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IMO made minor amendment to the SAR Convention in 2004. The new amendment, which entered into force in 2006, made an addition of a new paragraph in Chapter 2 (Organization and coordination) relating to definition of persons in distress, new paragraphs in Chapter 3 (Co-operation between States) relating to assistance to the master in delivering persons rescued at sea to a place of safety and a new paragraph in Chapter 4 (Operating procedures) relating to SAR coordination centers initiating the process of identifying the most appropriate places for disembarking persons found in distress at sea.<sup>13</sup>

## **2. The practice of maritime SAR in China**

China has the earliest practice of SAR in the world according to the information provided by the International Maritime Rescue Federation (IMRF).<sup>14</sup> As a party to most of the aforesaid relevant conventions, China regards maritime SAR as an important international obligation. China Rescue and Salvage (CRS), a professional maritime SAR institution under the Ministry of Transport, came into existence in 1951, two years after the

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<sup>12</sup> *Ibid.*

<sup>13</sup> *Ibid.*

<sup>14</sup> [www.ilsf.org](http://www.ilsf.org).

establishment of the new Chinese government. Over the past half century, more than 40,000 victims in distress at sea, which included about 7,000 foreigners, were rescued by CRS. However, there were still some vessels (e.g. “Dashun”), which were not effectively salvaged due to the deficient capability of maritime SAR teams.

China’s maritime SAR system is becoming bigger, faster and stronger in the new millennium, especially after reforms of the CRS and China National Maritime Search and Rescue Coordination Center (MRCC) went through. Currently CRS has 180 rescue and salvage vessels, 11 helicopters and about 8,000 staff members and is more professional and skillful than before. In 2007, another ferry with over 300 passengers onboard caught fire at the place where “Dashun” sunk in 1999. The ferry, passengers and crew were rapidly rescued by the professional SAR teams. In 2008, CRS saved over 3,000 victims in rough seas. In addition to the professional institution’s endeavor, over 16,000 persons in distress, with the assistance of the nearby public or commercial vessels under the coordination of MRCC, were rescued in 2008.<sup>15</sup>

China, along with the improvement of SAR abilities, plays a more important role in international SAR missions in East and Southeast Asia. For example, in May 2006, a total of 330 Vietnamese fishermen, caught in Typhoon “Chanchu”, the strongest typhoon recorded in the South China Sea, have been saved by China’s SAR vessels and helicopters. The rescuers were commended in the 25<sup>th</sup> Annual Conference of IMO.<sup>16</sup>

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<sup>15</sup> www.moc.gov.cn.

<sup>16</sup> www.imo.org.

### **3. The necessity of the legislation on maritime SAR in China**

#### **3.1 To adapt to the emergency response regime in China**

China's government has given more attention to emergency response in the recent years and taken a lot of drastic measures. The office of emergency affairs under the State's Council, which is the nerve center of emergency response all over the country, was established in 2005. The Law on Emergency Response was adopted in 2007.

Maritime SAR, one of the most important features of emergency response, is making a great progress as the whole project develops. The establishment of the reformed professional SAR institution and coordinating center, as stated in section 2 above, plays a key role. China, in line with the SAR Convention, concluded several relevant agreements with neighboring States, such as the Democratic People's Republic of Korea and the Republic of Korea, and other States concerned, such as the United States. Nevertheless, the domestic legislation on maritime SAR is inadequate, contrary to the improvements and developments that are taking place.

#### **3.2 To protect the shipping industry in China**

China is one of 10 council members of Category A in IMO. Members of Category A are countries that have the largest interests in providing international shipping services among the member States in the world. There are more than 1 million vessels sailing off China's coastline every year.<sup>17</sup>The

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<sup>17</sup> *Ibid.*

number is increasing with the development of China's shipping industry. In addition, the boom of offshore exploitation of oil and gas contributes to the increase of maritime operations. The government, now more than ever, is confronted with the great responsibility to promote the safety of persons, vessels and facilities at sea.

Furthermore, the global climate change increased the frequency of natural calamities. The abnormal weather patterns, such as El Niño and La Niña, lead to drastic changes in air pressure and temperature and caused abnormal amounts of storms at sea. Typhoon, which normally appears in South China Sea in summer, occurs nowadays as early as April or May and affects many defenseless seafarers at sea.

The economic booming and atrocious weather results in higher risk of maritime accidents in China. For that reason, China has attached much attention to marine safety and adopted several laws and regulations in recent years. Those legislations, however, focus on the prevention of maritime accidents in advance. The deficiency of legal system, i.e. lack of law on responses to accidents, is demonstrated in practice. In fact, the accidents can not be avoided thoroughly no matter how perfect the standard of prevention is. Therefore, it is necessary to take all appropriate measures to improve the legal regime. The key issue is to adopt a Specific law on maritime SAR.

### **3.3 To implement the SAR Convention in China**

China signed the SAR Convention in 1980 and ratified it in 1985. It is a duty for China to implement the Convention in its jurisdiction. The Constitution of

China has no provision on the means of implementation of international conventions into the domestic law. Generally speaking, there are two kinds of practice in China:

Firstly, a convention is directly incorporated into the domestic law system and it prevails when it is in conflict with domestic law. This is similar to the practice followed in many civil law countries. This practice is mainly applicable for the implementation of conventions relating to civil or commercial field. For example, the Maritime Code of China provides that: "If any international treaty concluded or acceded to by the People's Republic of China contains provisions differing from those contrary to this Code, the provisions of the relevant international treaty shall apply, unless the provisions are those on which the People's Republic of China has made (announced) reservations."

Secondly, a domestic law is enacted or amended for the smooth implementation of an international convention. This practice mainly appears for the implementation of conventions in matters of public law. For example, China enacted the Law on the Territorial Sea and the Contiguous Zone and the Law on the Exclusive Economic Zone and Continental Shelf after it adopted UNCLOS, and amended the Law on Intellectual Property in line with the Agreement on Trade-Related Aspects of Intellectual Property Rights after it became a member of World Trade Organization (WTO).

Thus, China makes a compromise between monism and dualism in the practice of implementation of conventions. In accordance with this analysis, it is necessary to enact regulations on maritime SAR in order to properly

implement the SAR Convention in China, which is a Convention regulating matters falling within the public law field. In addition, some provisions of the Convention are principles which need to be supplemented by domestic instruments. For example, Chapter 2 of the Annex to the Convention provides that “Parties shall, either individually or, if appropriate, in cooperation 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) coordination and operational functions; and (6) processes to improve the service including planning, domestic and international cooperative relationships and training.”

Hence, for the implementation of the Convention, the following issues shall be provided for by the new law, i.e. the Law of People’s Republic of China on Maritime SAR:

Firstly, the organizations of MRCC: According to Chapter 2 of the Annex to the Convention, “Parties shall individually or in cooperation with other States establish rescue coordination centers for their search and rescue services and such rescue sub-centers as they consider appropriate.” Such rescue coordination centers, are usually established on the basis of original departments of State Parties’ governments. Hence, there are significant differences between such centers due to the different political regimes in different countries. For example, National MRCC in China is an inter-department institution under Central Government, while the similar unit in United States, which has the same name, is an organization of U.S.

Coastguard.<sup>18</sup> The Convention shall not interfere with the organizations of governments so that it leaves discretion to domestic law in the specific forms of MRCC.

Moreover, it is common in each country that many departments are relevant to maritime SAR. In China, there are at least 11 departments of Central Government involved in maritime SAR, which include the Ministry of Transport, the Ministry of Agriculture, the Ministry of Health, the Ministry of Industry and Information Technology, the Ministry of Civil Administration, the Ministry of Public Security, the National Weather Forecast Bureau, the National Ocean Bureau, the Navy, the Air forces and the Armed Police. Their rights and responsibilities shall be provided for by the Law to ensure every department to follow coordination orders of National MRCC and to participate in maritime SAR operations.

Secondly, the detailed maritime SAR operation procedures and cooperations between China and neighboring States: The Convention provides for the procedures of maritime SAR operations, which includes preparatory measures, on-scene coordination, termination and suspension of maritime SAR operations, etc. More detailed provisions in domestic law are needed to promote smoothly maritime SAR operations. In addition, the relationship between the procedure in the Convention and original legal system of emergency response shall be taken into account.

The cooperation between State Parties is a key issue in the Convention. It is Central Government's right to cooperate with foreign governments in China.

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<sup>18</sup> [www.uscg.mil](http://www.uscg.mil).

Other institutions like MRCC which are likely to deal with foreign affairs shall be authorized by law in advance. The scope and procedure of cooperation shall be provided for by law.

Thirdly, the legal liabilities of relevant persons and organizations: The Convention does not impose legal liabilities on persons or organizations in SAR operations who are in breach of the obligation of the Convention because it is under the jurisdiction of State Parties. However, it is not a complete legal system without provisions in respect of legal liabilities. Hence, several countries adopted specific laws or regulations in this field to ensure the implementation of the Convention and punish persons who fail to comply with the obligations of the Convention. For example, the laws on SAR in some countries provide that a person who knowingly and willfully communicates a false distress message to MRCC is guilty of criminal offense, subject to a civil penalty and liable for all costs incurred as a result of his/her action.<sup>19</sup>

## **Conclusions**

A rapid-response maritime SAR regime is the last hope of the people in distress. The SAR Convention constitutes the international legal framework for maritime SAR operations. As a State Party to the Convention, China shall adopt a specific law according to the practice of implementation of conventions. It is an important measure to meet the requirement of Chinese government and public about maritime safety as well. A new law on SAR will improve the maritime legal regime in China and make significant contribution to the safety of life at sea.

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<sup>19</sup> *Ibid.*



## **DRAFT LAW**

### **Order of the President**

(No. )

The Law of People's Republic of China on Maritime Search and Rescue, which was adopted on \_\_\_\_\_, 2010 at the \_\_\_\_\_<sup>th</sup> session of the Standing Committee of the 11<sup>th</sup> National People's Congress of the People's Republic of China, is hereby promulgated and shall take effect on \_\_\_\_\_, 2010.

President of the People's Republic of China **Jintao Hu**

, 2010

**The Law of People’s Republic of China on  
Maritime Search and Rescue**

(Adopted at the    <sup>th</sup> session of the Standing Committee of the 11<sup>th</sup> National People’s Congress on    , 2010)

**Chapter I - General Provisions**

**Article 1**

This Law is enacted, in accordance with the International Convention on Maritime Search and Rescue and the Emergency Response Law of the People’s Republic of China, for the purposes of protecting life at sea and provide timely and efficient rescue to persons in distress at sea.

**Article 2**

1. The following maritime search and rescue (hereinafter referred to as “SAR”) operations shall be governed by this Law:

(a) Maritime SAR operations carried out in sea areas under China’s jurisdiction and such areas in which China is responsible for maritime SAR;

(b) Maritime SAR operations organized or participated in by the Chinese government in sea areas beyond those mentioned in subparagraph (a);

(c) Other SAR operations in which Chinese vessels and seafarers in distress are involved.

2. The maritime SAR operations in the preceding paragraph include use of current human resource and equipment to search and fix positions of persons in distress, save such persons, provide preliminary medical care, food, communication or other necessary service to the same, and transfer them to safe places.

### **Article 3**

The State shall establish a maritime SAR management system mainly featuring the uniform leadership, comprehensive coordination, categorized management, graded responsibility and territorial management.

### **Article 4**

1. Any person in distress at sea is entitled to free rescue.

2. Professional maritime SAR institutions as well as SAR volunteer teams shall be relied upon during maritime SAR operations. Self-rescue is encouraged.

## Article 5

1. The National Maritime Search and Rescue Coordinate Centre (hereinafter referred to as “National MRCC”) of the People’s Republic of China shall hereby be established, under the leadership of the State Council. The MRCC shall be in charge of:

(a) The national maritime SAR operations;

(b) The organization and coordination of the important maritime SAR operations over the country.

2. Provincial MRCCs shall be established by coastal provinces, autonomous regions, and municipalities (directly under the Central Government), under the leadership of the Provincial Governments. Such MRCC shall be responsible for the organization and coordination of the maritime SAR operations in their respective SAR areas.

3. Municipal MRCCs shall be established by coastal municipalities under the leadership of the Municipal Governments. Such MRCC shall be responsible for the organization and coordination of the maritime SAR operations in their respective SAR areas.

4. The National MRCC shall provide guidance to the Provincial MRCCs, and when necessary, directly organize and coordinate the maritime SAR operations within the area of responsibility of the latter.

5. The Provincial MRCCs shall provide guidance to their subordinate Municipal MRCCs, and when necessary, directly organize and coordinate the maritime SAR operations within the area of responsibility of the latter.

6. The responsible areas of each Provincial MRCC shall be determined by the National MRCC. The responsible areas of each Municipal MRCC shall be determined by the corresponding Provincial MRCC and such information shall be made available to the National MRCC.

### **Article 6**

1. The National MRCC includes representatives of the Ministries of Transport, Agriculture, Health, Industry and Information Technology, Civil Administration, Public Security under the State Council, National Weather Forecast Bureau, National Ocean Bureau as well as those from the Navy, Air Force and Armed Police.

2. The respective responsibility of each member organ shall be as follows:

(a) The Ministry of Transport shall be in charge of the daily routine of the National MRCC, organize and coordinate the maritime SAR operations participated in by certain public organizations, companies and persons, direct the Maritime Safety Administration to carry out supervision on maritime safety, and manage and supervise the professional maritime SAR institutions over the country.

- (b) The Ministry of Agriculture shall assist the National MRCC in organizing fishing vessels to take part in maritime SAR operations.
  - (c) The Ministry of Health shall together with the National MRCC appoint appropriate medical institutions to provide medical consultation and assistance to injured persons at sea.
  - (d) The National Weather Forecast Bureau and the National Ocean Bureau shall ensure that the National MRCC could obtain timely maritime weather and ocean data.
  - (e) The Ministry of Industry and Information Technology shall give first priority to the need of communication in maritime SAR operations, and provide appropriate frequency for communication in such operations.
  - (f) The Ministry of Civil Administration shall properly accommodate the persons who have been rescued at sea and provide for their basic needs.
  - (g) The Ministry of Public Security, as well as the Navy, the Air forces and the Armed Police shall, when necessary, contributes to maritime SAR operations.
3. The composition and function of Provincial and Municipal MRCCs shall be fixed correspondently.

### **Article 7**

Adjacent provinces, autonomous regions, and municipalities (directly under the Central Government) may establish regional co-operational maritime SAR system when necessary, by which regional maritime SAR operations may be undertaken to enhance the efficiency of rescue of life.

### **Article 8**

The Central Government of the People's Republic of China may conclude bilateral or multilateral agreements for maritime SAR and cooperate with foreign governments and certain international organizations according to International Convention on Maritime Search and Rescue and such bilateral or multilateral agreements.

## **Chapter II - Preparative Measures**

### **Article 9**

1. Maritime SAR emergency response plans shall be established by each level of MRCCs so that maritime SAR operations may be carried out efficiently. The Maritime SAR emergency response plans shall include:

- (a) Command and control system and responsibilities and duties of the staff;
- (b) Division of levels of distress at sea and respective report system of distress of different levels;
- (c) Emergency response and treatment to the distress;
- (d) Follow-up treatment of the emergency response; and
- (f) Supplies for emergency response.

2. The national maritime SAR emergency response plan shall be drafted by the National MRCC and approved by the State Council, while provincial and municipal maritime SAR emergency response plan shall be drafted by the corresponding MRCC and approved by the government of the same level.

## **Article 10**

1. The State Council shall establish national professional maritime SAR institutions which are provided with specialized SAR equipments, so as to ensure that persons in distress may receive timely and efficient rescue. National professional SAR institutions shall be equipped with:

- (a) Stand-by vessels and aircrafts that meet the need of their respective responsible sea areas; and
- (b) Seafarers, pilots, divers and lifeguards who have been specially trained and have mastered the required SAR skills.



2. The provincial and municipal governments may, when necessary, establish local professional maritime SAR institutions.
3. MRCCs of different levels may establish maritime SAR volunteer teams according to actual needs.

### **Article 11**

Governments of all levels may establish consultative committees where experts and technical staff specialized in transportation, fire fighting, medical treatment, environment protection, petrochemical industry, ocean engineering, ocean geology, weather forecasting and safety management are engaged, to provide technical consultancy service to maritime SAR operations.

### **Article 12**

1. The national professional maritime SAR institutions, and the MRCCs at all levels, shall establish an on duty system, recruit sufficient competent full-time staff and ensure that staff on duty shall maintain a continuous 24 hours watch-keeping.
2. The national professional maritime SAR institutions shall procure life accident insurance for the seafarers, pilots, divers and lifeguards employed, and furnish them with necessary protective equipment so as to reduce risk to their life while performing maritime SAR operations.

### **Article 13**

1. MRCCs at all levels shall establish training systems of maritime SAR knowledge and skills, and carry out regular training on the maritime SAR staff.
2. MRCCs at all levels shall, regularly, carry out maritime SAR maneuvers. The maneuvers' plans shall be approved by the government of the same level.
3. National professional maritime SAR institutions and maritime SAR volunteer teams shall cooperate in training and maneuvers so as to enhance their ability to work together during maritime SAR operations. National professional maritime SAR institutions shall guide maritime SAR volunteer teams during their cooperation.

### **Article 14**

MRCCs at all levels shall be equipped with communication equipments that are able to receive all kinds of maritime alarms and contact maritime SAR teams as well as vessels, aircrafts, installations and persons in distress.

### **Article 15**

MRCCs at all levels, as well as professional maritime SAR institutions, shall keep proper maintenance on the vessels, aircrafts, alarm equipment and other equipment used for maritime SAR and keep them in good conditions.

### **Article 16**

The Maritime Safety Administrations at all levels shall, by using vessel report system and other resources, keep a record on the position and trends of the vessels sailing in sea areas under China's jurisdiction and such areas in which China is responsible for maritime SAR, and share data with corresponding MRCCs.

### **Article 17**

Governments at all levels shall allot funds to MRCCs and professional maritime SAR institutions from their financial budgets.

### **Article 18**

1. The State shall establish a maritime SAR fund to compensate and award institutions, vessels, aircrafts and persons engaged in maritime SAR operations. Specific regulations on establishment and use of such fund shall be separately formulated by the State Council.
2. Technical support and donation of materials, funds to the maritime SAR operations are encouraged by the State.

## **Article 19**

Scientific research institutions are encouraged by the State to engage experts specialized in maritime SAR. Scientific research institutions and corporations are encouraged to exploit new technologies, equipments and facilities for maritime SAR.

The Central Government of the People's Republic of China may cooperate with foreign governments and certain international organizations in the promotion and exchange of results of research and development programs relating to the enhancement of the state-of-the-art of maritime SAR, and provides support for foreign governments which request assistance in personnel training and scientific research relating to maritime SAR.

## **Chapter III - Report of Distress**

### **Article 20**

MRCCs at all levels shall collect and exchange information in case of distress at sea, issue notices and warnings in accordance with relevant regulations, and prepare themselves for maritime SAR. Vessels, aircrafts, installations and persons engaged in maritime operations shall respond to alarm warnings and take preventive measures according to the level of the warnings.

## **Article 21**

MRCCs at all levels shall maintain a smooth communication channel which is able to receive any maritime distress alarm. Member organs of MRCCs shall immediately report to MRCCs once they receive distress alarms.

## **Article 22**

1. Whenever vessels, aircrafts, installations and persons are in distress at sea, they shall immediately report such distress to the nearest MRCC without hesitation.
2. When other vessels, aircrafts, installations or persons are aware of distress at sea, they shall immediately report such distress to the nearest MRCC.

## **Article 23**

Report of a distress shall as far as possible contain the following information:

- (a) Time, place, cause and current situation of the distress, measures that have been taken, requirement for rescue, and contact details;
- (b) General situation of the vessels, aircrafts and installations in distress, name and contact details of their owners, agents, operators and carriers;
- (c) Number of persons in distress, their nationality and state of injury;

- (d) Goods carried by the vessels, especially when dangerous goods are involved, name, category and number of goods;
- (e) Weather and sea conditions at the site, including wind power, wind direction, direction and speed of current, tide, water temperature and wave height; and
- (f) Other necessary information.

#### **Article 24**

1. Report of distress shall be timely, objective and authentic. Concealing distress message, delay of report or knowingly and willfully reporting a false distress message is forbidden.
2. Measures shall be taken to diminish the adverse effect in case that vessels, aircrafts, installations or persons report distress by error.

#### **Article 25**

Wherever MRCCs receive reports, they shall, without delay:

- (a) assess the event to determine the characteristics, features and degree of the distress;
- (b) bring forward treatment opinions;

- (c) report to superior MRCCs and inform relevant institutions; and
- (d) inform all States whose interests are affected or likely to be affected by such distress.

## **Chapter IV-Maritime SAR Operations**

### **Article 26**

1. MRCCs shall immediately after the occurrence of distress organize the professional maritime SAR institutions and maritime SAR volunteer teams to carry out maritime SAR operations according to the characteristics, features and degree of the distress.
2. In case that MRCCs of a lower level deem it necessary that a MRCC of an upper level shall be in command of the maritime SAR operations, they shall timely ask the latter to take charge of the operations.

### **Article 27**

Vessels, aircrafts, installations and persons in distress shall take every step to carry out self-rescue.

## **Article 28**

Nearby vessels, aircrafts, installations and persons shall assist persons in distress once they receive distress signals or find persons in distress, as far as such SAR operations will not severely hazard their own safety.

## **Article 29**

While conducting Maritime SAR operations each MRCC shall,

- (a) Ascertain the nature of the distress and requirement for rescue;
- (b) Prepare a maritime SAR plan;
- (c) Organize and coordinate the maritime SAR teams;
- (d) Direct the maritime SAR operations;
- (e) Track the rescue results and adjust the maritime SAR plan accordingly;
- (f) Continue, pause or terminate the maritime SAR operations; and
- (g) Summarize and value the maritime SAR operations.



### **Article 30**

1. The MRCCs taking charge of the SAR operations shall coordinate the relevant professional maritime SAR institutions, public organizations, companies and persons to carry out maritime SAR operations.

2. Each institution, public organization, company and person mentioned in the preceding paragraph shall follow the coordination directions of MRCCs, and dispatch maritime SAR teams timely in case of occurrence of distress.

3. Provincial MRCCs shall take charge of the coordination when Hong Kong, Macau and Taiwan maritime SAR teams are involved in maritime SAR operations, or when mainland maritime SAR teams are required by Hong Kong, Macau and Taiwan maritime SAR teams to carry out maritime SAR operations, in case Provincial MRCCs have signed agreements with Hong Kong, Macau and Taiwan maritime SAR teams. When there is no such agreement, the National MRCC shall take charge of the coordination.

4. The National MRCC shall take charge of the coordination when foreign maritime SAR teams are involved in maritime SAR operations, or when domestic maritime SAR teams are required by foreign maritime SAR teams to carry out maritime SAR operations. National MRCC shall take necessary legal or administrative measures to facilitate:

- (a) the arrival and utilization in and departure from sea areas under China's jurisdiction of vessels, aircraft and other mode of transport of such foreign maritime SAR teams engaged in the maritime SAR

operations or transporting personnel, cargoes, materials and equipment required in the maritime SAR operations; and

(b) the expeditious movement into, through, and out of sea areas under China's jurisdiction of personnel, cargoes, materials and equipment referred to in subparagraph (a).

5. The National MRCC shall, according to International Convention on Maritime Search and Rescue and relevant bilateral or multilateral agreements, cooperate and provide advisory services, technical support and equipment for maritime SAR operations, when the severity of such distress so justifies, upon the request of relevant foreign governments.

### **Article 31**

1. Vessels of national professional maritime SAR institutions shall assume the responsibility of on site command. When there is no such vessel on site, the vessel that arrives at the place of distress first shall assume such responsibility.

2. The on site commander shall carry out coordination directions of the MRCC in charge of the maritime SAR operations, and report the situation and maritime SAR results to the latter.

3. All other vessels, aircrafts, installations and persons of maritime SAR teams shall follow the coordination directions of the on site commander.

### **Article 32**

Maritime SAR teams shall timely report to the MRCC in charge of the maritime SAR operations their method of communication, frequency, time of departure and arrival. During such operations they shall keep regular report and timely report when they find persons in distress.

### **Article 33**

Maritime SAR operations may be paused when such operations cannot be carried on due to weather, sea and technical conditions. The operations may resume when new information is obtained or when it is deemed necessary.

### **Article 34**

Maritime SAR operations may be terminated when,

- (a) All areas in which persons in distress may be located have been searched; or
- (b) It is impossible for persons to survive considering the temperature, water temperature, wind and wave conditions; or
- (c) Emergency response has been successfully performed or state of emergency has been eliminated; or

(d) Harm of the distress at sea has been totally diminished or controlled, and will not expand or recur.

### **Article 35**

1. The MRCC in charge of the coordination of the maritime SAR operations shall decide whether to pause or terminate such operations.
2. Decision to pause or terminate shall be made when the requirements are met, and shall be communicated to maritime SAR teams.
3. Maritime SAR teams shall not quit the maritime SAR operations without approval of the MRCC in charge of the coordination of such operations.

### **Article 36**

1. Vessels, aircrafts, installations and persons in distress shall follow the coordination directions of MRCCs and on site commanders.
2. When the persons onboard the vessels, aircrafts or installations in distress which are not able to get out of distress through rescue of themselves or maritime SAR teams are reluctant to leave the vessels, aircrafts or installations, the MRCC in charge of the coordination of the maritime SAR operations may order them to leave the vessels, aircrafts or installations and get onboard the maritime SAR vessels or aircrafts.

### **Article 37**

1. Governments at all levels and their authorized departments shall timely issue maritime SAR information to the public.
2. The issuance of information shall be precise and timely, and may be in form of news release conference, television, broadcast, newspaper and magazine, or on site report by journalists.

### **Article 38**

The MRCCs in charge of the coordination of the maritime SAR operations shall summarize and value such operations, and compensate and award maritime SAR teams.

### **Article 39**

1. The medical institutions of the place where the persons rescued are disembarked shall be responsible for medical treatment of the same.
2. The local Civil Administration Department of the place where the persons rescued are disembarked shall be responsible for accommodation of the same. When persons rescued come from Hong Kong, Macau or Taiwan, the local Hong Kong, Macau, Taiwan Affairs Department of the place where the persons rescued are disembarked shall be responsible for accommodation of the same. When persons rescued are foreigners, the local Public Security

Departments or Foreign Affairs Department of the place where persons rescued are disembarked shall be responsible for repatriation of the same.

3. The local Civil Administration Department of the place where the dead in distress at sea is disembarked shall be responsible for treatment of the same. When the dead comes from Hong Kong, Macau or Taiwan, the local Hong Kong, Macau, Taiwan Affairs Department of the place where the dead in distress is disembarked shall be responsible for treatment of the same. When the dead in distress is a foreigner, the local Foreign Affairs Department of the place where the dead is disembarked shall be responsible for treatment of the same.

#### **Article 40**

1. When there is requirement for rescue of human life as well as salvage of property and environment, rescue of human life shall be given the first priority.

2. The rescuers of human life may not demand any remuneration from those whose lives are saved. However, rescuers of human life are entitled to a fair share of the payment awarded to the salvors for salving the ship or other property or for preventing or minimizing the pollution damage to the environment in accordance with provisions of the Maritime Code of the People's Republic of China.

## **Chapter V - Legal Liability**

### **Article 41**

Where the MRCC staff members in violation of the provisions of this law by their act or omission, cause serious consequences, they shall be given an administrative sanction by the government at the same level in accordance with the provisions of the relevant laws or administrative regulations.

### **Article 42**

1. Where a maritime SAR team in violation of the provisions of Article 28, Article 30, Article 31 or Article 35 of this Law, comes under any of the following circumstances, it shall be warned by the MRCC in charge of the coordination of the maritime SAR operations:

- (a) Refusal or delay of taking part in maritime SAR operations without any legal reason; or
- (b) Not compliance with the coordination directions of the MRCC in charge of the coordination of the maritime SAR operations or on site commander; or
- (c) Pausing or terminating maritime SAR operations without reception of the decision of the MRCC in charge of the coordination of such operations.

2. If serious consequences are caused by any violation mentioned in the preceding paragraph, the maritime SAR team and its staff members directly in charge shall be given an administrative sanction by its administrative organ at an upper level.

### **Article 43**

1. Where vessels, aircrafts, installations or persons at sea in violation of the provisions of Article 22 or Article 24 of this Law, conceal or delay reporting distress, the vessels, aircrafts or installations shall be convicted to a fine (not exceeding 100,000 Yuan (RMB)) and the person directly in charge shall be convicted to a fine (not exceeding than 10,000 Yuan (RMB)) by the Maritime or Aeronautical Safety Administrations; if serious consequences are caused, the work certificate of the person directly in charge shall be withhold or revoked.

2. Where other persons which are not mentioned in the proceeding paragraph conceal or delay reporting distress, they shall be imposed penalties by Public Security Administrations in accordance with the public security administration laws and regulations.

### **Article 44**

1. Where vessels, aircrafts, installations or persons at sea in violation of the provisions of Article 24 of this Law, knowingly and willfully report a false



distress message, they shall be liable for all costs incurs as a result of their actions; the vessels, aircrafts or installations shall be convicted to a fine (not exceeding 50,000 Yuan (RMB)) and the person directly in charge installations shall be convicted to a fine (not exceeding 5,000 Yuan (RMB)) by Maritime or Aeronautical safety Administrations; if serious consequences are caused, the work certificate of the person directly in charge shall be withhold or revoked.

2. Where other persons which are not mentioned in the proceeding paragraph knowingly and willfully report a false distress message, they shall be imposed penalties by Public Security Administrations in accordance with the public security administration laws and regulations.

### **Article 45**

Where vessels, aircrafts, installations or persons in distress in violations of the provisions of Article 36 of this Law, do not follow the coordination directions of MRCCs or on site commanders, or the persons onboard the vessels, aircrafts or installations in distress which are not able to get out of distress through rescue of themselves or maritime SAR teams, refuse to leave the vessels, aircrafts or installations, the person directly in charge shall be convicted to a fine (not exceeding 5,000 Yuan (RMB)) by the MRCC in charge of the coordination of the maritime SAR operations; if injury or death is caused, the person directly in charge shall be convicted to a fine (not exceeding 10,000 Yuan (RMB)) by the Maritime or Air safety Administrations.

### **Article 46**

If a party does not accept the penalty imposed by the competent authorities, he may file a claim in a court within 15 days after receiving notification of the penalty. If he neither files a claim nor complies with the penalty upon the expiration of that period, the competent authorities shall request compulsory enforcement from the court.

### **Article 47**

Those, whose violation of this law constitutes a crime shall be investigated for their criminal responsibility by judicial organs in accordance with the law.

## **Chapter VI - Supplementary Provisions**

### **Article 48**

The State Council shall, on the basis of this Law, promulgate regulations for its implementation, which shall take effect after being submitted to and approved by the Standing Committee of the National People's Congress.

**Article 49**

In case of conflict between this Law and the International Convention on Maritime Search and Rescue or its amendments approved by the State, the Convention or its amendments shall prevail.

**Article 50**

This Law shall take effect on , 2010.