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**NAMIBIAN MARITIME AND AERONAUTICAL SEARCH
AND RESCUE ACT NO. ___ OF 2018**

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Submitted By: Ms. Veronika N Halwoodi (Namibia)

Supervisor: Ms. Catherine Panaguiton

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Disclaimer

The views and opinions expressed in this draft project are those of the author's and do not necessarily reflect the official policy and position of the Government of the Republic of Namibia or IMLI.

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God, almighty

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My husband, Mr. Joseph Halwoodi

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I AM GRATEFUL!!

EXPLANATORY NOTES

Introduction

The purpose of this explanatory note is to make a case for the implementation of the International Convention of Maritime Search and Rescue, (SAR) 1979 (as amended), and Annex 12 to the Convention on International Civil Aviation, 1944, into Namibian Law. Disaster preparedness and risk management relating to search and rescue are very important for a coastal State like Namibia, which geographically is located on the South Western Africa along the Atlantic Ocean. From 1994, when Walvis Bay, Namibia's largest harbor city was reintegrated into Namibia from South Africa, to date, more than seventy (70) cases of search and rescue has been reported in Namibia's search and rescue regions. Therefore, this explanatory note illustrates the need to enact a legislation to complement the existing search and rescue Plan and the Civil Aviation Regulations.²

1. Historical background of Search and Rescue in International Law

Jeremy Bentham expressed the utilitarian argument for a duty to rescue as follows:

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

Bentham was a believer of ‘promote the greatest happiness for the greatest number’.

In addition, John Stuart Mill states that, a duty to rescue a person may cause evil to others not only by his actions but by his inaction, and in either case he is justly accountable to them for the injury.³

² Civil Aviation Technical Standards: NAM-CATS-ATS “Airspace and Air Traffic Service Regulations, GG Notice number 3135 issued on 23 January 2004

³ Taurum Clay A legal duty to act? (The Bark Report 2013) 3 August 2013 <[http:// bark.net.au?p= 100](http://bark.net.au?p=100)>accessed

Migrants and refugees travelling by sea are not a new phenomenon. Desperate people in all parts of the world have long risked their lives aboard unseaworthy ships and other craft. Some do so in search of work, better living conditions or educational opportunities. Others are seeking international protection against persecution, conflict or other threats to their life, liberty or security. Often this means placing their fate in the hands of unscrupulous, criminal smugglers. In addition to the dangerous conditions in which they travel, many face exploitation, abuse and violence during their journey.⁴ For some unfortunate souls, however, the struggle for immediate survival and the subsequent horrors of waiting for rescue, not knowing whether anyone is aware of their plight and uncertain as to whether they can survive long enough even if they are, become a terrifying reality. Even in the modern world, when advances in ship design, construction and technology coupled with highly trained and capable ships' crews mean a passage by sea is safer than ever before, the sea remains capricious and unforgiving - and accidents still happen.⁵

Although the chances of shipwreck are smaller than ever and diminishing progressively, no one who takes to the sea is completely immune from danger. It matters not whether one is a professional seafarer or fisherman at work, a fare-paying passenger travelling for pleasure or business, a yachtsman engaged in one's favorite pastime or a refugee or migrant taking to the sea out of desperation; the sea does not distinguish. This is precisely the reason why the old age tradition among seafarers of going immediately to the aid of anyone in distress at sea became established and continues to this day. For centuries, seafarers have considered it their duty to assist fellow mariners in peril on the high seas. In Modern times, this tradition has become more than just a moral obligation and is now enshrined in international law.⁶

One can see from the above that search and rescue is rooted in the common law duty to render assistance to those in need. In some jurisdictions it is legal duty. For instance, in terms of

⁴ IMO Guide on Rescue at sea. The above stated guide has been prepared jointly by the International Maritime Organization (IMO), the International Chamber of Shipping (ICS), and the Office of the United Nations High Commissioner for Refugees (UNHCR). It is intended for Masters, ship owners, Government authorities, insurance companies, and other interested parties involved in rescue-at-sea situations. It provides guidance on relevant legal provisions, on practical procedures to ensure the prompt disembarkation of rescued persons, and on measures to meet their specific needs, particularly in the case of refugees and asylum-seekers

⁵ IMO Feature, SOLAS and SAR amendments to strengthen international rescue regime

⁶ *ibid*

section 323c of the German Criminal Code titled 'failure to render assistance', every person is obliged to render assistance if the situation at hand so requires.⁷

3. International Instruments that preceded Search and Rescue Convention

Internationally, this duty is reflected in the following Conventions that have been in existence before the Search and Rescue Convention was adopted.

Article 12 of the 1958 Geneva Convention on the High Seas provides a framework for action in the following words:

1. Every State shall require the master of a ship sailing under its flag, insofar as he can do so without serious danger to the ship, the crew or the passengers:
 - (a) To render assistance to any person found at sea in danger of being lost;
 - (b) To proceed with all possible speed to the rescue of persons in distress if informed of their need of assistance, insofar as such action may reasonably be expected of him;
 - (c) After a collision, to render assistance to the other ship, her crew and her passengers and, where possible, to inform the other ship of the name of his own ship, her port of registry and the nearest port at which she will call.
2. Every coastal State shall promote the establishment and maintenance of an adequate and effective search and rescue service regarding safety on and over the sea and — where circumstances so require — by way of mutual regional arrangements cooperate with neighboring States for this purpose.⁸

This provision was later reproduced in 1982 in Article 98 of the United Nations Convention on the Law of the Sea (UNCLOS), also known as the constitution of the oceans.⁹

Most of detailed provisions on search and rescue are contained in IMO conventions. For instance, The Safety of Life at Sea Convention (SOLAS) spells out the obligation on ships' masters to render assistance.¹⁰ It says, "The master of a ship at sea which is in a position to be able to provide assistance, on receiving a signal from any source that persons are in distress at

⁷ Criminal Code promulgated on 13 November 1998, Federal Law Gazette [Bundesgesetzblatt] I p. 3322, last amended by Article 3 of the Law of 2 October 2009, Federal Law Gazette I p. 3214

⁸ Geneva Convention on the High Seas adopted on 29 April 1958

⁹ United Nations Convention on the Law of the Sea signed on 10 December 1982 at Montego Bay, Jamaica, entered into force in 1994

¹⁰ International Convention on Safety of Life at Sea, 1974 adopted on 1 November 1974 and entered into force on 25 May 1980

sea, is bound to proceed with all speed to their assistance, if possible informing them or the search and rescue service that the ship is doing so."¹¹ Elsewhere, it stipulates that contracting Governments should undertake "to ensure that necessary arrangements are made for distress communication and co-ordination in their area of responsibility and for the rescue of persons in distress at sea around its coasts."¹²

Further, the *Salvage Convention of 1989*, while primarily concerned with the salvage of property and the prevention of marine pollution, nevertheless restates the SOLAS obligation on the master to render assistance to any person in danger of being lost at sea. And the *Convention on Facilitation of International Maritime Traffic (FAL Convention)* sets forth special facilitation measures for ships calling at ports in order to put ashore sick or injured crew members, passengers or other persons for emergency medical treatment.¹³

However, even though the obligation of ships to go to the assistance of vessels in distress was enshrined both in tradition and in international treaties, as discussed above, there were no international system covering search and rescue operations. In some areas, there was a well-established organization able to provide assistance promptly and efficiently, in others there was nothing at all.¹⁴

4. International Search and Rescue Convention of 1979

The *International Convention on Search and Rescue* was adopted by an international conference held in Hamburg on 27 April 1979 and it entered into force in 1985.¹⁵

As its title implies, the Convention is designed to improve existing arrangements and provide a framework for carrying out search and rescue operations following accidents at sea. The Convention is designed to develop an international Search and Rescue (SAR) plan, hereinafter referred to as the "Plan", so that, no matter where an accident occurs, the rescue of persons in

¹¹ (<http://www.imo.org/en/about/conventions/list> of conventions/pages/international convention for the safety of life at sea (SOLAS), 1974) accessed 18 December 2017

¹² Ibid Chapter V Regulation 7

¹³ Convention on Facilitation of Maritime Traffic (FAL Convention) adopted in 1965, as amended

¹⁴ [http://www.imo.org/en/About/Conventions/ListOfConventions/Pages/International-Convention-on-Maritime-Search-and-Rescue-\(SAR\).aspx](http://www.imo.org/en/About/Conventions/ListOfConventions/Pages/International-Convention-on-Maritime-Search-and-Rescue-(SAR).aspx)

¹⁵ International Search and Rescue Convention, IMO Publication ISBN 92-801-5083-9

distress at sea will be co-ordinated by a Search and Rescue organization and, when necessary, by co-operation between neighboring SAR organisations. The Plan provides for a holistic approach in executing maritime search and rescue in the event of a maritime casualties or accidents at sea.¹⁶

Although many countries have their own established plans for such emergencies, this was the first time international framework had been adopted. However, due to the fact that the Convention imposed considerable obligations on State Parties, such as setting up the required shore installations, the ratification process of the Convention has been slow.¹⁷ It was generally agreed that one of the reasons for the slow pace of implementation was problems with some provisions of the SAR Convention itself and that these could best be overcome by amending the Convention.¹⁸

The Sub-Committee on Radio communications and Search and Rescue (COMSAR) was therefore requested to revise the annex to the Convention. A draft text was prepared and was approved by the sixty-eighth session of the Maritime Safety Committee (MSC) in May 1997, and was then adopted by resolution MSC.70 (69) at the sixty-ninth session in May 1998. The revised Convention entered into force on 1 January 2000. It clarifies the responsibilities of Governments and puts greater emphasis on the regional approach and co-ordination between maritime and aeronautical SAR operations. The revision applies to the annex of the Convention only.¹⁹

It was again amended, together with SOLAS Convention in 2004 and such amendment came into force on 1 July 2006.²⁰ These amendments were developed in response to IMO Assembly resolution A.920 (22) on Review of safety measures and procedures for the treatment of persons rescued at sea, which was adopted by IMO's 22nd Assembly in 2001, following a number of incidents that highlighted concerns surrounding the treatment of persons rescued at sea, in particular undocumented migrants, asylum seekers, refugees and stowaways.²¹

¹⁶ <http://www.imo.org/en/about/conventions/listofconventions>

¹⁷ Ibid

¹⁸ Ibid

¹⁹ Ibid

²⁰ www.imo.org

²¹ IMO Feature

Resolution A. 920(22) requested IMO to review all IMO instruments so that any existing gaps, inconsistencies, ambiguities, vagueness or other inadequacies could be identified and any action needed could be taken. The idea was to ensure that co-ordination and co-operation among all parties concerned could be strengthened so that rescued persons are promptly and effectively delivered to a place of safety, regardless of their nationality and status or the circumstances in which they are found. Survivors, including undocumented migrants, asylum seekers and refugees, as well as stowaways, should be treated, while on board, in accordance with relevant international agreements and long-standing humanitarian maritime traditions.

5. Overview of SAR Convention

This part discusses the overall structure of the conventions as adopted initially as well as the subsequent amendment.

5.1 Salient provisions

At first, the 1979 Convention comprised of eight Articles and an Annex of six chapters. However, as stated above, the Convention did not attract the required number of ratifications, therefore did not enter into force as expected by IMO.²² On the other hand, the Convention should have been ratified by coastal States who have capability to successfully execute maritime search and rescue operations.

During the revision of the initial convention, the Maritime Safety Committee (MSC) considered the experience of the State that implemented the Convention, lessons learnt from the search and rescue operations, difficulties faced by developing States which were not parties to the Convention, the inconsistent use of terminology in the Convention and the need to harmonise the IMO and International Civil Aviation Organisation (ICAO) search and rescue provisions.²³

²² SAR Convention 1979 as amended by resolution MSC 70 (69)

²³ Annex 12 of ICAO; Chapter V Regulation 33 of SOLAS

5.2 The 1998 Amendments²⁴

The revised SAR Convention contains eight main Articles and five Chapters by way of an Annex. The revised technical Annex clarifies the responsibilities of States and emphasize on the co-ordination of maritime and aeronautical SAR operations with a regional approach.²⁵

The summary of the revised Annex is as follows.

5.2.1 Terms and Definitions

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

5.2.2 Organization and Co-ordination

The responsibilities of the States are clearly stated in this chapter compared to chapter 2 of the 1979 Annex. The inclusion of certain provisions which facilitated either on an individual basis or through regional cooperation is further clarified and explained in this chapter. In terms of Article 2.1.2, these provisions include the legal framework, assignment of a responsible authority, organization of available resources, communication facilities, co-ordination and operational functions and processes to improve the services including planning, national and international co-operative relationships and training with regard to the execution of search and rescue services.

²⁴ IMO, SAR ‘1998 Amendments’ (adopted on 18 May 1998 entered into force 1 January 2000) <<http://www.imo.org/en/OurWork/safety/radiocommunicationsandsearchandrescue/searchandrescue/pages/sarconvention.aspx>> accessed 1 May 2017

²⁵ IMO (n 15)

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

5.2.3 Co-operation between States

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

5.2.4 Operating Procedures

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

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

5.2.5 Ship reporting systems

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

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

5.2.6 The IAMSAR Manual

This is a manual developed and published by the International Maritime Organisation (IMO) and the International Civil Aviation Organisation (ICAO). It mainly deals with ship reporting system. It consists of three volumes namely; the Organisation and Management²⁶, Mission Coordination²⁷ and Mobile Facilities²⁸. Each volume deals with specific duties of SAR systems. The 2015 amendments to the IAMSAR manual entered into force on 16 July 2016 and it forms part of Namibia's draft Plan already.

5.3 The 2004 Amendments

Among the 2004 amendments are those to SOLAS chapter V - Safety of Navigation, which add a definition of search and rescue services. They also add to and clarify the existing longstanding obligation to provide assistance, adding the words: "This obligation to provide assistance applies regardless of the nationality or status of such persons or the circumstances in which they are found."

Moreover, the amendments mandate co-ordination and co-operation between States to assist the ship's master in delivering persons rescued at sea to a place of safety. This is the first time that such an obligation has been placed on States. The amendments also add a new regulation concerning a ship master's discretion, which states that "the owner, the charterer, the company operating the ship. ., or any other person shall not prevent or restrict the master of the ship from taking or executing any decision which, in the master's professional judgment, is necessary for safety of life at sea and protection of the marine environment." Amendments to the SAR Convention add a new paragraph in chapter 2 - Organization and co-ordination, relating to the

²⁶ Volume 1

²⁷ Volume 2

²⁸ Volume 3

definition of persons in distress ; new paragraphs in chapter 3 - Cooperation 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 rescue co-ordination centres initiating the process of identifying the most appropriate places for disembarking persons found in distress at sea. Related Guidelines on the treatment of persons rescued at sea, also adopted in May 2004, provide guidance with regard to humanitarian obligations and obligations under the relevant international law. These confirm that the obligation of the master to render assistance should be complemented by the corresponding obligation of IMO Member Governments to co-ordinate and co-operate in relieving the master of the responsibility to provide follow up care of survivors and to deliver the persons rescued at sea promptly to a place of safety.

5.4 Status of Convention

As indicated above, the last amendments (2004) entered into force on 1 January 2006. As of 12 August 2017, about 111 States or more than 80% of the world tonnage have ratified or acceded to the SAR Convention.²⁹, which can be concluded as the world's commitment to regulate search and rescue operations through SAR Convention. Namibia acceded to SAR Convention on 11 April 2004 and is expected to implement the Convention fully.

6. Other agencies corroborating IMO efforts on Search and Rescue

In addition, and again following Resolution A.920 (22), the IMO Secretary-General brought the issue of persons rescued at sea to the attention of a number of competent United Nations specialized agencies and programmes, highlighting the need for a co-ordinated approach among United Nations agencies and soliciting the input of relevant agencies, including UNHCR, the UN Refugee Agency, within the scope of their respective mandates. An inter-agency effort focusing on State responsibilities for non-rescue issues, such as immigration and asylum, which are beyond the competence of IMO, is an essential complement to IMO's own efforts. IMO is co-operating with UNHCR and other relevant agencies as necessary following rescue incidents

²⁹ <http://www.imo.org/en/About/Conventions/StatusOfConventions/Documents/Status%20of%20Treaties>

involving persons in distress who subsequently are found to be asylum seekers or undocumented migrants.

Further, the Convention placed certain obligations on the Contracting States in order to fully implement the Convention and such obligations can only be fulfilled upon incorporating the Convention into national laws of the Contracting States.

The actual ways and procedures that may be employed in practice to meet the generally worded obligations under these international Conventions are described in the International Conventions are described in the International Aeronautical and Maritime SAR Manual (IAMSAR) Volumes I-III³⁰, the procedures for responding to emergencies as required by the International Safety Management (ISM) Code and included in the company's Safety Management System (SMS) as well as the procedures included in the ship specific plans for recovery of persons from the water as required by SOLAS.³¹

The timeliness of the entry into force of the new IMO amendments has been emphasised by the rising death toll among migrants and asylum seekers attempting sea passages, often in unseaworthy and overcrowded vessels. The new Convention provisions constitute a significant milestone, of which the entire maritime community can feel justifiably proud, since they strengthen further the centuries-old tradition of mariners throughout the world, of giving succor and salvation to fellow human beings in distress at sea. In an age when ships' captains are constantly asked to improve efficiency and cut costs, it remains vital that they continue to rescue those found in grave peril on the sea - whoever they are and whatever their reason for being there. The new IMO amendments should help to ensure that any ambiguities surrounding the obligations of all concerned towards those who become involved in an accident at sea are clarified, and that anything which might serve as a disincentive to ships' masters in the fulfillment of their obligations, is removed.³²

³⁰ Jointly published by IMO and the International Civil Aviation Organisation (ICAO).

³¹ The ICS guidance Recovery of Persons from the Water provides complementary guidance on developing ship specific plans and procedures as required by SOLAS Regulation III/17-1

³² IMO Feature p 5

7. Global Search and Rescue Regions established under SAR Convention

The MSC of the IMO has divided the world into thirteen (13) provisional search and rescue regions for ease of operations.³³ With the search and rescue plans for the Indian Ocean finalized in September 1998, these provisional search and rescue areas were completed.³⁴ These regions are North Pacific (2), South Pacific (2), Caribbean Sea, North Atlantic, Mid Atlantic, South Atlantic, European Waters, Baltic Sea, Mediterranean Sea, India and Asia.³⁵

This delimitation facilitated the States to delimit their search and rescue areas and to adopt search and rescue plans accordingly. These provisional rescue areas (no permanent demarcations introduced as yet) together with all the SAR facilities are incorporated in the SAR8/Circular 4 published by the IMO. It is also reflected in the International Maritime Rescue Federation documents and in United States' Coast Guard documents.³⁶

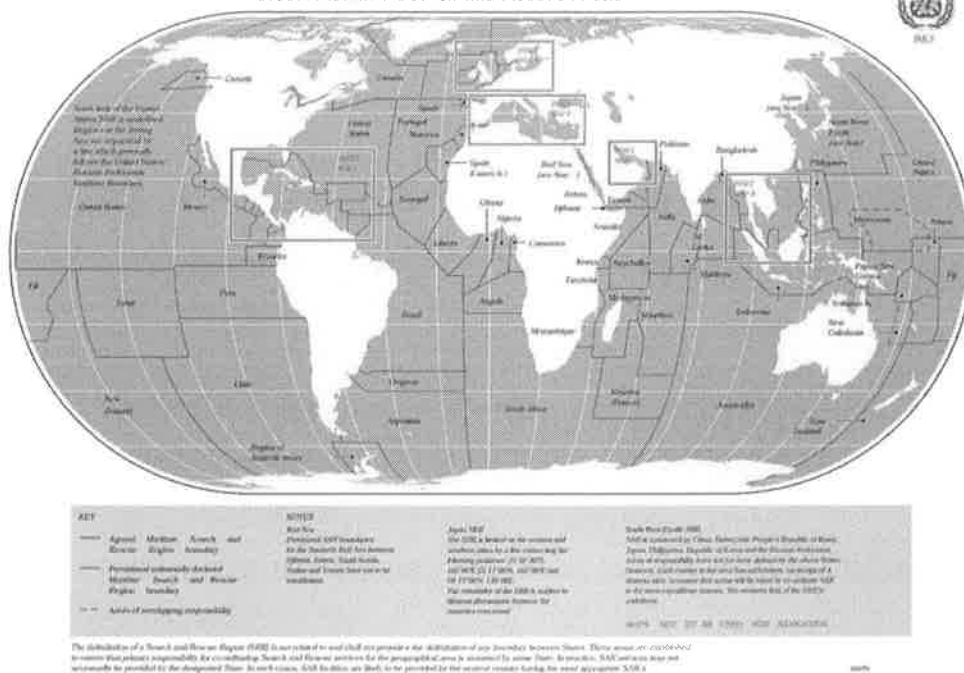
³³ IMO (n 15)

³⁴ *ibid*

³⁵ US Coast Guard 'Global Search and Rescue Areas'

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

³⁶ IMO, SAR.8/Circular 4 (01December2012) <<http://www.international-maritime-rescue.org/sadministration/file/511-sar-8-circ-4-availability-of-sar-services>> accessed 1 May 2017; see also USCG (n 34)



Map 1 -IMO Global Maritime Search and Rescue Areas

8. CURRENT SEARCH AND RESCUE IN NAMIBIA

The Namibian Maritime SAR Area falls within the Southern Africa Maritime Search and Rescue Region (SASRR) and comprises the territorial waters and exclusive economic zone of Namibia. As there is no dedicated legislation on SAR in place yet, there is also no demarcated SAR area yet, however, in principle Namibia is responsible for search and rescue in its territorial sea as well as its exclusive economic zone, as stated above.

The Namibian Maritime SAR area is contiguous with the South African SAR Area (Southern international border) and the Angolan SAR Area (Northern international border). Mutual co-operation and assistance need to be fostered between Namibia and these two neighboring countries in order to take prompt and efficient action to relieve distress situations whenever they arise.³⁷ Although South Africa hosts the regional Maritime Rescue Coordination Centre

³⁷ Namibia's SAR Plan 18

(MRCC), which is responsible for the efficient organization and of maritime SAR services in SASRR, Namibia has the primary responsibility for co-coordinating and providing SAR services within Namibian waters including its Exclusive Economic Zone (EEZ).

As far as the applicable legal framework is concerned, Namibia's maritime and shipping industry is regulated largely by the *Merchant Shipping Act, 1951* inherited from South Africa at independence. This Act is so outdated that it has been undergoing repeal for a couple of years to suit the current state of Namibia's maritime and shipping industry.³⁸ It does also not, in its current form contain provisions on search and rescue. At the moment the only legal framework within which Namibia executes its search and rescue operation is the draft SAR Plan and regulations enacted by the Directorate of Civil Aviation on Search and Rescue which regulate search and rescue from air. The SAR services with regard to aeronautical services are well into operation and meet the international standards envisaged by ICAO and incorporate the provisions of IAMSAR.³⁹

Further, Namibia, being a signatory to the International Convention on the Safety Of Life At Sea (SOLAS) Convention, 1974, as amended, and the International Convention on Maritime Search and Rescue, 1979, has accepted the international obligation to provide maritime SAR co-ordination and services in her territories, territorial seas, and the high seas, within her search and rescue region of which the former is yet to be determined.

The preferred approach for Namibia, as provided in the Draft Search and Rescue Plan,⁴⁰ is a multi-agency/whole of Government approach mainly because Namibia does not have dedicated SAR resources. It is stated in the national Search and Rescue policy of the Ministry of Works and Transport that

It is the policy of the Government of Namibia to provide a Maritime Search and Rescue (SAR) Plan for coordinating maritime SAR to meet national and international commitments. As a responsible coastal State, Namibia should utilize available resources towards saving lives at sea, within her maritime SAR region. Therefore Namibia should endeavour to provide maritime SAR services

³⁸ Merchant Shipping Act, 1951 (Act No. 57 of 1951)

³⁹ Civil Aviation Technical Standards: NAM-CATS-ATS "Airspace and Air Traffic Service Regulations, GG Notice number 3135 issued on 23 January 2004

⁴⁰ Draft Maritime Search and Rescue Plan for Namibia

to any person, vessel, aircraft or installation at any place at all times, without regard to the nationality or status of such a person or the circumstances in which that person is found in her territories, or territorial waters.

In addition it is worth pointing out that, currently smaller SAR incidents are coordinated from Walvis Bay but always in conjunction with MRCC in South Africa.⁵⁰ This is traceable to Namibian history as a former colony of South Africa but also the International Convention on the Intervention on the High Sea, 1996, SAR Convention, the 2000 Florence and the 2007 multilateral SAR agreement between the Governments of the Republic of Namibia, the Republic of South Africa, the Republic of Mozambique, the Union of the Comoros, the Republic of Angola, and the Republic of Madagascar. These treaties espouse regional cooperation and the creation of Maritime Regional Coordination Centres (MRCC), which coordinate SAR response in cooperation with national coordination centres such as Namibia's Maritime rescue sub-centre located in Walvis Bay. This sub-centre operates 24 hours a day, 7 days a week. The idea behind this is noble from a cost and regional integration and cooperation perspective i.e. all the participating states do not have to make large financial and human capital outlays to establish a centre like the MRCC in Cape Town in each State.

It would be ideal if the MRCC, Cape Town is allowed to continue to serve the entire region as far as regional or even national coordination is concerned because it has modern technology and full awareness of the maritime domains of all participating states including Namibia. The idea behind this arrangement was that other states including Namibia, depending on their capability, need only smaller centres to coordinate smaller incidents in conjunction with MRCC. However, as a sovereign State with growing maritime activities and maritime interests, it is in Namibia's best interest to establish a centre that is capable of coordinating SAR incidents in Namibia's territorial waters independently. The MRCC will still play a regional role but full national coordination will be vested with Namibia's national centre, which will no longer be called a sub-centre. The proposed SAR Act, supplemented by the new draft maritime SAR plan, shall help to create this national centre, among other things.

⁵⁰ Walvis Bay is Namibia's largest harbor town

In other words, apart from the SAR plan which is in draft form, legislation is a critical enabler/precondition in transitioning from a sub-centre resorting under MRCC, Cape Town to a fully-fledged national centre, which will operate in cooperation with, rather than under, the MRCC, Cape Town. In addition, the obligations under the SAR Convention would be fulfilled easily and efficiently. The list of regional SAR events is attached herewith marked Annex 1 for information.

Therefore, in conclusion, a need for search and rescue legislation is highly emphasised. These sentiments were also expressed by the Deputy Director of Marine Pollution Control and SAR in the Ministry of Works and Transport who on 4 April 2017 at Swakopmund states as follows

One current challenge in Namibia is outdated system. We are busy with a revitalization program to ensure that system and structures are established at national levels, that basically integrate aeronautical search and rescue as well as maritime search and rescue, and to put in place the necessary legislative framework. Without the legislative framework there is not very much you can do.⁵¹

9. INCORPORATING PROCEDURE

9.1 Monism vs. Dualism

In order to determine which approach will be best for Namibia to incorporate international instruments such as SAR Convention, one need look at the two systems or theories available in international law for this purpose, namely the **monism** and **dualism**. Many states, perhaps most, are partly **monist** and partly **dualist** in their actual application of international law in their national systems.⁵³

Dinah Shelton describe monism as a legal system where by international and domestic legal orders constitute a single system and dualism as one whereby each legal system rests-self-contained, separate from others and from international system⁵⁴.

⁵¹ <http://www.namibtimes/namibia's> search and rescue. Auene was speaking at a two day search and rescue regional training held by IMO at Swakopmund Namibia on 4 April 2017.

⁵³ <https://www.google.com/search?q=monist+vs+dualist+approach&ie=utf-8&oe=utf-8&client=firefox-b-ab>

⁵⁴ D Shelton 2011 International Law and Domestic Legal Systems, incorporation, transformation and persuasion. Oxford p. 2

In addition, Shelton states the following about these two legal systems:

First, both monists and dualists may accept the concept that some international law (peremptory norms *jus cogens*) is automatically binding, irrespective of a state's consent or domestic legal order-creating a sub-category of monist norms even for dualist systems.⁵⁵ Second, it is also possible that domestic systems may consider themselves monist for one source of international law such as custom and consider themselves dualist for another, such as treaty law. Third, a court in a dualist state might give direct effect to international law during litigation involving transnational issues, using choice of law principles, because the relevant other legal system is a monist state and fourth, states taking a dualist approach to treaty incorporation may nonetheless automatically apply adjustments or decisions of treaty bodies that further define the obligations set out in the treaty, as if they were monist."⁵⁶

In view of the above, it would appear that the place of international law in the domestic legal system depends on the source of the international law in question: whether it is a treaty, customary international law, a general principal of law or derives from the decision of an international Organisation.⁵⁷

9.2 The Namibian Constitution

For Namibia, *Article 144* is the point of departure and it provides as follows.

Unless otherwise provided by this constitution or Act of Parliament, the general rules of public international law and international agreements binding upon Namibia under this Constitution shall form part of the law of Namibia.

This is not an easy provision to understand or interpret. It seems to signify that all international treaties that are binding upon Namibia automatic operation in Namibian domestic law, which would then mean that national institutions and courts in particular, can directly apply and enforce international treaties that are binding on Namibia without having been translated into municipal law by legislative and other mechanisms to the same effect. It would similarly mean

⁵⁵ These peremptory norms may exist alongside other international norms that may only become binding after they are adopted by the state according to its domestic constitutional processes, either through direct incorporation or through transformative legislation. It is also possible that domestic systems may consider themselves monist for one source of international law such as custom and consider themselves dualist for another, such as treaty law.

⁵⁶ Ibid no 22 p 3

⁵⁷ Ibid No 22 p 5

that such treaties can be directly relied upon by individuals before national courts and other related institutions. However, before that is said with certainty, two main questions need to be answered. Firstly, when do treaties become binding on Namibia, and secondly when do such binding treaty becomes part of Namibian national law.

These questions require Article 144 to be reconciled with other provisions of the Constitution, especially those concerning Namibia's participation in international agreements.

As regards the first question, that is, when treaties become binding on Namibia, in terms of the 1969 Vienna Convention on the Law of Treaties, a treaty is binding on a State once it has expressed consent to be bound by the treaty. This constitutes international ratification, whereby a treaty is binding between one State and others. Thus, for a treaty to become binding on Namibia at international level, it would have to comply with the requirements laid down in Namibian municipal law, particularly the Constitution. *Article 32(3) (e)* of the Constitution empowers the President of Namibia to "negotiate and sign international agreements, and to delegate such power".

The meaning of this provision is not entirely clear. Read in isolation, it conveys the impression that the President can, following negotiation, sign treaties that enter into force upon signature and bind Namibia without the approval of Parliament. This, however, is not the case because, according to Article 63(2) (e) of the Constitution, the National Assembly of Namibia –

... shall agree to the ratification of or accession to international agreements which have been negotiated and signed in terms of Article 32(3) (e) hereof.

Thus, for treaties that have been negotiated and signed by the President or his/her delegate or representative in terms of Article 32(3) (e) to be binding on Namibia externally or at international level they require parliamentary approval. These treaties can only be binding on Namibia internationally once they have been ratified or acceded to by the Namibian Parliament. It is the latter body that expresses consent to be bound by treaties on the international plane.⁵⁹

⁵⁹ Mtopa (1990/1991:111–112).

It essentially means that, although the Namibian international law clause, that is, Article 144, purports to make all international treaties automatically effective in Namibian municipal law, it does not completely erode the sovereign power of the Namibian legislative authority to transform treaties. In fact, provisions similar to that found in the Namibian Constitution appear in the Constitutions of other countries. The interpretation that has been posited to these provisions is that they do not take away the sovereign power of Parliament to enact treaties into municipal law.⁶⁰

Moreover, it is submitted that the automatic application of treaties in the Namibian national legal order does not apply to all sorts of treaties, i.e. irrespective of the nature and purposes of the treaty involved. The role of the Namibian Parliament to transform treaties, at least in relation to some categories of treaties, has not been completely withered away. It simply means that a distinction could be made between those treaties requiring legislative incorporation and those which do not.

It is also worth noting that Article 144 creates two exceptions to direct and automatic application of customary and treaty rules in Namibian municipal law, namely constitutional supremacy and legislative sovereignty.⁶¹ Hence, although Namibia embraces a monist approach in Article 144 of the Namibian Constitution, practice has proved otherwise. For example, even though Namibia has ratified the International Convention on prevention of pollution from ships (MARPOL) and 5 of its annexes, to date, the said convention and its annexes has been legislatively incorporated into the new Marine Pollution Bill which shall soon be passed into the Marine Pollution Act. Not by mere reference. This means that although implementation may be made by reference where there is a relevant existing legislation, an enabling legislation is required when there is none in place. Another reason why a new Act is required is that in the absence of an existing or enabling legislation, it would be difficult if not impossible to apply the convention

⁶⁰ Onkemsetse Tshosa The status of international law in Namibian national law: A critical appraisal of the constitutional strategy ; p. 20

⁶¹ In *Kauesa v Minister of Home Affairs & Others* (1995) (1) SA 51 (Nm HC) at 86 O'Linn J states that the specific provisions of the Constitution of Namibia, where specific and unequivocal, override provisions of international agreements which have become part of Namibian law.

Therefore, in this case a new Act is proposed as an enabler to implement SAR Convention effectively as some provisions are not self-executing.

9.3 Recommendations

It would therefore appear from the above discussion that Article 144 of the Namibian Constitution is not entirely clear. There is need to distinguish between treaties that may be incorporated directly after ratification and which ones are not. Namibia cannot ratify international convention only to exclude its application whenever there is conflict between such convention and the constitution.

Perhaps a judicial interpretation would suffice especially in view of Article 27 of the Vienna Convention on the Law of Treaties of 1969.⁶³

10. THE PROPOSED ACT

This Act consists of five parts, namely:

Part I, which includes the preliminary provisions such as definitions stipulated in the SAR Convention in so far as they are relevant and can be accommodated into national law, the object of the Act as well as the conventions incorporated.

Part II confirms the structures contained in the draft SAR Plan, namely the National Maritime Search and Rescue Committee, its composition, functions and its personnel. The functions and meetings of the committee are also provided herein.

Part III provides for the establishment of the Search and Rescue Coordination Centres and Sub-centres, its functions as well as the requisitioning of aircraft and vessels.

Part IV deals with the actual modalities of search and rescue, functions of the subcentre, requisitioning of vessels and aircraft, reporting of aircraft or vessels in distress, cooperation

⁶³ See article 27 of VCLT, 1969 which stipulate that a party may not invoke provisions of its internal law as justification for its failure to perform a treaty.

between the aeronautical rescue coordination centre and maritime coordination centre as well as recovery of expenses incurred amongst others.

Part V provides for the limitation of liability in favor of the SAR Officers. Further, section 22 stipulates that a ‘Search and Rescue officer’ shall be deemed to be a ‘peace officer’ for the purposes of the Criminal Procedure Act, 1977 (Act No. 51 of 1977). No Prosecution shall lie for actions performed *bona fide* by a ‘Search and Rescue officer’ under the proposed Act. This is to encourage search and rescue officers to render their services properly and without fear of prosecution. Disciplinary action, if any, of the officers engaged in search and rescue operations will be handled by their own respective employers..

Lastly, **Part VI** provides for miscellaneous provisions including powers to make regulations, delegation and assignment, reports and short titles.

Annex 1
NAMIBIAN MARITIME AND AERONAUTICAL SEARCH AND RESCUE ___ OF 2018



**GOVERNMENT GAZETTE
OF THE
REPUBLIC OF NAMIBIA**

GOVERNMENT NOTICE

OFFICE OF THE PRIME MINISTER

No. xxx

2018

**PROMULGATION OF ACT
OF PARLIAMENT**

The following Act which has been passed by the Parliament and signed by the President in terms of the Namibian Constitution is hereby published in terms of Article 56 of that Constitution.
No. ____ of 2018: Namibian Maritime and Aeronautical Search and Rescue Act, 2018"

MARITIME AND AERONAUTICAL SEARCH AND RESCUE ACT, 2018

To incorporate the International Convention on Maritime Search and Rescue, 1979, and Annex 12 to the Convention on International Civil Aviation, 1944, into Namibian law; to establish the National Maritime and Aeronautical Search and Rescue Committee; and to provide for matters connected therewith.

BE IT ENACTED by the Parliament of the Republic of Namibia. As follows:-

ARRANGEMENT OF ACT

PART I INTRODUCTORY PROVISIONS

1. Definitions
2. Principal object of the Act
3. Incorporation of Conventions

PART II NATIONAL MARITIME SEARCH AND RESCUE COMMITTEE

4. Establishment and object of the National Maritime Search and Rescue Committee
5. Composition of National Maritime Search and Rescue Committee
6. Functions of National Maritime Search and Rescue Committee
7. Meetings of the National Maritime Search and Rescue Committee
8. Personnel

PART III SEARCH AND RESCUE

9. Search and Rescue Regions
10. Rescue Co-ordination Centres and Sub-Centres (RCCs)
11. Functions of rescue co-ordination centres and rescue sub-centres
12. Requisitioning of aircraft and vessels

13. Recovery of certain expenses
14. Search and Rescue Manual, and responsibilities of signatories thereto
15. Search and rescue measures regarding aircraft and vessels
16. Registration of emergency beacons
17. Filling of disaster management and aerodrome emergency plans
18. Reporting of aircraft and vessels in distress
19. Co-operation between aeronautical rescue co-ordination centre and maritime rescue co-ordination centre

PART IV FINANCIAL PLAN

20. Search and Rescue Fund

PART V LEGAL PROCEEDINGS

21. Limitation of legal proceedings
22. Search and Rescue officer deemed peace officer
23. Misconduct and disciplinary action

PART VI MISCELLANEOUS PROVISIONS

24. Act to supersede certain legislation
25. SAR Region boundaries not to affect Maritime Zones or any rights under International Law
26. Delegation and assignment
27. Reports
28. Regulations
29. Short title

PART 1 INTRODUCTORY PROVISIONS

1. Definitions

In this Act, unless the context indicates otherwise, any word or expression to which a meaning is ascribed in the Conventions bears the same meaning and-

“**Aircraft**” means any machine that can derive support in the atmosphere from the reactions of the air other than the reactions of the air against the earth’s surface;

“**Alert phase**” means a situation wherein apprehension exists as to the safety of a vessel and of the persons on board;

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

“**Coordinator surface search**” means a vessel other than a rescue unit, designated to co-ordinate surface search and rescue operations within a specified search area;

“**Department**” means the Department of Marine Pollution and Search and Rescue in the Ministry;

“**Distress phase**” means a situation wherein there is a reasonable and imminent danger and requires immediate assistance;

“**Emergency phase**” means a generic term meaning, as the case may be, uncertainty phase, alert phase or distress phase;

“**National Maritime Search and Rescue committee**” means the national committee established under section 4;

“**Head of MSARC**” means an official of the Department appointed in terms of section 7;

“**International Civil Aviation Organisation**” means the specialised agency of the United Nations responsible for formulating standards and recommended practices for the purposes of

civilian international air transport, established in terms of Article 43 of the Convention on International Civil Aviation, in Chicago on 7 December 1944;

“International Maritime Organisation” means the specialised agency of the United Nations responsible for formulating standards for civilian maritime transport and for the safety of life at sea, established in terms of the Convention on International Maritime Organisation, in Geneva on 6 March 1948;

“Head of Maritime SAR Administration” means senior official within MWT with direct responsibility for maritime SAR services in Namibia appointed in terms of section.....;

“Minister” means the Minister of Works and Transport;

“On-scene commander” means the commander of a rescue unit designate search and rescue operations within a specified search area;

“Person” includes any institution or Organisation equipped to assist in a search and rescue operation, an organ of state, a government and an agency of the government of a foreign country;

“Prescribed” means prescribed by regulation;

“Rescue” includes the provision of the initial medical treatment of a person rescued;

“Republic” means Republic of Namibia;

“Rescue co-ordination centre” means an institution responsible for promoting the efficient organisation of search and rescue services and for co-coordinating the conduct of search and rescue operations within a search and rescue region;

“Rescue unit” means a unit composed of trained personnel and provided with equipment suitable for the expeditious conduct of search and rescue operations;

“Rescue sub-centre” means a unit subordinate to a rescue co-ordination centre established to complement the latter within a specified area within a search and rescue region.

“**Search and Rescue region**” means a region contemplated in section 13(1) (c) in which the co-ordination of search and rescue operations is effected by a single rescue co-ordination centre;

“**Search and Rescue officer**” means a person designated as such in terms of this Act.

“**the Conventions**” means-

- (a) the International Convention on Maritime Search and Rescue adopted on 27 April 1979 by the Maritime Safety Committee of the International Maritime Organisation; and
- (b) Annex 12 to the Convention on International Civil Aviation adopted on 7 December 1944 at Chicago;

“**this Act**” includes regulations;

“**To ditch**” means in the case of an aircraft, to make a forced landing on water;

“**Uncertainty phase**” means a situation wherein apprehension exists as to the safety of a vessel and of the persons on board;

“**Vessel**” means any water-navigable craft of any type, whether self-propelled or not.

1. Principal objects of Act

- (1) The principal objects of this Act are to-
 - (a) incorporate the Conventions into Namibian law; and
 - (b) establish the National Maritime Search and Rescue Committee to act on behalf of the Department as the authority responsible for the application of the Conventions as well as other conventions binding on the Republic regarding maritime and aeronautical search and rescue operations.
- (2) For purposes of subsection (1) (b) the expression “other conventions” includes-
 - (a) the Convention on the High Seas, 1958; and
 - (b) the International Convention for the Safety of Life at Sea, 1974.

3. Incorporation of Conventions

- (1) The Conventions contained in Schedules 1 and 2 are hereby enacted into law in the Republic.
- (2) (a) Subject to paragraph (b), the Minister may from time to time by notice in the *Gazette* amend Schedules 1 and 2 to reflect any changes made to the Conventions by the International Maritime Organisation or the International Civil Aviation Organisation, as the case may be.

(b) The Minister may only amend Schedules 1 and 2 if the changes made by the two organisations are binding on the Republic in terms of Article 144 read with Article 32 (3) (e) of the Namibian Constitution.

PART II NATIONAL MARITIME SEARCH AND RESCUE COMMITTEE

4. Establishment and object of the National Maritime Search and Rescue Committee

- (1) The National Maritime Search and Rescue Committee is hereby established.
- (2) (a) The Object of NMSC is to ensure a co-ordinated and effective maritime and aeronautical search and rescue service within Namibian search and rescue regions;

(b) Any person appointed in terms of this Act or concerned with the carrying out of the provisions of thereof must perform his or her functions pursuant to the object of NMSC;

5. Composition of NMSC

- (1) The Namibia Maritime Search and Rescue Committee shall be made up of representatives from the government departments and voluntary organisations which are signatories to Namibia Search and Rescue Manual contemplated in

section 14, and which are able to contribute services and facilities for use by NMSC, including representatives of-

- (a) Office of the Prime Minister (OPM);
 - (b) Ministry of Works and Transport (MWT) department of Maritime Affairs (DMA);
 - (c) Ministry of Defence (MoD);
 - (d) Ministry of Safety and Security;
 - (e) Namibia Civil Aviation Authority (NCAA);
 - (f) Namibian Port Authority;
 - (g) Regional and Local Authorities
- (2) NMSC has
- (a) an aeronautical committee; and
 - (b) a maritime committee; and
- (3) NMSC shall:
- (a) determine and put into effect the SAR Plan; and
 - (b) determine the size and composition of its subcommittees depending on the areas of specialty of its members.
- (4) The NMSC committee is accountable to the Minister and the maritime and aeronautical committees are accountable to the NMSC.
- (5) The Minister shall appoint a suitable person as the chairperson of NMSC;
- (6) The Chairperson of the NMSC shall appoint
- (a) the head of the maritime search and rescue operation who shall be the chairperson of the maritime committee; and
 - (b) the head of aeronautical search and rescue operations who shall be the chairperson of the aeronautical committee.

- (7) The two heads must ensure that search and rescue operations are conducted in accordance with the laid down standards and recommended practices as reflected in the SAR Plan and as considered the norm in terms of international agreements.

6. Functions of NMSC

- (1) NMSC shall within its means and capabilities co-ordinate its resources to --
 - (a) search for, assist and, where appropriate, effect a rescue operation for –
 - (i) survivors of aircraft crashes or forced landings;
 - (ii) the crew and passengers of vessels in distress;
 - (iii) survivors of maritime accidents or incidents; and
 - (iv) survivors of any military aircraft or vessel accident or incident if such aircraft or vessel is not engaged in an act of war; and
 - (b) co-ordinate the evacuation of a seriously injured or ill person from a vessel at sea where the person's condition is such that he or she must obtain medical treatment sooner than that vessel would be able to get him or her to a suitable medical facility.
- (2) The functions set out in subsection (1) (a) exclude salvage operations;
- (3) NMSC, with the concurrence of the Minister, may call on any provider of a public switched telecommunication service as contemplated in the Communications Act, 2009 (Act No. 8 of 2009) or the entity contemplated in section 4 of that Act, to lease or otherwise make available telecommunication facilities.
- (4) NMSC shall perform its functions in a manner which promotes efficient, economic and effective use of all resources;
- (5) In performing its functions, NMSC shall endeavor to co-operate with disaster management agencies established in terms of any law providing for the management of disasters.
- (6) NMSC may perform its functions outside the Republic.

7. Meetings of the NMSC

NMSC shall meet at such times as the committee may determine in order to-

- (a) discuss proposals and take decisions regarding the effective application of this Act;
- (b) discuss possible proposals to the Minister regarding amendments to this Act;
- (c) discuss any other matter which the subcommittees may deem necessary;
- (d) NMSC shall determine its own rules of procedure.

8. Personnel

All administrative work in connection with the performance of the functions of NMSC must be carried out by officers in the Department designated for that purpose by the Minister.

PART III SEARCH AND RESCUE

9. Search and rescue regions

- (1) The Minister must, by notice in the *Gazette* as well as in relevant maritime and aeronautical publications, publish the search and rescue region within which search and rescue services will be provided;
- (2) The search and rescue regions contemplated in subsection (1) must cover the area of responsibility of the Republic laid down by the International Civil Aviation Organisation and the International Maritime Organisation

10. Rescue Co-ordination Centres and Sub-Centres (RCCs)

- (1). Subject to subsection (2), the Minister must designate-
 - (a) organisations or institutions to act as maritime or aeronautical co-ordination centre or rescue sub-centres;
 - (b) organisation to act as a maritime or aeronautical rescue subcentre under the auspices of rescue co-ordination centres;
 - (c) a maritime and aeronautical search and rescue region for which each rescue co-ordination subcentre is responsible; and

- (d) organisations or institutions to act as registrars and custodians of registers of emergency beacons contemplated in section 16.
- (2) Any designation contemplated in subsection (1) must be
 - (a) done in accordance with an agreement reached with the applicable organisation or institution; and
 - (b) published by the Minister by notice in the Gazette as well as in relevant maritime and aeronautical publications.
- (3) The organisations or institutions designated in terms of subsection (1) (a) and (b) must, with the occurrence of the NMSC, appoint their respective chiefs;
- (4) Each chief of the rescue co-ordination centre or rescue subcentre must establish and preside over an operational committee to discuss, evaluate and effect operational procedures;
- (5) Operational committees must consist of persons representing organisations controlling the resources available to that rescue co-ordination or rescue subcentre.

11. Functions of rescue co-ordination centres and sub-centres

- (1) A chief of a rescue co-ordination centre or any person authorised by him or her is responsible for co-coordinating available resources for the purpose of searching, assisting and, where appropriate, effecting a rescue operation in its search and rescue region.
- (2) A chief of a rescue subcentre must support the chief of a rescue co-ordination centre in carrying out assigned duties in a particular area or instance.

12. Requisitioning of aircraft and vessels

- (1) Subject to subsection (2), the Minister may for purposes of any aeronautical or

maritime search and rescue operation-

- (a) requisition any civil aircraft or vessel;
 - (b) request the assistance of any military aircraft or vessel; or
 - (c) instruct any holder of a South African aircraft flight crew licence or the master of a vessel to assist in the operation.
- (2) In a case where the Minister contemplates requisitioning a civilian aircraft or vessel or instructing a civilian holder of a Namibian aircraft flight crew licence or the master of a vessel, the Minister may do so only if-
- (a) human life is in immediate and grave danger; and
 - (b) there are no other means available to conduct the operation.
- (3) Any person who, without lawful reason, fails to give effect to a requisition or to comply with an instruction contemplated in subsection (1) is guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding five years.

13. Recovery of certain expenses

- (1) If any search and rescue operation is undertaken by NMSC in connection with any occurrence caused by the unlawful act or omission of any person, the Minister may recover from that person the whole or any portion of the expenses incurred by NMSC in connection with that operation.
- (1) The Minister may, after having recovered the expenses contemplated in subsection (1), compensate any person who has incurred any loss or damage as a result of the operation.

14. SAR manual, and responsibilities of signatories thereto

- (1) NMSC shall compile a manual regarding search and rescue services and

- (2) The responsibilities of the signatories to the SAR manual contemplated in section 5 (1) must be set out in the manual and be executed in accordance with it.

15. Search and rescue measures regarding aircraft and vessels

- (1) Subject to this Act, any search and rescue action must be undertaken in accordance with the SAR manual/ or SAR Plan.
- (2) Where an aircraft has failed to reach its destination or is reported missing, NMSC must forthwith institute search and rescue action if the flight plan was filed prior to departure and the flight in question was-
 - (a) between aerodromes where air traffic services are provided, unless otherwise indicated on the flight plan or through aeronautical publications or notices;
 - (b) conducted in airspace within which air traffic control services are provided except for flights crossing: a route at right angles; or .
 - (c) a flight to an aerodrome where air traffic services are not provided, if search and rescue action is specifically requested by the pilot-in-command.
- (3) Search and rescue action must be instituted in respect of all flights for which flight plans were filed in flight when such action is specifically requested by the pilot in-command.
- (4) Search and rescue action may be instituted-
 - (a) in respect of a flight for which no flight plan has been filed, when information that the aircraft is overdue or missing is received from any source;
 - (b) for any aircraft which is believed to be in need of assistance;

- (5) In an event contemplated in subsection (4), authorisation by the head of NMSC or his or her assignee must be obtained prior to the commencement of a search and rescue operation and he or she must be kept informed of the progress made and the termination of the search and rescue action.
- (6) NMSC must forthwith institute search and rescue action where a vessel is reported missing or in distress.

16. Registration of emergency beacons

- (1) The owner of any aircraft or vessel required to carry emergency locator beacons in terms of the Merchant Shipping Act, 1951 (Act No. 57 of 1951) or the Civil Aviation Act, 2016 (Act No 6 of 2016) as the case may be must register such emergency locator beacons with the department of Marine Pollution and SAR of the Ministry or institutions designated in terms of section 11 (l) (d).
- (2) The owner of any aircraft or vessel registered or licensed in the Republic and which carries emergency locator beacons although not required to do so by law, must register such emergency locator beacons with the department of Marine Pollution and SAR of the Ministry or institutions designated in terms of section 11 (l)(d).

17. Filing of disaster management and aerodrome emergency plans

- (1) All aerodrome managers must file their emergency plans and any amendments thereto with the aeronautical rescue subcentre.
- (2) All heads of disaster management agencies established in terms of any law providing for the management of disasters must file their emergency plans in respect of aircraft incidents, and any amendments thereto, with the aeronautical rescue subcentre.

18. Reporting of aircraft or vessel in distress

- (1) Any person who knows or has reason to believe that an aircraft or vessel is in distress must report the occurrence at the police station nearest to that person or at such other office or facility or to a dedicated emergency number as the NMSC may determine.
- (2) The Minister must publish the addresses and telephone numbers of the offices or facilities contemplated in subsection (1)-
 - (a) by notice in the *Gazette*; and
 - (b) by means of the printed and electronic media so as to ensure wide publicity.

19. Co-operation between aeronautical rescue co-ordination centre and maritime rescue co-ordination centre

- (1) The aeronautical rescue co-ordination centre and the maritime rescue co-ordination centre must exchange information freely and regularly to ensure effective and efficient provision of a search and rescue service.
- (2) The aeronautical rescue co-ordination centre and the maritime rescue coordination centre must, with the approval of NMSC or head of Marine Pollution and SAR of the Ministry hold joint exercise at least once a year to-

foster and maintain close c-operation; and
test NMSC's capability to deal with search and rescue operations of any magnitude;
- (3) The exercise contemplated in subsection (2) must be extended to include search and rescue organisations or sevicees of foreign countries;
- (4) The chairperson of NMSC in consultation with the head of Marine Pollution and SAR of the Ministry must ensure that the exercise contemplate in subsection (3) are organised in conjunction with both the aeronautical rescue co-ordination centre and the maritime rescue co-ordination centre.

PART IV FINANCIAL PROVISIONS

20. Search and Rescue Fund

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

- (a) The Fund shall operate under the MWT;
 - (b) The NMSC may, in consultation of the Minister accept donations from domestic SAR related services for the Fund;
 - (c) The NMSC may source any funds from non-governmental organizations or any foreign donor agency provided the Minister approves receiving of such funds;
 - (d) Any material contributions, donations and grants from SAR persons to the Fund may be accepted with the concurrence of the Minister and in accordance with applicable laws;
 - (e) Any other source of finances may be accepted subject to the Minister's approval;
 - (f) The Fund shall maintain its own separate accounting system within MWT;
- (1) The Fund shall annually be subjected to the audit conducted by the Auditor General.

PART V LEGAL PROCEEDINGS

21 Limitation of legal proceedings

No legal proceeding of whatever nature shall be brought against SAR officers in respect of anything done or omitted, in good faith, in terms of this Act.

22. SAR Officer deemed to be peace officer

Every officer appointed and entrusted with the execution of the functions under this Act shall deemed to be a 'peace officer' as defined in the Criminal Procedure Act, 1977 (Act No. 51 of 1977);

23. Misconduct and disciplinary action

The NMSC shall report the misconduct of any SAR officer to his employer for any violation of the obligations under this Act and such officer shall be disciplined in accordance with such officer's employment code of conduct.

PART VI MISCELLANEOUS

24. Act to supersede other legislation

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

25. SAR boundary not to affect any other rights under international law

- (1) The designation of the Search and Rescue Regions for the Republic under this Act shall not affect the maritime boundaries of the Republic designated under the Namibian Constitution and Territorial Sea and Economic Exclusive Economic Zone of Namibia Act, 1990 (Act No 3 of 1990).
- (2) The delimitation of search and rescue regions is not related to and shall not prejudice the delimitation of any boundary the Republic and other States.
- (3) The search and rescue boundaries of the Republic shall not prejudice any other rights and powers stipulated either under the United Nations Convention on the Law of the Sea or under international law or the rights conferred by any other international convention.

26. Delegation and assignment

The Minister may -

- (a) delegate any power conferred or assign any duty imposed upon the Minister by this Act to an officer of the Department except the power to publish notices or to make regulations; and
- (b) at any time, withdraw a delegation or assignment effected in terms of this section.

27. Reports

- (1) NMSC shall furnish the Minister with a report on its activities –
 - (a) At least once a year and
 - (b) Whenever required by the Minister.
- (2) The Minister must table a copy of NMSC annual report in Parliament within 30 days after it has been received by him or her if Parliament is then sitting and if Parliament is not sitting, with 14 days after the start of the next sitting.

28. Regulations

- (1) The Minister may by notice in Gazette, make regulations, not inconsistent with the provisions of this Act, regarding-
 - (a) the conditions which must be complied with when a person from another country which is a party to the conventions wishes to enter the Republic for purposes of any search and rescue operation.
 - (b) Anything which must or may be prescribed in terms of this Act.
 - (c) Any matter which it is necessary or expedient to prescribe for the effective carrying out or implementation of this Act
- (2) Any regulations made under subsection (1) (a) must be made with the concurrence of the Minister of Home Affairs.

29. Short title

This Act is called the Namibian Maritime and Aeronautical Search and Rescue Act, 2018

SCHEDULE 1

INTERNATIONAL CONVENTION ON MARITIME SEARCH AND RESCUE, 1979

**INTERNATIONAL CONVENTION ON
MARITIME SEARCH AND RESCUE, 1979**

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INTERNATIONAL CONVENTION ON MARITIME SEARCH AND RESCUE, 1979

THE PARTIES TO THE CONVENTION,

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

HAVING CONSIDERED Recommendation 40 adopted by the International Conference on Safety of Life at Sea, 1960, which recognizes the desirability of co-ordinating activities regarding safety on and over the sea among a number of inter-governmental organizations,

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

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

HAVE AGREED as follows:

Article I

General obligations under the Convention

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

Article II

Other treaties and interpretation

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

Article III

Amendments

- (1) The Convention may be amended by either of the procedures specified in paragraphs (2) and (3) hereinafter.
- (2) Amendment after consideration within the Inter-Governmental Maritime Consultative Organization (hereinafter referred to as the Organization):
 - (a) Any amendment proposed by a Party and transmitted to the Secretary-General of the Organization (hereinafter referred to as the Secretary-General), or any amendment deemed necessary by the Secretary-General as a result of an amendment to a corresponding provision of Annex 12 to the Convention on International Civil Aviation, shall be circulated to all Members of the Organization and all Parties at least six months prior to its consideration by the Maritime Safety Committee of the Organization.
 - (b) Parties, whether or not Members of the Organization, shall be entitled to participate in the proceedings of the Maritime Safety Committee for the consideration and adoption of amendments.

- (c) Amendments shall be adopted by a two-thirds majority of the Parties present and voting in the Maritime Safety Committee on condition that at least one third of the Parties shall be present at the time of adoption of the amendment.
- (d) Amendments adopted in accordance with sub-paragraph (c) shall be communicated by the Secretary-General to all Parties for acceptance.
- (e) An amendment to an Article or to paragraphs 2.1.4, 2.1.5, 2.1.7, 2.1.10, 3.1.2 or 3.1.3 of the Annex shall be deemed to have been accepted on the date on which the Secretary-General has received an instrument of acceptance from two thirds of the Parties.
- (f) An amendment to the Annex other than to paragraphs 2.1.4, 2.1.5, 2.1.7, 2.1.10, 3.1.2 or 3.1.3 shall be deemed to have been accepted at the end of one year from the date on which it is communicated to the Parties for acceptance. However, if within such period of one year more than one third of the Parties notify the Secretary-General that they object to the amendment, it shall be deemed not to have been accepted.
- (g) An amendment to an Article or to paragraphs 2.1.4, 2.1.5, 2.1.7, 2.1.10, 3.1.2 or 3.1.3 of the Annex shall enter into force:
 - (i) with respect to those Parties which have accepted it, six months after the date on which it is deemed to have been accepted;
 - (ii) with respect to those Parties which accept it after the condition mentioned in sub-paragraph (e) has been met and before the amendment enters into force, on the date of entry into force of the amendment;
 - (iii) with respect to those Parties which accept it after the date on which the amendment enters into force, 30 days after the deposit of an instrument of acceptance.

- (h) An amendment to the Annex other than to paragraphs 2.1.4, 2.1.5, 2.1.7, 2.1.10, 3.1.2 or 3.1.3 shall enter into force with respect to all Parties, except those which have objected to the amendment under sub-paragraph (f) and which have not withdrawn such objections, six months after the date on which it is deemed to have been accepted. However, before the date set for entry into force, any Party may give notice to the Secretary-General that it exempts itself from giving effect to that amendment for a period not longer than one year from the date of its entry into force, or for such longer period as may be determined by a two-thirds majority of the Parties present and voting in the Maritime Safety Committee at the time of the adoption of the amendment.
- (3) Amendment by a conference:
- (a) Upon the request of a Party concurred in by at least one third of the Parties, the Organization shall convene a conference of Parties to consider amendments to the Convention. Proposed amendments shall be circulated by the Secretary-General to all Parties at least six months prior to their consideration by the conference.
 - (b) Amendments shall be adopted by such a conference by a two-thirds majority of the Parties present and voting, on condition that at least one third of the Parties shall be present at the time of adoption of the amendment. Amendments so adopted shall be communicated by the Secretary-General to all Parties for acceptance.
 - (c) Unless the conference decides otherwise, the amendment shall be deemed to have been accepted and shall enter into force in accordance with the procedures specified in sub-paragraphs (2)(e), (2)(f), (2)(g) and (2)(h) respectively, provided that reference in sub-paragraph (2)(h) to the Maritime Safety Committee expanded in accordance with sub-paragraph (2)(b) shall be taken to mean reference to the conference.

(4) Any declaration of acceptance of, or objection to, an amendment or any notice given under sub-paragraph (2)(h) shall be submitted in writing to the Secretary-General who shall inform all Parties of any such submission and the date of its receipt.

(5) The Secretary-General shall inform States of any amendments which enter into force, together with the date on which each such amendment enters into force.

Article IV

Signature, ratification, acceptance, approval and accession

(1) The Convention shall remain open for signature at the Headquarters of the Organization from 1 November 1979 until 31 October 1980 and shall thereafter remain open for accession. States may become Parties to the Convention by:

(a) signature without reservation as to ratification, acceptance or approval; or

(b) signature subject to ratification, acceptance or approval, followed by ratification, acceptance or approval; or

(c) accession.

(2) Ratification, acceptance, approval or accession shall be effected by the deposit of an instrument to that effect with the Secretary-General.

(3) The Secretary-General shall inform States of any signature or of the deposit of any instrument of ratification, acceptance, approval or accession and the date of its deposit.

Article V

Entry into force

(1) The Convention shall enter into force 12 months after the date on which 15 States have become Parties to it in accordance with Article IV.

(2) Entry into force for States which ratify, accept, approve or accede to the Convention in accordance with Article IV after the

condition prescribed in paragraph (1) has been met and before the Convention enters into force, shall be on the date of entry into force of the Convention.

(3) Entry into force for States which ratify, accept, approve or accede to the Convention after the date on which the Convention enters into force shall be 30 days after the date of deposit of an instrument in accordance with Article IV.

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

(5) The Secretary-General shall inform States of the date of entry into force of the Convention.

Article VI

Denunciation

(1) The Convention may be denounced by any Party at any time after the expiry of five years from the date on which the Convention enters into force for that Party.

(2) Denunciation shall be effected by the deposit of an instrument of denunciation with the Secretary-General who shall notify States of any instrument of denunciation received and of the date of its receipt as well as the date on which such denunciation takes effect.

(3) A denunciation shall take effect one year, or such longer period as may be specified in the instrument of denunciation, after its receipt by the Secretary-General.

Article VII

Deposit and registration

(1) The Convention shall be deposited with the Secretary-General who shall transmit certified true copies thereof to States.

(2) As soon as the Convention enters into force, the Secretary-General shall transmit the text thereof to the Secretary-General of the United Nations for registration and publication, in accordance with Article 102 of the Charter of the United Nations.

Article VIII

Languages

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

DONE AT HAMBURG this twenty-seventh day of April one thousand nine hundred and seventy-nine.

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

ANNEX

CHAPTER 1

TERMS AND DEFINITIONS

- 1.1 "Shall" is used in the Annex to indicate a provision, the uniform application of which by all Parties is required in the interest of safety of life at sea.
- 1.2 "Should" is used in the Annex to indicate a provision, the uniform application of which by all Parties is recommended in the interest of safety of life at sea.
- 1.3 The terms listed below are used in the Annex with the following meanings:
 - .1 "Search and rescue region". An area of defined dimensions within which search and rescue services are provided.
 - .2 "Rescue co-ordination centre". A unit responsible for promoting efficient organization of search and rescue services and for co-ordinating the conduct of search and rescue operations within a search and rescue region.
 - .3 "Rescue sub-centre". A unit subordinate to a rescue co-ordination centre established to complement the latter within a specified area within a search and rescue region.
 - .4 "Coast watching unit". A land unit, stationary or mobile, designated to maintain a watch on the safety of vessels in coastal areas.
 - .5 "Rescue unit". A unit composed of trained personnel and provided with equipment suitable for the expeditious conduct of search and rescue operations.
 - .6 "On-scene commander". The commander of a rescue unit designated to co-ordinate search and rescue operations within a specified search area.

- .7 "Co-ordinator surface search". A vessel, other than a rescue unit, designated to co-ordinate surface search and rescue operations within a specified search area.
- .8 "Emergency phase". A generic term meaning, as the case may be, uncertainty phase, alert phase or distress phase.
- .9 "Uncertainty phase". A situation wherein uncertainty exists as to the safety of a vessel and the persons on board.
- .10 "Alert phase". A situation wherein apprehension exists as to the safety of a vessel and of the persons on board.
- .11 "Distress phase". A situation wherein there is a reasonable certainty that a vessel or a person is threatened by grave and imminent danger and requires immediate assistance.
- .12 "To ditch". In the case of an aircraft, to make a forced landing on water.

CHAPTER 2

ORGANIZATION

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

2.1.1 Parties shall ensure that necessary arrangements are made for the provision of adequate search and rescue services for persons in distress at sea round their coasts.

2.1.2 Parties shall forward to the Secretary-General information on their search and rescue organization and later alterations of importance, including:

- .1 national maritime search and rescue services;
- .2 location of established rescue co-ordination centres, their telephone and telex numbers and areas of responsibility; and
- .3 principal available rescue units at their disposal.

2.1.3 The Secretary-General shall in a suitable way transmit to all Parties the information referred to in paragraph 2.1.2.

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

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

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

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

2.1.8 Parties should arrange that their search and rescue services are able to give prompt response to distress calls.

2.1.9 On receiving information that a person is in distress at sea in an area within which a Party provides for the overall co-ordination of search and rescue operations, the responsible authorities of that Party shall take urgent steps to provide the most appropriate assistance available.

2.1.10 Parties shall ensure that assistance be provided to any person in distress at sea. They shall do so regardless of the nationality or status of such a person or the circumstances in which that person is found.

2.2 Co-ordination of search and rescue facilities.

2.2.1 Parties shall make provision for the co-ordination of the facilities required to provide search and rescue services round their coasts.

2.2.2 Parties shall establish a national machinery for the overall co-ordination of search and rescue services.

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

2.3.1 To meet the requirements of paragraphs 2.2.1 and 2.2.2 Parties shall establish rescue co-ordination centres for their search and rescue services and such rescue sub-centres as they consider appropriate.

2.3.2 The competent authorities of each Party shall determine the area for which a rescue sub-centre is responsible.

2.3.3 Each rescue co-ordination centre and rescue sub-centre established in accordance with paragraph 2.3.1 shall have adequate means for the receipt of distress communications via a coast radio station or otherwise. Every such centre and sub-centre shall also have adequate means for communication with its rescue units and with rescue co-ordination centres or rescue sub-centres, as appropriate, in adjacent areas.

2.4 Designation of rescue units

2.4.1 Parties shall designate either:

- .1 as rescue units, State or other appropriate public or private services suitably located and equipped, or parts thereof; or
- .2 as elements of the search and rescue organization, State or other appropriate public or private services or parts thereof, not suitable for designation as rescue units, but which are able to participate in search and rescue operations, and shall define the functions of those elements.

2.5 Facilities and equipment of rescue units

2.5.1 Each rescue unit shall be provided with facilities and equipment appropriate to its task.

2.5.2 Each rescue unit should have rapid and reliable means of communication with other units or elements engaged in the same operation.

2.5.3 Containers or packages containing survival equipment for dropping to survivors should have the general nature of their contents

indicated by a colour code in accordance with paragraph 2.5.4 and by printed indication and self-explanatory symbols, to the extent that such symbols exist.

2.5.4 The colour identification of the contents of droppable containers and packages containing survival equipment should take the form of streamers coloured according to the following code:

- .1 Red - medical supplies and first aid equipment;
- .2 Blue - food and water;
- .3 Yellow - blankets and protective clothing; and
- .4 Black - miscellaneous equipment such as stoves, axes, compasses and cooking utensils.

2.5.5 Where supplies of a mixed nature are dropped in one container or package, the colour code should be used in combination.

2.5.6 Instructions on the use of the survival equipment should be enclosed in each of the droppable containers or packages. They should be printed in English and in at least two other languages.

CHAPTER 3

CO-OPERATION

3.1 Co-operation between States

3.1.1 Parties shall co-ordinate their search and rescue organizations and should, whenever necessary, co-ordinate search and rescue operations with those of neighbouring States.

3.1.2 Unless otherwise agreed between the States concerned, a Party should authorize, subject to applicable national laws, rules and regulations, immediate entry into or over its territorial sea or territory of rescue units of other Parties solely for the purpose of searching for the position of maritime casualties and rescuing the survivors of such casualties. In such cases, search and rescue operations shall, as far as practicable, be co-ordinated by the

,appropriate rescue co-ordination centre of the Party which has authorized entry, or such other authority as has been designated by that Party.

3.1.3 Unless otherwise agreed between the States concerned, the authorities of a Party which wishes its rescue units to enter into or over the territorial sea or territory of another Party solely for the purpose of searching for the position of maritime casualties and rescuing the survivors of such casualties, shall transmit a request, giving full details of the projected mission and the need for it, to the rescue co-ordination centre of that other Party, or to such other authority as has been designated by that Party.

3.1.4 The competent authorities of Parties shall:

- .1 immediately acknowledge the receipt of such a request; and
- .2 as soon as possible indicate the conditions, if any, under which the projected mission may be undertaken.

3.1.5 Parties should enter into agreements with neighbouring States setting forth the conditions for entry of each other's rescue units into or over their respective territorial sea or territory. These agreements should also provide for expediting entry of such units with the least possible formalities.

3.1.6 Each Party should authorize its rescue co-ordination centres:

- .1 to request from other rescue co-ordination centres such assistance, including vessels, aircraft, personnel or equipment, as may be needed;
- .2 to grant any necessary permission for the entry of such vessels, aircraft, personnel or equipment into or over its territorial sea or territory; and
- .3 to make the necessary arrangements with the appropriate customs, immigration or other authorities with a view to expediting such entry.

3.1.7 Each Party should authorize its rescue co-ordination centres to provide, when requested, assistance to other rescue co-ordination

centres, including assistance in the form of vessels, aircraft, personnel or equipment.

3.1.8 Parties should enter into search and rescue agreements with neighbouring States regarding the pooling of facilities, establishment of common procedures, conduct of joint training and exercises, regular checks of inter-State communication channels, liaison visits by rescue co-ordination centre personnel and the exchange of search and rescue information.

3.2 Co-ordination with aeronautical services

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

3.2.2 Whenever practicable, each Party should establish joint rescue co-ordination centres and rescue sub-centres to serve both maritime and aeronautical purposes.

3.2.3 Whenever separate maritime and aeronautical rescue co-ordination centres or rescue sub-centres are established to serve the same area, the Party concerned shall ensure the closest practicable co-ordination between the centres or sub-centres.

3.2.4 Parties shall ensure as far as is possible the use of common procedures by rescue units established for maritime purposes and those established for aeronautical purposes.

CHAPTER 4

PREPARATORY MEASURES

4.1 Requirements for information

4.1.1 Each rescue co-ordination centre and rescue sub-centre shall have available up-to-date information relevant to search and rescue operations in its area including information regarding:

- .1 rescue units and coast watching units;

- .2 any other public and private resources, including transportation facilities and fuel supplies, that are likely to be useful in search and rescue operations;
- .3 means of communication that may be used in search and rescue operations;
- .4 names, cable and telex addresses, telephone and telex numbers of shipping agents, consular authorities, international organizations and other agencies who may be able to assist in obtaining vital information on vessels;
- .5 the locations, call signs or maritime mobile service identities, hours of watch and frequencies of all radio stations likely to be employed in search and rescue operations;
- .6 the locations, call signs or maritime mobile service identities, hours of watch and frequencies of all coast radio stations disseminating meteorological forecasts and warnings for the search and rescue region;
- .7 the locations and hours of watch of services keeping radio watch and the frequencies guarded;
- .8 objects likely to be mistaken for unlocated or unreported wreckage; and
- .9 locations where supplies of droppable emergency survival equipment are stored.

4.1.2 Each rescue co-ordination centre and rescue sub-centre should have ready access to information regarding the position, course, speed and call sign or ship station identity of vessels within its area which may be able to provide assistance to vessels or persons in distress at sea. This information shall either be kept in the rescue co-ordination centre or be readily obtainable when necessary.

4.1.3 A large-scale map shall be provided at each rescue co-ordination centre and rescue sub-centre for the purpose of displaying and plotting information relevant to search and rescue operations in its area.

4.2 Operating plans or instructions

4.2.1 Each rescue co-ordination centre and rescue sub-centre shall prepare or have available detailed plans or instructions for the conduct of search and rescue operations in its area.

4.2.2 The plans or instructions shall specify arrangements for the servicing and refuelling, to the extent possible, of vessels, aircraft and vehicles employed in search and rescue operations, including those made available by other States.

4.2.3 The plans or instructions should contain details regarding action to be taken by those engaged in search and rescue operations in the area, including:

- .1 the manner in which search and rescue operations are to be conducted;
- .2 the use of available communications systems and facilities;
- .3 the action to be taken jointly with other rescue co-ordination centres or rescue sub-centres, as appropriate;
- .4 the methods of alerting vessels at sea and en route aircraft;
- .5 the duties and authority of personnel assigned to search and rescue operations;
- .6 possible redeployment of equipment that may be necessitated by meteorological or other conditions;
- .7 the methods of obtaining essential information relevant to search and rescue operations, such as appropriate notices to mariners and reports and forecasts of weather and sea surface conditions;
- .8 the methods of obtaining from other rescue co-ordination centres or rescue sub-centres, as appropriate, such assistance as may be needed, including vessels, aircraft, personnel and equipment;
- .9 the methods of assisting rescue vessels or other vessels to rendezvous with vessels in distress; and

.10 the methods of assisting distressed aircraft compelled to ditch to rendezvous with surface craft.

4.3 Preparedness of rescue units

4.3.1 Each designated rescue unit shall maintain a state of preparedness commensurate with its task and should keep the appropriate rescue co-ordination centre or rescue sub-centre informed of its state of preparedness.

CHAPTER 5

OPERATING PROCEDURES

5.1 Information concerning emergencies

5.1.1 Parties shall ensure that such continuous radio watches as are deemed practicable and necessary, are maintained on international distress frequencies. A coast radio station receiving any distress call or message shall:

- .1 immediately inform the appropriate rescue co-ordination centre or rescue sub-centre;
- .2 rebroadcast to the extent necessary to inform ships on one or more of the international distress frequencies or on any other appropriate frequency;
- .3 precede such rebroadcasts with the appropriate automatic alarm signals unless this has already been done; and
- .4 take such subsequent action as decided by the competent authority.

5.1.2 Any authority or element of the search and rescue organization having reason to believe that a vessel is in a state of emergency should give as soon as possible all available information to the rescue co-ordination centre or rescue sub-centre concerned.

5.1.3 Rescue co-ordination centres and rescue sub-centres shall, immediately upon receipt of information concerning a vessel in a state

of emergency, evaluate such information and determine the phase of emergency in accordance with paragraph 5.2 and the extent of operation required.

5.2 Emergency phases

5.2.1 For operational purposes, the following emergency phases shall be distinguished:

.1 Uncertainty phase:

- .1.1 when a vessel has been reported overdue at its destination; or
- .1.2 when a vessel has failed to make an expected position or safety report.

.2 Alert phase:

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

.3 Distress phase:

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

5.3 Procedures for rescue co-ordination centres and rescue sub-centres during emergency phases

5.3.1 Upon the declaration of the uncertainty phase, the rescue co-ordination centre or rescue sub-centre, as appropriate, shall initiate inquiries in order to determine the safety of the vessel or shall declare the alert phase.

5.3.2 Upon the declaration of the alert phase, the rescue co-ordination centre or rescue sub-centre, as appropriate, shall extend the inquiries for the missing vessel, alert appropriate search and rescue services and initiate such action, as described in paragraph 5.3.3, as is necessary in the light of the circumstances of the particular case.

5.3.3 Upon the declaration of the distress phase, the rescue co-ordination centre or rescue sub-centre, as appropriate, shall:

- .1 initiate action in accordance with the arrangements set out in paragraph 4.2;
- .2 where appropriate, estimate the degree of uncertainty of the vessel's position and determine the extent of any area to be searched;
- .3 notify the owner of the vessel or his agent if possible and keep him informed of developments;
- .4 notify other rescue co-ordination centres or rescue sub-centres, the help of which seems likely to be required or which may be concerned in the operation;
- .5 request at an early stage any help which might be available from aircraft, vessels or services not specifically included in the search and rescue organization, considering that, in the majority of distress situations in ocean areas, other vessels in the vicinity are important elements for search and rescue operations;
- .6 draw up a broad plan for the conduct of the operations from the information available and communicate such plan to the authorities designated in accordance with paragraphs 5.7 and 5.8 for their guidance;

- .7 amend as necessary in the light of circumstances the guidance already given in paragraph 5.3.3.6;
- .8 notify the consular or diplomatic authorities concerned or, if the incident involves a refugee or displaced person, the office of the competent international organization;
- .9 notify accident investigation authorities as appropriate; and
- .10 notify any aircraft, vessel or other services mentioned in paragraph 5.3.3.5 in consultation with the authorities designated in accordance with paragraph 5.7 or 5.8, as appropriate, when their assistance is no longer required.

5.3.4 Initiation of search and rescue operations in respect of a vessel whose position is unknown

5.3.4.1 In the event of an emergency phase being declared in respect of a vessel whose position is unknown, the following shall apply:

- .1 when a rescue co-ordination centre or rescue sub-centre is notified of the existence of an emergency phase and is unaware of other centres taking appropriate action, it shall assume responsibility for initiating suitable action and confer with neighbouring centres with the objective of designating one centre to assume responsibility forthwith;
- .2 unless otherwise decided by agreement between the centres concerned, the centre to be designated shall be the centre responsible for the area in which the vessel was according to its last reported position; and
- .3 after the declaration of the distress phase, the centre co-ordinating the search and rescue operations shall, if necessary, inform other appropriate centres of all the circumstances of the state of emergency and of all subsequent developments.

5.3.5 Passing information to vessels in respect of which an emergency phase has been declared

5.3.5.1 Whenever applicable, the rescue co-ordination centre or rescue sub-centre responsible for search and rescue operations shall

be responsible for passing to the vessel for which an emergency phase has been declared, information on the search and rescue operation it has initiated.

5.4 Co-ordination when two or more parties are involved

5.4.1 Where the conduct of operations over the entire search and rescue region is the responsibility of more than one Party, each Party shall take appropriate action in accordance with the operating plans or instructions referred to in paragraph 4.2 when so requested by the rescue co-ordination centre of the region.

5.5 Termination and suspension of search and rescue operations

5.5.1 Uncertainty phase and alert phase

5.5.1.1 When during an uncertainty phase or an alert phase a rescue co-ordination centre or rescue sub-centre, as appropriate, is informed that the emergency no longer exists, it shall so inform any authority, unit or service which has been activated or notified.

5.5.2 Distress phase

5.5.2.1 When during a distress phase a rescue co-ordination centre or rescue sub-centre, as appropriate, is informed by the vessel in distress or other appropriate sources that the emergency no longer exists, it shall take the necessary action to terminate the search and rescue operations and to inform any authority, unit or service which has been activated or notified.

5.5.2.2 If during a distress phase it has been determined that the search should be discontinued the rescue co-ordination centre or rescue sub-centre, as appropriate, shall suspend the search and rescue operations and so inform any authority, unit or service which has been activated or notified. Information subsequently received shall be evaluated and search and rescue operations resumed when justified on the basis of such information.

5.5.2.3 If during a distress phase it has been determined that further search would be of no avail, the rescue co-ordination centre or rescue sub-centre, as appropriate, shall terminate the search and rescue

operations and so inform any authority, unit or service which has been activated or notified.

5.6 On-scene co-ordination of search and rescue activities

5.6.1 The activities of units engaged in search and rescue operations, whether they be rescue units or other assisting units, shall be co-ordinated to ensure the most effective results.

5.7 Designation of on-scene commander and his responsibilities

5.7.1 When rescue units are about to engage in search and rescue operations, one of them should be designated on-scene commander as early as practicable and preferably before arrival within the specified search area.

5.7.2 The appropriate rescue co-ordination centre or rescue sub-centre should designate an on-scene commander. If this is not practicable, the units involved should designate by mutual agreement an on-scene commander.

5.7.3 Until such time as an on-scene commander has been designated, the first rescue unit arriving at the scene of action should automatically assume the duties and responsibilities of an on-scene commander.

5.7.4 An on-scene commander shall be responsible for the following tasks when these have not been performed by the responsible rescue co-ordination centre or rescue sub-centre, as appropriate:

- .1 determining the probable position of the object of the search, the probable margin of error in this position, and the search area;
- .2 making arrangements for the separation for safety purposes of units engaged in the search;
- .3 designating appropriate search patterns for the units participating in the search and assigning search areas to units or groups of units;
- .4 designating appropriate units to effect rescue when the object of the search is located; and
- .5 co-ordinating on-scene search and rescue communications.

5.7.5 An on-scene commander shall also be responsible for the following:

- .1 making periodic reports to the rescue co-ordination centre or rescue sub-centre which is co-ordinating the search and rescue operations; and
- .2 reporting the number and the names of survivors to the rescue co-ordination centre or rescue sub-centre which is co-ordinating the search and rescue operations, providing the centre with the names and destinations of units with survivors aboard, reporting which survivors are in each unit and requesting additional assistance from the centre when necessary, for example, medical evacuation of seriously injured survivors.

5.8 Designation of co-ordinator surface search and his responsibilities

5.8.1 If rescue units (including warships) are not available to assume the duties of an on-scene commander but a number of merchant vessels or other vessels are participating in the search and rescue operations, one of them should be designated by mutual agreement as co-ordinator surface search.

5.8.2 The co-ordinator surface search should be designated as early as practicable and preferably before arrival within the specified search area.

5.8.3 The co-ordinator surface search should be responsible for as many of the tasks listed in paragraphs 5.7.4 and 5.7.5 as the vessel is capable of performing.

5.9 Initial action

5.9.1 Any unit receiving information of a distress incident shall take whatever immediate action to assist as is within its capability or shall alert other units which might be able to assist and shall notify the rescue co-ordination centre or rescue sub-centre in whose area the incident has occurred.

5.10 Search areas

5.10.1 Search areas determined in accordance with paragraph 5.3.3.2, 5.7.4.1 or 5.8.3 may be altered as appropriate by the on-scene commander or the co-ordinator surface search, who should notify the rescue co-ordination centre or rescue sub-centre of his action and his reasons for doing so.

5.11 Search patterns

5.11.1 Search patterns designated in accordance with paragraph 5.3.3.6, 5.7.4.3 or 5.8.3 may be changed to other patterns if considered necessary by the on-scene commander or the co-ordinator surface search, who should notify the rescue co-ordination centre or rescue sub-centre of his action and his reasons for doing so.

5.12 Search successful

5.12.1 When the search has been successful the on-scene commander or the co-ordinator surface search should direct the most suitably equipped units to conduct the rescue or to provide other necessary assistance.

5.12.2 Where appropriate the units conducting the rescue should notify the on-scene commander or the co-ordinator surface search of the number and names of survivors aboard, whether all personnel have been accounted for and whether additional assistance is required, for example, medical evacuations, and the destination of the units.

5.12.3 The on-scene commander or the co-ordinator surface search should immediately notify the rescue co-ordination centre or rescue sub-centre when the search has been successful.

5.13 Search unsuccessful

5.13.1 The search should only be terminated when there is no longer any reasonable hope of rescuing survivors.

5.13.2 The rescue co-ordination centre or rescue sub-centre co-ordinating the search and rescue operations should normally be responsible for terminating the search.

5.13.3 In remote ocean areas not under the responsibility of a rescue co-ordination centre or where the responsible centre is not in a position to co-ordinate the search and rescue operations, the on-scene commander or the co-ordinator surface search may take responsibility for terminating the search.

CHAPTER 6

SHIP REPORTING SYSTEMS

6.1 General

6.1.1 Parties should establish a ship reporting system for application within any search and rescue region for which they are responsible, where this is considered necessary to facilitate search and rescue operations and is deemed practicable.

6.1.2 Parties contemplating the institution of a ship reporting system should take account of the relevant recommendations of the Organization.

6.1.3 The ship reporting system should provide up-to-date information on the movements of vessels in order, in the event of a distress incident:

- .1 to reduce the interval between the loss of contact with a vessel and the initiation of search and rescue operations in cases where no distress signal has been received;
- .2 to permit rapid determination of vessels which may be called upon to provide assistance;
- .3 to permit delineation of a search area of limited size in case the position of a vessel in distress is unknown or uncertain; and
- .4 to facilitate the provision of urgent medical assistance or advice to vessels not carrying a doctor.

6.2 Operational requirements

6.2.1 To achieve the objectives set out in paragraph 6.1.3, the ship reporting system should satisfy the following operational requirements:

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

6.3 Types of reports

6.3.1 A ship reporting system should incorporate the following reports:

- .1 Sailing plan - giving name, call sign or ship station identity, date and time (in GMT) of departure, details of the vessel's point of departure, next port of call, intended route, speed and expected date and time (in GMT) of arrival. Significant changes should be reported as soon as possible.
- .2 Position report - giving name, call sign or ship station identity, date and time (in GMT), position, course and speed.
- .3 Final report - giving name, call sign or ship station identity, date and time (in GMT) of arrival at destination or of leaving the area covered by the system.

6.4 Use of systems

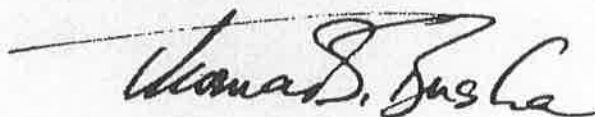
6.4.1 Parties should encourage all vessels to report their positions when travelling in areas where arrangements have been made to collect information on positions for search and rescue purposes.

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



Certified true copy of the English text of the International Convention on Maritime Search and Rescue, 1979, done at Hamburg on 27 April 1979, the original of which is deposited with the Secretary-General of the Inter-Governmental Maritime Consultative Organization.

For the Secretary-General of the Inter-Governmental Maritime Consultative Organization:



London,

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SCHEDULE 2

ANNEX 12 TO THE CONVENTION ON INTERNATIONAL CIVIL AVIATION

**International Standards
and Recommended Practices**



**Annex 12
to the Convention on
International Civil Aviation**

Search and Rescue

**This edition incorporates all amendments
adopted by the Council prior to 24 February 2004
and supersedes, on 25 November 2004, all previous
editions of Annex 12.**

**For information regarding the applicability
of the Standards and Recommended Practices,
see Foreword.**

**Eighth Edition
July 2004**

International Civil Aviation Organization

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FOREWORD

Historical background

In December 1946, the Search and Rescue Division, at its second session, made recommendations for Standards and Recommended Practices for Search and Rescue. These were developed by the Secretariat and the then existent Air Navigation Committee, and were duly submitted to the Council. The proposals were not accepted by the Council in the form in which they were presented and, on 20 April 1948, were referred back to the Air Navigation Committee for further consideration.

A further draft Annex was then developed in the light of experience gained at Regional Air Navigation Meetings and eventually was approved in principle by the Air Navigation Commission and circulated to States for comment. Further development was made by the Air Navigation Commission as a result of States' comments and the resulting proposals were adopted by the Council on 25 May 1950 and designated as Annex 12 to the Convention on International Civil Aviation. The Annex became effective on 1 December 1950 and came into force on 1 March 1951.

Table A shows the origin of subsequent amendments together with a list of the principal subjects involved and the dates on which the Annex and the amendments were adopted by the Council, when they became effective and when they became applicable.

Applicability

The Standards and Recommended Practices in this document govern the application of the *Regional Supplementary Procedures* — Search and Rescue, contained in Doc 7030, in which document will be found subsidiary procedures of regional application.

Annex 12 is applicable to the establishment, maintenance and operation of search and rescue services in the territories of Contracting States and over the high seas, and to the coordination of such services between States.

Action by Contracting States

Notification of differences. The attention of Contracting States is drawn to the obligation imposed by Article 38 of the Convention by which Contracting States are required to notify the Organization of any differences between their national regulations and practices and the International Standards

contained in this Annex and any amendments thereto. Contracting States are invited to extend such notification to any differences from the Recommended Practices contained in this Annex, and any amendments thereto, when the notification of such differences is important for the safety of air navigation. Further, Contracting States are invited to keep the Organization currently informed of any differences which may subsequently occur, or of the withdrawal of any differences previously notified. A specific request for notification of differences will be sent to Contracting States immediately after the adoption of each Amendment to this Annex.

Attention of States is also drawn to the provisions of Annex 15 related to the publication of differences between their national regulations and practices and the related ICAO Standards and Recommended Practices through the Aeronautical Information Service, in addition to the obligation of States under Article 38 of the Convention.

Promulgation of information. Information relating to the establishment and withdrawal of and changes to facilities, services and procedures affecting aircraft operations provided according to the Standards and Recommended Practices specified in this Annex should be notified and take effect in accordance with Annex 15.

Use of the text of the Annex in national regulations. The Council, on 13 April 1948, adopted a resolution inviting the attention of Contracting States to the desirability of using in their own national regulations, as far as practicable, the precise language of those ICAO Standards that are of a regulatory character and also of indicating departures from the Standards, including any additional national regulations that were important for the safety or regularity of air navigation. Wherever possible, the provisions of this Annex have been written in such a way as would facilitate incorporation, without major textual changes, into national legislation.

Status of Annex components

An Annex is made up of the following component parts, not all of which, however, are necessarily found in every Annex; they have the status indicated:

1.— *Material comprising the Annex proper:*

- a) *Standards and Recommended Practices* adopted by the Council under the provisions of the Convention. They are defined as follows:

Standard. Any specification for physical characteristics, configuration, matériel, performance, personnel or procedure, the uniform application of which is recognized as necessary for the safety or regularity of international air navigation and to which Contracting States will conform in accordance with the Convention; in the event of impossibility of compliance, notification to the Council is compulsory under Article 38.

Recommended Practice. Any specification for physical characteristics, configuration, matériel, performance, personnel or procedure, the uniform application of which is recognized as desirable in the interests of safety, regularity or efficiency of international air navigation, and to which Contracting States will endeavour to conform in accordance with the Convention.

- b) *Appendices* comprising material grouped separately for convenience but forming part of the Standards and Recommended Practices adopted by the Council.
- c) *Definitions* of terms used in the Standards and Recommended Practices which are not self-explanatory in that they do not have accepted dictionary meanings. A definition does not have an independent status but is an essential part of each Standard and Recommended Practice in which the term is used, since a change in the meaning of the term would affect the specification.

2.— *Material approved by the Council for publication in association with the Standards and Recommended Practices:*

- a) *Forewords* comprising historical and explanatory material based on the action of the Council and including an explanation of the obligations of States with regard to the application of the Standards and Recommended Practices ensuing from the Convention and the Resolution of Adoption.
- b) *Introductions* comprising explanatory material introduced at the beginning of parts, chapters or sections of the Annex to assist in the understanding of the application of the text.
- c) *Notes* included in the text, where appropriate, to give factual information or references bearing on the Standards or Recommended Practices in question, but not

constituting part of the Standards or Recommended Practices.

- d) *Attachments* comprising material supplementary to the Standards and Recommended Practices, or included as a guide to their application.

Selection of language

This Annex has been adopted in six languages — English, Arabic, Chinese, French, Russian and Spanish. Each Contracting State is requested to select one of those texts for the purpose of national implementation and for other effects provided for in the Convention, either through direct use or through translation into its own national language, and to notify the Organization accordingly.

Editorial practices

The following practice has been adhered to in order to indicate at a glance the status of each statement: *Standards* have been printed in light face roman; *Recommended Practices* have been printed in light face italics, the status being indicated by the prefix **Recommendation**; *Notes* have been printed in light face italics, the status being indicated by the prefix *Note*.

The following editorial practice has been followed in the writing of specifications: for Standards the operative verb “shall” is used, and for Recommended Practices the operative verb “should” is used.

Throughout this document:

- a) measurements are given in the metric system followed in parentheses by corresponding measurements in the foot-pound system; and
- b) the use of the male gender should be understood to include male and female persons.

Any reference to a portion of this document, which is identified by a number and/or title, includes all subdivisions of that portion.

Table A. Amendments to Annex 12

<i>Amendment</i>	<i>Source(s)</i>	<i>Subject(s)</i>	<i>Adopted/approved Effective Applicable</i>
1st Edition	Search and Rescue Division, Second Session (1946) Air Navigation Commission	International Standards and Recommended Practices — Search and Rescue Services.	25 May 1950 1 December 1950 1 March 1951
1 (2nd Edition)	Search and Rescue Division, Third Session (1951)	Search and rescue organization; communications; appraisals of search and rescue operations; procedures for search and rescue; air-to-ground signals.	31 March 1952 1 September 1952 1 January 1953
2 (3rd Edition)	Second Air Navigation Conference (1955)	Rescue sub-centres; servicing and refuelling rescue units of other Contracting States.	8 May 1956 1 September 1956 1 December 1956
3	Third Air Navigation Conference (1956). Amendment 140 to Annex 6, Chapter 6	Marking of areas of the fuselage suitable for break-in.	13 June 1957 1 October 1957 1 December 1957
4 (4th Edition)	Rules of the Air, Air Traffic Services and Search and Rescue Divisions (1958)	Cooperation between States; information concerning emergencies; procedures for rescue coordination centres.	8 December 1959 1 May 1960 1 August 1960
5	Amendment 13 to Annex 11	Notification of rescue coordination centres by air traffic services units.	13 April 1962 — 1 November 1962
6	Amendment 4 to Annex 9	Temporary entry of rescue units from other Contracting States.	— — 1 July 1964
7	Amendment 14 to Annex 11, Chapter 5	Alerting of surface vessels and en-route aircraft to assist an aircraft in distress.	19 June 1964 1 November 1964 1 February 1965
8	International Convention for the Safety of Life at Sea. Amendment 15 to Annex 11	Updating of reference; alerting service.	10 December 1965 — 25 August 1966
9 (5th Edition)	Air Navigation Commission review of the Regional Supplementary Procedures	Cooperation between Contracting States; servicing and refuelling of rescue units of other Contracting States; testing search and rescue communications facilities; assistance in search and rescue operations by additional units or services.	25 May 1970 25 September 1970 4 February 1971
10	Air Navigation Commission	Carriage of the International Code of Signals by search and rescue aircraft; equipment of search and rescue aircraft with frequency 2182 kHz; information on position of merchant ships.	11 December 1972 11 April 1973 16 August 1973

<i>Amendment</i>	<i>Source(s)</i>	<i>Subject(s)</i>	<i>Adopted/approved Effective Applicable</i>
11 (6th Edition)	Complete review of the Annex by the Air Navigation Commission	New signal to surface craft; provision of search and rescue services on a 24-hour basis; dissemination of information on position of merchant ships; appraisals of search and rescue operations; improvement of cooperation between neighbouring States; equipment of rescue units; availability of information on air traffic services; location of droppable survival equipment; methods for assisting aircraft in distress and being compelled to ditch to rendezvous with surface craft; methods for assisting search and rescue or other aircraft to rendezvous with aircraft in distress.	25 November 1974 25 March 1975 9 October 1975
12	Amendment 60 to Annex 3	Supplementary communication facilities between meteorological offices and search and rescue units.	8 December 1975 8 April 1976 12 August 1976
13	Air Navigation Commission	Ground-air visual signal code for use by survivors.	15 December 1980 15 April 1981 26 November 1981
14	Air Navigation Commission	Rescue coordination centre (RCC) responsibilities regarding preparatory measures in the event an aircraft is subject to unlawful interference.	12 March 1990 30 July 1990 15 November 1990
15	Air Navigation Commission	Definition for search and rescue aircraft; communications requirements for rescue coordination centres (RCCs) and equipment of search and rescue (SAR) aircraft; SAR point of contact (SPOC).	12 March 1993 26 July 1993 11 November 1993
16 (7th Edition)	Amendments 25, 20 and 7 to Annex 6, Parts I, II and III, respectively; Air Navigation Commission	Revised definition of "pilot-in-command"; editorial amendments.	12 March 2001 16 July 2001 1 November 2001
17	ICAO Secretariat/Air Navigation Commission	Updating to align provisions with the IMO Convention to the extent practicable; harmonization of definitions between aeronautical and maritime SAR documents; regional approach to SAR system establishment; policy agreement between States and operational coordination between aeronautical and maritime SAR services; ready availability of essential data to RCC.	23 February 2004 12 July 2004 25 November 2004

INTERNATIONAL STANDARDS AND RECOMMENDED PRACTICES

Note.— This Annex is supplemented by the International Aeronautical and Maritime Search and Rescue (IAMSAR) Manual, Volume I — Organization and Management, Volume II — Mission Co-ordination, and Volume III — Mobile Facilities (Doc 9731), the purpose of which is to assist States in meeting their search and rescue (SAR) needs and obligations accepted under the Convention on International Civil Aviation. These obligations, as they relate to the provision of SAR services, are specified in this Annex as Standards and Recommended Practices. The three volumes of the IAMSAR Manual provide guidance for a common aviation and maritime approach to organizing and providing SAR services. States are encouraged, by use of the manual, to develop and improve their SAR services and to cooperate with neighbouring States.

CHAPTER 1. DEFINITIONS

When the following terms are used in the Standards and Recommended Practices for search and rescue, they have the following meanings:

- Alerting post.** Any facility intended to serve as an intermediary between a person reporting an emergency and a rescue coordination centre or rescue subcentre.
- Alert phase.** A situation wherein apprehension exists as to the safety of an aircraft and its occupants.
- Distress phase.** A situation wherein there is a reasonable certainty that an aircraft and its occupants are threatened by grave and imminent danger and require immediate assistance.
- Ditching.** The forced landing of an aircraft on water.
- Emergency phase.** A generic term meaning, as the case may be, uncertainty phase, alert phase or distress phase.
- Joint rescue coordination centre (JRCC).** A rescue coordination centre responsible for both aeronautical and maritime search and rescue operations.
- Operator.** A person, organization or enterprise engaged in or offering to engage in an aircraft operation.
- Pilot-in-command.** The pilot designated by the operator, or in the case of general aviation, the owner, as being in command and charged with the safe conduct of a flight.
- Rescue.** An operation to retrieve persons in distress, provide for their initial medical or other needs, and deliver them to a place of safety.
- Rescue coordination centre (RCC).** A unit responsible for promoting efficient organization of search and rescue services and for coordinating the conduct of search and rescue operations within a search and rescue region.
- Rescue subcentre (RSC).** A unit subordinate to a rescue coordination centre, established to complement the latter according to particular provisions of the responsible authorities.
- Search.** An operation normally coordinated by a rescue coordination centre or rescue subcentre using available personnel and facilities to locate persons in distress.

Search and rescue aircraft. An aircraft provided with specialized equipment suitable for the efficient conduct of search and rescue missions.

Search and rescue facility. Any mobile resource, including designated search and rescue units, used to conduct search and rescue operations.

Search and rescue service. The performance of distress monitoring, communication, coordination and search and rescue functions, initial medical assistance or medical evacuation, through the use of public and private resources, including cooperating aircraft, vessels and other craft and installations.

Search and rescue region (SRR). An area of defined dimensions, associated with a rescue coordination centre, within which search and rescue services are provided.

Search and rescue unit. A mobile resource composed of trained personnel and provided with equipment suitable for the expeditious conduct of search and rescue operations.

State of Registry. The State on whose register the aircraft is entered.

Uncertainty phase. A situation wherein uncertainty exists as to the safety of an aircraft and its occupants.

CHAPTER 2. ORGANIZATION

2.1 Search and rescue services

2.1.1 Contracting States shall, individually or in cooperation with other States, arrange for the establishment and prompt provision of search and rescue services within their territories to ensure that assistance is rendered to persons in distress. Such services shall be provided on a 24-hour basis.

2.1.1.1 Those portions of the high seas or areas of undetermined sovereignty for which search and rescue services will be established shall be determined on the basis of regional air navigation agreements. Contracting States having accepted the responsibility to provide search and rescue services in such areas shall thereafter, individually or in cooperation with other States, arrange for the services to be established and provided in accordance with the provisions of this Annex.

Note.— The phrase "regional air navigation agreements" refers to the agreements approved by the Council of ICAO normally on the advice of Regional Air Navigation Meetings.

2.1.1.2 Basic elements of search and rescue services shall include a legal framework, a responsible authority, organized available resources, communication facilities and a workforce skilled in coordination and operational functions.

2.1.1.3 Search and rescue services shall establish processes to improve service provision, including the aspects of planning, domestic and international cooperative arrangements and training.

2.1.2 In providing assistance to aircraft in distress and to survivors of aircraft accidents, Contracting States shall do so regardless of the nationality or status of such persons or the circumstances in which such persons are found.

2.1.3 Contracting States having accepted responsibility to provide search and rescue services shall use search and rescue units and other available facilities to assist any aircraft or its occupants that are or appear to be in a state of emergency.

2.1.4 Where separate aeronautical and maritime rescue coordination centres serve the same area, States shall ensure the closest practicable coordination between the centres.

2.1.5 **Recommendation.**— *Contracting States should facilitate consistency and cooperation between their aeronautical and maritime search and rescue services.*

2.1.6 **Recommendation.**— *Contracting States should establish joint rescue coordination centres to coordinate aeronautical and maritime search and rescue operations, where practical.*

2.2 Search and rescue regions

2.2.1 Contracting States shall delineate the search and rescue regions within which they will provide search and rescue services. Such regions shall not overlap and neighbouring regions shall be contiguous.

Note 1.— Search and rescue regions are established to ensure the provision of adequate communication infrastructure, efficient distress alert routing and proper operational coordination to effectively support search and rescue services. Neighbouring States may cooperate to establish search and rescue services within a single SAR region.

Note 2.— The delineation of search and rescue regions is determined on the basis of technical and operational considerations and is not related to the delineation of boundaries between States.

2.2.1.1 **Recommendation.**— *Search and rescue regions should, in so far as practicable, be coincident with corresponding flight information regions and, with respect to those areas over the high seas, maritime search and rescue regions.*

2.3 Rescue coordination centres and rescue subcentres

2.3.1 Contracting States shall establish a rescue coordination centre in each search and rescue region.

Note.— A Contracting State may establish a rescue coordination centre with an associated search and rescue region that, in accordance with regional air navigation agreement, extends over an area greater than its sovereign airspace.

2.3.2 **Recommendation.**— *Where all or part of the airspace of a Contracting State is included within a search and rescue region associated with a rescue coordination centre in another Contracting State, that former State should establish a rescue subcentre subordinate to the rescue coordination centre wherever this would improve the efficiency of search and rescue services within its territory.*

2.3.3 Each rescue coordination centre and, as appropriate, rescue subcentre, shall be staffed 24 hours a day by trained personnel proficient in the use of the language used for radio-telephony communications.

2.3.4 **Recommendation.**— *RCC personnel involved in the conduct of radiotelephony communications should be proficient in the use of the English language.*

2.3.5 **Recommendation.**— *In areas where public telecommunications facilities would not permit persons observing an aircraft in emergency to notify the rescue coordination centre concerned directly and promptly, Contracting States should designate suitable units of public or private services as alerting posts.*

2.4 Search and rescue communications

2.4.1 Each rescue coordination centre shall have means of rapid and reliable two-way communication with:

- a) associated air traffic services units;
- b) associated rescue subcentres;
- c) appropriate direction-finding and position-fixing stations;
- d) where appropriate, coastal radio stations capable of alerting and communicating with surface vessels in the region;
- e) the headquarters of search and rescue units in the region;
- f) all maritime rescue coordination centres in the region and aeronautical, maritime or joint rescue coordination centres in adjacent regions;
- g) a designated meteorological office or meteorological watch office;
- h) search and rescue units;
- i) alerting posts; and
- j) the Cospas-Sarsat Mission Control Centre servicing the search and rescue region.

Note.— *Maritime rescue coordination centres are identified in relevant documents of the International Maritime Organization.*

2.4.2 Each rescue subcentre shall have means of rapid and reliable two-way communication with:

- a) adjacent rescue subcentres;

- b) a meteorological office or meteorological watch office;
- c) search and rescue units; and
- d) alerting posts.

2.5 Search and rescue units

2.5.1 Contracting States shall designate as search and rescue units elements of public or private services suitably located and equipped for search and rescue operations.

Note.— *The minimum units and facilities necessary for provision of search and rescue operations within a search and rescue region are determined by regional air navigation agreements and are specified in the appropriate Air Navigation Plan and Facilities and Services Implementation Document publications.*

2.5.2 Contracting States shall designate as parts of the search and rescue plan of operation, elements of public or private services that do not qualify as search and rescue units but are nevertheless able to participate in search and rescue operations.

2.6 Search and rescue equipment

2.6.1 Search and rescue units shall be provided with equipment for locating promptly, and for providing adequate assistance at, the scene of an accident.

2.6.2 **Recommendation.**— *Each search and rescue unit should have means of rapid and reliable two-way communication with other search and rescue facilities engaged in the same operation.*

2.6.3 Each search and rescue aircraft shall be equipped to be able to communicate on the aeronautical distress and on-scene frequencies and on such other frequencies as may be prescribed.

2.6.4 Each search and rescue aircraft shall be equipped with a device for homing on distress frequencies.

Note 1. — *Emergency locator transmitter (ELT) carriage requirements are given in Annex 6, Parts I, II and III.*

Note 2.— *Specifications for ELTs are given in Annex 10, Volume III.*

2.6.5 Each search and rescue aircraft, when used for search and rescue over maritime areas, shall be equipped to be able to communicate with vessels.

Note.— Many vessels can communicate with aircraft on 2182 kHz, 4125 kHz and 121.5 MHz. However, these frequencies, and in particular 121.5 MHz, may not be routinely monitored by vessels.

2.6.6 Each search and rescue aircraft, when used for search and rescue over maritime areas shall carry a copy of the *International Code of Signals* to enable it to overcome language difficulties that may be experienced in communicating with ships.

Note.— The International Code of Signals is published in English, French and Spanish by the International Maritime Organization as documents I994E, I995F and I996S.

2.6.7 **Recommendation.**— *Unless it is known that there is no need to provide supplies to survivors by air, at least one of the aircraft participating in a search and rescue operation should carry droppable survival equipment.*

2.6.8 **Recommendation.**— *States should locate, at appropriate aerodromes, survival equipment suitably packed for dropping by aircraft.*

CHAPTER 3. COOPERATION

3.1 Cooperation between States

3.1.1 Contracting States shall coordinate their search and rescue organizations with those of neighbouring States.

3.1.2 **Recommendation.**— *Contracting States should, whenever necessary, coordinate their search and rescue operations with those of neighbouring States especially when these operations are proximate to adjacent search and rescue regions.*

3.1.2.1 **Recommendation.**— *Contracting States should, in so far as practicable, develop common search and rescue plans and procedures to facilitate coordination of search and rescue operations with those of neighbouring States.*

3.1.3 Subject to such conditions as may be prescribed by its own authorities, a Contracting State shall permit immediate entry into its territory of search and rescue units of other States for the purpose of searching for the site of aircraft accidents and rescuing survivors of such accidents.

3.1.4 The authorities of a Contracting State who wish their search and rescue units to enter the territory of another Contracting State for search and rescue purposes shall transmit a request, giving full details of the projected mission and the need for it, to the rescue coordination centre of the State concerned or to such other authority as has been designated by that State.

3.1.4.1 The authorities of Contracting States shall:

— immediately acknowledge the receipt of such a request, and

— as soon as possible, indicate the conditions, if any, under which the projected mission may be undertaken.

3.1.5 **Recommendation.**— *Contracting States should enter into agreements with neighbouring States to strengthen search and rescue cooperation and coordination, setting forth the conditions for entry of each other's search and rescue units into their respective territories. These agreements should also provide for expediting entry of such units with the least possible formalities.*

3.1.6 **Recommendation.**— *Each Contracting State should authorize its rescue coordination centres to:*

a) *request from other rescue coordination centres such assistance, including aircraft, vessels, persons or equipment, as may be needed;*

b) *grant any necessary permission for the entry of such aircraft, vessels, persons or equipment into its territory; and*

c) *make the necessary arrangements with the appropriate customs, immigration or other authorities with a view to expediting such entry.*

3.1.7 **Recommendation.**— *Each Contracting State should authorize its rescue coordination centres to provide, when requested, assistance to other rescue coordination centres, including assistance in the form of aircraft, vessels, persons or equipment.*

3.1.8 **Recommendation.**— *Contracting States should make arrangements for joint training exercises involving their search and rescue units, those of other States and operators, in order to promote search and rescue efficiency.*

3.1.9 **Recommendation.**— *Contracting States should make arrangements for periodic liaison visits by personnel of their rescue coordination centres and subcentres to the centres of neighbouring States.*

3.2 Cooperation with other services

3.2.1 Contracting States shall arrange for all aircraft, vessels and local services and facilities which do not form part of the search and rescue organization to cooperate fully with the latter in search and rescue and to extend any possible assistance to the survivors of aircraft accidents.

3.2.2 **Recommendation.**— *Contracting States should ensure the closest practicable coordination between the relevant aeronautical and maritime authorities to provide for the most effective and efficient search and rescue services.*

3.2.3 Contracting States shall ensure that their search and rescue services cooperate with those responsible for investigating accidents and with those responsible for the care of those who suffered from the accident.

3.2.4 **Recommendation.**— *To facilitate accident investigation, rescue units should, when practicable, be accompanied by persons qualified in the conduct of aircraft accident +investigations.*

3.2.5 States shall designate a search and rescue point of contact for the receipt of Cospas-Sarsat distress data.

3.3 Dissemination of information

3.3.1 Each Contracting State shall publish and disseminate all information necessary for the entry of search and rescue units of other States into its territory or, alternatively,

include this information in search and rescue service arrangements.

3.3.2 **Recommendation.**— *When such information could benefit the provision of search and rescue services, Contracting States should make available, through the rescue coordination centres or other agencies, information regarding their search and rescue plans of operation.*

3.3.3 **Recommendation.**— *Contracting States should, to the extent desirable and practicable, disseminate information to the general public and emergency response authorities regarding actions to be taken when there is reason to believe that an aircraft's emergency situation may become cause for public concern or require a general emergency response.*

CHAPTER 4. PREPARATORY MEASURES

4.1 Preparatory information

4.1.1 Each rescue coordination centre shall have readily available at all times up-to-date information concerning the following in respect of its search and rescue region:

- a) search and rescue units, rescue subcentres and alerting posts;
- b) air traffic services units;
- c) means of communication that may be used in search and rescue operations;
- d) addresses and telephone numbers of all operators, or their designated representatives, engaged in operations in the region; and
- e) any other public and private resources including medical and transportation facilities that are likely to be useful in search and rescue.

4.1.2 **Recommendation.**— *Each rescue coordination centre should have readily available all other information of interest to search and rescue, including information regarding:*

- a) *the locations, call signs, hours of watch, and frequencies of all radio stations likely to be employed in support of search and rescue operations;*
- b) *the locations and hours of watch of services keeping radio watch, and the frequencies guarded;*
- c) *locations where supplies of droppable emergency and survival equipment are stored; and*
- d) *objects which it is known might be mistaken for unlocated or unreported wreckage, particularly if viewed from the air.*

4.1.3 **Recommendation.**— *Each rescue coordination centre whose search and rescue region includes maritime areas should have ready access to information regarding the position, course and speed of ships within such areas that may be able to provide assistance to aircraft in distress and information on how to contact them.*

Note.— *This information may either be kept in the rescue coordination centres or be readily accessible.*

4.1.4 **Recommendation.**— *Contracting States should, individually or in cooperation with other States, either establish ship reporting systems in cooperation with maritime authorities or arrange communication links with Amver or regional ship reporting systems to facilitate search and rescue operations at sea.*

Note.— *Amver is a cooperative international ship reporting system with worldwide coverage that is available for interrogation by all rescue coordination centres. A number of Contracting States also operate regional ship reporting systems.*

4.2 Plans of operation

4.2.1 Each rescue coordination centre shall prepare detailed plans of operation for the conduct of search and rescue operations within its search and rescue region.

4.2.2 **Recommendation.**— *Search and rescue plans of operations should be developed jointly with representatives of the operators and other public or private services that may assist in providing search and rescue services or benefit from them, taking into account that the number of survivors could be large.*

4.2.3 The plans of operation shall specify arrangements for the servicing and refuelling, to the extent possible, of aircraft, vessels and vehicles employed in search and rescue operations, including those made available by other States.

4.2.4 **Recommendation.**— *The search and rescue plans of operation should contain details regarding actions to be taken by those persons engaged in search and rescue, including:*

- a) *the manner in which search and rescue operations are to be conducted in the search and rescue region;*
- b) *the use of available communication systems and facilities;*
- c) *the actions to be taken jointly with other rescue coordination centres;*
- d) *the methods of alerting en-route aircraft and ships at sea;*

- e) the duties and prerogatives of persons assigned to search and rescue;
- f) the possible redeployment of equipment that may be necessitated by meteorological or other conditions;
- g) the methods for obtaining essential information relevant to search and rescue operations, such as weather reports and forecasts, appropriate NOTAM, etc.;
- h) the methods for obtaining, from other rescue coordination centres, such assistance, including aircraft, vessels, persons or equipment, as may be needed;
- i) the methods for assisting distressed aircraft being compelled to ditch to rendezvous with surface craft;
- j) the methods for assisting search and rescue or other aircraft to proceed to aircraft in distress; and
- k) cooperative actions taken in conjunction with air traffic services units and other authorities concerned to assist aircraft known or believed to be subject to unlawful interference.

4.2.5 **Recommendation.**— *Search and rescue plans of operation should be integrated with airport emergency plans to provide for rescue services in the vicinity of aerodromes including, for coastal aerodromes, areas of water.*

4.3 Search and rescue units

4.3.1 Each search and rescue unit shall:

- a) be cognizant of all parts of the plans of operation prescribed in 4.2 that are necessary for the effective conduct of its duties; and
- b) keep the rescue coordination centre informed of its preparedness.

4.3.2 Contracting States shall:

- a) maintain in readiness the required number of search and rescue facilities; and
- b) maintain adequate supplies of rations, medical stores, signalling devices and other survival and rescue equipment.

4.4 Training and exercises

To achieve and maintain maximum efficiency in search and rescue, Contracting States shall provide for regular training of their search and rescue personnel and arrange appropriate search and rescue exercises.

4.5 Wreckage

Recommendation.— *Each Contracting State should ensure that wreckage resulting from aircraft accidents within its territory or, in the case of accidents on the high seas or in areas of undetermined sovereignty, within the search and rescue regions for which it is responsible, is removed, obliterated or charted following completion of the accident investigation, if its presence might constitute a hazard or confuse subsequent search and rescue operations.*

CHAPTER 5. OPERATING PROCEDURES

5.1 Information concerning emergencies

5.1.1 Any authority or any element of the search and rescue organization having reason to believe that an aircraft is in an emergency shall give immediately all available information to the rescue coordination centre concerned.

5.1.2 Rescue coordination centres shall, immediately upon receipt of information concerning aircraft in emergency, evaluate such information and assess the extent of the operation required.

5.1.3 When information concerning aircraft in emergency is received from other sources than air traffic services units, the rescue coordination centre shall determine to which emergency phase the situation corresponds and shall apply the procedures applicable to that phase.

5.2 Procedures for rescue coordination centres during emergency phases

5.2.1 Uncertainty phase

Upon the occurrence of an uncertainty phase, the rescue coordination centre shall cooperate to the utmost with air traffic services units and other appropriate agencies and services in order that incoming reports may be speedily evaluated.

5.2.2 Alert phase

Upon the occurrence of an alert phase the rescue coordination centre shall immediately alert search and rescue units and initiate any necessary action.

5.2.3 Distress phase

Upon the occurrence of a distress phase, the rescue coordination centre shall:

- a) immediately initiate action by search and rescue units in accordance with the appropriate plan of operation;
- b) ascertain the position of the aircraft, estimate the degree of uncertainty of this position, and, on the basis of this

information and the circumstances, determine the extent of the area to be searched;

- c) notify the operator, where possible, and keep the operator informed of developments;
- d) notify other rescue coordination centres, the help of which seems likely to be required, or which may be concerned in the operation;
- e) notify the associated air traffic services unit, when the information on the emergency has been received from another source;
- f) request at an early stage such aircraft, vessels, coastal stations and other services not specifically included in the appropriate plan of operation and able to assist to:
 - 1) maintain a listening watch for transmissions from the aircraft in distress, survival radio equipment or an ELT;
 - 2) assist the aircraft in distress as far as practicable; and
 - 3) inform the rescue coordination centre of any developments;

Note.— The frequencies contained in the specifications for ELTs given in Annex 10, Volume III, are 121.5 MHz and 406 MHz.

- g) from the information available, draw up a detailed plan of action for the conduct of the search and/or rescue operation required and communicate such plan for the guidance of the authorities immediately directing the conduct of such an operation;
- h) amend as necessary, in the light of evolving circumstances, the detailed plan of action;
- i) notify the appropriate accident investigation authorities; and
- j) notify the State of Registry of the aircraft.

The order in which these actions are described shall be followed unless circumstances dictate otherwise.

5.2.4 Initiation of search and rescue action in respect of an aircraft whose position is unknown

In the event that an emergency phase is declared in respect of an aircraft whose position is unknown and may be in one of two or more search and rescue regions, the following shall apply:

- a) When a rescue coordination centre is notified of the existence of an emergency phase and is unaware of other centres taking appropriate action, it shall assume responsibility for initiating suitable action in accordance with 5.2 and confer with neighbouring rescue coordination centres with the objective of designating one rescue coordination centre to assume responsibility forthwith.
- b) Unless otherwise decided by common agreement of the rescue coordination centres concerned, the rescue coordination centre to coordinate search and rescue action shall be the centre responsible for:
 - the region in which the aircraft last reported its position; or
 - the region to which the aircraft was proceeding when its last reported position was on the line separating two search and rescue regions; or
 - the region to which the aircraft was destined when it was not equipped with suitable two-way radio communication or not under obligation to maintain radio communication; or
 - the region in which the distress site is located as identified by the Cospas-Sarsat system.
- c) After declaration of the distress phase, the rescue coordination centre with overall coordination responsibility shall inform all rescue coordination centres that may become involved in the operation of all the circumstances of the emergency and subsequent developments. Likewise, all rescue coordination centres becoming aware of any information pertaining to the emergency shall inform the rescue coordination centre that has overall responsibility.

5.2.5 Passing of information to aircraft in respect of which an emergency phase has been declared

Whenever applicable, the rescue coordination centre responsible for search and rescue action shall forward to the air traffic services unit serving the flight information region in which the aircraft is operating, information of the search and rescue action initiated, in order that such information can be passed to the aircraft.

5.3 Procedures where responsibility for operations extends to two or more Contracting States

Where the conduct of operations over the entire search and rescue region is the responsibility of more than one Contracting State, each involved State shall take action in accordance with the relevant plan of operations when so requested by the rescue coordination centre of the region.

5.4 Procedures for authorities in the field

The authorities immediately directing the conduct of operations or any part thereof shall:

- a) give instructions to the units under their direction and inform the rescue coordination centre of such instructions; and
- b) keep the rescue coordination centre informed of developments.

5.5 Procedures for rescue coordination centres — termination and suspension of operations

5.5.1 Search and rescue operations shall continue, when practicable, until all survivors are delivered to a place of safety or until all reasonable hope of rescuing survivors has passed.

5.5.2 The responsible rescue coordination centre shall normally be responsible for determining when to discontinue search and rescue operations.

Note.— Contracting States may require input from other appropriate State authorities in the decision-making process leading to termination of SAR operations.

5.5.3 When a search and rescue operation has been successful or when a rescue coordination centre considers, or is informed, that an emergency no longer exists, the emergency phase shall be cancelled, the search and rescue operation shall be terminated and any authority, facility or service that has been activated or notified shall be promptly informed.

5.5.4 If a search and rescue operation becomes impracticable and the rescue coordination centre concludes that there might still be survivors, the centre shall temporarily suspend on-scene activities pending further developments and shall promptly inform any authority, facility or service which has been activated or notified. Relevant information subsequently received shall be evaluated and search and rescue operations resumed when justified and practicable.

5.6 Procedures at the scene of an accident

5.6.1 When multiple facilities are engaged in search and rescue operations on-scene, the rescue coordination centre or rescue subcentre shall designate one or more units on-scene to coordinate all actions to help ensure the safety and effectiveness of air and surface operations, taking into account facility capabilities and operational requirements.

5.6.2 When a pilot-in-command observes that either another aircraft or a surface craft is in distress, the pilot shall, if possible and unless considered unreasonable or unnecessary:

- a) keep the craft in distress in sight until compelled to leave the scene or advised by the rescue coordination centre that it is no longer necessary;
- b) determine the position of the craft in distress;
- c) as appropriate, report to the rescue coordination centre or air traffic services unit as much of the following information as possible:

— type of craft in distress, its identification and condition;

— its position, expressed in geographical or grid coordinates or in distance and true bearing from a distinctive landmark or from a radio navigation aid;

— time of observation expressed in hours and minutes Coordinated Universal Time (UTC);

— number of persons observed;

— whether persons have been seen to abandon the craft in distress;

— on-scene weather conditions;

— apparent physical condition of survivors;

— apparent best ground access route to the distress site; and

- d) act as instructed by the rescue coordination centre or the air traffic services unit.

5.6.2.1 If the first aircraft to reach the scene of an accident is not a search and rescue aircraft, it shall take charge of on-scene activities of all other aircraft subsequently arriving until the first search and rescue aircraft reaches the scene of the accident. If, in the meantime, such aircraft is unable to establish communication with the appropriate rescue coordination centre or air traffic services unit, it shall, by mutual agreement, hand over to an aircraft capable of establishing and maintaining such communications until the arrival of the first search and rescue aircraft.

5.6.3 When it is necessary for an aircraft to convey information to survivors or surface rescue units, and two-way communication is not available, it shall, if practicable, drop communication equipment that would enable direct contact to be established, or convey the information by dropping a hard copy message.

5.6.4 When a ground signal has been displayed, the aircraft shall indicate whether the signal has been understood or not by the means described in 5.6.3 or, if this is not practicable, by making the appropriate visual signal.

5.6.5 When it is necessary for an aircraft to direct a surface craft to the place where an aircraft or surface craft is in distress, the aircraft shall do so by transmitting precise instructions by any means at its disposal. If no radio communication can be established, the aircraft shall make the appropriate visual signal.

Note.— Air-to-surface and surface-to-air visual signals are published in Volume III of Doc 9731.

5.7 Procedures for a pilot-in-command intercepting a distress transmission

Whenever a distress transmission is intercepted by a pilot-in-command of an aircraft, the pilot shall, if feasible:

- a) acknowledge the distress transmission;
- b) record the position of the craft in distress if given;
- c) take a bearing on the transmission;
- d) inform the appropriate rescue coordination centre or air traffic services unit of the distress transmission, giving all available information; and
- e) at the pilot's discretion, while awaiting instructions, proceed to the position given in the transmission.

5.8 Search and rescue signals

5.8.1 The air-to-surface and surface-to-air visual signals in the Appendix shall, when used, have the meaning indicated therein. They shall be used only for the purpose indicated and no other signals likely to be confused with them shall be used.

5.8.2 Upon observing any of the signals in the Appendix, aircraft shall take such action as may be required by the interpretation of the signal given in that Appendix.

5.9 Maintenance of records

5.9.1 **Recommendation.**— *Each rescue coordination centre should keep a record of the operational efficiency of the search and rescue organization in its region.*

5.9.2 **Recommendation.**— *Each rescue coordination centre should prepare appraisals of actual search and rescue operations in its region. These appraisals should comprise any pertinent remarks on the procedures used and on the emergency and survival equipment, and any suggestions for improvement of those procedures and equipment. Those appraisals which are likely to be of interest to other States should be submitted to ICAO for information and dissemination as appropriate.*

APPENDIX. SEARCH AND RESCUE SIGNALS

(Note.— See Chapter 5, 5.8 of the Annex)

1. Signals with surface craft

1.1 The following manoeuvres performed in sequence by an aircraft mean that the aircraft wishes to direct a surface craft towards an aircraft or a surface craft in distress:

- a) circling the surface craft at least once;
- b) crossing the projected course of the surface craft close ahead at low altitude and:
 - 1) rocking the wings; or
 - 2) opening and closing the throttle; or
 - 3) changing the propeller pitch.

Note.— Due to high noise level on board surface craft, the sound signals in 2) and 3) may be less effective than the visual signal in 1) and are regarded as alternative means of attracting attention.

- c) heading in the direction in which the surface craft is to be directed.

Repetition of such manoeuvres has the same meaning.

1.2 The following manoeuvres by an aircraft means that the assistance of the surface craft to which the signal is directed is no longer required:

- crossing the wake of the surface craft close astern at a low altitude and:
 - 1) rocking the wings; or
 - 2) opening and closing the throttle; or
 - 3) changing the propeller pitch.

Note.— The following replies may be made by surface craft to the signal in 1.1:

- for acknowledging receipt of signals:

- 1) the hoisting of the "code pennant" (vertical red and white stripes) close up (meaning understood);
- 2) the flashing of a succession of "T's" by signal lamp in the Morse code;
- 3) the changing of heading to follow the aircraft.

— for indicating inability to comply:

- 1) the hoisting of the international flag "N" (a blue and white checkered square);
- 2) the flashing of a succession of "N's" in the Morse code.



Note.— See Note following 1.1 b), 3).

2. Ground-air visual signal code

2.1 Ground-air visual signal code for use by survivors

No.	Message	Code symbol
1	Require assistance	V
2	Require medical assistance	X
3	No or Negative	N
4	Yes or Affirmative	Y
5	Proceeding in this direction	↑

2.2 Ground-air visual signal code for use by rescue units

No.	Message	Code symbol
1	Operation completed	LLL
2	We have found all personnel	<u>LL</u>
3	We have found only some personnel	++
4	We are not able to continue. Returning to base	XX
5	Have divided into two groups. Each proceeding in direction indicated	
6	Information received that aircraft is in this direction	
7	Nothing found. Will continue to search	NN

2.3 Symbols shall be at least 2.5 metres (8 feet) long and shall be made as conspicuous as possible.

Note 1.— Symbols may be formed by any means such as: strips of fabric, parachute material, pieces of wood, stones or such like material; marking the surface by tramping, or staining with oil.

Note 2.— Attention to the above signals may be attracted by other means such as radio, flares, smoke and reflected light.

3. Air-to-ground signals

3.1 The following signals by aircraft mean that the ground signals have been understood:

a) during the hours of daylight:

— by rocking the aircraft's wings;

b) during the hours of darkness:

— flashing on and off twice the aircraft's landing lights or, if not so equipped, by switching on and off twice its navigation lights.

3.2 Lack of the above signal indicates that the ground signal is not understood.

— END —