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INTERNATIONAL MARITIME LAW INSTITUTE
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**A LAW TO INCORPORATE THE 2005 CONVENTION FOR THE
SUPPRESSION OF UNLAWFUL ACTS AGAINST THE SAFETY OF
MARITIME NAVIGATION (2005 SUA CONVENTION) AND THE 2005
PROTOCOL TO THE 1988 PROTOCOL FOR THE SUPPRESSION OF
UNLAWFUL ACTS AGAINST THE SAFETY OF FIXED PLATFORMS
LOCATED ON THE CONTINENTAL SHELF (2005 SUA PROTOCOL) INTO
THE LAWS OF THE KINGDOM OF MOROCCO**

**A Legislation Drafting Project submitted in partial fulfillment of the
requirements for the award of the Degree of Master of Laws (LL.M.) in
International Maritime Law at the IMO International Maritime Law
Institute**

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Academic Year 2014-2015

EXPLANATORY NOTE

Ships have served and are still serving mankind. To carry out various activities at sea for the sustenance of the human society, ships are used for carriage of good by sea, fishing, adventure, conquest, transport and for leisure and facilitate travels to reach new places and discover new worlds.

But with the growth of the use of ships and seaways, a lot of problems arise specially threats to maritime security. And this makes the maritime industry increasingly unsafe.

Unlawful acts against the safety of ships and the security of their passengers and crews, have been a great threat to maritime security and thus of grave concern to the international community.

To counter threats and dangers in the sea, universal cooperation is necessary to establish a preventive, as well as a reactive, measures in order to combat such behaviours.

Therefore, maritime security is so important today, as States seek to take all the essential measures to prevent these infringements in the ocean.

Maritime security has not been given an agreed definition. However the maritime security threats have been identified. The United Nations Secretary-General in his 2008 Report and enumerated the threats that fall under this field:

- Piracy and armed robbery against ships;
- Terrorist acts involving shipping, offshore installations, and other maritime interests;
- Illicit trafficking in arms and weapons of mass destruction;
- Illicit trafficking of narcotic drugs and psychotropic substances;
- Smuggling and trafficking of persons by sea;
- Illegal, unreported, and unregulated fishing;
- Intentional and unlawful damage to the marine environment.¹

¹ Klein, Natalie; Maritime Security and Law of the Sea, Oxford University Press Inc., New York, 2011, p10.

Maritime piracy and terrorism at sea are both forms of violent interference with shipping. Their global reach and negative impact on sea transportation, safety of navigation and marine environment, as well as the threat they both pose to human lives and property, call for effective counter-measures.

Amongst such counter-measures, those directed at strengthening the legal protection of shipping become of paramount importance.

What can be considered as a serious maritime security threat is Piracy. Piracy has been defined in the 1958 Geneva Convention on the High Seas in Article 15 and in the 1982 United Nations Convention on the Law of the Sea (UNCLOS) in Article 101. In those conventions the main elements of piracy have been set out.

- ✓ Act of violence;
- ✓ The presence of two ships;
- ✓ Must be committed for private ends;
- ✓ Take place on the high seas, or outside the jurisdiction of any State.

The International Maritime Bureau (IMB)² and the International Maritime Organization (IMO) recent statistics on attacks against ships indicate that piratical acts and armed robbery against ships are on the increase and are affecting, at present day, various areas of the oceans.

Another serious maritime security threat is maritime terrorism. There is no internationally recognized definition for terrorism. However it can mean that a ship can be used as a weapon or delivery vehicle to breach or penetrate the outer perimeter of a port to deposit a weapon

Since ships are capable of carrying a large amount of cargo, they serve as an ideal platform for smuggling terrorists and weapons of mass destruction or for moving other illicit cargo.³

² The IMB, a division of the International Chamber of Commerce (ICC) which is an international non-governmental organisation based in Paris, in response to the serious threat posed today by piracy against shipping, created a Piracy Reporting Centre in October 1992 in Kuala Lumpur. It reports piracy attacks through the internet on a weekly basis, and assists in searching for vessels that fall prey to piratical acts.

³ Kraska, James; International Maritime Security Law, Martinus Nijhoff Publishers, Leiden, Boston, 2013, p.358.

I/ The Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation 1988 (1988 SUA Convention), and the 1988 Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf (1988 SUA Protocol)

1. 1988 SUA Convention

The development of international rules on maritime terrorism is in its infancy, as it were, since the first international legal instrument on a specific legal regime covering terrorist acts at sea, though without specifically mentioning the term terrorism, came about only in 1988 with the adoption of the IMO Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (1988 SUA Convention).

As acts of terrorism on land in pursuit of political goals increased over the last decades, it was inevitable that eventually they would be extended to the sea. Indeed, terrorism at sea is a recent phenomenon as compared to piracy.

THE ACHILLE LAURO INCIDENT:

It was not until after the passenger liner *Achille Lauro* incident that the international community agreed on some specific rules applicable to terrorism at sea.

The 1985 attack on *Achille Lauro* is perhaps the most well-known concrete case of maritime terrorism in modern times.⁴ In 1985 this Italian-flagged cruise ship was seized while travelling on from Alexandria to Port Said, within the Egyptian waters, allegedly by a Palestinian guerrilla group. They threatened to kill the British and American passengers unless Israel was to liberate 50 Palestinian prisoners. When their demands were not met they killed an American passenger.

This *Achille Lauro* hijacking was qualified by some States, as piracy. However this was not really an act of piracy under the international law relating to piracy, since there was no private end being pursued here. In addition, the seizure did not meet the two-vessel requirement, essential for the characterisation of piracy. The terrorists were acting for sheer political goals,⁵ and the motivation being political, it would not have fallen in the

⁴ There are other less publicised cases of maritime terrorism, such as the Santa maria case in 1961, the 1985 seizure of a Japanese freighter, SheiroMaru case in the Philippines by a Philippine revolutionary group. Also the 1997 attack on a cargo ship and a passenger ferry in the Philippines, carried out by the Moro Islamic Liberation Front.

⁵ Ronzitti Natalino; Maritime Terrorism and International Law, 2nd Series, Martinus Nijhoff Publishers, Netherland, 1990, p.2.

definition of piracy under the law of nations. Also the incident occurred within Egyptian waters and not the high seas.

It was felt that in order to deal effectively with future cases of maritime terrorism from a judicial point of view; a specific international regulation was needed to secure the prosecution and punishment of the offenders, since the piracy laws seemed to be inadequate to that end. This was the position of the *Achille Lauro* flag State, Italy, which soon after the conclusion of the *Achille Lauro* affair, called for the international community's attention to the requirement for a Convention on maritime terrorism, in order to fill a lacuna in the legal framework of the fight against international terrorism.

This same point was made clear during the proceedings of the Conference that negotiated the SUA Convention by the UN Secretary General Representative. The mere fact of the adoption of the SUA Convention stands that the international piracy rules cannot handle terrorist activities at sea. Also known as the Rome Convention, the SUA Convention's primary focus is clearly maritime terrorism against ships. Simultaneously a Protocol to the Convention followed, and it was adopted at the same time within the Convention because it deals with the same matter but for the fixed platforms located on the continental shelf.

1.1. Provisions

In its Article 3 the Convention took an important step in identifying the following as offences, when an individual unlawfully and intentionally:

- (a) Seizes or exercises control over a ship by force or threat thereof or by any other form of intimidation;
- (b) Performs an act of violence against a person on board the ship if that act is likely to endanger the safe navigation of that ship;
- (c) Destroys a ship or causes damage to a ship or to its cargo which is likely to endanger the safe navigation of that ship;
- (d) Places or causes to be placed on a ship, by any means whatsoever, a device or substance which is likely to destroy that ship, or cause damage to that ship or its cargo which endangers or is likely to endanger the safe navigation of that ship;

- (e) Destroys or seriously damages maritime navigational facilities or seriously interferes with their operation, if any such act is likely to endanger the safety of navigation of a ship;
- (f) Communicates information which he knows to be false, thereby endangering the safe navigation of a ship;
- (g) Injures or kills any person, in connection with the commission or the attempted commission of any of the above offences.⁶

Attempts or complicity in these offences were also identified as offences within the Convention.⁷

A new innovation of the 1988 SUA Convention was the inclusion of the principal of injuring or killing a person in connection with the commission or attempted commission of any of the principal offences.

The Convention applies if the ship is navigating or is scheduled to navigate into, through, or from waters beyond the outer limit of the territorial sea of a single State, or the lateral limits of its territorial sea with adjacent States. In all other cases, the Convention also applies when the offender or alleged offender is found in the territory of a State Party.⁸

This Convention is applicable to offences committed not only in the high seas but also in the territorial sea and even in the internal waters of a State.

This Convention does not apply to

- A Warship;
- A ship owned or operated by a state when being used as a naval auxiliary or for customs or police purposes and;
- A ship which has been withdrawn from navigation or laid up.

It is also stated that the Convention does not affect the immunities of warships and other government ships operated for non-commercial purposes.⁹

The State Parties are required to take the necessary measures to criminalize those offences with appropriate penalties.¹⁰

⁶1988 SUA Convention Art 3.

⁷ 1988 SUA Convention Art 3(2).

⁸ 1988 SUA Convention Art 4.

⁹ 1988 SUA Convention Art 2.

Measures to establish jurisdiction over the offences shall be taken when the offence is committed against or on board a ship flying the flag of the State at the time the offence is committed; in the territory of that State, including its territorial sea; by a national of that State; by a stateless person whose habitual residence is in that State; in an attempt to compel that State to do or abstain from doing any act; or when a national of that State is seized, threatened, injured, or killed during the commission of the offence.¹¹

1.2. Compliance and Enforcement

Once jurisdiction has been established, States shall take the offender into custody and immediately make a preliminary inquiry into the facts.

States Parties are required to either extradite the offender in custody or submit the case for prosecution. If it does not extradite him, be obliged, without exception whatsoever and whether or not the offence was committed in its territory, to submit the case without delay to its competent authorities for the purpose of prosecution, through proceedings in accordance with the laws of that State. Those authorities shall take their decision in the same manner as in the case of any other offence of a grave nature under the law of that State.¹²

Article 11 states that all the offences set forth in article 3 of the Convention are deemed to be included as extraditable offences, and therefore:

- State Parties undertake to include such offences as extraditable in every treaty to be concluded between them.¹³
- If the requesting state is not a State Party of the Convention, the requested State may, at its option, consider this Convention as a legal basis for the extradition.¹⁴
- The offences set forth in article 3 of the Convention should be recognized as extraditable offences, subject to the conditions provided by the law of the requested State Party.¹⁵

States Parties are also required to assist each other in connection with criminal proceedings brought under the Convention.¹⁶

¹⁰ 1988 SUA Convention Art 5.

¹¹ 1988 SUA Convention Art 6.

¹² 1988 SUA Convention Art 10.

¹³ 1988 SUA Convention Art 11(1).

¹⁴ 1988 SUA Convention Art 11(2).

¹⁵ 1988 SUA Convention Art 11(3).

States Parties are also to cooperate in the prevention of offences by taking all practicable measures to prevent preparations in their respective territories for the commission of those offenses within or outside their territories and by exchanging information in accordance with their national laws.¹⁷

1.3. Reservations and Withdrawal

Disputes between two or more States concerning the interpretation or application of the Convention will be submitted to arbitration at the request of one of the States if the matter cannot be settled through negotiation.

However, at the time of signing, ratification, or accession, a State may make a reservation that it does not consider itself bound by any or all of the provisions of article 16(1), in which case other States Parties shall not be bound to it with respect to any States Party that has made such a reservation.¹⁸

Any State which has made a reservation in accordance with article 16(2) may, at any time, withdraw that reservation by notification to the Secretary-General.¹⁹

The Convention may be denounced by any State Party at any time after the expiry of one year from the date on which the Convention enters into force for that State.

Denunciation shall be made by the deposit of an instrument of denunciation with the Secretary-General and will take effect one year, or such a longer period as may be specified in the instrument of denunciation, after the instrument is received by the Secretary-General.²⁰

2. 1988 SUA Protocol

The same provisions of the Convention were adopted simultaneously in the Protocol, as well as all the offences and the jurisdiction over them, but not for ships, it was for the fixed platforms located on the continental shelf.²¹

¹⁶1988 SUA Convention Art 12.

¹⁷ 1988 SUA Convention Art 13.

¹⁸ 1988 SUA Convention Art 16.

¹⁹ 1988 SUA Convention Art 16(3).

²⁰ 1988 SUA Convention Art 19.

²¹ Klein, Natalie; op. cit., p.152.

"Fixed platform" means an artificial island, installation or structure permanently attached to the sea-bed for the purpose of exploration or exploitation of resources or for other economic purposes.²²

The Article 2 of the Protocol defines the offences as follows:

1. Any person commits an offence if that person unlawfully and intentionally:
 - (a) seizes or exercises control over a fixed platform by force or threat thereof or any other form of intimidation; or
 - (b) performs an act of violence against a person on board a fixed platform if that act is likely to endanger its safety; or
 - (c) destroys a fixed platform or causes damage to it which is likely to endanger its safety; or
 - (d) places or causes to be placed on a fixed platform, by any means whatsoever, a device or substance which is likely to destroy that fixed platform or likely to endanger its safety; or
2. Any person also commits an offence if that person threatens, with or without a condition, as is provided for under national law, aimed at compelling a physical or juridical person to do or refrain from doing any act, to commit any of the offences set forth in paragraphs 1(b) and (c), if that threat is likely to endanger the safety of the fixed platform.²³

Similar to the Convention in terms of articles 3.1 and 3.2 of the Protocol, there is a positive obligation on each State Party to take measures as may be necessary to establish its jurisdiction over the offences set out in article 2 above.

²² 1988 SUA Protocol Art 1(3).

²³ 1988 SUA Protocol Art 2.

Greater enforcement powers for the protection of fixed platforms have been accorded under this Protocol. However it anticipates that existing rules of international law will continue to apply to situations not covered by its terms.²⁴

Although the 1988 SUA Convention and together with its Protocol filled a lacunae identified in response to the *Achille Lauro* incident, there were still a number of limitations and weaknesses in the treaty.

The offences set forth in this Convention were significant at the time of adoption, as they not only drew from the preceding terrorism treaties to recognize offences in the maritime context, but also elaborate on that earlier work.²⁵

“It was unsurprising that the treaty was considered ripe for review with increasing interest in protecting against the occurrence of terrorist attacks and proliferation of Weapons of Mass Destruction (WMD)”.²⁶

In the aftermath of the terrorist attack on 11 September 2001 in New York City, serious concern was raised in the shipping community in respect of the prospect of terrorist attacks against ships or against targets such as port facilities by using ships as terrorist weapons, pretty much in the same way the planes were used as weapons against the Twin Towers.

Since then a number of initiatives has been taken to address this concern.

In this context, IMO has been very active. It has lent much support to and displayed a strong leadership in helping to bring about technical, administrative and legal measures with a view to reinforcing maritime security. It took in this regard the following two sets of important initiatives:

- The holding of a Conference on Maritime Security in December 2002 to adopt far-reaching security measures;
- The starting of preparatory work for the convening of a States Party Review Conference of the SUA Convention to update its object and purpose in the light of events.

3. IMO 2002 Conference on Maritime Security and Review of the 1988 SUA Convention and the 1988 SUA Protocol

²⁴ Klein, Natalie ; op. cit., p.103.

²⁵ Klein, Natalie ; op. cit., p.152.

²⁶ Klein, Natalie ; op. cit., p.154.

Within IMO's framework, a Conference on Maritime Security was held in December 2002 in London which took, among others, the following measures, as mentioned before²⁷:

- amendment of Chapter XI of the SOLAS Convention, creating a new Chapter XI-2 totally dedicated to maritime security, and adoption of a Code on International Ship and Port Security (ISPS Code); this new Chapter XI-2 and the ISPS Code, due to come into force in July 2004, introduced far reaching measures to prop up the security of ships and port facilities;
- imposition of strict requirements on shipping companies, ships and port facilities which, if implemented properly, will have a strong impact on curbing the possibilities of terrorist attacks against ships and their crews and cargo and will 'ensure of chain custody for containers, from their port of origin to their destination';
- the various requirements now being imposed on shipping companies, ships and port facilities, personnel movement control in and access to ports and ships, and on ship and cargo information before arrival at port of destination, bodes well for increased maritime security, both against piracy or armed robbery attacks and acts of terrorism;
- likewise, the ship-to-shore automatic communication through an alert system to be installed on board will significantly strengthen the maritime security apparatus, which will make it far more difficult, but not impossible, for maritime terrorism to strike.

The 1988 SUA Convention and its related Protocol were amended in 2005 following the terrorist attacks against the United States in September 2001. The Member States of the International Maritime Organization negotiated the new Convention within the context of assembly resolution.²⁸

The amended treaty is called the Protocol of 2005 to the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, and it has introduced several amendments to the 1988 SUA Convention and its related Protocol related to the Platforms located in the Continental Shelf.

²⁷www.imo.org/Newsroom/Mainframe.asp?topic_id=67&doc_id=1746; Last seen 02 May 2015.

²⁸ IMO Assembly resolution, A.924 (22).

The 2005 SUA Convention is one of the strongest instruments to stop the scourge of international terrorism. The treaty references to “terrorism”, “terrorist attacks” and “terrorist acts” and incorporates by reference nine other anti-terrorism conventions.

The United Nations Security Council adopted resolution 1368 and 1373, committing States to combat terrorism in all its forms and manifestations.²⁹

The major amendments to the 1988 SUA Convention were adopted by the Diplomatic Conference on the revision of the SUA Treaties held from October 10 to 14, 2005.³⁰

II/ Protocol of 2005 to the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation(2005 SUA Convention), and the 2005 Protocol to the 1988 Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf (2005 SUA Protocol)

1. 2005 SUA Convention

The 2005 SUA Convention permits an international recognition of an expanded range of terrorist offences (encompassing concerns related to the proliferation of the WMD) and procedures for exercising jurisdiction in the face of these suspected offences at sea.³¹

The 1988 SUA Convention had only the definition of a ship but the new 2005 SUA Convention has brought several new definitions:

Article 1 of the convention introduces “serious injury or damage” that has been defined as:

- (a). serious bodily injury; or

²⁹Kraska, James; op. cit., p. 820.

³⁰Kraska, James; op. cit., p. 821.

³¹ Klein, Natalie ; op. cit., p.170.

(b). extensive destruction of a place of public use, state or government facility, infrastructure facility, or public transportation system, resulting in major economic loss; or

(c). substantial damage to the environment, including air, soil, water, fauna, or flora.

The scope of application set out in the Convention (Article 4) and the exclusions from the scope of application defined therein (Article 2) remain the same as regards to the 2005 SUA Convention as well.

The 2005 SUA Convention adds Article 2bis. Paragraph 1 contains a statement that the Convention does not affect rights, obligations, or responsibilities of States or individuals under international law, and in particular the UN Charter, international human rights law, and refugee and international humanitarian law. Paragraph 2 identifies two exceptions to the convention concerning applicability to the armed forces covering “armed forces during armed conflicts” and “activities undertaken by a State”.³²

The 2005 Protocol to the SUA Convention expands the offences by adding new Articles 3bis, 3ter and 3quarter. It creates four new types of offences under the Convention:

- (1) Using a ship in a terrorist offence;
- (2) Transportation of (WMD) or their delivery systems, and related materials or items;
- (3) Transportation of a terrorist fugitive;
- (4) Inchoate offences.

The 2005 SUA Convention adds Article 3bis, which criminalizes the intentional transport of any material, equipment, or software that is intended to be used to produce a biological, chemical, and nuclear (BCN) weapon. This does not include nuclear material under IAEA³³ safeguards, which is presumed to be for peaceful purposes.

Article 5 has been amended and reads thus: 'Each State Party shall make the offences set forth in Articles 3, 3bis, 3ter and 3quarter punishable by appropriate penalties which take into account the grave nature of those offences.'

³² 2005 SUA Convention Art 2.

³³ International Atomic Energy Agency.

The 2005 SUA Protocol also criminalizes the transport of a person on board a ship knowing that he committed an offense under the SUA Convention or one of the other UN Counter-Terrorism Conventions.³⁴

It also requires that States take necessary measures to enable companies, organizations, and similar entities to be held liable when a key manager commits an offense under the Convention.³⁵

It is however open for governments to decide whether this liability will be criminal, civil or administrative, and if the sanctions can also include monetary sanctions.³⁶

The new Protocol also modifies the SUA Convention's boarding protocol by establishing additional guidelines for cooperation and procedures to be followed if a State Party desires to board a ship flying the flag of another State Party due to suspicion that the ship or a person on board the ship is, has been, or is about to be involved in, the commission of an offence under the Convention.³⁷

Once alerted of intention to board a ship, the State Party of the flag the ship is flying has four hours to either deny or approve the boarding. If no response is received within four hours, the requesting State is allowed to board and inspect the vessel.

The 2005 SUA Protocol text establishes that the agreement shall enter into force ninety days following the date on which twelve States have either signed it without reservation as to ratification, acceptance or approval, or have deposited an instrument of ratification, acceptance or approval, or have deposited an instrument of ratification.

2. 2005 SUA Protocol

The 2005 Protocol to the 1988 SUA Protocol applies the same changes as above but in application to fixed platforms located on the continental shelf, as opposed to ships.

III/ The reasons for the implementation of the 2005 SUA Convention and 2005 SUA Protocol into the Moroccan legislation

³⁴ 2005 SUA Convention Art 3ter.

³⁵ Kraska, James; op. cit., p.827.

³⁶ 2005 SUA Convention Art 5bis.

³⁷ 2005 SUA Convention Art 8bis.

Nowadays, the prevention against maritime terrorism and unlawful acts against the safety of navigation are given a greater significance and importance. And Morocco due to its strategic location in North Africa and the fact that it is open on two maritime borders the Mediterranean Sea and the Atlantic Ocean make it very vulnerable for terrorist attacks.

Morocco's coastline extends up to 3000 km along the Atlantic Ocean and the Mediterranean Sea. In addition to the Gibraltar strait which is one of the busiest straits in the world because a huge number of vessels are passing through it to reach the Atlantic Ocean or to get in to the Mediterranean Sea, and it is the gateway of the American Continent for the Mediterranean countries.

For those reasons Morocco have already ratified the 1988 SUA Convention and the 1988 SUA Protocol for the Fixed Platforms, and incorporated the provisions into the national laws³⁸, in order to protect the coastline from the dangers that occurs at sea.

But the situation has changed today due to the terrorist attacks increasing in the world. It is therefore of utmost importance for Morocco to consider a review of the existing legal measures for the prevention and the suppression of unlawful acts against ships and fixed platforms located in the continental shelf . And this is important because it will increase the maritime security level and improve it and eradicate the maritime terrorism.

It is recommended that Morocco accesses to the 2005 SUA Convention and the 2005 SUA Protocol, and incorporate the provisions thereof into its national law.

IV/ The procedure to implement the 2005 SUA Convention and the 2005 SUA Protocol into the Moroccan legislation

The implementation of international conventions into the Moroccan legal system according to article 55 of the Constitution:

[...] The King signs and ratifies the treaties. However, the treaties of peace or of union, or those relative to the delimitation of the frontiers, the commercial treaties or those which engage the finances of the State or the application of which necessitate legislative measures, as well as those treaties relative to the individual or collective rights and

³⁸ DAHIR n° 1-01-294 du 15 Kaada 1422 a Marakech, publication of the 1988 SUA Convention and its Protocol (*bulletin officiel* 2 mai 2002).

freedoms of the citizens, may only be ratified after having been previously approved by the law.

The King can submit to the Parliament any other treaty before its ratification.

If the Constitutional Court, referred to [the matter] by the King or the head of government or the President of the Chamber of Representatives or the President of the Chamber of Councillors or one-sixth of the members of the first Chamber or one-quarter of the second Chamber, declares that an international commitment contains a provision contrary to the Constitution, its ratification may only intervene after the revision of the constitution.³⁹

And then an Act called in Morocco as *DAHIR* will be published together with the convention in the *bulletin official (official Gazette)*, in order to take part of the Moroccan legislation.

Morocco following the Monist system signifies that, the State recognizes the supremacy of international treaties upon the national law of the State.

Therefore when a treaty has been ratified, it becomes automatically binding on the Moroccan authorities, domestic courts and citizens.

As stated before Morocco has already ratified the 1988 SUA Convention and its Protocol, and incorporated the provisions into its national laws, this was done by merely annexing the Convention and the Protocol into *DAHIR n° 1-01-294 du 15 Kaada 1422 a Marakech, publication of the 1988 SUA Convention and its Protocol (bulletin official 2 may 2002)*.

However, the SUA treaties expressly provide that the offences stated therein have to be criminalized by State Parties. Therefore the best way of achieving this would be by adopting a fresh Law giving legal effect to the provisions of the 2005 SUA Convention and the 2005 SUA Protocol, which is the purpose of this legislative drafting project.

With the adoption the new Law, the previous Law of the *DAHIR n° 1-01-294 du 15 Kaada 1422 a Marakech, publication of the 1988 SUA Convention and its Protocol (bulletin official 2 may 2002)* stands repealed.

V/ Explanation of the draft law

³⁹ Moroccan Constitution of 17 June 2011, article 55.

The draft Law contains 23 articles divided into 10 parts.

Article 1 provides the long title of the Law.

Article 2 provides the definitions as found in both the 2005 SUA Convention and the 2005 SUA Protocol. In addition, certain new definitions such as, territorial waters, exclusive economic zone and continental shelf have been introduced.

Article 3 provides the scope of application of this Law.

Articles 4, 5, 6, and 7 are the offences against ships, while articles 9, 10, and 11 are the offences in respect of the fixed platforms located in the continental shelf.

Precisely:

- Article 4 in this Law refers to article 3 of the 2005 SUA Convention;
- Article 5 in this Law refers to article 3 *bis* of the 2005 SUA Convention;
- Article 6 in this Law refers to article 3 *ter* of the 2005 SUA Convention;
- Article 7 in this Law refers to article 3 *quater* of the 2005 SUA Convention;
- Article 9 in this Law refers to article 2 of the 1988 SUA Fixed Platforms Protocol;
- Article 10 in this Law refers to article 2 *bis* of the 2005 SUA Protocol;
- Article 11 in this Law refers to article 3 *ter* of the 2005 SUA Protocol.

Article 12 provides which Court shall have jurisdiction upon the offences set forth in articles 4, 5, 6, 7, 9, 10 and 11.

Article 13 provides the appropriate penalties to the offences set forth in articles 4, 5, 6, 7, 9, 10 and 11.

Article 14 provides the legal procedure to be followed when one of the offences set forth in article 4, 5, 6, 7, 9, 10 and 11 is committed.

Article 15 and 16 provide the States obligations when one of the offences set forth in articles 4, 5, 6, 7, 9, 10 and 11.

Article 17 provides the extradition provisions when one of the offences set forth in articles 4, 5, 6, 7, 9, 10 and 11 is committed.

Article 18 provides the boarding provisions when one of the offences set forth in articles 4, 5, 6, 7, 9, 10 and 11 is committed.

Article 19 and 20 provide the mutual co-operation with other state for the prevention of the offences set forth in articles 4, 5, 6, 7, 9, 10 and 11.

Article 21 provides the trial and safeguards of the offender or alleged offender after committing an offence of the offences set forth in articles 4, 5, 6, 7, 9, 10 and 11.

Article 22 provides the provisions with regards to legal entities and their liability for the offences set forth in articles 4, 5, 6, 7, 9, 10 and 11

By virtue of article 23 the previous Law in Morocco relating to the 1988 SUA Convention will be repealed.

“A Law to Incorporate the 2005 Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation (2005 SUA Convention) and the 2005 Protocol to the 1988 Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf (2005 SUA Protocol) into the Laws of the Kingdom of Morocco.”

Title I

General Provisions

Article 1

This Law shall be called the Suppression of Unlawful Acts against the Safety of Maritime Navigation and Fixed Platforms Located on the Continental Shelf Law of the Kingdom of Morocco No Of Year 2015 and it shall come into force after publication in the *Bulletin Official (Official Gazette)* unless the law provides otherwise.

Definitions

Article 2

1. For the purposes of this law:

(a) “ship” means a vessel of any type whatsoever not permanently attached to the seabed, including dynamically supported craft, submersibles, or any other floating craft.

(b) “transport” means to initiate, arrange or exercise effective control, including decision-making authority, over the movement of a person or item.

(c) “serious injury or damage” means:

(i) serious bodily injury; or

(ii) extensive destruction of a place of public use, State or government facility, infrastructure facility, or public transportation system, resulting in major economic loss;
or

(iii) substantial damage to the environment, including air, soil, water, fauna, or flora.

(d) “BCN weapon” means:

(i) “biological weapons”, which are:

(1) microbial or other biological agents, or toxins whatever their origin or method of production, of types and in quantities that have no justification for prophylactic, protective or other peaceful purposes; or

(2) weapons, equipment or means of delivery designed to use such agents or toxins for hostile purposes or in armed conflict.

(ii) "chemical weapons", which are, together or separately:

(1) toxic chemicals and their precursors, except where intended for:

(A) industrial, agricultural, research, medical, pharmaceutical or other peaceful purposes;
or

(B) protective purposes, namely those purposes directly related to protection against toxic chemicals and to protection against chemical weapons; or

(C) military purposes not connected with the use of chemical weapons and not dependent on the use of the toxic properties of chemicals as a method of warfare; or

(D) law enforcement including domestic riot control purposes, as long as the types and quantities are consistent with such purposes;

(2) munitions and devices specifically designed to cause death or other harm through the toxic properties of those toxic chemicals specified in subparagraph (ii)(1), which would be released as a result of the employment of such munitions and devices;

(3) any equipment specifically designed for use directly in connection with the employment of munitions and devices specified in subparagraph (ii)(2).

(iii) nuclear weapons and other nuclear explosive devices.

(e) "toxic chemical" means any chemical which through its chemical action on life processes can cause death, temporary incapacitation or permanent harm to humans or animals. This includes all such chemicals, regardless of their origin or of their method of production, and regardless of whether they are produced in facilities, in munitions or elsewhere.

(f) "precursor" means any chemical reactant which takes part at any stage in the production by whatever method of a toxic chemical. This includes any key component of a binary or multi component chemical system.

- (g) "Organization" means the International Maritime Organization (IMO).
- (h) "Secretary-General" means the Secretary-General of the Organization.
- (i) "Government" means the Government of Kingdom of Morocco.
- (j) "Territory" means the territories of the Kingdom of Morocco.
- (k) "Territorial waters" means the Territorial waters stated in the **(Dahir) law n° 1-73-211 of 2 March 1973 (26 Moharrem 1393) for the limits of the Territorial waters of the Kingdom of Morocco.**
- (l) "Convention" means the 2005 Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation.
- (m) "Protocol" means the 2005 Protocol for the 1988 Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf.
- (n) "State Party" means the State Party to the Convention and/or the Protocol.
- (o) "Fixed Platform" means an artificial island, installation or structure permanently attached to the sea-bed for the purpose of exploration or exploitation of resources or for other economic purposes.
- (p) "Exclusive Economic Zone" means the EEZ of the Kingdom of Morocco stated in the **Dahir n° 1-81-179 of 8 April 1981 (3 jomada II 1401) for Promulgation of the Law n° 1-81.**
- (p) "Continental Shelf" means the limits of the Continental Shelf as declared under the articles of the **(Dahir) Law No. 1- 58-227 of 21 July 1958 (4 Muharram 1378) on the code of research and exploitation of hydrocarbon deposits of the Kingdom of Morocco.**⁴⁰

2. For the purposes of this Law:

- (a) the terms "place of public use", "State or government facility", "infrastructure facility", and "public transportation system" have the same meaning as given to those terms in the International Convention for the Suppression of Terrorist Bombings, done at New York on 15 December 1997; and

⁴⁰ Morocco is finalizing the project to extend the Continental Shelf to 350nm (648km); the project will be submitted to the IMO Continental Shelf delimitation Committee for approval before 2017.

(b) the terms "source material" and "special fissionable material" have the same meaning as given to those terms in the Statute of the International Atomic Energy Agency (IAEA), done at New York on 26 October 1956.

Scope of Application

Article 3

1. This Law applies to:

- (a) all ships flying the flag of the Kingdom of Morocco;
- (b) all ships which are navigating or are scheduled to navigate into, through or from waters beyond the outer limit of the territorial waters and the Exclusive Economic Zone of the Kingdom of Morocco, or the lateral limits of its territorial waters with adjacent States; and
- (c) fixed platforms located on the continental shelf of the Kingdom of Morocco.

2. This Law does not apply to:

- (a) a warship; or
- (b) a ship owned or operated by a State when being used as a naval auxiliary or for customs or police purposes; or
- (c) a ship which has been withdrawn from navigation or laid up.

3. Nothing in this Law affects the immunities of warships and other government ships operated for non-commercial purposes.

4. Nothing in this Law shall affect other rights, obligations and responsibilities of Government and individuals under international law, in particular the purposes and principles of the Charter of the United Nations and international human rights, refugee and humanitarian law.

5. This Law does not apply to the activities of the Moroccan Armed Forces during an armed conflict, as those terms are understood under international humanitarian law, which are governed by that law, and the activities undertaken by the Moroccan Military Forces in the exercise of their official duties.

Title II

Offences against Ships

Article 4

1. Any person commits an offence within the meaning of this Law if that person unlawfully and intentionally:

(a) seizes or exercises control over a ship by force or threat thereof or any other form of intimidation; or

(b) performs an act of violence against a person on board a ship if that act is likely to endanger the safe navigation of that ship; or

(c) destroys a ship or causes damage to a ship or to its cargo which is likely to endanger the safe navigation of that ship; or

(d) places or causes to be placed on a ship, by any means whatsoever, a device or substance which is likely to destroy that ship, or cause damage to that ship or its cargo which endangers or is likely to endanger the safe navigation of that ship; or

(e) destroys or seriously damages maritime navigational facilities or seriously interferes with their operation, if any such act is likely to endanger the safe navigation of a ship; or

(f) communicates information which that person knows to be false, thereby endangering the safe navigation of a ship.

2. Any person also commits an offence if that person threatens, with or without a condition, as is provided for under the Moroccan national law, aimed at compelling a physical or juridical person to do or refrain from doing any act, to commit any of the offences set forth in this Article paragraphs 1 (b), (c), and (e), if that threat is likely to endanger the safe navigation of the ship in question.

Article 5

Any person commits an offence within the meaning of this Law if that person unlawfully and intentionally:

(a) when the purpose of the act, by its nature or context, is to intimidate a population, or to compel a government or an international organization to do or to abstain from doing any act:

(i) uses against or on a ship or discharges from a ship any explosive, radioactive material or BCN weapon in a manner that causes or is likely to cause death or serious injury or damage; or

(ii) discharges, from a ship, oil, liquefied natural gas, or other hazardous or noxious substances, which is not covered by subparagraph (a)(i), in such quantity or concentration that causes or is likely to cause death or serious injury or damage; or

(iii) uses a ship in a manner that causes death or serious injury or damage; or

(iv) threatens, with or without a condition, as is provided for under the Moroccan national law, to commit an offence set forth in subparagraph (a)(i), (ii) or (iii); or

(b) transports on board a ship:

(i) any explosive or radioactive material, knowing that it is intended to be used to cause, or in a threat to cause, with or without a condition, as is provided for under national law, death or serious injury or damage for the purpose of intimidating a population, or compelling a government or an international organization to do or to abstain from doing any act; or

(ii) any BCN weapon, knowing it to be a BCN weapon as defined in article 2 Paragraph 1(d); or

(iii) any source material, special fissionable material, or equipment or material especially designed or prepared for the processing, use or production of special fissionable material, knowing that it is intended to be used in a nuclear explosive activity or in any other nuclear activity not under safeguards pursuant to an IAEA comprehensive safeguards agreement; or

(iv) any equipment, materials or software or related technology that significantly contributes to the design, manufacture or delivery of a BCN weapon, with the intention that it will be used for such purpose.

Article 6

Any person commits an offence within the meaning of this Law, if that person unlawfully and intentionally transports another person on board a ship knowing that the person has committed an act that constitutes an offence set forth in Articles 4, 5, 7, 9, 10, 11 and intending to assist that person to evade criminal prosecution.

Article 7

Any person also commits an offence within the meaning of this Law if that person:

- (a) unlawfully and intentionally injures or kills any person in connection with the commission of any of the offences set forth in Articles 4, 5 and 6; or
- (b) attempts to commit an offence set forth in articles 4, 5 and 6, or subparagraph (a) of this Article;
- (c) participates as an accomplice in an offence set forth in Articles 4, 5 ,6 or subparagraph (a) or (b) of this Article; or
- (d) organizes or directs others to commit an offence set forth in Articles 4, 5 ,6 or subparagraph (a) or (b) of this Article; or
- (e) contributes to the commission of one or more offences set forth Articles 4, 5 ,6 or subparagraph (a) or (b) of this Article; or, by a group of persons acting with a common purpose, intentionally and either:
 - (i) with the aim of furthering the criminal activity or criminal purpose of the group, where such activity or purpose involves the commission of an offence set forth in Articles4, 5 or 6; or
 - (ii) in the knowledge of the intention of the group to commit an offence set forth in Articles 4, 5 or 6.

Article 8

It shall not be an offence within the meaning of this Law to transport an item or material covered by Article 5 (b) (iii) or, insofar as it relates to a nuclear weapon or other nuclear explosive device, or Article 5 (b) (iv), if such item or material is transported to or from the territory of, or is otherwise transported under the control of the Kingdom of Morocco where:

- (a) the resulting transfer or receipt, including internal to the Kingdom of Morocco, of the item or material is not contrary to the obligations of the Government under the Treaty on the Non-Proliferation of Nuclear Weapons and,
- b) if the item or material is intended for the delivery system of a nuclear weapon or other nuclear explosive on the Non-Proliferation of Nuclear Weapons, the holding of such weapon or is not contrary to the obligations of the Government under that Treaty.

Offences against the Fixed Platforms Located on the Continental Shelf

Article 9

1. Any person commits an offence within the meaning of this Law if that person unlawfully and intentionally:

- (a) seizes or exercises control over a Fixed Platform by force or threat thereof or any other form of intimidation; or
- (b) performs an act of violence against a person on board a Fixed Platform if that act is likely to endanger its safety; or
- (c) destroys a Fixed Platform or causes damage to a ship or to its cargo which is likely to endanger its safety; or
- (d) places or causes to be placed on a Fixed Platform, by any means whatsoever, a device or substance which is likely to destroy that Fixed Platform or likely to endanger its safety;

2. Any person also commits an offence if that person threatens, with or without a condition, as is provided for under the national law of the Kingdom of Morocco, aimed at compelling a physical or juridical person to do or refrain from doing any act, to commit any of the offences set forth in this Article, paragraphs 1(a) (b), (c), and (d), if that threat is likely to endanger the safety of a Fixed Platform.

Article 10

Any person commits an offence within the meaning of this Law if that person unlawfully and intentionally, when the purpose of the act, by its nature or context, is to intimidate a population, or to compel a government or an international organization to do or to abstain from doing any act:

- (a) uses against or on a Fixed Platform or discharges from a ship any explosive, radioactive material or BCN weapon in a manner that causes or is likely to cause death or serious injury or damage; or
- (b) discharges, from a Fixed Platform, oil, liquefied natural gas, or other hazardous or noxious substances, which is not covered by paragraph (a), in such quantity or concentration that causes or is likely to cause death or serious injury or damage; or
- (c) threatens, with or without a condition, as is provided for under the national law of the Kingdom of Morocco, to commit an offence set forth in subparagraph (a) or (b).

Article 11

Any person commits an offence within the meaning of this Law if that person:

- (a) unlawfully and intentionally injures or kills any person in connection with the commission of any of the offences set forth in Articles 9 or 10; or
- (b) attempts to commit an offence set forth in Articles 9, 10 or 11(a); or
- (c) participates as an accomplice in an offence set forth in Articles 9, 10 or 11(a) or (b);
or
- (d) organizes or directs others to commit an offence set forth in Articles 9, 10 or 11(a)(b);
or
- (e) contributes to the commission of one or more offences set forth in Articles 9, 10 or 11(a)(b) by a group of persons acting with a common purpose, intentionally and either:
 - (i) with the aim of furthering the criminal activity or criminal purpose of the group, where such activity or purpose involves the commission of an offence set forth in Articles 9 or 10; or

(ii) in the knowledge of the intention of the group to commit an offence set forth in Articles 9 or 10.

Title III

Jurisdiction

Article 12

1. The Courts of Appeals of the Kingdom of Morocco shall have jurisdiction over the offences set forth in articles 4, 5, 6, 7, 9, 10 and 11, when the offence is committed:

- (a) against or on board a ship flying the flag of the Kingdom of Morocco at the time the offence is committed; or
- (b) in the territory of the Kingdom of Morocco, including its Territorial Waters; or
- (c) Fixed Platforms located on the Continental Shelf of the Kingdom of Morocco; or
- (d) by a national of the Kingdom of Morocco.

2. The Court of Appeal also establishes its jurisdiction over any such offence when:

- (a) it is committed by a stateless person whose habitual residence is in Kingdom of Morocco; or
- (b) during its commission a national of the Kingdom of Morocco is seized, threatened, injured or killed; or
- (c) it is committed in an attempt to compel the Government to do or abstain from doing any act.

3. The Court of Appeal shall have jurisdiction over the offences set forth in articles 4, 5, 6, 7, 9, 10 and 11 in cases where the alleged offender is present in the territory of the Kingdom of Morocco and it does not extradite the alleged offender to any of the States Parties which have established their jurisdiction in accordance with paragraphs 1 and 2 of this Article.

4. The Law does not exclude any criminal jurisdiction exercised in accordance with any other acts, rules, order or ordinance of the Kingdom of Morocco.

5. The Supreme Court shall intervene when a dispute arises among which Court of Appeal shall have jurisdiction when an offence set forth in articles 4, 5, 6, 7, 9, 10 and 11 occur.

Title IV

Penalty

Article 13

1. Any person who is found guilty of committing any of the offences set forth in articles 4, 5, 6, 9 or 10 of this Law shall on conviction be liable to a term of imprisonment not less than fifteen (15) years and not exceeding twenty five (25) years.

2. Any person who is found guilty of committing any of the offences set forth in articles 7 and 11 of this Law shall on conviction be liable to a term of imprisonment not less than ten (10) years and not exceeding twenty (20) years.

3. Where death results in connection with commission of any of the offences set forth in this Law, the person shall be guilty of that offence and shall on conviction be liable to death penalty.

Legal Procedures

Article 14

(1) Upon being satisfied that the circumstances so warrant, the Authority shall, in accordance with domestic law, take the offender or the alleged offender found in the territory, into custody or take other measures to ensure his presence for such time as is necessary to enable any criminal or extradition proceedings to be instituted.

(2) The Authority shall immediately make a preliminary inquiry into the facts, in accordance with the Code of Criminal Procedure Laws of the Kingdom of Morocco.

(3) Any person regarding whom the measures referred to in paragraph 1 are being taken shall be entitled to:

(a) communicate without delay with the nearest appropriate representative of the State of which he is a national or which is otherwise entitled to establish such communication or, if he is a stateless person, the State in the territory of which he has his habitual residence;

(b) be visited by a representative of that State.

(4) The rights referred to in paragraph 3 shall be exercised in conformity with the laws and regulations of the Kingdom of Morocco.

Title V

State Obligations

Article 15

(1) The master of the a ship flying the flag of the Kingdom of Morocco may deliver to the authorities of any other State Party any person who the master has reasonable grounds to believe has committed an offence set forth in Articles 4, 5, 6, 7, 9, 10 and 11.

(2) The Government shall ensure that the master is obliged, whenever practicable, and if possible before entering the territorial sea of the receiving State carrying on board any person whom the master intends to deliver in accordance with paragraph 1, to give notification to the authorities of the receiving State of his intention to deliver such person and the reasons therefore.

Article 16

(1) The State shall accept the delivery, except where it has grounds to consider that the Law is not applicable to the acts given rise to the delivery, and shall proceed in accordance with the provisions of article 15. Any refusal to accept a delivery shall be accompanied by a statement of the reasons for such refusal.

(2) The State having accepted the delivery of a person in accordance with paragraph 1, may, in turn, request the flag State to accept delivery of that person.

Title VI

Extradition

Article 17

(1) The offences set forth in article 4, 5, 6, 7, 9, 10 and 11 shall be deemed to be included as extraditable offences in any extradition treaty existing between the Kingdom of Morocco and any other States Parties. The Government shall undertake to include such offences as extraditable offences in every extradition treaty to be concluded with other States Parties.

(2) If the Government receives a request for extradition from another State Party with which it has no extradition treaty, the Government may, at its option, consider the Convention as a legal basis for extradition in respect of the offences set forth in 4, 5, 6, 7, 9, 10 and 11. Extradition shall be subject to the other conditions provided by the Extradition Law and other relevant laws of the Kingdom of Morocco.

(3) If necessary, the offences set forth in Articles 4, 5, 6, 7, 9, 10 and 11 shall be treated, for the purposes of extradition between the Kingdom of Morocco and any other State Party, as if they had been committed not only in the place in which they occurred but also in a place within the jurisdiction of the Kingdom of Morocco.

(4) If the Government receives more than one request for extradition from States which have established jurisdiction in accordance with Article 6 and which decides not to prosecute shall, in selecting the State to which the offender or alleged offender is to be extradited, pay due regard to the interests and responsibilities of the State Party whose flag the ship was flying at the time of the commission of the offence.

(5) In considering a request for the extradition of an alleged offender pursuant to this Law, the Government shall pay due regard to whether his rights can be effected in the requesting State.

(6) With respect to the offences as defined in this Law, the provisions of all extradition treaties and arrangements applicable between the Kingdom of Morocco and any other State Party are modified to the extent that they are incompatible with the Law.

(7) None of the offences set forth in articles 4, 5, 6, 7, 9, 10 and 11 shall be regarded for the purposes of extradition or mutual legal assistance as a political offence or as an offence connected with a political offence or as an offence inspired by political

motives. Accordingly, a request for extradition or for mutual legal assistance based on such an offence may not be refused on the sole ground that it concerns a political offence or an offence connected with a political offence or an offence inspired by political motives.

(8) Nothing in this Law shall be interpreted as imposing an obligation to extradite or to afford mutual legal assistance, if the Government has substantial grounds for believing that the request for extradition for offences set forth in articles 4, 5, 6, 7, 9, 10 and 11 or for mutual legal assistance With respect to such offences has been made for the purpose of prosecuting or punishing a person on account of that person's race, religion, nationality, ethnic origin, political opinion or gender, or that compliance with the request would cause prejudice to that person's position for any of these reasons.

Title VII

Boarding Provisions

Article 18

(1) Whenever the law enforcement or other authorized officials of another State Party ("the requesting Party") encounters a ship flying the flag of the Kingdom of Morocco located seaward of the territorial sea of the Kingdom of Morocco, and the requesting Party has reasonable grounds to suspect that the ship or a person on board the ship has been, is or is about to be involved in the commission of an offence set forth in articles 4, 5, 6, 7, 9, 10 and 11, the requesting Party shall not board the ship or take any measures without the express authorization of the Kingdom of Morocco.

(2) Whenever the law enforcement or Other authorized officials of the Kingdom of Morocco encounters a ship flying the flag of another State Party located seaward of the territorial sea of the Kingdom of Morocco, and has reasonable grounds to suspect that the ship or a person on board the ship has been, is or is about to be involved in the commission of an offence set forth in articles 4, 5, 6, 7, 9, 10 and 11, they shall not board the ship or take any measures without the express authorization of the said State Party, made in accordance with the Convention and the Protocol.

(3) Where the law enforcement or other authorized officials of another State Party or the law enforcement or other authorized officials of the Kingdom of Morocco decide to take measures in terms of this Article, they shall:

- (a) take due account of the need not to endanger the safety of life at sea;
- (b) ensure that all persons on board are treated in a manner which preserves their basic human dignity, and in compliance with the applicable provisions of international law, including international human rights law;
- (c) ensure that a boarding and search pursuant to this Article shall be conducted in accordance with applicable international law;
- (d) take due account of the safety and security of the ship and its cargo;
- (e) take due account of the need not to prejudice the commercial or legal interests of the State Party;
- (f) ensure, within available means, that any measure taken with regard to the ship or its cargo is environmentally sound under the circumstances;
- (g) ensure that persons on board against whom proceedings may be commenced in connection with any of the offences set forth in this Law, are afforded the all protections and rights set forth in this Law regardless of the location of the operation;
- (h) ensure that the master of the ship is advised of its intention to board, and is, or has been, afforded the opportunity to contact the ship's owner and the State Party at the earliest opportunity;
- (i) take reasonable efforts to avoid the ship being unduly detained or delayed.

Title VIII

Mutual Co-operation with other States Parties

Article 19

(1) The Government shall afford the greatest measure of assistance towards other States Parties in connection with criminal proceedings brought in respect of the offences set forth in articles 4, 5, 6, 7, 9, 10 and 11 including assistance in obtaining evidence at its disposal necessary for the proceedings.

(2) The Government shall carry out its obligations towards other States Parties under paragraph 1 in conformity with any treaties on mutual assistance that may exist between them.

(3) The Government having reason to believe that the offences set forth in articles 4, 5, 6, 7, 9, 10, and 11 will be committed shall, in accordance with the National law of the Kingdom of Morocco, furnish as promptly as possible any relevant information in its possession to those States which it believes would be the State having established jurisdiction in accordance with Article 6.

Article 20

(1) The Government shall co-operate With Other States Parties in the prevention of the offences set forth in articles 4, 5, 6, 7, 9, 10 and 11 particularly by:

- (a) taking all practicable measures to prevent preparation in the territory of the Kingdom of Morocco for the commission of those offences within or outside its territory;
- (b) exchanging information in accordance With its domestic law, and coordinating administrative and Other measures taken as appropriate to prevent the commission of offences set forth in articles 4, 5, 6, 7, 9, 10 and 11.

(2) When, due to the commission of an offence set forth in article 4, the passage of a ship has been delayed or interrupted, and the ship or passengers or crew are present in the territory of the Kingdom of Morocco, the Government shall exercise all possible efforts to avoid a ship, its passengers, crew or cargo being unduly detained or delayed.

Title IX

Trial and Safeguards of the Offender or Alleged Offender

Article 21

(1) The Government, if the offender or the alleged offender is found in the territory of the Kingdom of Morocco, shall, in cases to which article 6 applies, if it does not extradite him, be obliged, without exception whatsoever and whether or not the offence was committed in its territory, to submit the case without delay to the First Instance Tribunal in of Title III (Jurisdiction) Article 12 of this Act, for the purpose of prosecution.

(2) Any person Who is taken into custody, or regarding whom any Other measures are taken or proceedings are being carried out pursuant to this Law, shall be guaranteed fair treatment, including enjoyment of all rights and guarantees in conformity with the domestic law of the Kingdom of Morocco and applicable provisions of international law, including international human rights law.

Title X

Miscellaneous

Provisions with Regard to Legal Entities

Article 22

(1) The Government shall take the necessary measures to enable a legal entity located in territory of the Kingdom of Morocco or organized under its laws to be held liable when a person responsible for management or control of that legal entity has, in that capacity, committed an offence set forth in this Law. Such liability may be criminal, civil or administrative.

(2) Such liability is incurred without prejudice to the criminal liability of individuals having committed the offences.

Article 23

The DAHIR n° 1-01-294 du 15 Kaada 1422 in Marrakech, publication of the 1988 SUA Convention and its Protocol (Bulletin Officiel 2 may 2002) is hereby repealed.

TABLE OF CONTENTS:

EXPLANATORY NOTE	
I. Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation 1988 (1988 SUA Convention), and the 1988 Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf (1988 SUA Protocol)	3
1. 1988 SUA Convention	3
2. 1988 SUA Protocol	7
3. IMO 2002 Conference on Maritime Security and Review of the SUA Convention and the 1988 SUA Protocol.....	9
II. Protocol of 2005 to the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation(2005 SUA Convention), and the 2005 Protocol to the 1988 Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms located on the Continental Shelf (2005 SUA Protocol).....	11
1. 2005 SUA Convention	11
2. 2005 SUA Protocol	13
III. The reasons for the implementation of the 2005 SUA Convention and 2005 SUA Offshore Protocol into the Moroccan legislation.....	13
IV. Procedure to implement the 2005 SUA Convention and its Protocol.	14
<u>V. Explanation of the draft Law.....</u>	<u>15</u>
DRAFT LAW	
Title I.....	17
General Provisions	17
Definitions.....	17
Scope of Application.....	20
Title II	21
Offences against Ships	21
Offences against the Fixed Platforms Located on the Continental Shelf.....	24
Title III.....	26
Jurisdiction	26
Title IV.....	27
Penalty.....	27
Legal Procedures.....	27
Title V	28
State Obligations	28

Title VI.....	29
Extradition.....	29
Title VII.....	30
Boarding Provisions.....	30
Title VIII.....	31
Mutual Co-operation with other States Parties.....	31
Title IX.....	32
Trial and Safeguards of the Offender or Alleged Offender.....	32
Title X.....	33
Miscellaneous.....	33
Provisions with Regard to Legal Entities.....	33