed 1 May 2017

<sup>35</sup> IMO, SAR.8/Circular 4 (01December2012) <<http://www.international-maritime-rescue.org/sar-administration/file/511-sar-8-circ-4-availability-of-sar-services>> accessed 1 May 2017; see also USCG (n 34)

The provisional global maritime search and rescue areas of the IMO are reflected in the map below. Sri Lanka's SAR Area will be discussed in the next chapter.



Map 1 -IMO Global Maritime Search and Rescue Areas

## 2. Indian Ocean Search and Rescue Region

The Indian Ocean Search and Rescue Area is depicted in the map below. Compared to the neighbouring States of the Indian Ocean Region (IOR), India possesses a comprehensive network to render search and rescue assistance through its Coast Guard and Search and Rescue facilities available therein. On a mutual basis search and rescue assistance is rendered to Sri Lanka by Indian Coast Guard. There have been 23 search and rescue incidents in the Indian sub continent alone by February 2017 as published by the National Maritime Search and Rescue Board of India in their news letter.<sup>36</sup> The most recent update of the incidents where Indian coast Guard has rendered assistance was when on 5 April 2017, the commercial vessel 'Daniela' caught fire 30 miles off Sri Lanka's

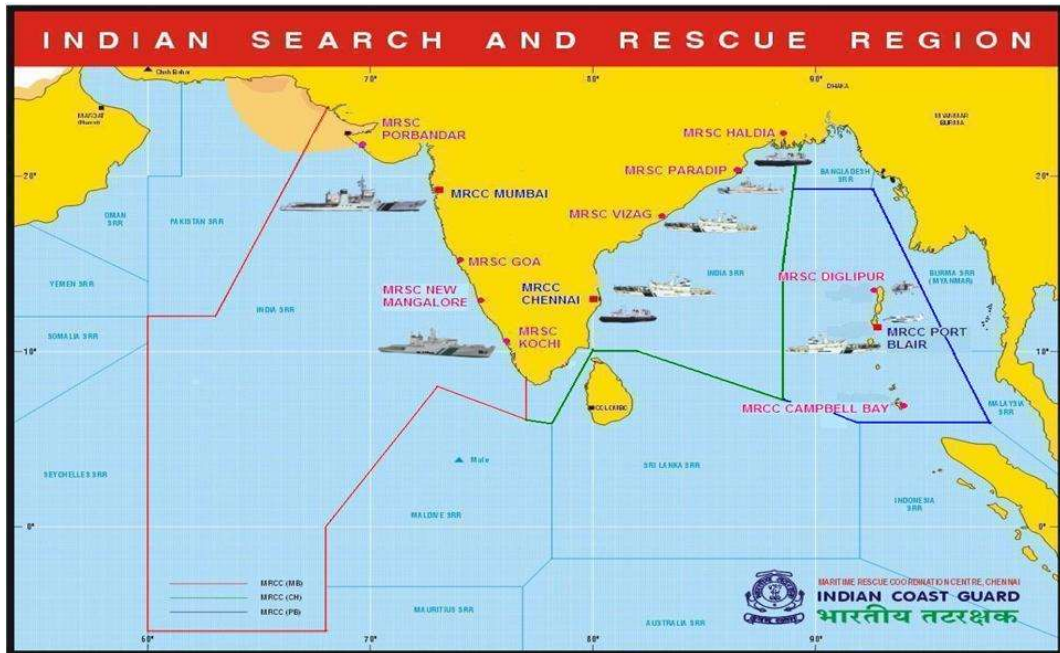
<sup>36</sup> Safe Waters (News Letter) Vol. XIII Issue 2 (October 2013) Biannual Publication

<<http://indiancoastguard.gov.in/WriteReadData/bookpdf/201604130338230012864SAFEOct13.pdf>> accessed 1 May 2017; see also Appendix I;

<[http://www.indiancoastguard.gov.in/content/1589\\_3\\_SARIncidents.aspx](http://www.indiancoastguard.gov.in/content/1589_3_SARIncidents.aspx)> accessed 1 May 2017



coast.<sup>37</sup> Sri Lanka Navy's search and rescue operation was assisted by Indian Coast Guard vessel 'Shoor' at the request of the Sri Lankan government in the search and rescue operation.



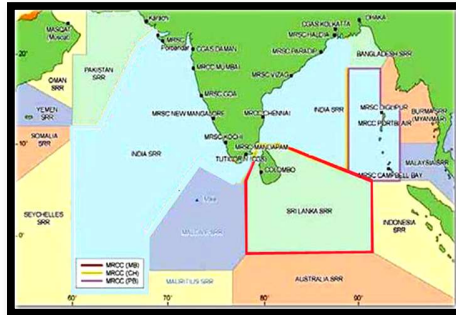
Map 2. Indian Search and Rescue Region

<sup>37</sup> Manjeet Singh Negi 'Commercial Ship catches fire off Sri Lanka Coast, situation under control' *India Today* 5 April 2017 <<http://indiatoday.intoday.in/story/commercial-ship-daniela-sri-lanka-colombo-coast-fire-shoor/1/920733.html>> accessed 1 May 2017

### 3. The need for Search and Rescue Services in Sri Lanka

#### 3.1 Search and Rescue Region Sri Lanka

Sri Lanka is entrusted with the responsibility of a provisional SAR region 27 times its land mass by the IMO as depicted in the map below.



Map 3- Search and Rescue Region Sri Lanka<sup>38</sup>

The SAR region of Sri Lanka borders Indian, Indonesian, Australian and Maldives SAR regions as indicated in map 5 below. Despite its small size, Sri Lanka holds a substantial geo-strategic value by virtue of its geographical location in the Indian Ocean. It is situated in the middle of Asia's busiest maritime routes connecting East and West sea lanes of communication from Australia and Far East to Gulf of Aden.



Map 4- Neighbouring SAR Regions to Sri Lanka<sup>39</sup>

The search and rescue statistics are still maintained by Sri Lanka Navy as Sri Lanka Coast Guard, formed only in 2009, is yet to receive the adequate infrastructure facilities. Many of these incidents occur in the Northern and

<sup>38</sup>Prasad Kariyapperuma *A view from the International Maritime Boundary Line. India – Sri Lanka*, (Colombo, S. Godage & Brothers (Pvt) Ltd., 2016) 105

<sup>39</sup> *Neighbouring SAR Regions: SAR Service Bill 1997 - 1998* Department of the Parliamentary Library, Commonwealth of Australia  
<[http://www.aph.gov.au/Parliamentary\\_Business/Bills\\_Legislation/bd979898bd008](http://www.aph.gov.au/Parliamentary_Business/Bills_Legislation/bd979898bd008)> accessed 1 May 2017

Southern Regions of Sri Lanka. Northern, due to the illegal fishing activities and Southern, due to tourism and international maritime traffic of the East West sea lanes.

Nevertheless, from its inception in the year 2009, as of March 2017, Sri Lanka Coast Guard has successfully executed 828 search and rescue missions.<sup>40</sup> In addition, the Sri Lanka Navy bases in Delft Island and Galle offer search and rescue services.<sup>41</sup>

### **3.2 Maritime Activities Requiring SAR Operations**

Sri Lankan Forces put an end to the 30 year terrorism in the year 2009. The ban on fishing in the North and East maritime areas was simultaneously uplifted, thus normalizing the livelihood of fishermen. However, this also paved way for an unanticipated and unprecedented number of fishing vessels from South India, engaging in IUU fishing in Sri Lanka's historic and territorial waters.<sup>42</sup> As a result, many accidents at sea has surfaced to render search and rescue services as had never been experienced by Sri Lanka before.

Post 2009 era also witnessed a boost in the maritime commercial activities. The expansion of Colombo harbor and the construction of Hambantota Port complex are novel maritime facilities in the IOR. Both Galle and Colombo ports are already in use as a transit hub by international commercial vessels. Colombo port received 3854 vessels from January to November 2015 and 4034 in 2016 bring the growth rate up by 4.7%.<sup>43</sup> Container volume in Colombo port was increased by 10.1% in 2016. Considering the high risk area of piracy, Galle harbour facilitates and cater to private maritime security companies both local and foreign. Plans are already under way to develop the other commercially viable ports such as Oluvil, Trincomalee and Kankasanthurai. The former to function as a regional

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<sup>40</sup> Sri Lanka Coast Guard <<http://www.coastguard.gov.lk/index.php?id=27>> accessed 1 May 2017

<sup>41</sup> Prasad Kariyapperuma *A view from the International Maritime Boundary Line: India – Sri Lanka* (Colombo, S. Godage & Brothers Pvt. Ltd. 2016) 96-107

<sup>42</sup> Ministry of Fisheries and Aquatic Resources Development Sri Lanka <[http://www.fisheries.gov.lk/news\\_more.php?nw=8](http://www.fisheries.gov.lk/news_more.php?nw=8)> accessed 1 May 2017

<sup>43</sup> News Letter Sri Lanka Ports Authority 11 January 2017 <<http://www.slpa.lk/port-colombo-page/2ed09a632e2fe4ecde72492e417f7562/b23b88808b3da7fe6cac4be978ff5c30094955e6>> accessed 1 May 2017

fisheries hub whilst the other two are vital tourism areas.<sup>44</sup> These policy decisions will eventually lead to more maritime traffic and maritime activities and thereby increase in potential maritime accidents.

Among the other maritime related activities that have contributed to the increased use of the historical and territorial waters are Dolphin and Whale watching, coral watching, surfing, snorkeling and diving. Often the Dolphin, Whale and Coral watching activities are carried out by converted unseaworthy fishing vessels that are totally unsuitable for the purpose, and are therefore, more accident prone.

### **3.2.1 Illegal Migration**

The vast number of Indian vessels purportedly engaged in illegal, unreported and unregulated fishing (IUU Fishing) as explained are alleged to as carrying illegal migrants from India to Sri Lanka. Sri Lanka being only the transit country, these illegal migrant are bound for either Australia, Italy, Greece or the EU. According to UNODC, Sri Lanka has by now become a hub for human trafficking and smuggling by sea.<sup>45</sup> The use of sea for illegal maritime crimes such as drugs and arms smuggling between south India and Sri Lanka is another issue which makes such vessels more prone to accidents. Either the use of substandard vessels or vessels that are overloaded endanger the lives of those who venture at sea mostly in the wee hours of the morning to evade detection by the Sri Lanka Navy or the Coast Guard. Most of these vessels capsize before even crossing the territorial sea limits of Sri Lanka. These illegal activities are carried out by organized crime groups and hence could not be curtailed single handedly by Sri Lanka despite the efforts of law enforcement authorities. These increased activities in maritime zones of Sri Lanka highlights the importance of incorporation of the SAR Convention into national legislation.

The Australian Government too has taken many efforts to curb the situation through advertising and coordination with the relevant Ministries and line Departments in Sri Lanka but the situation could not be fully arrested. Sri Lanka

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<sup>44</sup> News letter Sri Lanka Ports Authority 06 Jan 2017 < <http://www.slpa.lk/port-colombo-page/4dc1303993cddfbb13a11d6b33978b5b/cde91f93ae68176215e858c3d85dc0d543f9dcd1>> accessed 1 May 2017

<sup>45</sup>UNODC 'Smuggling of Migrants by sea' (2011) 18 < [http://www.unodc.org/documents/human-trafficking/Migrant-Smuggling/Issue-Papers/Issue\\_Paper\\_-\\_Smuggling\\_of\\_Migrants\\_by\\_Sea.pdf](http://www.unodc.org/documents/human-trafficking/Migrant-Smuggling/Issue-Papers/Issue_Paper_-_Smuggling_of_Migrants_by_Sea.pdf)> accessed 1 May 2017

is placed on Tier 2 watch list by the US Department of State as a result. The irregular maritime arrivals to Australia and the number of vessels and illegal immigrants to Australia apprehended by Sri Lanka Navy reveals that Tamils are the majority involved in illegal immigration.<sup>46</sup>

Year	Number of Boats arrested	Number of Passengers arrested	Sinhalese	Tamils	Others
2009	07	176	25	151	-
2011	03	70	13	55	02
2012	63	3016	475	2387	154
2013	15	949	26	907	16

Table 1- Apprehension of illegal immigrants to Australia by Sri Lanka Navy<sup>47</sup>  
 (\*most recent statistics could not be obtained due to non-publication by the Ministry of Defence)

### 3.2.2 Illegal Fishing

South India and Northern Sri Lanka are separated only by a very narrow belt of sea.<sup>48</sup> The International Maritime Boundary Line was established by both countries prior to the conclusion of UNCLOS III.<sup>49</sup> The massive number of purported Indian fishing vessels engaged in poaching and other illegal activities are abundant in Sri Lanka's historical and territorial waters as explained in the foregoing paragraphs. On the approach of law enforcement officers from Sri Lanka, the occupants of these vessels either jump into the sea (the maximum depth is approximately 11m) or expedite their return voyage. At times, these hurried and unplanned activities render vessels to capsize with people on board. Those who jumped in the sea find it difficult to swim without being rescued. Sri Lanka Coast Guard and Navy therefore have to execute search and rescue services in such dangerous situations to save lives despite them engaging in illegal

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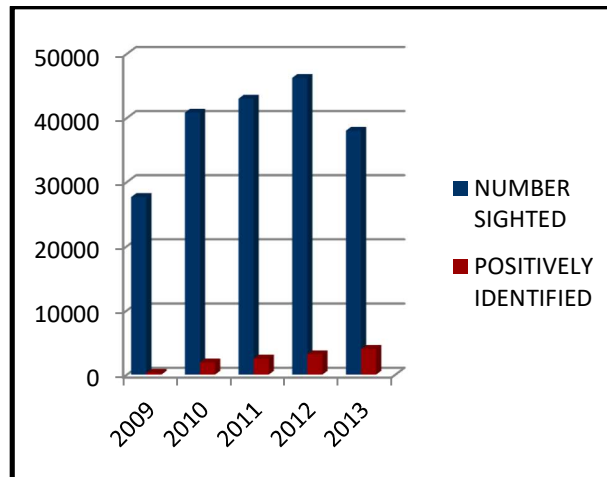
<sup>46</sup> Kariyapperuma (n 41) 41

<sup>47</sup> ibid 43

<sup>48</sup> ibid 3-12

<sup>49</sup> US Department of State <<https://www.state.gov/documents/organization/58833.pdf>> accessed 1 May 2017

activities.<sup>50</sup> This is further confirmed by the satellite pictures taken by Sri Lanka Air Force.<sup>51</sup> However, it is very difficult to obtain the adequate data as the fishermen do not divulge accurate details to the Navy or the Coast Guard. This is obvious upon the perusal of the graph below. It clearly demonstrates the vast disparity between the number of vessels sighted and the number positively identified. This has amounted to a building up a case of IUU fishing a nugatory. However, there is a positive increase on the number identified in the recent years.



Graph 1- Indian fishing vessels poaching in Sri Lankan waters  
 (\*most recent statistics could not be obtained due to non-publication by the Ministry of Defence)

Ironically, even in the face of a plethora of issues pertaining to the illegal use of the Sri Lankan maritime zones, especially the territorial sea and historic waters, by Indian fishermen, the international obligation cast upon by SAR Convention in rendering assistance to persons distressed at sea on a State like Sri Lanka remains an overarching obligation which cannot be overlooked. In other words, States and ships have an obligation to assist persons in distress at sea, regardless of their nationality, status or circumstances in which they are found. Hence the need for the SAR Convention into Sri Lanka's national legislation is highly recommended.

### 3.2.3 Cyclones

<sup>50</sup> Manjula Fernando, 'Poaching in Sri Lankan waters by Indian fishermen' *Sunday Observer* (25 August 2013) <<http://www.sundayobserver.lk/2013/08/25/fea04.asp>> accessed on 1 May 2017;  
 <<http://images.rambler.ru/search?query=indian%20fishermen%20paoching%20in%20sri%20lanka>> accessed 1 May 2017

<sup>51</sup> Poaching in Sri Lanka Waters by Indian Fishermen <<http://www.sundaytimes.lk/130929/uploads/indian-poaching.jpg>> accessed 1 May 2017; see also Annex II

In the months of November and December the Eastern and North-Eastern parts of Sri Lanka are highly vulnerable to cyclones that develop in the Bay of Bengal.<sup>52</sup> These areas are densely populated with fishing community. Their living conditions very closer to the sea, cannot withstand the impacts of cyclones. Despite constant warning, some venture into sea during cyclones. Occasional cyclone impacts had been reported in some parts of North-Central and North-Western areas in the past decades.<sup>53</sup> Major cyclones have been experienced in the years 1907, 1922, 1964, 1978 and 2000. More than three hundred thousand (303001) persons have been affected from 1974 to 2004 by cyclones alone as shown in the chart below.<sup>54</sup> Most recent tropical storm 'Roanu' experienced in May 2016, affected nearly the same number (301602) with 104 dead and 99 missing according to the Ministry of Disaster Management.<sup>55</sup> Thus it can be safely predicted that a considerable number of people are affected by cyclones each year.

The above facts, maps, graphs, tables and figures indicate that there is a dire need to enact national legislation to meet the international standards in order to regularize the search and rescue services in Sri Lanka. Further, the UN Office for the Coordination of Humanitarian Affairs has reported the inadequacies of disaster management and search and rescue services in Sri Lanka.<sup>56</sup> The best option available is to enact the compatible national legislation first and then to accede to the SAR Convention as the Convention has already entered into force.

#### **4. Search and Rescue Mechanisms and Legislation in Sri Lanka**

There is no specific national legislation to regulate maritime search and rescue services in Sri Lanka. However, post Tsunami saw Sri Lanka enacting legislation

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<sup>52</sup> Ministry of Disaster Management Sri Lanka  
<[http://www.disastermin.gov.lk/web/index.php?option=com\\_content&view=article&Itemid=0&id=60&lang=en](http://www.disastermin.gov.lk/web/index.php?option=com_content&view=article&Itemid=0&id=60&lang=en)> accessed 1 May 2017

<sup>53</sup> 'Towards a Safer Sri Lanka: Road Map for Disaster Risk Management'  
<[http://www.adrc.asia/documents/dm\\_information/srilanka\\_plan02.pdf](http://www.adrc.asia/documents/dm_information/srilanka_plan02.pdf)> accessed 1 May 2017

<sup>54</sup> *ibid*

<sup>55</sup> UN, 'Sri Lanka: Floods and Land Slide Situation Report No 2(as of 26 May 2016)  
<<http://reliefweb.int/report/sri-lanka/sri-lanka-floods-and-landslides-situation-report-no-2-26-may-2016>> accessed 1 May 2017

<sup>56</sup> ( n 53); <<http://www.scidev.net/global/disasters/analysis-blog/cyclone-roanu-sri-lankan-disaster.html>> accessed 1 May 2017

for terrestrial search and rescue services through Disaster Management Act No 13 of 2005.<sup>57</sup>

A comprehensive network and operational mechanisms starting from the Minister of Disaster Management to the ground level of a ‘Grama Niladhari’<sup>58</sup> exist under the present scheme. Thus the operation, coordination and execution of all related SAR services on land are handled in a very efficient, effective and successful manner.

The search and rescue from the air is equally regulated in Sri Lanka. Networking, reporting and assisting those in need are provided free of charge through this mechanism. The SAR services with regard to aeronautical services are well into operation and meet the international standards envisaged by both IMO and ICAO and incorporate the provisions of IAMSAR.<sup>59</sup> The information on ships at sea will be obtained through the Automated Mutual Assistance Vessel Rescue System (AMVER) as and when required. The aeronautical Search and Rescue is based and operated from Colombo.

The maritime SAR services to some extent are embodied in the Department of Coast Guard Act No 41 of 2009 as below.

In the Preamble-

... be entrusted with providing assistance to ships which meet with distress at sea and to persons found aboard such ships to provide assistance in ensuring maritime traffic safety, protect the marine environment, prevent and combat maritime disasters, cooperate with domestic and foreign organizations .....

Under Part II- Duties and functions of the Department of Coast Guard-

- 4(f) to assist the relevant authorities in ensuring safety of life and property at sea
- 4(g) to participate in search and rescue operations for human beings in times of natural catastrophes and to assist in salvage operations in relation to vessels and other goods after such catastrophes and other accidents at sea
- 4(i) to assist the relevant authorities in the implementation and monitoring of measures required for the prevention and control of marine pollution and other disasters which occur at sea

However, a close scrutiny of the Department of Coast Guard Act No 41 of 2009 reveals that it needs a serious revisit. The incorporation of SAR Convention will repeal the SAR functions that are ambiguously woven in the Department of Coast Guard Act No 41 of 2009 to avoid any overlapping of jurisdiction. The proposed

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<sup>57</sup>National Policy for Disaster Management, Sri Lanka  
<<http://www.disastermin.gov.lk/web/images/pdf/sri%20lanka%20disaster%20management%20policy%20english.pdf>> accessed 1 May 2017

<sup>58</sup> The Sri Lankan word for ‘village officer’ (a public officer who acts as the first point of contact especially in an emergency)

<sup>59</sup> Civil Aviation Authority of Sri Lanka <<http://www.airport.lk/AIS/92.htm>> accessed 1 May 2017



SAR Act is drafted in such manner so that any future legislation pertaining to Coast Guard will not affect the operation of the proposed Act. This will enhance a new coordinated mechanism for a holistic approach in search and rescue services in Sri Lanka.

The existing mechanisms for search and rescue operations on land are executed on an *ad hoc* basis, with the coordination of mainly the Army, Civil Defence Force, police and a host of Ministries, line departments, public corporations, provincial councils, local authorities as well as district, division, and ‘Grama Niladharis’<sup>60</sup> depending on the nature and extent of the distress or natural disaster under the guidance of Ministry of Disaster Management’s Disaster Management Centre.

However, the aeronautical search and rescue centre of Sri Lanka Air Force, which falls under the Ministry of Defence, operates independently of the Disaster Management Centre. Assistance of these services are rendered, upon request, to Ministry of Disaster Management on a case by case basis.

Sri Lanka Navy, on the other hand, meets up the traditional or customary obligation of rescuing lives distressed at sea through the coordination of its ‘rescue centre’ based at the Sri Lanka Navy Headquarters in Colombo. Sri Lanka Navy too, falls under the Ministry of Defence. The only apparent difference is the Coast Guard engaging in maritime search and rescue operations in addition to Sri Lanka Navy. Even after the enactment of the Department of Coast Guard Act, the monitoring and reporting systems are maintained by Sri Lanka Navy which had the adequate resources.

However, the present search and rescue operations under the Ministry of Defence are handled by the Coast Guard, the Navy and Air Force from their respective bases along with the facilities generally made available to them.<sup>61</sup> The Ministry of Disaster Management search and rescue operations are independent from that of the Ministry of Defence. Thus there is neither a holistic approach nor execution of SAR services at present.

In view of the above and considering the existing facilities and the availability of thirteen (13) operational bases, and, being mindful of the international shipping

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<sup>60</sup> village officer (n 58)

<sup>61</sup> Refer Appendix III

activities in and around Sri Lanka, it is proposed to establish a Joint Search and Rescue Co-ordination centre to co-ordinate land, sea and air search and rescue services. For the purposes of further co-ordination and delegation search and rescue sub centres, as depicted in the map below will be established. Operative rescue centres at present are marked in red whilst the proposed centres under the proposed Act are marked in yellow. In southern Sri Lanka where the principal East West sea lanes of communications are located, more search and rescue sub centres will be established in proportion to the maritime traffic in the area.



Map 5 - Established and Proposed Search and Rescue Alerting posts

In view of the compelling need to enact national legislation for search and rescue and to minimize any burden on the national finances, it is further proposed that all the facilities made available to the Ministry of Disaster Management and Ministry of Defence are allocated for the search and rescue operations falling under the Joint Search and Rescue Coordination Centre of the proposed Act.

## 5. Integration of Search and Rescue Operations

The salient feature as already explained is that our policies, in general, do not align or coordinate with our laws- search and rescue being no exception. As a result, institutional and implementation failures have occurred through out. Moreover, the piecemeal legislation available has resulted in the fragmented and overlapping or duplicity of operations carried out by various State authorities frequently resulting in absolute mismanagement, unsuccessful results in search

and rescue activities and unnecessary expenditure as already demonstrated in Chapter 4.

Sri Lanka does not have a uniform and integrated mechanism to deal with and implement its maritime legislation pertaining to SAR. The multiplicity of the agencies authorized to enforce SAR missions, as already explained in the previous paragraph, operate without any coordination or consultation amongst each other resulting in inordinate delays, ineffectiveness, confusion, waste of resources and finances at the implementation stages. Therefore, national maritime legislation in search and rescue operations warrants a serious revisit in order to streamline its operation and applications in revising, updating, codifying and consolidating the respective laws under one body.

In this context Sri Lanka has a serious legislative requirement to be met. The challenges faced in the implementation of local legislation and incorporating already ratified international conventions through appropriate legislative drafting are concurrent functions that are to be expedited in the area of search and rescue. The expected outcome is to enhance the efficiency and influence the decision making process with a more integrated approach to protect the national interest and finances within a harmonized framework.

Though Sri Lanka has ratified many international conventions, the SAR Convention is not amongst them.<sup>62</sup> The consolidation and compilation of the ratified IMO Conventions is a burden on the country as local legislation must be enacted to the already ratified IMO legislation for which no national laws have been enacted. Simultaneous steps should be taken with regard to the implementation of mandatory International Maritime Legislation in the country as well. However, since most of the practical aspects are available, and with the suggestions proposed, acceding to the SAR Convention will only be a simple administrative process in comparison with other legal drafting commitments in line.

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<sup>62</sup>IMO, 'Status of Conventions'

<<http://www.imo.org/en/About/Conventions/StatusOfConventions/Pages/Default.aspx#lition>>

accessed 1 May 2017

## **5.1 Incorporation Procedure**

Sri Lanka practices dualism and hence international law does not have automatic application in the country.

The Bills office in the Parliament deals with the entire procedure in enacting an Act. Verifying the accuracy of the language of the Bill, presenting Ministers' and Committee Reports, Final Assent copies of the Speaker and providing the final draft are among such duties. The Bills office deals with a 'Bill' until the certification of the Speaker is obtained wherein the Bill becomes law in the country.

To give effect to the SAR Convention Sri Lanka enacts the Search and Rescue Sri Lanka Act No ... of 2017 (the Bill).<sup>63</sup> This proposed Act needs to be certified and published in the Gazette to be treated as national legislation. The SAR Convention is already in force. Hence, **accession** to SAR Convention is to be effected under the hand of the President through the Ministry of External Affairs by depositing the instrument accession in writing. Once Accession is obtained and published in the Gazette, the Search and Rescue Act enters into force in Sri Lanka.

## **6. The Proposed Act**

### **6.1 General Over View**

It is proposed to adopt a novel approach in the drafting procedure in incorporating the International Conventions to national laws, in keeping with the government's present policy to achieve a 'blue economy'. Accordingly, from the adoption of SAR Convention as already stipulated, the Government intends to follow the same drafting procedure to the rest of IMO Maritime Legislation to enact national laws as action plans, at least now, must be put in place to accomplish the challenges posed by the 21<sup>st</sup> century maritime affairs to outdo the failures of the past.

The reason to drastically depart from the present practice is to produce more clarity, precision and simplicity of understanding whilst combating inordinate delays in legislative drafting. Expedient action is warranted in drafting appropriate national laws to the international conventions that have been already

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<sup>63</sup> The Number of the Act will be provided upon approval by Parliament

ratified as the IMO audit scheme is mandatory from the year 2016. Sri Lanka shall have the obligation to comply with such recommendations. The incorporation of the International Convention on the Maritime Search and Rescue 1979 (SAR Convention) will be first step in this direction.

In the Act, it is proposed to consolidate the operations of the aeronautical, land and maritime search and rescue services under one body by establishing a Joint Search and Rescue Coordination Centre (JSRCC) under the Ministry of Defence.

The Joint Search and Rescue Coordinator shall coordinate, manage and guide the aeronautical, land or maritime search and rescue depending on the issue at hand. The establishment of a JSRCC is in line with a primary objective of the SAR Convention.

Each part has been carefully drafted in order to consolidate all the existing search and rescue services in Sri Lanka for the time being.

**Part I-** The Interpretation section

Part I incorporates the definitions stipulated in the SAR Convention itself in so far as it is relevant and could be accommodated into the national legislation.

**Part II-** The Joint Search and Rescue Coordination Centre under Part II will be based at the Ministry of Disaster Management operated by the Ministry of Defence. The Secretary to the Ministry of Defence shall function as the Joint Search and Rescue Coordinator (JSRC) under whose command the Joint Search and Rescue Coordination Centre functions. The JSRC shall be the Chairman to the National Search and Rescue Advisory Council in terms of Section 14 of the proposed Act. This further will expedite obtaining the services of the armed forces for any search and rescue activities.

**Part III-** Part III of the proposed Act, in keeping with the international obligations to liaise with the regional search and rescue services deals with Provision for Search and Rescue Mission, Foreign Search and Rescue Services, Request for Additional Assistance. It further deals with the duration of a Search and Rescue Mission.

**Part IV-** The National Search and Rescue Advisory Council under Part IV will function directly above the existing National Council for Disaster Management. The National Search and Rescue Advisory Council shall be the lead authority and the highest level national council to implement and coordinate activities related to

all phases of search and rescue missions in collaboration with relevant stakeholder ministries, national and provincial level administration, private agencies, civil society, non-government organizations, community based organizations and the communities. This will create the need for all the stakeholders to get together with a clear vision and to work as a team leading the way towards a systematic and holistic approach in the execution of search and rescue operations.

The National Search and Rescue Advisory Council is generally entrusted with and will provide for and be responsible mainly for the following functions:

- Design and create a legal frame work for the successful operation of search and rescue services;
- Revisit and re organize the existing SAR plan to incorporate the latest IAMSAR Manual [Part I, II and III]
- In collaboration with Ministries, line departments, public corporations, provincial councils, local authorities as well as district, division, and ‘Grama Niladharis’ to ensure competent emergency operation and management is carried out (through proper response to distress calls) and rendering timely assistance in search and rescue operations (through proper enforcement mechanisms)
- Recruit competent and adequate man power, as the case may be, to function on a 24/7 basis
- Establishment of an effective ship reporting system and maintain statistical data of the Search and Rescue Coordination Centre (SRCC)operations
- Where the resources and facilities provided for by the public entities such as Ministries, line departments, public corporations, provincial councils, local authorities as well as district, division, and Grama Niladharis are deemed inadequate seek assistance from the private sector entities
- Sourcing of funds for the establishment of a search and rescue fund under the proposed Act
- Request for, respond to or facilitate any SAR requests from any foreign State, having first consulted the Chairman, Search and Rescue Advisory Council and Secretary to the Ministry of External Affairs
- Advise the Minister of Disaster Management, the possibility of concluding bilateral or multilateral SAR Agreements with neighboring or Regional States.

- Protect the officers of SRCC or any other person who exercises powers under the proposed Act in good faith from any prosecution in any manner whatsoever
- Periodic Evaluation and Review

**Part V-** Notwithstanding the persons rescued from any distressed situation, the Act in Part V-Section 19 provides for the prosecution of any persons for violating any national laws for the time being in operation in Sri Lanka. This measure is incorporated along with immediate deportation of rescued persons to the State of origin or deport, but, at their own expense. (Part VII Section 24) This measure is adopted specifically to curb the illegal fishing and criminal activities taking place in the maritime zones of Sri Lanka, especially in the territorial sea. This is a novel aspect of the proposed Act.

Further, Part V stipulates that a ‘Search and Rescue officer’ to be deemed ‘peace officer’ for the purposes of the Code of Criminal Procedure Act. No Prosecution shall lie for actions performed *bona fide* by a ‘Search and Rescue officer’ under the proposed Act. This is to encourage search and rescue officers to render their services properly. Disciplinary action, if any, of the officers engaged in search and rescue operations will be handled by their own respective employers is another added advantage to the officers rendering services on secondment under the proposed Act.

A penal provision is introduced in Section 20 - Legal Liability to deal with the persons who refrain from or withhold any information pertaining to an accident or disaster whether terrestrial, air or maritime from the authorities concerned.

**Part VI-** State expenditure incurred in the terrestrial and aeronautical search and rescue services consuming a huge bulk is a cognizable fact that needs to be curtailed. The proposed Act in Part VI through the Joint Search and Rescue Coordination Centre (JSRCC) employs a mechanism in order to efficiently manage available resources and finances in a more productive manner than is at present. Thus no additional expenditure to the national budget. The existing facilities and services for search and rescue will be employed with a novel approach to maximize resource utilization. Part VI further provides for the establishment of a search and rescue fund.

**Part VII-** Section 24 of Part VII deals with the repatriation or extradition of rescued person by Sri Lanka. To maintain consistency and the uniformity in application of the law, Section 25 enables the provisions of the proposed Act to supersede any other law in force for the time being pertaining to search and rescue activities.

The proposed Act, in Section 26, distinguishes the difference between the ‘search and rescue boundaries’ and the State ‘maritime boundaries’ under international laws. This enables the country to exercise its ‘sovereignty’ and ‘sovereign rights’ as the case may be, in terms of international laws without any hindrance.

**Tacit Amendment Procedure-** Tacit amendment procedure adopted in international conventions in the recent years is incorporated for the first time under Section 27 of the proposed Act. Therefore, the practice to place before Parliament any subsequent amendments to a particular international convention and the lengthy procedure that follows will no longer be required. Once the National Search and Rescue Advisory Council approves the amendments, it will become law in the country upon the publication in the Gazette by the Minister.

The Regional cooperation as envisaged by the SAR Convention may be ensured through bilateral and multi lateral agreements or through mutual agreements as the case may be.

**Annex to the Proposed Act--** In order to align with the Ocean Governance and the much envisaged ‘Blue Economy’ policy, to facilitate maritime laws to function as a separate body of laws. To preserve their international character in interpretation and for overall convenience of application, the original English text of the International Convention on Maritime Search and Rescue 1979 SAR as updated, forms the Annex of the proposed Act. In both Sinhala and Tamil version of the proposed Act, the Annex will thus appear in the English language.

**English Text to prevail-** The adoption of the English language to the Act in this manner is consistent with the Constitution. Articles 24(1) and 24(4) introduced by the 13<sup>th</sup> and 16<sup>th</sup> Amendments to the Constitution permits the use of English Language instead of the vernacular (Sinhala and Tamil) in legislation. Thus no inconsistency will arise in the incorporation of any international conventions in the country from the adoption of SAR. This will facilitate and expedite drafting as well as the implementation process with less ambiguities in interpretation.



## **6.2 The Proposed Search and Rescue Act**

The proposed Act consists of twenty eight sections divided into seven parts as stipulated below.

### **Part I –Preliminary Provisions**

1. Short Title
2. Commencement and Application
3. Interpretation

### **Part II-Joint Search and Rescue Coordination Centre**

4. Establishment of Joint Search and Rescue Coordination Centre
5. Joint Search and Rescue Coordinator
6. Search and Rescue Regions
7. Powers and Functions of the Joint Search and Rescue Coordinator

### **Part III- Search and Rescue Provisions**

8. Report of a Search and Rescue incident
9. Provision for Search and Rescue Mission
10. Foreign Search and Rescue Services
11. Request for Additional Assistance
12. Duration of a Search and Rescue Mission
13. Compensation and Payment

### **Part IV- National Search and Rescue Advisory Council**

14. National Search and Rescue Advisory Council
15. Chairman and Members of the Council
16. Delegation of Powers

### **Part V – Offences**

17. Search and Rescue officer to be deemed peace officer
18. No Prosecution shall lie for actions performed under this Act
19. Engage in Illegal Activity
20. Legal Liability
21. Disciplinary Action

### **Part VI- Financial Provisions**

22. Search and Rescue Fund

### **Part VII- Miscellaneous Provisions**

23. Regulations
24. Power to Extradite
25. Act to supersede certain legislation
26. SAR Region boundaries not to affect Maritime Zones or any rights under International Law
27. Tacit Amendment Procedure
28. English Text to prevail

## Appendix I

### RECENT SAR INCIDENTS<sup>64</sup>

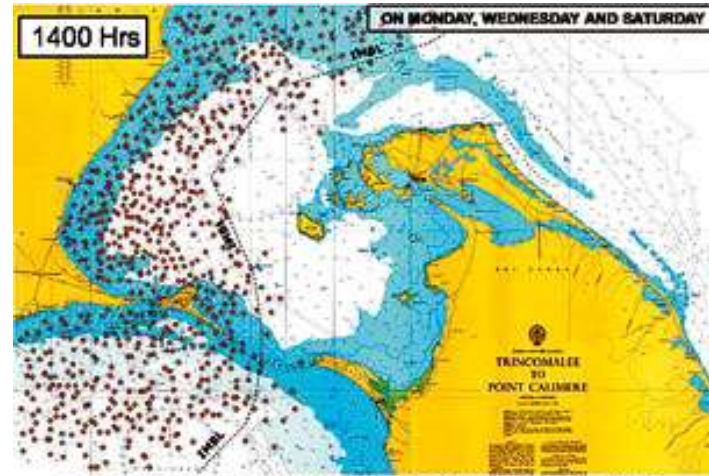
- Rescue of Crew from Grounded Barge" MV PRIYA"
- Assistance to Vessels inside the Jawahar Dock, Chennai Harbour
- Assistance to Overdue Fishing Dinghy-off Port Blair
- Assistance to Tug "Orion Dhanashree"
- Assistance to FB "MV Powmay"
- Assistance to Vallam "Benitta" off Mandapam
- Assistance to FB "Mahez" off Ratnagiri
- Assistance to Sinking MSV "Selvamatha"
- Flooding Onboard FB "Madhav Krushna"
- Assistance to MFV "Saptagiri"
- Assistance To FB "Nixy Mol"
- Assistance To MFB "Virgin Mary"
- Assistance to MSV "Safeena"
- Assistance to FB "Jai Jalaram"
- SAR Assistance to Dhow "MSV Sarojini"
- Assistance to FB ' Priyanka'
- SAR for Stranded Families in Nellore District (AP)
- SAR for Crashed "Pawan Hans Helo"
- Assistance to FB 'Mangala Maa'
- Stranded FB "Sri Master"
- 04 Precious Lives Saved by Team Bhubaneswar
- Rescue Operation of 06 Fishermen Near to Indo-Bangladesh IMBL
- Reported Fire in Engine Room of Supply Vessel 'Vestfonn'

Search and Rescue Incidents- Indian Sub Continent

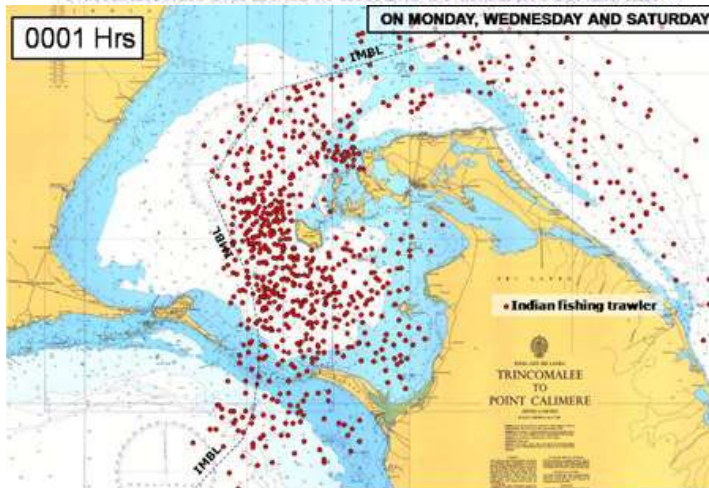
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<sup>64</sup> Indian Coast Guard, 'Recent SAR Incidents',  
<[http://www.indiancoastguard.gov.in/content/1589\\_3\\_SARIncidents.aspx](http://www.indiancoastguard.gov.in/content/1589_3_SARIncidents.aspx)> accessed 19 April 2017

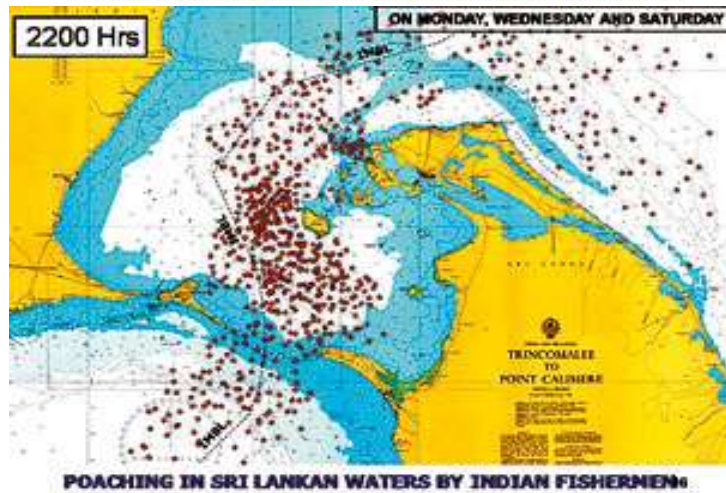
## Appendix II



POACHING IN SRI LANKAN WATERS BY INDIAN FISHERMEN<sup>2</sup>



POACHING IN SRI LANKAN WATERS BY INDIAN FISHERMEN<sup>7</sup>



POACHING IN SRI LANKAN WATERS BY INDIAN FISHERMEN<sup>6</sup>

### Appendix III

NAME	LOCATION	FACILITIES	REMARKS
A	B	C	D
<b>Search vessels of the Sri Lanka Navy:</b>			
<b>COLOMBO</b>	065621.49N 0795055.33E	i). Off Shore Petrol Vessels (OPV) (1 unit)	- Could carry Four Hundred Fifty (450) casualties. Speed : 21 KTS Range : 5800NM at 15KTS
		ii). Fast Missile Vessel (PMV) (01 unit)	- Could carry Seventy (70) casualties. Speed : 32 KTS Range : 1650NM at 30 KTS 4000 NM at 17.5 KTS
		iii). Fast Gun Boat (FGB) (01 unit)	- Could carry Twenty (20) casualties. Speed : 28 KTS Range : 750 NM at 16 KTS
<b>GALLE</b>	060202.24N 0801354.36E	i). Support/Training Ship (AA/AX) (01 unit)	- Could carry Three (300) casualties. Speed : 10 KTS Range : 5500 NM at 09 KTS
		ii). Fast Gun Boat (FGB) (01 unit)	- Could carry Twenty (20) casualties. Speed : 28 KTS Range : 750 NM at 16 KTS
<b>TRINCOMALEE</b>	083242.37N 0811319.64E	i). Off shore Patrol Vessel (OPV) (01 Unit)	- Could carry Four hundred (450) casualties. Speed : 18 KTS Range : 6100NM at 14 KTS 2700 NM at 18 KTS
		ii). Fast Missile Vessel (FMV) (01 unit)iii).	- Could carry Seventy (70) casualties. Speed : 32 KTS Range : 4000 NM at 17.5 KTS
		iii). Fast Gun Boat (FGB) (01 unit)	- Could carry Twenty (20) casualties. Speed : 28 KTS Range : 750 NM at 16 KTS
<b>KANKASANTHURAI</b>	094909.67N 0800206.10E	i). Landing Ship tanker (LST). (01 unit)	- Could carry Three Hundred (300) casualties. Speed : 14 KTS Range : 1000 NM at 12 KTS
		ii) Fast Gun Boat (FGB) (01 unit)	- Could carry Twenty (20) casualties. Speed : 28 KTS Range : 750 NM at 16 KTS

Search and Rescue Vessels –Sri Lanka Navy

**Search Aircraft of the Sri Lanka Air Force:**

<b>ANURADHAPUR.</b>	081800N 0802843E	i). Helicopter (01 Unit)	A/c Type : MI17 Endurance : 0230 Hrs. Range : 120 NM
<b>KATUNAYAKE</b>	071048.68N 0795307.08E	l) Helicopter (01 unit)	A/c Type : B212 Endurance : 0230 Hrs. Range : 110 NM
<b>MINNERIYA</b>	080301N 0805823E	i). Helicopter (01 Unit)	A/c Type : B212 Endurance : 0230 Hrs. Range : 110 NM
<b>RATMALANA</b>	064923N 0795306E	a) Aircraft ( 01 unit of each type)	i. A/c type : AN32 Endurance : 0420 Hrs Range : 400 NM  ii. A/c Type : C130 Endurance : 0800 Hrs Range : 850 NM
		b) Aircraft (01 unit of each type)	i. A/c type : B200 Endurance : 0600 Hrs Range : 400NM  ii. A/c Type : Y12 Endurance : 0430 Hrs Range : 200nm

Search and Rescue –Sri Lanka Air Force



**PARLIAMENT OF THE DEMOCRATIC  
SOCIALIST REPUBLIC OF  
SRI LANKA**

-----  
**SEARCH AND RESCUE SRI LANKA  
ACT NO ..... OF 2017  
[BILL]**

**L.D. –O.../2017**

**THE SEARCH AND RESCUE SRI LANKA Act No ... of 2017**

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AN ACT TO PROVIDE FOR THE INCORPORATION OF THE INTERNATIONAL CONVENTION ON MARITIME SEARCH AND RESCUE[1979] AS AMENDED BY MARITIME SAFETY COMMITTEE RESOLUTIONS 70(69) AND 155(78) OF THE INTERNATIONAL MARITIME ORGANIZATION INTO SRI LANKA AND TO PROVIDE FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

Be it enacted by the Parliament of the Democratic Socialist Republic of Sri Lanka as follows:

### Part I

#### PRELIMINARY PROVISIONS

1. This Act may be cited as the Search and Rescue Sri Lanka Act No ..... of 2017. short
2. This Act shall come into operation on such date as the Minister may, by Order published in the *Gazette* (the ‘appointed date’). Commencement and Application
3. In this Act unless the context otherwise requires –

**Alerting Post** means any facility intended to serve as an intermediary between a person reporting an emergency and the Joint Search and Rescue Coordination Centre or a Joint Search and Rescue Sub Centre. | Interpretation

**Coast watching unit** means a land unit, stationary or mobile, designated to maintain a watch on the safety of vessels in coastal areas.

**Convention** means the International Convention on Maritime Search and Rescue 1979 as amended in 1995 and 2004.

**Council** means National Search and Rescue Advisory Council.

**Craft** means and includes any land, air or sea, surface or submersible vessel of any kind or size.

**Fund** means Search and Rescue Fund.

**GMDSS** means Global Maritime Distress and Safety System.

**IAMSAR** International Aeronautical Manual on Search And Rescue.

**Joint Search and Rescue Coordinator [JSRC]** means the Secretary to the Ministry of Defence or his nominated official assigned to coordinate responses to an actual or apparent distress situation at any given time.

**Joint Search and Rescue Coordination Centre [JSRCC]** means the unit coordinating the disaster management centre of MoDM, naval and





aviation search and rescue management centres responsible for promoting efficient organization of land, maritime and aeronautical search and rescue services and responsible for the coordination of the conduct of land, maritime and aeronautical search and rescue operations within the Search and Rescue Region as provided for in Section 6 or as designated by the Minister on an ad hoc basis as the case may be.

**Joint Search and Rescue Sub Centre [JSRSC]** means a unit subordinate to the Joint Search and Rescue Coordination Centre established to compliment the operations of the JSRCC.

**MoDM** means Ministry of Disaster Management as established by the Disaster Management Act No 13 of 2005.

**Minister** means the Minister In charge of the Ministry of Disaster Management.

**On-scene co-ordinator** means the person designated and responsible to the JSRC to co-ordinate search and rescue operations within a specified search and rescue area to compliment the operations of JSRCC.

**Person** means and include an individual, a company, a corporation, a partnership, a trust, a non government agency or any organization private in nature, vested with the search and rescue operations.

**Public Sector Entity** means any Ministry, Line Department, District Secretary, Divisional Secretary, Grama Niladhari, Public Corporation, Provincial Councils, Local Authority or any other State or Statutory Body.

**SAR** means Search and Rescue operations.

**Search and Rescue Facility** means any fixed or mobile search and rescue units and includes any other ad hoc unit or committee established under this Act or any other Act for the time being in Sri Lanka assigned with search and rescue missions

**Search and Rescue Mission** means the act of participation in search and rescue operation and includes performance of distress monitoring, communication, coordination of search and rescue activities, any initial medical assistance and medical evacuation within Sri Lanka and/or placing rescued persons to a place of safety using public or private crafts, whether on land, in the sea or on air or any other resources and installations for the performance of a search and rescue mission.

**Search and Rescue Region** means an area of defined dimensions decided by the International Maritime Organization and the International Civil Aviation Organization associated with the Joint Search and Rescue Coordination Centre and published in the Gazette by the Minister pursuant to Section 6;

Search and  
Rescue  
Regions

**Search and Rescue Sub Region** means a specified area within a Search and Rescue Region associated with a Joint Search Rescue Sub Centre;

## PART II JOINT SEARCH AND RESCUE COORDINATION CENTRE

4. (1) There shall be established a centre which shall be known as Joint Search and Rescue Coordination Centre [JSRCC].

(2) It shall be the duty of JSRCC to coordinate and direct the Disaster Management Centre of the MoDM, the Aeronautical and Maritime Search and Rescue Centres in the execution of search and rescue operations for the purposes of this Act.

(3) The JSRCC may execute any regional search and rescue operation upon a request made to that effect and as approved by the Council.

Joint Search  
and  
Rescue  
Coordination  
Centre

5. (1) The Secretary to the Ministry of Defence shall be the Joint Search and Rescue Coordinator [JSRC] to be in charge of the JSRCC.

(2) The JSRC shall be the Chairman of the Council.

6. The Minister shall by notice published in the Gazette

(1) Designate the coordinates for the Sri Lankan SAR Region in collaboration with such area as defined by the International Maritime Organization.

(2) Determine the establishment of the JSRCC and JSRSC to facilitate the execution of SAR Mission

(3) The designation of SAR Regions for Sri Lanka shall not preclude SAR missions being performed in a foreign SAR Region upon a request to that effect made to and approved by the Council and the Minister

(a) either on voluntary basis

(b) through mutual agreement or

Joint Search  
and  
Rescue  
Coordinator

(c) for an agreed fee.

Provision  
for SAR  
Mission

7. The Joint Search and Rescue Coordinator shall

Foreign  
Search and  
Rescue  
Services

- (1) be responsible for promoting efficient organization of land, maritime and aeronautical search and rescue missions within the Sri Lankan search and rescue region;
- (2) Direct and monitor SAR from the JSRCC;
- (3) Systematically Plan and guide the transit of SAR facilities to the SAR site;
- (4) Where the engagement and/or employment of available SAR is inadequate, in consultation with the relevant public entities request for external person assistance and/or external SAR services and facilities to combat the situation;
- (5) Attend to any Regional and/or Neighbour State SAR requests upon the approval by the Council and the Minister

Functions and  
Powers of  
Joint Search  
and Rescue  
Coordinator

### **PART III SEARCH AND RESCUE PROVISIONS**

8. Any person who is aware or has reason to believe that human life or a craft is in distress shall report such event to the JSRCC, JSRSC, Disaster Management Centre, the nearest Police Station or Grama Niladhari of the area.
9. Sri Lanka will perform SAR missions to any human beings and crafts in distress whether in Land, Sea or Air regardless of the legality for any such presence.
10. The Government of Sri Lanka shall afford all such assistance to, and may, through the Minister, request all such assistance from any foreign SAR services having first consulted the Chairman, Council and Secretary to the Ministry of External Affairs.

Report  
SAR  
Event

- (1) Minister may conclude Agreements with relevant foreign authorities for the execution of SAR missions.

- (2) It shall be the duty of the JSRC to honour such Agreement/s and render assistance accordingly.
  - (3) All internal SAR authorities shall collaborate and cooperate in rendering their services upon such request by the JSRC
11. The Minister may, for the purposes of the success of any SAR mission request the services of any public entity or private body in Sri Lanka.
12. The SAR mission shall continue until
- (1) the successful completion of the mission;
  - (2) all rescued persons have been settled in a place of safety;
  - (3) adequate basic medical care is rendered to rescued and/or distressed persons;
  - (4) the JSRC is of the view that all reasonable avenues have been exhausted in locating the survivors and/or victims of the incident;
  - (5) The JSRC with the consultation of the Council shall decide to discontinue a SAR mission.
13. (1) No payment shall accrue for the execution of any SAR services and facilities by the public sector entities. Each individual public sector entity shall bear all such expenditure incurred in the execution of SAR;
- (2) Search and Rescue Services and Facilities obtained from persons other than the public sector entities may be for a predetermined fee by the Secretary to MoDM in consultation with the Chairman of the Council;
  - (3) Any loss and/or damage to the Search and Rescue Services and Facilities obtained from persons other than from public sector entities shall be covered by insurance as the case may be.

National Search and Rescue Advisory Council

Request for Additional Assistance

Duration of SAR Mission

Compensation and Payment

**PART IV**

**NATIONAL SEARCH AND RESCUE ADVISORY COUNCIL**

14. The National Search and Rescue Council shall function directly under the National Council for Disaster Management. The Minister shall establish the National Search and Rescue Advisory Council for the purposes of-

- (1) Streamlining National Legislation for implementation and effective administration of SAR;
  - (2) Establishment of a National SAR Plan consolidating the existing SAR plans of the Civil Aviation Authority, Disaster Management Centre and Sri Lanka Navy to cover air, land and sea incorporating the IAMSAR Manual;
  - (3) Review and establish Facilities and Services including any additional alerting posts and coast watching units for the successful and effective operation of SAR missions;
  - (4) Lead the strategic planning for disaster preparedness, response, risk mitigation and risk reduction in search and rescue operations.
  - (5) Recruit competent and adequate man power either on a permanent or temporary basis to perform SAR;
  - (6) Assign or employ on secondment either on a permanent or temporary basis, competent persons from any public sector entity to perform SAR;
  - (7) Promote capacity building, among persons living in areas vulnerable to disaster, in relation to search and rescue management and mitigation practices ;
  - (8) Explore the possibility of establishing of a Reporting System to be on par with GMDSS as an alternative to the existing Mutual Assistance Vessel Rescue System [AMVER];
  - (9) Decide on enforcement mechanisms of SAR operations;
  - (10) Periodically evaluate and review of SAR operations in Sri Lanka;
  - (11) Create and enhance Public Awareness through the existing disaster management units based on local police boundary limits and organize training sessions to assist people to understand the SAR;
  - (12) Ensure that adequate publicity is given to the National Search and Rescue Management Plan and the Emergency Search and Rescue Operation Plan.
15. (1) The President shall appoint the Secretary to the Ministry of Defence as the Chairman of the Council.
- (2) The Minister shall appoint the other Members to the Council in consultation with the President and the National Council for Disaster

Chairman  
and  
Members  
of the  
Council

Management. The Council shall consist of the following *ex officio* members.

- (3) The Secretary to the MoDM shall be the Secretary to the Council.
- (4) The Council shall include the senior management officials or their representatives from the following Ministries and Armed Forces.
  - (a) Finance
  - (b) External Affairs
  - (c) Public Establishment
  - (d) Fisheries
  - (e) Environment and Natural Resources
  - (f) The Commander of the Navy
  - (g) The Commander of the Air Force
  - (h) The Commander of the Civil Defence Force
  - (i) The Commander of the Air Force
  - (j) The Director General of Coast Guard
  - (k) The Inspector General of Police
- (5) All duties, powers, functions and sessions of the Council shall be as stipulated in Schedule I of this Act.

SAR officer  
deemed to be  
peace officer

No  
prosecution  
shall lie for  
action taken  
under this  
Act

## **PART V OFFENCES**

16. Every officer entrusted with the execution of the functions under this Act shall deemed to be a 'peace officer' for the purposes of the Code of Criminal Procedure Act No 15 of 1979.
17. No suit or prosecution shall lie against
  - (1) The JSRCC or MoDM, Civil Aviation Authority, Sri Lanka Army, Sri Lanka Air Force, Sri Lanka Navy, Civil Defence Force, Sri Lanka Police, Department of Coast Guard or any other public entity for any act, which, in good faith is performed or deemed to have been performed under this Act;
  - (2) The JSRC, any officer, employee or agent of the JSRCC for any act which in good faith is performed or deemed to have been performed under this Act or on the direction of the Council;
  - (3) For the recovery of any expenses incurred by persons in the execution of SAR;

- |   |  |
|---|--|
| <p>(4) For any loss or damage caused in any SAR services and/or facilities in the execution of the SAR;</p> <p>(5) For the total or partial failure of any SAR.</p>   | <p>Legal Liability</p>                                 |
| <p>18. (1) Where it is apparent to the JSRC or his officers, or where such officer reasonably believes that a person or a craft where SAR assistance is given to, has violated any fiscal, customs, immigration, fisheries or any other national laws of Sri Lanka valid for the time being, in the terrestrial, air space, maritime zones [historical, territorial, contiguous or EEZ] such persons and crafts may be handed over to the relevant law enforcement authorities for further legal action.</p> <p>(2) Where no legal action is instituted in terms of Section 18(1), Section 24 shall apply and all such foreign persons shall accordingly be deported at the cost of the origin State of point of departure or be borne by the persons so rescued.</p> | <p>Disciplinary Action</p> <p>Delegation of Powers</p> |
| <p>19. (1) Any person who contravenes and/or fails to comply with the obligations under Section 8 of this Act commits an offence and shall be liable on conviction to a fine not less than fifty thousand (50,000) Sri Lankan Rupees or imprisonment for a term not less than six (06) months or to both.</p> <p>(2) A person is deemed to have committed an offence under this Act if he intentionally aids, abets, counsels, procures, conspires or engages in any other similar act which leads to the creation of SAR.</p>  | <p>Consequences for engage in illegal activity</p>     |
| <p>20. The JSRC shall report the misconduct of any SAR officer to his employer for any violation of the obligations under this Act and such officer shall be disciplined by his employer according to the disciplinary procedure relevant to such employee.</p>   |  |
| <p>21. (1) It shall be lawful for the Minister to delegate in writing, any powers or functions assigned to or conferred on him under this Act except those stipulated in Sections 6, 14 and 15, to any member of the Council, JSRC or other designated officer of the SRCC or to any other person appointed for specific purposes under this Act.</p> <p>(2) Any such delegation shall be in force for the tenure mentioned therein or until expressly revoked by the Minister.</p>   |  |

**PART VI  
FINANCIAL PROVISIONS**

22. There shall be established a fund known as the Search and Rescue Fund.

- (1) The Fund shall operate under the MoDM;
- (2) The Minister may, with the consultation of the Council accept donations from domestic SAR related services for the Fund;
- (3) The Minister may source any funds from non-governmental organizations or any foreign donor agency provided the Council approves receiving of such funds;
- (4) Any material contributions, donations and grants from SAR persons to the Fund may be accepted by the Minister;
- (5) Any other source of finances a may be approved by the Minister;
- (6) The Fund shall maintain its own separate accounting system within the MoDM;
- (7) The Fund shall annually be subjected to the audit conducted by the Auditor General of Sri Lanka

Regulations

Powers to Repatriate or Extradite

**PART VII  
MISCELLANEOUS PROVISIONS**

23. The Minister may, on the recommendation of the Council make regulations for the purpose of carrying out and giving effect to the objectives and provisions of this Act. Every such regulation shall be published in the Gazette and shall enter into force as stipulated therein.

Act to supersede other legislation

24. Where there is no provision available either to repatriate or to extradite, it shall be lawful for the Minister to enter into agreements for repatriation of rescued persons. In the case of extradition, by order published in the Gazette, and, for the purposes of the Extradition Law No 08 of 1977, provide for the extradition of such rescued persons under this Act to their country of origin in terms of Section 18(2) of this Act.

Search and Rescue Fund  
not to affect any rights under international Law

25. Notwithstanding the existence of any search and rescue provisions for land, sea or air contained in any other written law, the provisions of this Act shall prevail.

26. (1)The designation of the Search and Rescue Region for Sri Lanka under this Act shall not affect the maritime boundaries of Sri Lanka stipulated



under the Constitution, Maritime Zones Law Act No 22 of 1976 or in any other domestic legislation.

Tacit  
Amendment  
Procedure

(2) The delimitation of search and rescue regions is not related to and shall not prejudice the delimitation of any boundary between States.

(3) The search and rescue boundaries of Sri Lanka shall not prejudice any other rights and powers stipulated either under the United Nations Convention on the Law of the Sea or under international law or the rights conferred by any international convention.

English Text  
to prevail

27. Any subsequent amendments to the Convention by the International Maritime Organization after the commencement of this Act, upon such being endorsed by the Council and published in the Gazette by the Minister shall form part hereof and the relevant provisions shall be construed accordingly.

Tenure of  
office

28. In the context of any inconsistency among the Sinhala, Tamil and English texts of this Act, the English text shall prevail.

Removal  
Of  
Members

### **SCHEDULE I**

Made pursuant to Section 14

#### **NATIONAL SEARCH AND RESCUE ADVISORY COUNCIL**

1. Members of the Council for Search and Rescue shall hold office for three (03) years unless otherwise terminated.
2. The Minister shall have the power to terminate any member due to misconduct, non attendance for three (03) consecutive meetings without any lawful excuse.
3. In the case of the termination of Chairman, as the case may be, the Minister shall first consult the President.
4. The Council shall meet as often as may be necessary, but not less than once in every three months after consultation with the Secretary. In the event of any distress situation, it shall be lawful to convene an emergency meeting as directed by the Chairman.
5. An ordinary meeting of the Council shall be convened by the Chairman having first dispatched the notice specifying the place, date, time and agenda to the usual place of business in writing. It shall be lawful if such notice is forwarded through facsimile, email or informed via telephone depending on the nature of distress situation.

Council  
Meetings

- |   |  |                                |
|---|--|--------------------------------|
| <p>6. Without prejudice to paragraph I of Schedule II, the Chairman of the Council may invite any person or representative of interest groups who in his opinion is likely to render assistance in the deliberation of the National Advisory Council for Search and Rescue.</p>   |  | Quorum                         |
| <p>7. The quorum of the Council shall be eight (08) members. However, the participation of officers indicated in sub sections 15(4)(a), 15(4)(f), 15(4)(h), 15(4)(j) and 15(4)(k) shall be mandatory for any Council meeting.</p>   |  | Sub Committees                 |
| <p>8. The Council may establish sub committees either on a permanent basis or ad hoc basis for the smooth discharge of its functions.</p>   |  |                                |
| <p>9. The Council or any sub committee as established in terms of this Schedule shall have the power to co-opt any person to the Council or such sub committee in general for a specific purpose of business and such co opted person shall enjoy all the powers and rights of a member except the right to vote on any matter before the Council or such sub committee.</p>  |  | Conflict of Interest of Member |
| <p>10. A member who has any direct or indirect personal interest in any matter discussed before the Council or any sub committee shall, as soon as practically possible, disclose the nature of that interest to the Chairman or the Secretary. Such member shall not be entitled to participate in any decision making process of that particular issue except with the express majority consent of the members present at such meeting.</p> |  | Strategic Plan                 |
| <p>11. The Council shall prepare a strategic plan initially for a period of three years and thereafter for every five years from the date Council started its functions.</p>  |  | Annual Report                  |
| <p>12. It shall be the duty of the Council to compile and publish an Annual Report reviewing and setting out the work of JSARCC and its progress plan for the coming year.</p>  |  | Records to be maintained       |
| <p>13. Subject to the provisions stipulated in the Act and this schedule, the Council shall maintain the proceedings of its meetings.</p>   |  |                                |
| <p>14. The Council shall record and maintain minutes of all its meetings and search and rescue operations executed. The minutes of each meeting shall be confirmed or amended and confirmed as the case may be at the immediate successive meeting and shall be signed by the Chairman or his nominee in the absence of the Chairman.</p>   |  |                                |

## **SCHEDULE II**

International Convention on Maritime Search and Rescue 1979

### **THE PARTIES TO THE CONVENTION**

NOTING the great importance attached in several conventions to the rendering of assistance to persons in distress at sea and to the establishment by every coastal state of adequate and effective arrangements for coast watching and for search and rescue services

HAVING CONSIDERED RECOMMENDATION 40 ADOPTED BY THE International conference on safety of Life at Sea, 1960, which recognizes the desirability of co-ordinating activities regarding safety on and over the sea among a number of inter-governmental organizations,

DESIRING to develop and promote these activities by establishing an international maritime search and rescue plan responsible to the needs of maritime traffic for the rescue of persons in distress at sea,

WISHING to promote co-operation among search and rescue organizations around the world and among those participating in search and rescue operations at sea ,

HAVE AGREED as follows:

#### **Article I**

##### *General Obligations under the Convention*

The Parties undertake to adopt all legislative and appropriate measures necessary to give full effect to the Convention and its annex, which is an integral part of the Convention . unless expressly provided otherwise, a reference to the Convention constitute at the same time a reference to its annex.

#### **Article II**

##### *Other treaties and interpretation*

- (1) Nothing in the convention shall prejudice the codification and development of the law of the sea by United Nations Conference on the Law of the Sea convened pursuant to resolution 2750(XXV) OF THE General Assembly of the United Nations nor the present or future claims and legal views of any State concerning the law of the sea and the nature and extent of coastal and flag State jurisdiction.
  
- (2) No provision of the Convention shall be construed as prejudicing obligations or rights of vessels provided for in other international instruments.

#### **Article III**

##### *Amendments*

- (1) The Convention may be amended by either of the procedures specified in paragraphs (2) and (3) hereinafter.
  
- (2) Amendment after consideration within the Inter-Governmental Maritime Consultative Organization (hereinafter referred to as the "Organization"):

- (a) Any amendment proposed by a Party and transmitted to the Secretary- General of the Organization(hereinafter referred to as the Secretary-General), or any amendment deemed necessary by “the Secretary-General” as a result of an amendment to a corresponding provision of annex 12 to the Convention on International Civil Aviation, shall be circulated to all Members of the Organization and all Parties at least six months prior to its consideration by the Maritime Safety Committee of the Organization.
- (b) Parties, whether or not Members of the Organization, shall be entitled to participate in the proceedings of the Maritime Safety Committee for the consideration and adoption of amendments.
- (c) Amendments shall be adopted by a two-thirds majority of the Parties present and voting in the Maritime Safety Committee on condition that at least one third of the Parties shall be present at the time of adoption of the amendment.
- (d) Amendments adopted in accordance with subparagraph (c) shall be communicated by the Secretary-General to all parties for acceptance.
- (e) An amendment to an article or to paragraphs 2.1.4, 2.1.5, 2.1.7, 2.1.10, 3.1.2 or 3.1.3 of the annex shall be deemed to have been accepted on the date on which the Secretary –General has received an instrument of acceptance from two thirds of the Parties.
- (f) An amendment to the annex other than to paragraphs 2.1.4, 2.1.5, 2.1.7, 2.1.10, 3.1.2 or 3.1.3 shall be deemed to have been accepted at the end of one year from the date on which it is communicated to the Parties for acceptance. However, if within such period of one year more than one third of the Parties notify the Secretary-General that they object to the amendment, it shall be deemed not to have been accepted.
- (g) An amendment to an article or to paragraphs 2.1.4, 2.1.5, 2.1.7, 2.1.10, 3.1.2 or 3.1.3 of the annex shall enter into force:
  - (i) with respect to those Parties which have accepted it, six months after the date on which it is deemed to have been accepted;
  - (ii) with respect to those Parties which accept it after the condition mentioned in subparagraph (e) has been met and before the amendment enters into force, on the date of entry into force of the amendment;

(iii) with respect to those Parties which accept it after the date on which the amendment enters into force, 30 days after the deposit of an instrument of acceptance.

(h) An amendment to the annex other than to paragraphs 2.1.4, 2.1.5, 2.1.7, 2.1.10, 3.1.2 or 3.1.3 shall enter into force with respect to all Parties, except those which have objected to the amendment under subparagraph (f) and which have not withdrawn such objections, six months after the date on which it is deemed to have been accepted. However, before the date set for entry into force, any Party may give notice to the Secretary-General that it exempts itself from giving effect to that amendment for a period not longer than one year from the date of its entry into force, or for such longer period as may be determined by two-thirds majority of the Parties present and voting in the Maritime Safety Committee at the time of the adoption of the amendment.

(3) Amendment by a conference:

- (a) Upon the request of a Party concurred in by at least one third of the Parties, the Organization shall convene a conference of Parties to consider amendments to the Convention. Proposed amendments shall be circulated by the Secretary-General to all Parties at least six months prior to their consideration by the conference.
- (b) Amendments shall be adopted by such a conference by a two-thirds majority of the parties present and voting, on condition that at least one third of the Parties shall be present at the time of adoption of the amendment. Amendments so adopted shall be communicated by the Secretary-General to all parties for acceptance.
- (c) Unless the conference decides otherwise, the amendment shall be deemed to have been accepted and shall enter into force in accordance with the procedures specified in subparagraphs (2)(e), (2)(f), (2)(g) and (2)(h) respectively, provided that reference in subparagraph (2)(h) to the maritime Safety Committee expanded in accordance with subparagraph (2)(b) shall be taken to mean reference to the conference.

- (4) Any declaration of acceptance of, or objection to, an amendment or any notice given under subparagraph (2)(h) shall be submitted in writing to the Secretary-General who shall inform all Parties of any such submission and the date of its receipt.
- (5) The Secretary-General shall inform States of any amendments which enter into force, together with the date on which each such amendment enters into force.

#### **Article IV**

##### *Signature, ratification, acceptance, approval and accession*

- (1) The Convention shall remain open for signature at the Headquarters of the Organization from 1 November 1979 until 31 October 1980 and shall thereafter remain open for accession. States may become Parties to the Convention by:
  - (a) signature without reservation as to ratification, acceptance or approval; or
  - (b) signature subject to ratification, acceptance or approval, followed by ratification, acceptance or approval; or
  - (c) accession.
- (2) Ratification, acceptance, approval or accession shall be effected by the deposit of an instrument to that effect with the Secretary-General.
- (3) The Secretary-General shall inform States of any signature or of the deposit of any instrument of ratification, acceptance, approval or accession and the date of its deposit.

#### **Article V**

##### *Entry into force*

- (1) The Convention shall enter into force 12 months after the date on which 15 States have become Parties to it in accordance with Article IV.
- (2) Entry into force for States which ratify, accept, approve or accede to the Convention in accordance with Article IV after the condition prescribed in paragraph (1) has been met and before the Convention enters into force, shall be on the date of entry into force of the Convention.
- (3) Entry into force for States which ratify, accept, approve or accede to the Convention after the date on which the Convention enters into force shall be 30 days after the date of deposit of an instrument in accordance with Article IV.

- (4) Any instrument of ratification, acceptance, approval or accession deposited after the date of entry into force of an amendment to the Convention in accordance with Article III shall apply to the Convention, as amended, and the Convention, as amended, shall enter into force for a State depositing such an instrument 30 days after the date of its deposit.
- (5) The Secretary-General shall inform States of the date of entry into force of the Convention.

#### **Article VI**

##### *Denunciation*

- (1) The Convention may be denounced by any Party at any time after the expiry of five years from the date on which the Convention enters into force for that Party.
- (2) Denunciation shall be effected by the deposit of an instrument of denunciation with the Secretary-General who shall notify States of any instrument of denunciation received and of the date of its receipt as well as the date on which such denunciation takes effect.
- (3) A denunciation shall take effect one year, or such longer period as may be specified in the instrument of denunciation, after its receipt by the Secretary-General.

#### **Article VII**

##### *Deposit and registration*

- (1) The Convention shall be deposited with the Secretary-General who shall transmit certified true copies thereof to States.
- (2) As soon as the Convention enters into force, the Secretary-General shall transmit the text thereof to the Secretary-General of the United Nations for registration and publication, in accordance with Article 102 of the Charter of the United Nations.

#### **Article VIII**

##### *Languages*

The Convention is established in a single copy in the Chinese, English, French, Russian and Spanish languages, each text being equally authentic. Official translations in the Arabic, German and Italian languages shall be prepared and deposited with the signed original.

DONE at Hamburg this twenty-seventh day of April one thousand nine hundred and seventy-nine.

IN WITNESS WHEREOF the undersigned, being duly authorized by their respective Governments for that purpose, have signed the Convention.

## **ANNEX**

### **Chapter I.**

#### **TERMS AND DEFINITIONS**

- 1.1 "Shall" is used in the Annex to indicate a provision, the uniform application of which by all Parties is required in the interest of safety of life at sea.
- 1.2 "Should" is used in the Annex to indicate a provision, the uniform application of which by all Parties is recommended in the interest of safety of life at sea.
- 1.3 The terms listed below are used in the Annex with the following meanings:
  - .1 *Search*. An operation, normally co-ordinated by a rescue co-ordination centre or rescue sub centre, using available personnel and facilities to locate persons in distress;

- .2 *Rescue*. An operation to retrieve persons in distress, provide for their initial medical or other needs, and deliver them to a place of safety;
- .3 *Search and Rescue Service*. The performance of distress monitoring, communication, co-ordination and search and rescue functions, including provision of medical advice, initial medical assistance or medical evacuation, through the use of public and private resources including co-operating aircraft, vessels and other craft and installation;
- .4 *Search and rescue region*. An area of defined dimensions associated with a rescue co-ordination centre within which search and rescue services are provided;
- .5 *Rescue co-ordination centre*. A unit responsible for promoting efficient organization of search and rescue services and for co-ordinating the conduct of search and rescue operations within a search and rescue region;
- .6 *Rescue sub-centre*. A unit subordinate to a rescue co-ordination centre established to complement the latter according to particular provisions of the responsible authorities;
- .7 *Search and rescue facility*. Any mobile resource, including any search and rescue units, used to conduct search and rescue operations;
- .8 *Search and rescue unit*. A unit composed of trained personnel and provided with equipment suitable for the expeditious conduct of search and rescue operations;
- .9 *Alerting post*. Any facility intended to serve as an intermediary between a person reporting an emergency and a rescue co-ordination centre or rescue sub centre;
- .10 *Emergency phase*. A generic term meaning, as the case may be, uncertainty phase, alert phase or distress phase.
- .11 *Uncertainty phase*. A situation wherein uncertainty exists as to the safety of a person, a vessel or other craft;
- .12 *Alert phase*. A situation wherein apprehension exists as to the safety of a person, a vessel or other craft;
- .13 *Distress phase*. A situation wherein there is a reasonable certainty that a person, a vessel or other craft is threatened by grave and imminent danger and requires immediate assistance.
- .14 *On-scene co-ordinator*. A person designated to co-ordinate search and rescue operations within a specified search area
  
- .15 *Secretary-General*. The Secretary General of the International Maritime Organization

## **Chapter 2.**

### Organization and co-ordination

#### **2.1 Arrangements for provision and co-ordination of search and rescue services**

- 2.1.1 Parties shall, as they are able to do so individually or in co-operation with other States and, as appropriate, with the Organization, participate in the development of search and rescue services to ensure that assistance is



rendered to any person in distress at sea. On receiving information that any person is, or appears to be, in distress at sea, the responsible authorities of a Party shall take urgent steps to ensure that the necessary assistance is provided. The notion of a person in distress at sea also includes persons in need of assistance who have found refuge on a coast in a remote location within an ocean area inaccessible to any rescue facility other than as provided for in the annex.

2.1.2 Parties shall, either individually or, if appropriate, in co-operation with other States, establish the following basic elements of a search and rescue service:

- .1 legal framework;
- .2 assignment of a responsible authority;
- .3 organization of available resources;
- .4 communication facilities;
- .5 co-ordination and operational functions; and
- .6 processes to improve service, including planning, domestic and international co-operative relationships and training.

Parties shall, as far as practicable, follow relevant minimum standards and guide lines developed by the Organization.

2.1.3 To help ensure the provision of adequate shore based communication infrastructure, efficient distress alert routeing, and proper operational coordination to effectively support search and rescue services, Parties shall, individually or in cooperation with other States, ensure that sufficient search and rescue regions are established within each sea area in accordance with paragraphs 2.1.4 and 2.1.5. such regions should be contiguous and, as far as practical, not overlap.

2.1.4 Each search and rescue region shall be established by agreement among Parties concerned. The Secretary-General shall be notified of such agreements.

2.1.5 In case the agreements on exact dimensions of search and rescue region is not reached by the Parties concerned, those Parties shall use their best endeavors to reach agreement upon appropriate arrangements under which the equivalent overall co-ordination of search and rescue services is provided in the area. The Secretary –General shall be notified of such arrangements.

2.1.6 Agreement of regions or arrangements referred to in paragraph 2.1.4 and 2.1.5 shall be recorded by the Parties concerned, or in written plans accepted by the Parties.

2.1.7 The delimitation of search and rescue regions is not related to and shall not prejudice the delimitation of any boundary between States.

2.1.8 Parties should seek to perform consistency, where applicable, between their maritime and aeronautical search and rescue services while considering the establishment of maritime search and rescue regions which shall be established by agreement in accordance with paragraph 2.1.4 or the reaching of agreement upon appropriate arrangements in accordance with paragraph 2.1.5.

2.1.9 Parties having accepted responsibility to provide search and rescue services for a specified area shall use search and rescue units and other available facilities for providing assistance to a person who is, or appears to be, in distress at sea.

- 2.1.10 Parties shall ensure that assistance be provided to any person in distress at sea. They shall do so regardless of the nationality or status of such a person or the circumstances in which that person is found.
- 2.1.11 Parties shall forward to the Secretary-General information on their search and rescue service, including the:
- .1 national authority responsible for the maritime search and rescue services;
  - .2 location of the establish rescue co-ordination centres or other centres providing search and rescue co-ordination, for the search and rescue region or regions and communications therein;
  - .3 limits of their search and rescue region or regions and the coverage provided by their shore-based distress and safety communication facilities; and
  - .4 principal types of available search and rescue units.

Parties shall, with priority, update the information provided with respect to any alterations of importance. The Secretary-General shall transmit to all Parties the information received.

2.1.12 The Secretary-General shall notify all Parties of the agreements or arrangements referred to in paragraphs 2.1.4 and 2.1.5.

## **2.2 Development of national search and rescue services**

2.2.1 Parties shall establish appropriate national procedures for overall development, co-ordination and improvement of search and rescue services.

2.2.2 To support efficient search and rescue operations, Parties shall:

- .1 ensure the co-ordinated use of available facilities; and
- .2 establish close co-operation between services and organizations which may contribute to improve the search and rescue in areas such as operations, planning, training, exercises and research and development.

## **2.3 Establishment of rescue co-ordination centres and rescue sub-centres**

2.3.1 To meet the requirements of paragraph 2.2, Parties shall individually or in co-operation with other States establish rescue co-ordination centres for their search and rescue services and such rescue sub-centres as they consider appropriate.

2.3.2 Each rescue co-ordination centre and rescue sub-centre, established in accordance with paragraph 2.3.1, shall arrange for the receipt of distress alerts origination from within its search and rescue region. Every such centre shall also arrange for communications with persons in distree, with search and rescue facilities, and with other rescue co-ordination centres or rescue sub-centres.

2.3.3 Each rescue co-ordination centre shall be operational on a 24-hour basis and be constantly staffed by trained personnel having a working knowledge of the English language.

## **2.4 Co-ordination with aeronautical services**

2.4.1 Parties shall ensure the closest practicable coordination between maritime and aeronautical services so as to provide for the most effective and efficient search and rescue services in and over their search and rescue regions.

- 2.4.2 Whenever practicable, each Party should establish joint rescue co-ordination centres and rescue sub-centres to serve both maritime and aeronautical purposes.
- 2.4.3 Whenever separate maritime and aeronautical rescue co-ordination centres or rescue sub centres are established to serve the same area, the Party concerned shall ensure the closest practicable co-ordination between the centres or sub-centres.
- 2.4.4 Parties shall ensure as far as possible the use of common procedures by search and rescue units established for maritime purposes and those established for aeronautical purposes.

### **2.5 Designation of search and rescue facilities**

Parties shall identify all facilities able to participate in search and rescue operations, and may designate suitable facilities as search and rescue units.

### **2.6 Equipment of search and rescue units**

- 2.6.1 Each search and rescue unit shall be provided with equipment appropriate to its task.
- 2.6.2 Containers and packages containing survival equipment for dropping to survivors should have the general nature of their contents indicated by markings in accordance with standards adopted by the Organization.

## **Chapter 3.**

### Co-operation between States

#### **3.1 Co-operation between States**

- 3.1.1 Parties shall co-ordinate their search and rescue organizations and should, whenever necessary, co-ordinate search and rescue operations with those of neighbouring States.
- 3.1.2 Unless otherwise agreed between the States concerned, a Party should authorize, subject to applicable national laws, rules and regulations, immediate entry into or over its territorial sea or territory of rescue units of other Parties solely for the purpose of searching for the position of maritime casualties and rescuing the survivors of such casualties. In such cases, search and rescue operations shall, as far as practicable, be co-ordinated by the appropriate rescue co-ordination centre of the Party which has authorized entry, or such other authority as has been designated by that Party.
- 3.1.3 Unless otherwise agreed between the States concerned, the authorities of a Party which wishes its rescue units to enter into or over the territorial sea or territory of another Party solely for the purpose of searching for the position of maritime casualties and rescuing the survivors of such casualties, shall transmit a request, giving full details of the projected mission and the need for it, to the rescue co-ordination centre of that other Party, or to such other authority as has been designated by that Party.
- 3.1.4 The competent authorities of Parties shall:
- .1 Immediately acknowledge the receipt of such a request; and
  - .2 As soon as possible indicate the conditions, if any, under which the projected mission may be undertaken.
- 3.1.5 Parties should enter into agreements with neighbouring States setting forth the conditions for entry of each other's rescue units into or over their respective territorial sea or territory. These agreements should also

provide for expediting entry of such units with the least possible formalities.

- 3.1.6 Each Party should authorize its rescue co-ordination centres:
- .1 To request from other rescue co-ordination centres such assistance, including vessels, aircraft, personnel or equipment, as may be needed;
  - .2 To grant any necessary permission for the entry of such vessels, aircraft, personnel or equipment into or over its territorial sea or territory; and
  - .3 To make the necessary arrangements with the appropriate customs, immigration or other authorities with a view to expediting such entry.
  - .4 To make necessary arrangements in co-operation with other RCCs to identify the most appropriate place(s) for disembarking persons found in distress at sea.
- 3.1.7 Each Party should authorize its rescue co-ordination centres to provide, when requested, assistance to other rescue co-ordination centres, including assistance in the form of vessels, aircraft, personnel or equipment.
- 3.1.8 Parties should enter into agreements with other States, where appropriate, to strengthen search and rescue co-operation and co-ordination. Parties shall authorize their responsible authority to make operational plans and arrangements for search and rescue co-operation and co-ordination with responsible authorities of other States.
- 3.1.9 Parties shall co-ordinate and co-operate to ensure that the masters of ships providing assistance by embarking persons in distress at sea are released from their obligations with minimum further deviation from the ships' intended voyage, provided that the releasing of the master of the ship from these obligations does not further endanger the safety of life at sea. The Party responsible for the search and rescue region in which such assistance is rendered shall exercise primary responsibility for ensuring such co-ordination and co-operation occurs, so that survivors assisted are disembarked from the assisting ship and delivered to a place of safety, taking into account the particular circumstances of the case and guide lines developed by the Organization.\*<sup>65</sup> in these cases, the relevant Parties shall arrange for such disembarkation to be effected as soon as reasonably practicable.

## **Chapter 4**

### Operating Procedures

#### **4.1 Preparatory Measures**

- 4.1.1 Each rescue co-ordination centre and rescue sub-centre shall have available up-to-date information especially concerning search and rescue facilities and available communications relevant to search and rescue operations in its area.
- 4.1.2 Each rescue co-ordination centre and rescue sub-centre should have ready access to information regarding the position, course and speed of vessels within its area which may be able to provide assistance to persons, vessels or other craft in distress at sea, and regarding how to contact them. This information should either be kept in the rescue co-ordination centre or be readily obtainable when necessary.

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\* Resolution MSC167(78) –Guidelines on the treatment of persons rescued at sea (adopted on 20 may 2014)

4.1.3 Each rescue co-ordination centre and rescue sub-centre shall have detailed plans of operations for the conduct of search and rescue operations. Where appropriate, these plans shall be developed jointly with the representatives of those who may assist in providing, or who may benefit from, the search and rescue services.

4.1.4 Rescue co-ordination centres or sub-centres shall be kept informed of the state of preparedness of search and rescue units.

#### **4.2 Information concerning emergencies**

4.2.1 Parties, either individually or in co-operation with other States, shall ensure that they are capable on a 24-hour basis of promptly and reliably receiving distress alerts from equipment used for this purpose within their search and rescue regions. Any alerting post receiving a distress alert shall:

- .1 immediately relay the alert to the appropriate rescue co-ordination centre or sub-centre, and then assist with search and rescue communications as appropriate; and
- .2 if practicable, acknowledge the alert.

4.2.2 Parties shall, where appropriate, ensure that effective arrangements are in place for the registration of communication equipment and for responding to emergencies, to enable any rescue co-ordination centre or sub-centre to access pertinent registration information quickly.

4.2.3 Any authority or element of search and rescue service having reason to believe that a person, a vessel or other craft is in a state of emergency shall forward as soon as possible all available information to the rescue co-ordination centre or rescue sub-centre concerned.

4.2.4 rescue co-ordination centres and rescue sub-centres shall, immediately upon receipt of information concerning a person, a vessel or other craft is in a state of emergency, evaluate such information and determine the phase of emergency in accordance with paragraph 4.4, and the extent of operations required.

#### **4.3 Initial action**

Any search and rescue unit receiving information of a distress incident shall initially take immediate action if in the position to assist and shall, in any case without delay, notify the rescue co-ordination centre or rescue sub-centre in whose area the incident has occurred.

#### **4.4 Emergency phases**

To assist in determining appropriate operating procedures, the following emergency phases shall be distinguished by the rescue co-ordination centre or sub-centre concerned:

##### *.1 Uncertainty phase:*

- .1.1 when a person has been reported as missing, or a vessel or other craft is over due; or
- .1.2 when a person, a vessel or other craft has failed to make an expected position or safety report.

##### *.2 Alert phase*

- .2.1 when, following the uncertainty phase, attempts to establish contact with a person, a vessel or other craft have failed and enquiries addressed to other appropriate sources have been unsuccessful; or
- .2.2 when information has been received indicating that the operation efficiency of a vessel or other craft is impaired, but not to the extent that a distress situation is likely.

.3 *Distress phase*

- .3.1 when positive information is received that a person, a vessel or other craft is in danger and in need of immediate assistance; or
- .3.2 when, following the alert phase, further unsuccessful attempts to establish contact with a person, a vessel or other craft and more widespread unsuccessful enquiries point to the probability that a distress situation exists; or
- .3.3 when information is received which indicates that the operating efficiency of a vessel or other craft has been impaired to the extent that a distress situation is likely.

**4.5 Procedures to be followed by rescue co-ordination centres and rescue sub-centres during emergency phases**

- 4.5.1 Upon the declaration of the uncertainty phase, the rescue co-ordination centre or rescue sub-centre, as appropriate, shall initiate enquiries to determine the safety of a person, a vessel or other craft, or shall declare the alert phase.
- 4.5.2 Upon the declaration of the alert phase, the rescue co-ordination centre or rescue sub-centre, as appropriate, shall extend the enquiries for the missing person, vessel or other craft, alert appropriate search and rescue services and initiate such action as is necessary in the light of the circumstances of the particular case.
- 4.5.3 Upon the declaration of the distress phase, the rescue co-ordination centre or rescue sub-centre, as appropriate, shall proceed as prescribed in its plans of operation, as requested by paragraph 4.1.
- 4.5.4 *Initiation of search and rescue operations when the position of the search object is unknown*

In the event of an emergency phase being declared for a search object whose position is unknown, the following shall apply:

- .1 when an emergency phase exists, a rescue co-ordination centre or rescue sub-centre shall, unless it is aware that other centres are taking action, assume responsibility for initiating suitable action and confer with other centres with the objective of designating one centre to assume responsibility;
  - .2 unless otherwise decided by agreement between the centres concerned, the centre to be designated shall be the centre responsible for the area in which the search object was, according to its last reported position; and
  - .3 after the declaration of the distress phase, the centre co-ordinating the search and rescue operation shall, as appropriate inform other centres of the emergency and of all subsequent developments.
- 4.5.5 *Passing information to persons, vessels or other craft for which an emergency phase has been declared*

Whenever possible, the rescue co-ordination centre or rescue sub-centre responsible for search and rescue operations shall forward to the person, a vessel or other craft for which an emergency phase has been declared, information on the search and rescue operations it has initiated.

**4.6 Co-ordination when two or more Parties are involved**

For search and rescue operations involving more than one party, each Party shall take appropriate action in accordance with the plans of

operation referred to in paragraph 4.1 when so requested by the rescue co-ordination centre of the region.

#### **4.7 On-scene co-ordination of search and rescue activities**

- 4.7.1 The activities of search and rescue units and other facilities engaged in search and rescue operations shall be co-ordinated on-scene to ensure the most effective results.
- 4.7.2 When multiple facilities are about to engage in search and rescue operations, and the rescue co-ordination centre or rescue sub-centre considers it necessary, the most capable person should be designated as on-scene co-ordinator as early as practicable and preferable before the facilities arrive within the specified area of operation. Specific responsibilities shall be assigned to the on-scene co-ordinator, taking into account the apparent capabilities of the on-scene co-ordinator and operational requirements.
- 4.7.3 If there is no responsible rescue co-ordination centre or, for any reason, the responsible rescue co-ordination centre is unable to co-ordinate the search and rescue mission, the facilities involved should designate an on-scene co-ordinator by mutual agreement.

#### **4.8 Termination and suspension of search and rescue operations**

- 4.8.1 Search and rescue operations shall continue, when practicable, until all reasonable hope of rescuing survivors has passed.
- 4.8.2 The responsible rescue co-ordination centre or rescue sub-centre concerned shall normally decide when to discontinue search and rescue operations. If no such centre is involved in co-ordinating the operations, the on-scene co-ordinator may take this decision.
- 4.8.3 When a rescue co-ordination centre or rescue sub-centre considers, on the basis of reliable information, that a search and rescue operation has been successful, or that the emergency no longer exists, it shall terminate the search and rescue operation and promptly so inform any authority, facility or service which has been activated or notified.
- 4.8.4 If a search and rescue operation on-scene becomes impracticable and the rescue co-ordination centre or rescue sub-centre concludes that survivors might still be alive, the centre may temporarily suspend the on scene activities pending further developments, and shall promptly so inform any authority, facility or service which has been activated or notified. Information subsequently received shall be evaluated and search and rescue operations resumed when justified on the basis of such information.
- 4.8.5 The rescue co-ordination centre or rescue sub-centre concerned shall initiate the process of identifying the most appropriate place(s) for disembarking such persons found in distress at sea. It shall inform the ship or ships and other relevant parties concerned thereof.

### **Chapter 5**

#### **Ship reporting systems**

##### **5.1 General**

- 5.1.1 Ship reporting systems may be established either individually by Parties or in co-operation with other States, where this is considered necessary, to facilitate search and rescue operations.
- 5.1.2 Parties contemplating the institution of a ship reporting system should take account of the relevant recommendations of the Organization. Parties

should also consider whether existing reporting systems or other sources of ship position data can provide adequate information for the region, and seek to minimize unnecessary additional reports by ships, or the need for rescue co-ordination centres to check with multiple reporting systems to determine availability of ships to assist with search and rescue operations.

- 5.1.3 The ship reporting system should provide up-to-date information of the movement of vessels in order, in the event of distress incident, to:
- .1 reduce the interval between the loss of contact with a vessel and the initiation of search and rescue operations in cases where no distress signal has been received;
  - .2 permit rapid identification of vessels which may be called upon to provide assistance;
  - .3 permit delineation of a search area of limited size in case the position of a person, a vessel or other craft in distress is unknown or uncertain; and
  - .4 facilitate the provision of urgent medical assistance or advice.

## 5.2 **Operational requirements**

5.2.1 Ship reporting systems should satisfy the following requirements:

- .1 provision of information, including sailing plans and position reports, which would make it possible to determine the current and future positions of participating vessels;
- .2 maintenance of a shipping plot
- .3 receipts of reports at appropriate intervals from participating vessels;
- .4 simplicity in system design and operation; and
- .5 use of internationally agreed standard ship reporting format and procedures.

## 5.3 **Types of reports\***

5.3.1 A ship reporting system should incorporate the following types of ship reports in accordance with the recommendations of the Organization:

- .1 Sailing plan
- .2 Position report; and
- .3 Final report

## 5.4 **Use of systems**

5.4.1 Parties should encourage all vessels to report their position when travelling in areas where arrangements have been made to collect information on positions for search and rescue purposes.

5.4.2 Parties recording information on the position of vessels should disseminate, so far as practicable, such information to other States when so requested for search and rescue purposes.

\* Reference is made to resolution A851(20), General Principles for ship reporting systems and ship reporting requirements, including guidelines for reporting incidents involving dangerous goods, harmful substances and/or marine pollutants.



