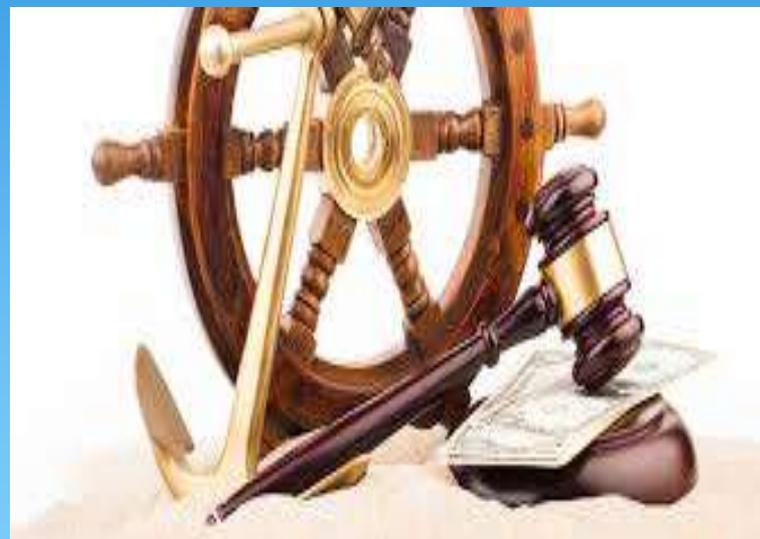




INTRODUCTION AND LEGAL BASIS OF THE SAR MISSION



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ATLAFCO Secretariat



LEGAL BASIS OF THE SAR MISSION



- According to customary international law, the states, through the ships flying their flag, **are obliged to help rescue people in danger of their lives at sea.**
- This obligation falls upon states regardless whether **they are party or not to specific international treaties or conventions.**
- It has been incorporated in **international treaties** and forms the content of a norm of **customary international law**
- The duty to rescue is one of the best-established principles of **the international law of the sea, maritime law and international humanitarian law**





KEY INTERNATIONAL INSTRUMENTS RELATED TO RESCUE AT SEA



- ❑ **United Nations Convention on the Law of the Sea, 1982, Article 98**
- ❑ **International Convention on Maritime Search and Rescue, (SAR Convention) 1979, as amended**
- ❑ **International Convention for the Safety of Life at Sea, 1974, (SOLAS) as amended, Chapter V, regulation 33**
- ❑ **Convention on International Civil Aviation, 1944 (Chicago Convention)**
- ❑ **International Convention on Salvage, 1989**
- ❑ **Convention on Facilitation of International Maritime Traffic, 1965**
- ❑ **International Maritime Organization (IMO) Global SAR Plan**
- ❑ **United Nations Convention Relating to the Status of Refugees, 1951 and its 1967 Protocols**
- ❑ **United Nations Convention against Transnational Organized Crime, 2000 and its Protocols**
- ❑ **Other Resolutions on Enhancement of Safety of Life at Sea, Guidelines on Stowaway, Combating Unsafe Practices associated with the Trafficking or Transport of migrants by sea**
- ❑ **International Aeronautical and Maritime Safety Search and Rescue Manual (IAMSAR)**





APPLICABLE INTERNATIONAL LAW



INTERNATIONAL
HUMAN RIGHTS
AND REFUGEE
LAW

UN CHARTER

TOC CONVENTION
MIGRANT
SMUGGLING
PROTOCOL

UNCLOS

SOLAS

SAR

FAO CODE OF
CONDUCT FOR
RESPONSIBLE
FISHERIES

FAL



RESCUE PERSONS IN DISTRESS



The duty to rescue persons in distress at sea is a **fundamental rule of international law**

What is 'distress'?

- ❑ We are obliged to rescue "**persons in distress**" if we can - but what does 'distress' amount to?
- ❑ The international maritime agreements let us down a little
- ❑ '**Distress**' is not defined in them.
- ❑ Instead, the '**distress phase of emergency**' is defined: "a situation wherein there is reasonable certainty that a **person, a vessel or other craft is threatened by grave and imminent danger and requires immediate assistance**", according to the Maritime SAR Convention.
- ❑ "The existence of very exceptional circumstances of **extreme urgency** involving **medical** or other considerations of an elementary nature" *International arbitration, Rainbow Warrior (1990)*
- ❑ "[the facts would] produce, in the mind of a skillful mariner, a well-grounded **apprehension** of the loss of the vessel and cargo, or of the lives of the crew" *US Supreme Court, The New Yorker case (1818)*

INTERNATIONAL CODE					
CODE FLAG	MEANING	MEANING	MEANING		
A	ALPHA	Clear a channel; keep well clear of this vessel.	N	NAVY	No complaint or "The significance of the person being dealt to and to the subject".
B	BETA	Loss of engine or machinery or other propulsion gear.	O	ORANGE	No protest.
C	CHARLIE	No intention or "The significance of the person being dealt to and to the subject".	P	PURPLE	No further (No Prox) of person identification or based on the vessel to assist or proceed to sea.
D	DELTA	No reason of sea; loss of steering gear; difficulty.	Q	QUEEN	No receipt to handle and/or support the person.
E	ECHO	Unfriendly to sea to be taken.	R	RED	No sign.
F	FOXTROT	I am disabled; communication with me.	S	SIGMA	No request to employ person.
G	GOLF	Heard a fire.	T	TANGO	Keep clear of me; loss of engine or gear.
H	HOTEL	Have a fire on board.	U	ULTRA	No emergency but danger.
I	INDIA	Loss of steering gear; to port.	V	VEGA	Urgent assistance.
J	JULIETT	Loss of fuel and loss of engine; danger to life; danger to life.	W	WHISKEY	Urgent medical assistance.
K	KILO	Wish to communicate with you.	X	XRAY	No contact and no contact to the subject.
L	LIMA	No health report; no need for help.	Y	YANKEE	Loss of engine or gear.
M	MIKE	No receipt to handle and/or support the person.	Z	ZULU	Urgent a flag.

NUMERICAL PENDANTS				
1	2	3	4	5
6	7	8	9	0

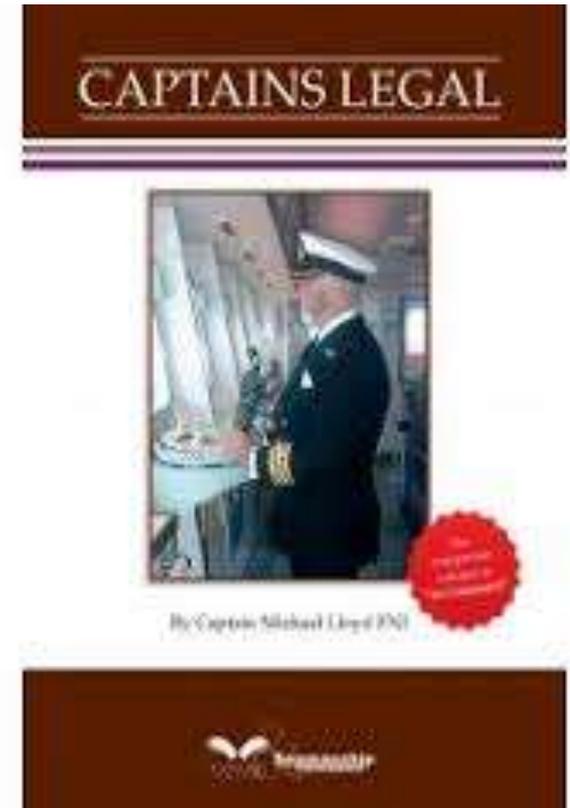
SUBSTITUTES		
FIRST SUBSTITUTE	SECOND SUBSTITUTE	THIRD SUBSTITUTE



SELECTED REFERENCES TO "DISTRESS"



- ❑ **UNCLOS** Articles 18, 39, 98, 109 (and incorporated by reference in Articles 45, 54)
- ❑ **SOLAS**, Ch. III, Reg. 3; Ch. IV, Reg. 2(2), 4; and Ch. V, Regs. 7, 8, 29, 33, 35
- ❑ **SAR Convention** (Annex and IAMSAR Manual)
- ❑ **Chicago Convention on Civil Aviation**, Art. 25
- ❑ **Cargo Liability Conventions** (generally excluding liability for cargo damage resulting from "saving or attempting to save life or property at sea.")





INTERNATIONAL MARITIME LAW AND THE LAW OF THE SEA



- ❑ International maritime law and the law of the sea impose clear duties on **flag States, coastal States**, and **shipmasters** with regard to **assisting persons in distress at sea**
- ❑ The UNCLOS 1982, in Article 98, stipulates that states have to carry out 2 obligations, namely
 - ❑ To require the captains of the ships flying their flag to help the rescue
 - ❑ To establish an effective search and rescue mechanism for that purpose
- ❑ These duties, which reflect a longstanding maritime tradition, are set out in a number of key international treaties, complemented by **guidelines developed by the International Maritime Organization ("IMO")**





1982 UNITED NATIONS CONVENTION ON THE LAW OF THE SEA (UNCLOS)



-1-

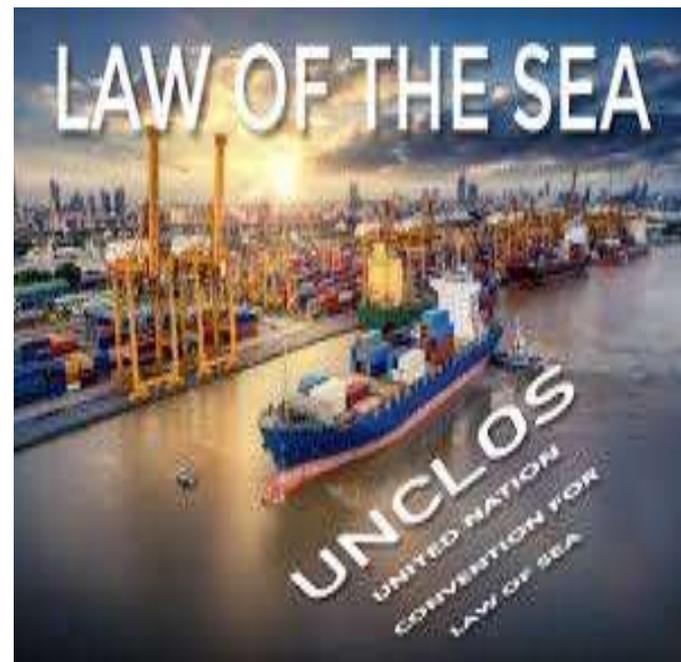
- The duty to save life at sea is spelled out in **Article 98** of the 1982 United Nations Convention on the Law of the Sea (UNCLOS), which provides as follows:

1. Every State shall require the master of a ship flying its flag, in so far as he can do so **without serious danger to the ship, the crew or the passengers**:

(a) **to render assistance** to any person found at sea in danger of being lost;

(b) **to proceed with all possible speed to the rescue of persons in distress**, if informed of their need of assistance, in so far as such action may reasonably be expected of him;

(c) after a collision, **to render assistance to the other ship, its crew and its passengers** and, where possible, **to inform** the other ship of the name of his own ship, its port of registry and the nearest port at which it will call.





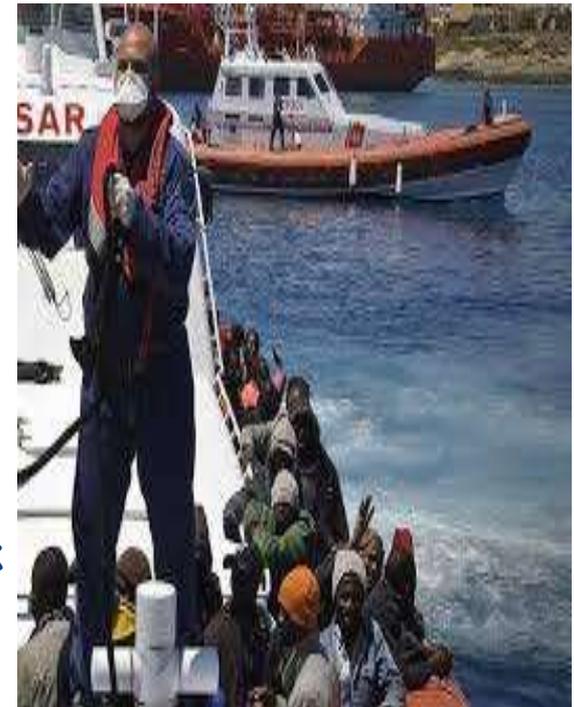
1982 UNITED NATIONS CONVENTION ON THE LAW OF THE SEA (UNCLOS)



-2-

2. Every coastal State shall promote the establishment, operation 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 neighbouring States for this purpose

- This provision contains two separate obligations, addressed to two groups of States:
 - the duty of **flag States** to oblige masters of vessels flying their flag to rescue people at risk of being lost at sea
 - the duty of **coastal States** to establish and maintain search and rescue services





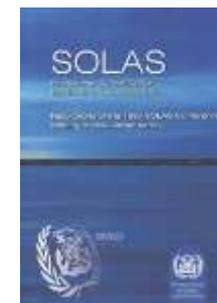
SEARCH AND RESCUE DUTIES ACCORDING TO INTERNATIONAL MARITIME LAW



The duty to rescue is further clarified in a number of international maritime law treaties, including the Convention for the Safety of Life at Sea (**SOLAS Convention**), the International Convention on Maritime Search and Rescue (**SAR Convention**) and the International Convention on Salvage

Regulation 7 search and rescue services (Chapter V) of SOLAS

Each Contracting Government undertakes to ensure that necessary arrangements are made for distress communication and co-ordination in their area of responsibility and for the rescue of persons in distress at sea around its coasts





COOPERATION AND COORDINATION IN SEARCH AND RESCUE SERVICES



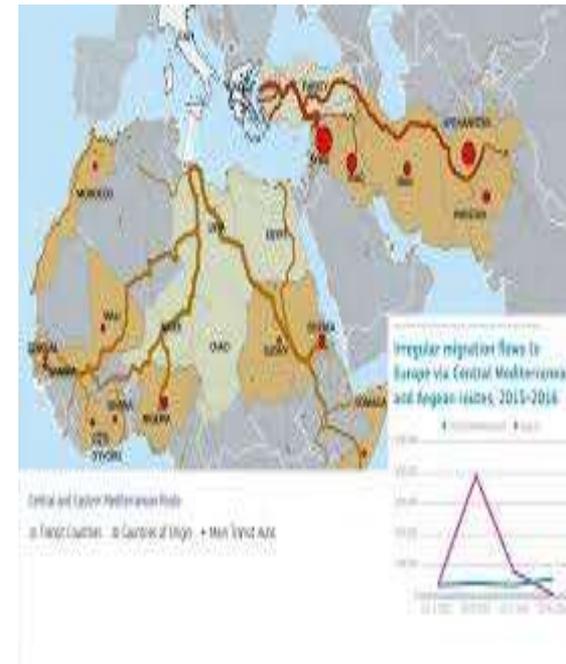
- 1 -

- ❑ One of the main issues that arises with respect to the duty to provide search and rescue services concerns the identification of which State, among a number of neighbouring States, should provide such assistance in a given case
- ❑ In more than one instance, States have disagreed on this point, thus causing unnecessary, and in some cases fatal, delays to rescue operations
- ❑ Chapter 3 - Co-operation between States of 1979 International Convention on Maritime Search and Rescue (SAR)

Requires Parties to co-ordinate search and rescue organizations, and, where necessary, search and rescue operations with those of neighboring States

- ❑ Article 8.1.6 - FAO Code of Conduct for Responsible Fisheries

" States should make arrangements individually, together with other States or with the appropriate international organization to integrate fishing operations into maritime search and rescue systems"





COOPERATION AND COORDINATION IN SEARCH AND RESCUE SERVICES



- 2 -

- ❑ Clarification of the duty to coordinate with neighbouring States was therefore one of the main tasks of the negotiators of the **SAR Convention**.
- ❑ Under this treaty, States are requested to agree on **SAR regions** in order to provide "*adequate shore-based communication infrastructure, efficient distress alert routing, and proper operational co-ordination to effectively support search and rescue services*".
- ❑ Furthermore, "*Parties having accepted responsibility to provide search and rescue services for a specified area shall use search and rescue units and other available facilities for providing assistance to a person who is, or appears to be, in distress at sea*".
- ❑ **IMO search and rescue areas**

Following the adoption of the 1979 SAR Convention, IMO's Maritime Safety Committee divided the world's oceans into 13 search and rescue areas, in each of which the countries concerned have delimited search and rescue regions for which they are responsible.





CONVENTION ON FACILITATION OF INTERNATIONAL MARITIME TRAFFIC (1965)



- ❑ FAL Convention Annex (as amended in 2005):
 - ❑ Section 2, ¶ H: Special measures of facilitation for ships calling at ports in order to put ashore ... **persons rescued at sea**
 - ❑ Section 7, ¶ C: **Emergency Assistance**
 - ❑ See also FAL.3/Circ.194 (Jan. 22, 2009) Principles relating to administrative procedures for **disembarking persons rescued at sea.**





RELEVANT SEARCH AND RESCUE REGULATIONS AND GUIDELINES



- ❑ The International Aeronautical and Maritime Search and Rescue Manual, hereafter the **IAMSAR Manual**, published by the International maritime organization(**IMO**)and the International Civil Aviation Organization (**ICAO**) is for:
 - ❑ **Maritime SAR** based on the **Hamburg Convention**
 - ❑ **Aviation** on the **Chicago Convention**

- ❑ The IAMSAR Manual contains **practical guidelines** for the:
 - ❑ **Organization of maritime and aeronautical SAR**
 - ❑ **Mission coordination**
 - ❑ **Operations of search and rescue units (SRUs)**
 - ❑ **Provision of SAR-related training**

- ❑ The manual is not binding but provides a **good foundation for the appropriate provision of maritime and aeronautical SAR services**

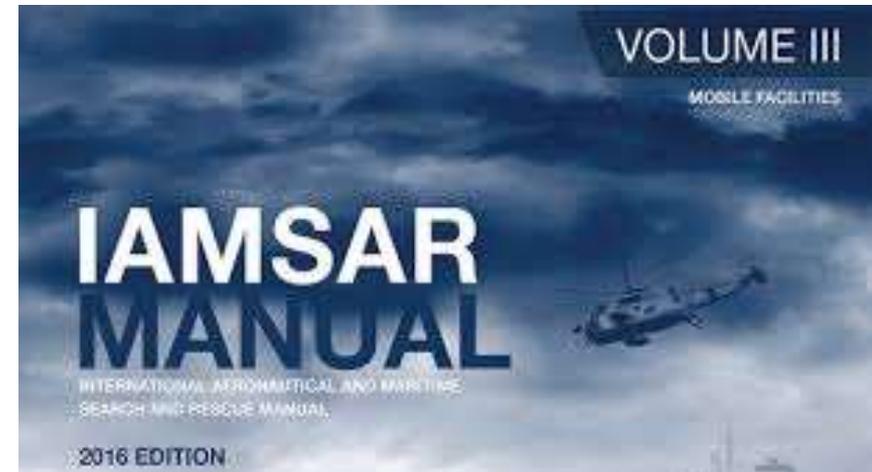




MOBILE FACILITIES

Volume III, Mobile Facilities

□ is intended to be carried aboard rescue units, aircraft and vessels to help with performance of a search, rescue or **on-scene coordinator** function, and with aspects of SAR that pertain to their own emergencies

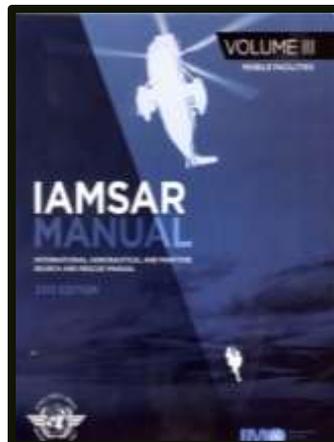
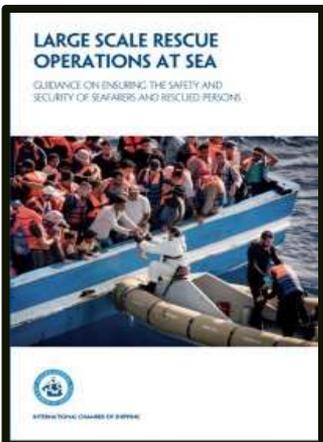




ADEQUACY OF PROCEDURES AND GUIDELINES FOR MERCHANT VESSELS



- ❑ Res. MSC.167(78): Guidelines on treatment of persons rescued at sea
- ❑ IAMSAR Manual Volume III
- ❑ IMO/UNHCR/ICS: Rescue at Sea: A Guide to Principles and Practice as Applied to Migrants and Refugees (2015 update)
- ❑ ICS: Large Scale Rescue Operations at Sea (2015)



Logic Model SAR

Strategic Outcome

Safe and secure waters

Intermediate/long-term Outcome

People in maritime distress are assisted

Intermediate Outcomes

SAR systems is prepared to respond



Maritime SAR cases are resolved

Outputs

National & regional SAR plans

Trained SAR personnel

After action reports

Tasking SAR reponse

Activities

Plannig

Training

Exercices

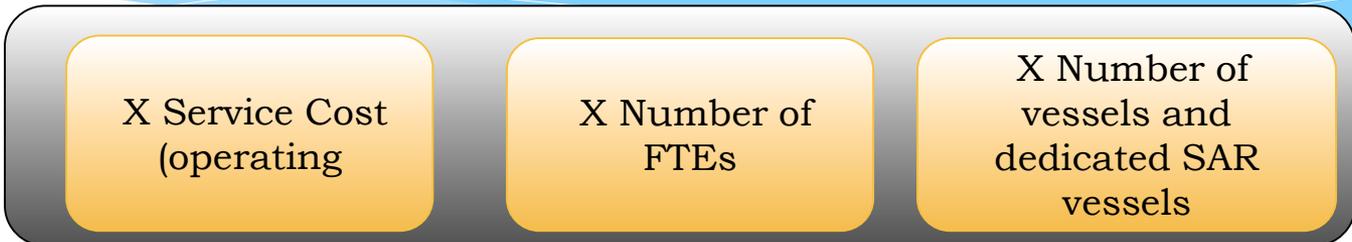
Response coordination

Inputs

X Service Cost (operating)

X Number of FTEs

X Number of vessels and dedicated SAR vessels





CONCLUSION

Obligations relating to rescue at sea fall on **ship masters** but also and mainly on the three types of States involved, whether they are

Coastal States

States responsible for a SAR area

Flag States

- ❑ **Obligation to plan** search and rescue centers at sea
- ❑ **Obligation to rescue** persons in distress
- ❑ **Obligation to proceed** to their disembarkation in a place of safety

Assisting people distress at sea - a *maritime tradition*

- *Customary International Law*
- *Codified into Treaty Laws*

Fundamental principle of international law





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