



# Introduction and legal basis of the SAR mission



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*Harnessing today without compromising tomorrow ...*



## Ministerial Conference on Fisheries Cooperation among African States Bordering the Atlantic (COMHAFAT-ATLAFCO)

- ❑ **ATLAFCO** was established in **1989** and reinforced through an intergovernmental agreement adopted in **1991**, which entered into force in **1995**
- ❑ The area of competence of ATLAFCO is the Atlantic, from Namibia until Morocco, including waters under national jurisdiction and high seas.
- ❑ ATLAFCO covers all living marine resources within its area of competence by promoting cooperation in fisheries management and development
- ❑ The main actions of ATLAFCO are:
  - ❑ Strengthening of maritime vocational and **technical training**;
  - ❑ Development of fisheries **research and marine sciences**;
  - ❑ Promoting fish trade and **enhancing the value of fishery products**;
  - ❑ **Implementation of laws and regulations** on responsible fishing

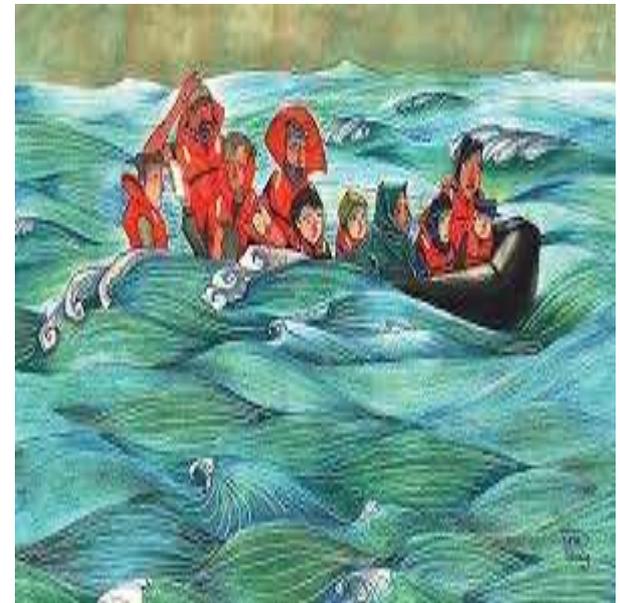




# legal basis of the SAR mission



- ❑ The duty to rescue persons in distress at sea is a **fundamental rule of international law**
- ❑ It has been incorporated in **international treaties** and forms the content of a norm of **customary international law**
- ❑ There is no doubt that the duty to rescue is one of the best-established principles of **the international law of the sea, maritime law and international humanitarian law**
- ❑ 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**
- ❑ 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)

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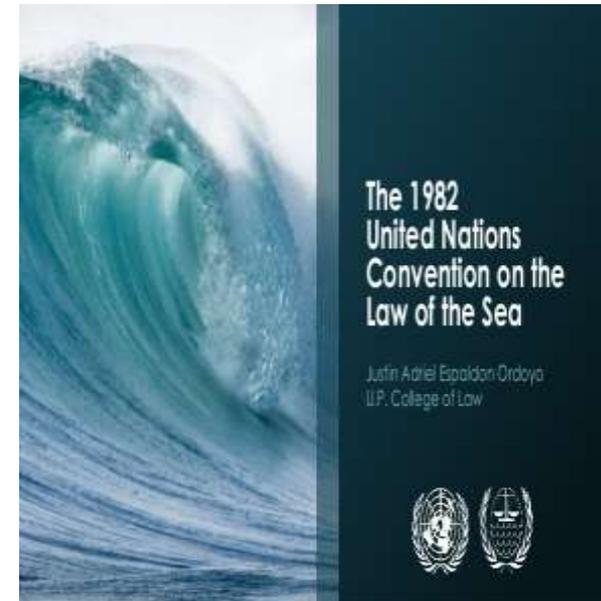
□ The duty to save life at sea is spelled out in **Article 98** of the 1982 United Nations Convention on the Law of the Sea (UNCLOS), which provides as follows:

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)

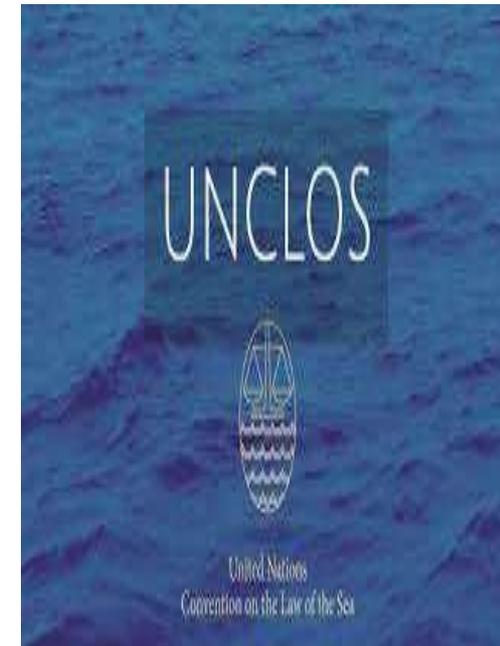
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2. Every coastal State shall promote the establishment, operation and maintenance of an adequate and effective **search and rescue service** regarding safety on and over the sea and, where circumstances so require, by way of mutual **regional arrangements 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

- ❑ **UNCLOS** does not define these terms





# Search and Rescue duties according to international maritime law

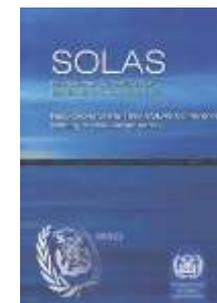
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The duty to rescue is further clarified in a number of international maritime law treaties, including the Convention for the Safety of Life at Sea (**SOLAS Convention**), the International Convention on Maritime Search and Rescue (**SAR Convention**)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





## Search and Rescue duties according to international maritime law

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- ❑ A definition is included in the **SAR Convention**, according to which
- ❑ “**search**” is *“an operation, normally co-ordinated by a rescue coordination center or rescue sub-center, using available personnel and facilities to locate persons in distress”*,
- ❑ while “**rescue**” is *“an operation to retrieve persons in distress, provide for their initial medical or other needs, and deliver them to a place of safety”*
- ❑ The two operations - search and rescue - may take many forms, depending on:
  - ❑ whether they are both required or not
  - ❑ the size and complexity of the operation
  - ❑ the available staff and facilities.
- ❑ Maritime SAR does not include salvage or the saving of property except where the action is indivisible from that of safeguarding life.





## Mass Rescue duties according to international maritime law



- ❑ A 'mass rescue operation' is *'characterized by the need for immediate response to large numbers of persons in distress such that the capabilities normally available to the SAR authorities are inadequate'*
- ❑ MRO does not specify any particular cause for the accident
- ❑ The main consideration is that there are so many people to rescue that there is a "capability gap" - "the capabilities normally available to the SAR authorities are inadequate"





## Cooperation and coordination in Search and Rescue services

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- ❑ 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"*





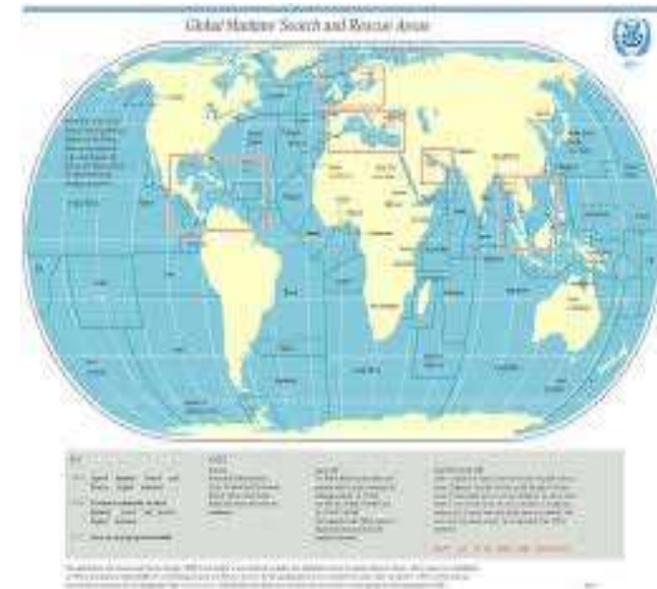
## Cooperation and coordination in Search and Rescue services

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- ❑ 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.

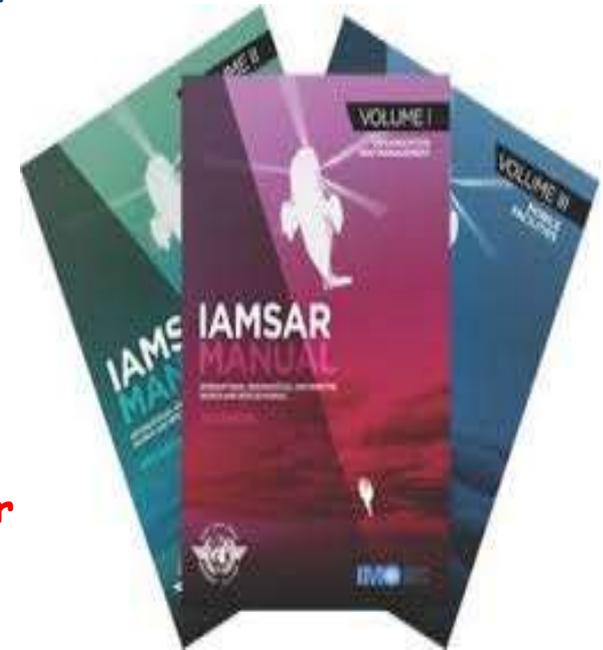




## Relevant Search and Rescue regulations and guidelines



- ❑ 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**





## Other international guidance on MROs



- ❑ **COMSAR/Circ.31:** *Guidance for Mass Rescue Operations*
- ❑ **MSC.1/Circ.1186:** *Guidelines on the training of SAR service personnel working in major incidents*
- ❑ **MSC.1/Circ.1183:** *Guidelines on the provision of external support as an aid to incident containment*
- ❑ **MSC.1/Circ.1184:** *Enhanced contingency planning guidance for passenger ships operating in areas remote from SAR facilities*
- ❑ **MSC.1/Circ.1182/Rev.1:** *Guide to recovery techniques*
- ❑ **MSC.1/Circ.1447:** *Guidelines for the development of plans and procedures for recovery of persons from the water*
- ❑ **MSC.1/Circ.1079:** *Guidelines for preparing plans for cooperation between SAR services and passenger ships*





## Disembarkation as last phase of the rescue operation



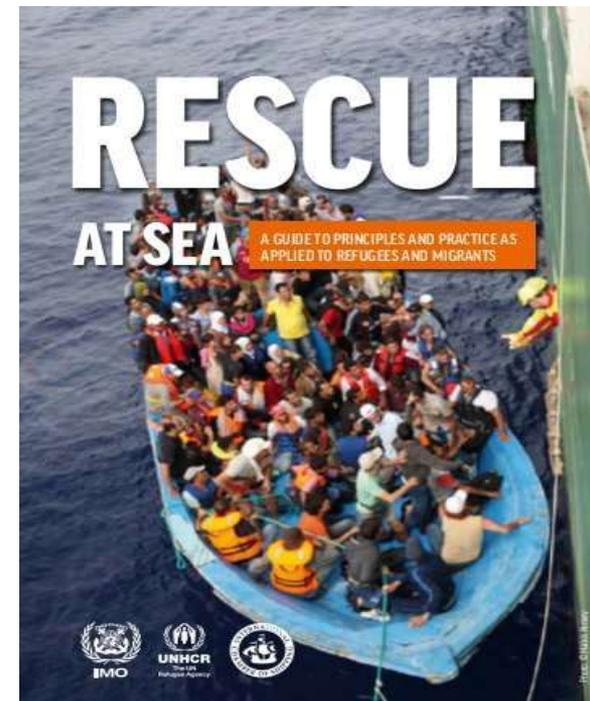
- ❑ Cooperation among States is particularly strained when it comes to the last phase of the rescue operation, **disembarkation**.
- ❑ "Rescue", in fact, implies that the people assisted should be delivered **"to a place of safety"**
- ❑ While a ship may **temporarily be considered a place of safety**, people saved will eventually have to be disembarked on **dry land**.
- ❑ Hypothetically, there are a number of options concerning disembarkation:
  - ❑ This could happen in the next port of call of the rescuing ship,
  - ❑ On the land nearest to the place where the rescue has occurred,
  - ❑ At a destination indicated by the people rescued themselves,
  - ❑ Or at another place where these people could receive assistance.
- ❑ In practice, however, it may be difficult to find a **State that will allow the rescuing vessel to disembark rescued people in its ports**, in particular if these people are likely to apply for asylum within the State



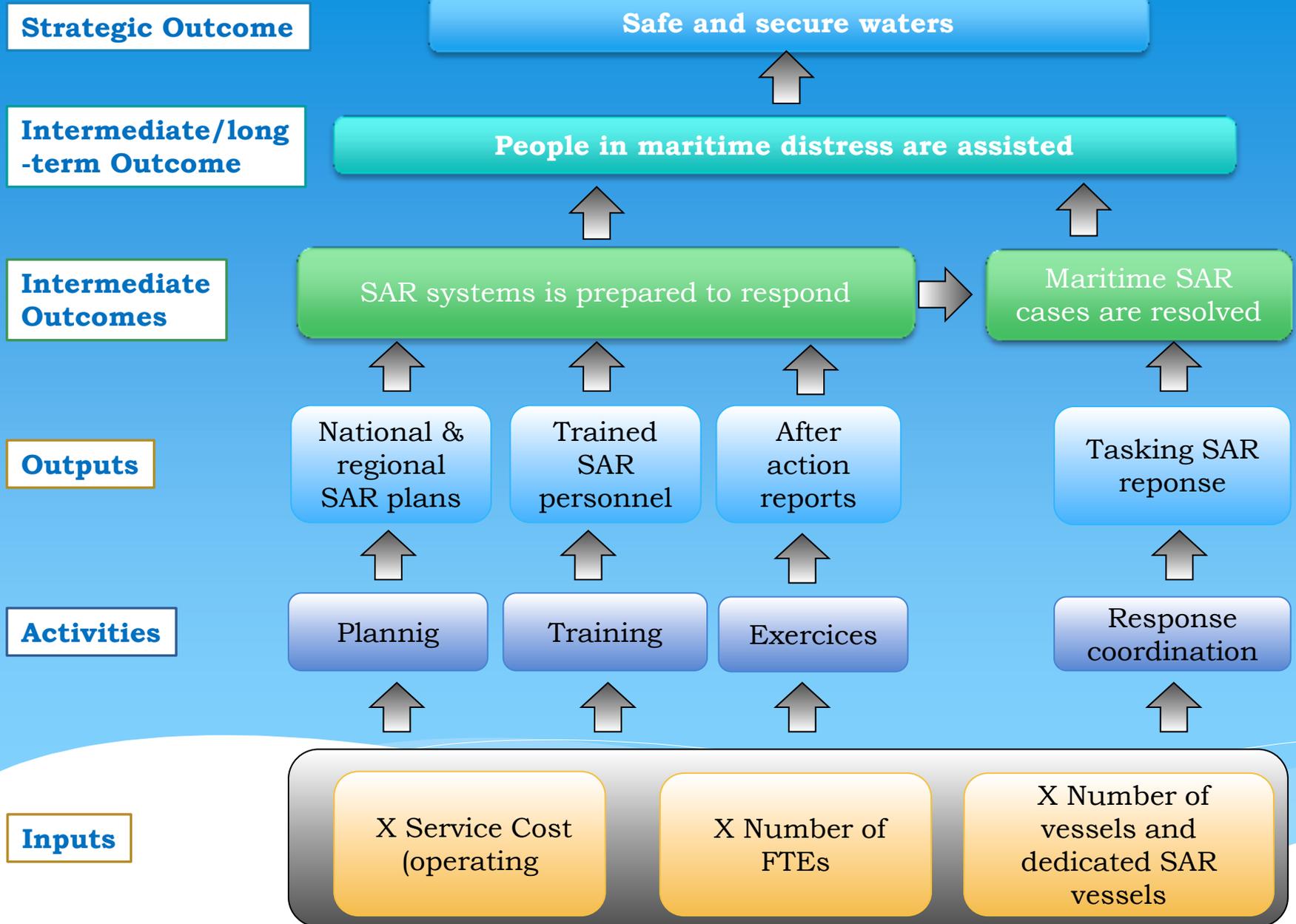


## Principles of disembarkation

- ❑ Two general principles regulate disembarkation.
  - ❑ The first, deriving from the **sovereignty exercised by States over their territory**, provides that there is no right of entry into a State's ports
  - ❑ Accordingly, a vessel that wants to disembark people rescued at sea into the ports of a State must have **the consent** of that State for entering into the port
  - ❑ The second principle, and an important limitation to disembarkation options, is the **non-refoulement principle**
  - ❑ *Non-refoulement is a principle of customary international law prohibiting the expulsion, deportation, return or extradition of an alien to his state of origin or another state where there is a risk that his life or freedom would be threatened for discriminatory reasons*



# Logic Model SAR





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