

African Union, African Regional Bodies

## African Charter on Maritime Security and Safety and Development in Africa (Lomé Charter)

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African Charter on Maritime Security and Safety and Development in Africa (Lomé Charter)  
 Contents

Chapter I – General provisions ..... 2

    Article 1 – Definitions ..... 2

        Paragraph 1) ..... 2

        Paragraph 2) ..... 6

    Article 2 – Principles ..... 6

        Paragraph a) ..... 6

        Paragraph b) ..... 6

        Paragraph c) ..... 6

        Paragraph d) ..... 6

        Paragraph e) ..... 6

        Paragraph f) ..... 6

    Article 3 – Objectives ..... 6

        Paragraph a) ..... 6

        Paragraph b) ..... 6

        Paragraph c) ..... 6

        Paragraph d) ..... 6

        Paragraph e) ..... 6

        Paragraph f) ..... 6

        Paragraph g) ..... 6

        Paragraph h) ..... 6

        Paragraph i) ..... 7

        Paragraph j) ..... 7

        Paragraph k) ..... 7

        Paragraph l) ..... 7

    Article 4 – Scope ..... 7

        Paragraph a) ..... 7

        Paragraph b) ..... 7

        Paragraph c) ..... 7

Chapter II – Measures to prevent and combat crimes at sea ..... 7

    Article 5 – Socio-economic measures to prevent crimes at sea ..... 7

        Paragraph a) ..... 7

        Paragraph b) ..... 7

    Article 6 – States Parties responsibility ..... 7

        Paragraph a) ..... 7

Paragraph b) .....	7
Paragraph c) .....	7
Article 7 – National coordinating structures .....	8
Paragraph 1) .....	8
Paragraph 2) .....	8
Article 8 – Harmonizing of national legislation .....	8
Subparagraph a) .....	8
Subparagraph b) .....	8
Article 9 – Resources to guarantee maritime security and safety .....	8
Article 10 – Financial obligations of Flag States and Coastal States .....	8
Article 11 – Maritime Security and Safety Fund .....	8
Chapter III – Maritime governance .....	8
Article 12 – Maritime governance .....	8
Article 13 – Maritime boundaries .....	8
Article 14 – Protection of maritime territories .....	8
Article 15 – Flag State responsibilities and Port State Control .....	9
Paragraph a) .....	9
Paragraph b) .....	9
Paragraph c) .....	9
Article 16 – Trafficking in human beings and smuggling of migrants by sea .....	9
Article 17 – Drug trafficking .....	9
Article 18 – Safety of navigation .....	9
Paragraph 1) .....	9
Paragraph 2) .....	9
Paragraph 3) .....	9
Chapter IV – Development of the blue/ocean economy .....	9
Article 19 – Exploitation of the maritime domain .....	9
Paragraph 1) .....	9
Paragraph 2) .....	9
Article 20 – Fisheries and aquaculture .....	9
Paragraph 1) .....	9
Paragraph 2) .....	9
Paragraph 3) .....	9
Article 21 – Creation of wealth and jobs through coastal and maritime tourism .....	10
Article 22 – Integrated human resource strategy for maritime development .....	10

Paragraph 1) .....	10
Paragraph 2) .....	10
Article 23 – Competitiveness improvement .....	10
Paragraph a) .....	10
Paragraph b) .....	10
Paragraph c) .....	10
Paragraph d) .....	10
Article 24 – Development of infrastructure and equipment relating to maritime activities .....	10
Paragraph 1) .....	10
Paragraph 2) .....	10
Article 25 – Measures to mitigate climate change and environmental threats .....	10
Paragraph 1) .....	10
Paragraph 2) .....	10
Article 26 – Protection of marine biological species, fauna and flora .....	10
Article 27 – Toxic and hazardous waste dumping .....	11
Paragraph 1) .....	11
Paragraph 2) .....	11
Article 28 – Prevention of illegal exploitation and theft of marine resources .....	11
Paragraph 1) .....	11
Paragraph 2) .....	11
Paragraph 3) .....	11
Article 29 – Maritime disaster risk management .....	11
Chapter V – Cooperation .....	11
Article 30 – Cooperation in the exploitation of the maritime domain .....	11
Paragraph 1) .....	11
Paragraph 2) .....	11
Paragraph 3) .....	11
Article 31 – Cooperation in fishing and aquaculture .....	11
Paragraph 1) .....	11
Paragraph 2) .....	11
Article 32 – Cooperation in combating crimes at sea .....	11
Paragraph 1) .....	11
Paragraph 2) .....	12
Article 33 – Maritime information sharing .....	12
Paragraph 1) .....	12

Paragraph 2) .....	12
Subparagraph a) .....	12
Subparagraph b) .....	12
Subparagraph c) .....	12
Article 34 – Cooperation in intelligence sharing .....	12
Article 35 – Strategies for awareness on maritime related issues .....	12
Article 36 – Scientific and academic cooperation .....	12
Paragraph 1) .....	12
Paragraph 2) .....	12
Paragraph 3) .....	12
Article 37 – Continental cooperation framework .....	12
Article 38 – Regional cooperation structures .....	12
Article 39 – National coordination framework .....	13
Paragraph 1) .....	13
Paragraph 2) .....	13
Paragraph 3) .....	13
Article 40 – Judicial and legal cooperation .....	13
Paragraph 1) .....	13
Paragraph 2) .....	13
Paragraph 3) .....	13
Chapter VI – Monitoring and control .....	13
Article 41 – Committee of States Parties .....	13
Paragraph 1) .....	13
Paragraph 2) .....	13
Paragraph 3) .....	13
Paragraph 4) .....	13
Article 42 – State Parties reports .....	13
Paragraph 1) .....	13
Paragraph 2) .....	13
Article 43 – Reports of the Committee .....	13
Article 44 – Secretariat of the Committee .....	14
Article 45 – Settlement of disputes .....	14
Paragraph 1) .....	14
Paragraph 2) .....	14
Subparagraph a) .....	14

Subparagraph b) .....	14
Subparagraph i) .....	14
Subparagraph ii) .....	14
Paragraph 3. ....	14
Article 46 – Annexes, guidelines and modalities .....	14
Paragraph 1. ....	14
Paragraph 2. ....	14
Paragraph 3. ....	14
Paragraph 4. ....	14
Chapter VII – Final provisions .....	14
Article 47 – Popularization of the Charter .....	14
Article 48 – Safeguard clause .....	14
Paragraph 1) .....	14
Paragraph 2) .....	14
Article 49 – Signature, ratification and accession .....	15
Paragraph 1. ....	15
Paragraph 2. ....	15
Article 50 – Entry into force .....	15
Paragraph 1. ....	15
Paragraph 2. ....	15
Paragraph 3. ....	15
Article 51 – Reservations .....	15
Paragraph 1. ....	15
Paragraph 2. ....	15
Paragraph 3. ....	15
Article 52 – Depository .....	15
Article 53 – Registration .....	15
Article 54 – Withdrawal .....	15
Paragraph 1) .....	15
Paragraph 2) .....	15
Paragraph 3) .....	15
Article 55 – Amendment and revision .....	16
Paragraph 1. ....	16
Paragraph 2. ....	16
Paragraph 3. ....	16

Paragraph 4. ....	16
Article 56 – Authentic texts .....	16





African Union

# African Charter on Maritime Security and Safety and Development in Africa (Lomé Charter)

Published

**Commenced**

*[This is the version of this document at 15 October 2016.]*

## **Preamble**

We, the Heads of State and Government of the Member States of the African Union (AU);

**CONSIDERING** the Constitutive Act of the African Union of 11 July 2000, in particular Articles 3 (a), (b), (e) and (f);

**HAVING REGARD** to the provisions of the Charter of the United Nations of 26 June 1945, in particular its Chapters VI, VII and VIII;

**COGNISANT** of the United Nations Convention on the Law of the Sea of 10 December 1982, in particular its Articles 100, 101 and 105, defining the legal framework for the fight against piracy and armed robbery against ships and the International Convention for the Safety of Life at Sea, 1 November 1974;

**CONSIDERING** the International Convention for the Prevention of Pollution from Ships of 2 November 1973;

**CONSIDERING** the Convention for the Suppression of Unlawful Acts against the safety of Maritime Navigation of 10 March 1988 and its Protocol of 14 October 2005;

**NOTING** the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal of 22 March 1989;

**CONSCIOUS** of the United Nations Convention against Transnational Organised Crime (Palermo Convention) of 15 November 2000, and its three Supplementary Protocols;

**CONSIDERING** the Bamako Convention on the Ban on the Import into Africa and the Control of Transboundary Movement and Management of Hazardous Wastes within Africa of 30 January 1991;

**CONSIDERING** also the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation adopted in Rome on 10 March 1988;

**RECALLING** the provisions of the OAU Convention on the Prevention and Combating of Terrorism of 14 July 1999 and the Protocol to the OAU Convention on the Prevention and Combating of Terrorism of 1 July 2004;

**FURTHER RECALLING** the provisions of the Revised African Maritime Transport Charter of 26 July 2010;

**MINDFUL** of the African Union Agenda 2063 and the United Nations 2030 Agenda;

**FURTHER MINDFUL** of the relevant provisions of the United Nations Security Council Resolutions, which call for the development and implementation of regional, sub-regional and national maritime safety and security and fight against piracy strategies;

**RECALLING** 2050 Africa's Integrated Maritime Strategy (2050 AIM Strategy) adopted on 27 January 2014, whose implementation shall be in conformity with International Maritime Law;

**AWARE** of the geostrategic importance of the seas, oceans and inland waterways in the socio-economic development of Africa and of their role in the sustainable development of the continent;

**FURTHER CONSIDERING** that the persistence of conflicts constitutes a serious threat to peace and security and undermines our efforts to raise the standard of living of our peoples;

**DEEPLY CONCERNED** by the scourge of terrorism, extremism in all its forms and transnational organised crime as well as the different threats against peace and security in Africa;

**ACKNOWLEDGING** that the proliferation of small arms and light weapons as well as cross-border crime contribute to the spread of insecurity and instability and pose serious risks to international maritime navigation;

**REAFFIRMING** our commitment to combat maritime crime, threats and challenges to protect and secure our seas and oceans;

**CONVINCED** that the prevention, management and the eradication of these scourges can only succeed through the enhancement of cooperation, with a view to coordinating the efforts of coastal, island and land-locked African States within the framework of the African Union;

**CONCERNED** about the protection of biodiversity and the sustainable use of marine resources of the planet in accordance with the Convention on Biological Diversity, adopted in Rio de Janeiro, on 5 June 1992, the Convention on the Protection, Management and Development of the Marine and Coastal Environment in Eastern Africa, adopted in Nairobi on 21 June 1985 and the Convention for Cooperation in the Protection, Management and Development of the Marine and Coastal Environment of the Atlantic Coast of the West, Central and Southern Africa Region adopted in Abidjan on 23 March 1981;

**DEEPLY COMMITTED** to peace and security in the Mediterranean Sea, the Red Sea, the Gulf of Aden, the Atlantic Ocean and the Indian Ocean, and **WELCOMING** the determination, through the Maritime Strategies of the Regional Economic Communities/Regional Mechanisms, the Indian Ocean Commission, and the Gulf of Guinea Commission to work closely with the Commission of the African Union on the implementation, in conformity with International Maritime Law, of the 2050 AIM Strategy;

**ALSO WELCOMING** the convening in Yaoundé, Cameroon from 24 to 25 June 2013 of the Joint Summit of the Economic Community of Central African States (ECCAS), the Economic Community of West African States (ECOWAS) and the Gulf of Guinea Commission (GGC) on Maritime Safety and Security, which culminated in the establishment of the Interregional Coordination Centre (ICC) based in Yaoundé, Cameroon.

**FIRMLY RESOLVED** to work tirelessly to ensure peace, security, safety and stability, protection of the marine environment and facilitation of trade in the maritime space and development of our countries;

**HEREBY AGREE AS FOLLOWS:**

## **Chapter I General provisions**

### **Article 1 – Definitions**

1) For the purpose of this Charter, the following terms and expressions shall apply:

"**African Space Policy and Strategy**" refers to the first concrete steps to realize an African Space Programme, as one of the flagship programmes of the AU Agenda 2063 adopted on 31 January 2016;

"**2050 AIM Strategy**" refers to the 2050 Africa's Integrated Maritime Strategy adopted by the Assembly on 27 January 2014;

"**Armed robbery against ships**" means any illegal act of violence or detention or any act of depredation, or threat thereof, other than an act of piracy, committed for private ends and directed against a ship or against persons or property on board such a ship, in an area falling within the jurisdiction of a State;

"**Assembly**" means the Assembly of Heads of State and Government of the African Union;

"**AU Agenda 2063**" refers to the African Union vision adopted on 27 January 2014;

"**Bamako Convention**" refers to the Bamako Convention on the ban on the Import into Africa and the Control of Transboundary Movement and Management of Hazardous Wastes within Africa adopted by the Organisation of African Unity on 30 January 1991;

"**Blue/Ocean Economy**" means sustainable economic development of oceans using such techniques as regional development to integrate the use of seas and oceans, coasts, lakes, rivers, and underground water for economic purposes, including, but without being limited to fisheries, mining, energy, aquaculture and maritime transport, while protecting the sea to improve social wellbeing;

"**Charter**" means the African Union Charter on Maritime Security and Safety and Development in Africa;

"**Coastal States**" refers to any state having a coast;

"**Commission**" means the African Union Commission;

"**Drug trafficking**" means the global illicit trade involving the cultivation, manufacture, distribution and sale of substances which are subject to drug prohibition laws;

"**Flag State**" means the State under whose laws a vessel is registered or licensed which has authority and responsibility to enforce regulations over vessels registered under its flag, including those relating to inspection, certification, and issuance of safety and pollution prevention documents.

"**Illegal, unreported and unregulated (IUU) fishing**" means:

- i. Illegal fishing means activities:
  - a) conducted by national or foreign vessels in waters under the jurisdiction of a State, without the permission of that State, or in contravention of its laws and regulations;
  - b) conducted by vessels flying the flag of States that are parties to a relevant regional fisheries management organization but operate in contravention of the conservation and management measures adopted by that organization and by which the States are bound, or relevant provisions of the applicable international law; or
  - c) in violation of national laws or international obligations, including those undertaken by cooperating States to a relevant regional fisheries management organization.
- ii. Unreported fishing means fishing activities:
  - a) which have not been reported, or have been misreported, to the relevant national authority, in contravention of national laws and regulations; or
  - b) undertaken in the area of competence of a relevant regional fisheries management organization which have not been reported or have been misreported, in contravention of the reporting procedures of that organization.
- iii. Unregulated fishing means fishing activities:
  - a) in the area of application of a relevant regional fisheries management organization that are conducted by vessels without nationality, or by those flying the flag of a State not party to that organization, or by a fishing entity, in a manner that is not consistent with or contravenes the conservation and management measures of that organization; or
  - b) in areas or for fish stocks in relation to which there are no applicable conservation or management measures and where such fishing activities are conducted in a manner inconsistent with State responsibilities for the conservation of living marine resources under international law.

"**Inland waterways**" means any navigable rivers, creeks, lakes, tidelands, lagoons, below water baseline, or channel leading into such place having facilities for ships to moor and load or discharge including offshore cargo handling facilities, harbour, berths, jetties, pontoons or buoys and wharves within the limits of the inland waterways in any place in a country and includes any place declared to be an inland waterway under relevant national legislation, as defined in the 2050 AIM Strategy;

"**International Maritime Organisation (IMO) SOLAS Convention**", refers to the International Maritime Organisation International Convention for the Safety of Life at Sea of 1 November 1974;

**"Marine biodiversity"** refers to the variety and variability of life on Earth; It is a measure of the variety of organisms present in different ecosystems including genetic variations, ecosystem variations or species variations (number of species) within the Maritime Domain;

**"Marine Governance"** means the national and international, legal and regulatory framework and associated enforcement processes that ensure the peaceful and sustainable use of the seas for commerce, food, energy and raw material;

**"Marine Pollution"** refers to the introduction and or spread of invasive organisms into the ocean or the harmful, or potentially harmful effects resulting from the entry into the ocean of chemicals, particles, industrial, agricultural and residential waste or noise and any other polluting factors carried by means of air or land pollution;

**"Marine Resources"** means the things that plants, animals and humans need for life that originate in the sea;

**"Maritime Awareness"** means the effective understanding of anything associated with the maritime domain that could impact upon the security, safety, economy, or environment;

**"Maritime Domain"** refers to all areas and resources of, on, under, relating to, adjacent to, or bordering on the sea, ocean, or lakes, intra-coastal and inland navigable waterways, including all maritime-related activities, infrastructure, cargo, vessels and other means of conveyance. It also includes the air above the seas, oceans, lakes, intra-coastal and inland navigable waterways and the oceans' electromagnetic spectrum as well, as defined in the 2050 AIM Strategy;

**"Maritime Safety"** means all measures taken for the safety of ships and offshore installations, their crews and where appropriate, their passengers, the safety of navigation and the facilitation of maritime traffic, maritime infrastructure, maritime facilities and maritime environment;

**"Maritime Security"** means the prevention of and fight against all acts or threats of illicit acts against a ship, its crew and its passengers or against the port facilities, maritime infrastructure, maritime facilities and maritime environment;

**"Maritime Territories"** means maritime spaces under the jurisdiction or responsibility of the State Party;

**"Maritime Zones"** means maritime zones as defined in the United Nations Convention on the Law of the Sea (UNCLOS) adopted on 10 December 1982;

**"Member-State"** means a Member State of the African Union;

**"Palermo Convention"** refers to the United Nations Convention against Transnational Organized Crime adopted by the United Nations General Assembly on 15 November 2000;

**"Pavilion State"** means the state under whose legislation a merchant ship is registered and which has authority and responsibility to ensure compliance with the regulations on ships flying its flag, including regulations relating to inspection, certification and issuance of safety and anti-pollution documents;

**"Piracy"** means:

- a) any illegal act of violence or detention committed for private ends by the crew or passengers of a private ship or a private aircraft, and directed:
  - i. on high seas against another ship or aircraft, or against persons or property, on board such ship or aircraft;
  - ii. against a ship, aircraft or property in a place outside the jurisdiction of any State;
- b) any act of voluntary participation in the operation of a ship or of an aircraft with knowledge of facts making it a pirate ship or aircraft;
- c) any act of inciting or of intentionally facilitating an act as described in paragraphs (a) or (b);

**"Pirate Ship"** means a ship under the effective control of individuals who have the intention to use it to commit an act of piracy, or a ship which has been used to commit such an act as long as they are under the control of these individuals;

**"Port State Control"** means the inspection of foreign ships in national ports to verify that the condition of the ship and its equipment comply with the requirements of international regulations and that the ship is manned and operated in compliance with these rules;

**"Revised African Maritime Transport Charter"** refers to the Revised African Maritime Transport Charter adopted by the African Union on 26 July 2010;

**"Requested State"** means the State that is requested for something;

**"Requesting State"** means the State that is requesting for something;

**"Ship"** means a vessel or mobile facility of any type whatsoever operating in the marine and or inland waterways environments and includes hydrofoil boat, aircushion vehicles, submersibles, floating craft and fixed or floating platforms operated for the purpose of providing movement of goods and passengers and the provision of marine services;

**"Signatory"** means a Member State that has signed this Charter;

**"States Parties"** means Member States that have ratified, accepted, approved or acceded to this Charter in accordance with their respective constitutional rules and the Charter has entered into force for those States;

**"Subsidiarity Principle"** refers to the principle that seeks to guarantee a degree of independence for a lower authority in relation to a higher body or for a local authority in relation to central government. It therefore involves the sharing of powers between several levels of authority;

**"Terrorist acts"** refers to terrorist:

- a) Any act or threat of act in violation of the criminal laws of the State Party likely to endanger the life, physical integrity, freedoms of an individual or group of individuals, which results or may result in damages to private or public property, natural resources, the environment or cultural heritage and committed with the intention of:
  - i. Intimidating, creating a situation of terror, forcing, exerting pressure or compelling any government, body, institution, population or section thereof to take or refrain from taking any initiative, adopt, abandon any particular standpoint or act according to certain principles;
  - ii. Disrupting the normal functioning of public services, providing essential services to populations or creating a crisis situation within the populations;
  - iii. Creating general insurrection in a State Party.
- b) Any promotion, financing, contribution, order, aide, incitement, encouragement, attempt, threat, conspiracy, organization or equipment of any individual with the intention of committing any act mentioned in paragraphs a) (i) to (iii).

**"Trafficking in persons"** means the recruitment, transportation, transfer, harbouring or receipt or persons, by means of the threat or use of force or other forms or coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation;

**"Transnational Organised Crime"** means organized crime coordinated across national borders, involving groups of three or more persons existing for a while acting together, to or committing one or more serious offenses to obtain, directly or indirectly, a financial or other material benefit or networks of individuals working in more than one country to plan and execute illegal business ventures. In order to achieve their goals, these criminal groups use systematic violence and corruption;

"**United Nations 2030 Agenda**" refers to the United Nations plan for achieving a better future for all adopted by the United Nations General Assembly on 25 September 2015;

"**UN Basel Convention**" refers to the Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal adopted by the United Nations General Assembly on 31 April 1989; and

"**UNCLOS**" refers to the Convention on the Law of the Sea adopted by the United Nations on 10 December 1982.

- 2) In this Charter, any reference to sea includes oceans and inland waterways.

## Article 2 – Principles

Each State Party reaffirms its commitment to the principles and objectives contained in the Charter of the United Nations adopted on 26 June 1945, the Constitutive Act of the African Union adopted on 11 July 2000, the Universal Declaration of Human Rights adopted on 10 December 1948, the African Charter of Human and Peoples' Rights adopted on 27 June 1981, the Agenda 21 on Sustainable Development, adopted in Rio de Janeiro, on 14 June 1992, the Palermo Convention adopted on 15 November 2000, the Bamako Convention adopted on 30 January 1991, and other relevant legal instruments as well as the following fundamental principles:

- a) the promotion of peace, security, stability and development;
- b) the protection of fundamental human rights and freedoms, as well as the observance of the rules of International Humanitarian Law;
- c) the free movement of people and goods;
- d) the sovereign equality and interdependence of the Member States;
- e) the territorial integrity and national sovereignty of Member States; and
- f) subsidiarity.

## Article 3 – Objectives

The objectives of the present Charter shall be to:

- a) prevent and suppress national and transnational crime, including terrorism, piracy, armed robbery against ships, drug trafficking, smuggling of migrants, trafficking in persons and all other kinds of trafficking transiting through the sea and IUU fishing;
- b) protect the environment in general and the marine environment in the space of coastal and insular States, in particular;
- c) promote a flourishing and sustainable Blue/Ocean Economy;
- d) promote and enhance cooperation in the fields of maritime domain awareness, prevention by early warning and fight against piracy, armed robbery against ships, illicit trafficking of all kinds, the pollution of the seas, cross-border crime, international terrorism and the proliferation of small arms and light weapons;
- e) establish appropriate national, regional and continental institutions and ensure the implementation of appropriate policies likely to promote safety and security at sea;
- f) promote the inter-agency and transnational coordination and cooperation among Member States, within the spirit of the African Peace and Security Architecture of the African Union;
- g) boost the implementation of the 2050 AIM Strategy in conformity with International Maritime Law;
- h) promote the training and capacity building of the maritime, port and industrial sector, for safe and responsible use of the maritime domain;

- i) cooperate in the field of Search and Rescue in line with the IMO SOLAS Convention;
- j) further sensitize communities living next to seas for sustainable development of African coastline and biodiversity;
- k) To promote and protect the right of access to the sea of landlocked countries in accordance with the provisions of this Charter, the legal instruments of the AU and other regional and international instruments;
- l) raise the level of social welfare of the concerned population;

#### **Article 4 – Scope**

The present Charter shall cover:

- a) the prevention and control of all transnational crime at sea, including terrorism, piracy, armed robbery against ships, drug trafficking, smuggling of migrants, trafficking in persons and all other kinds of trafficking, IUU fishing, prevention of pollution at sea and other unlawful acts at sea, under the jurisdiction of a State Party in its area of responsibility;
- b) all measures to prevent or minimize accidents at sea caused by ships or crew or aimed at facilitating safe navigation;
- c) all measures for the sustainable exploitation of marine resources and optimization of the development opportunities of sectors related to the sea.

### **Chapter II**

#### **Measures to prevent and combat crimes at sea**

##### **Article 5 – Socio-economic measures to prevent crimes at sea**

Each State Party shall endeavour to:

- a) continue its efforts to take appropriate measures to create productive jobs, reduce poverty and eliminate extreme poverty, encourage awareness of maritime related issues in order to establish the best living conditions, and to strengthen social cohesion through the implementation of a fair, inclusive and equitable policy to address the socio-economic issues;
- b) stimulate the creation of jobs along the coasts, particularly by codifying and promoting artisanal fishery through the training of sector stakeholders, encouraging the local processing of fishery products, and facilitating their marketing at national, sub-regional and international levels.

##### **Article 6 – States Parties responsibility**

Each State Party undertakes, according to its own realities, where applicable, to:

- a) organise its actions at sea and to develop its capacity to protect its maritime area and provide assistance to other States Parties or third States as may be required;
- b) strengthen law enforcement at sea, through the training and the professionalization of navies, coast guards, and agencies responsible for maritime safety and security, custom authorities and port authorities;
- c) maintain patrols, surveillance and reconnaissance in the anchorage areas, the exclusive economic zone and continental shelf for law enforcement, search and rescue operations.

### **Article 7 – National coordinating structures**

- 1) Each State Party shall take measures to curb maritime crime and other forms of unlawful acts as part of on-going dialogue and effective cooperation between their relevant national institutions.
- 2) Each State Party shall establish a national coordinating structure and centre for awareness on maritime related issues to ensure the coordination of actions aimed at safeguarding and enhancing maritime safety and security.

### **Article 8 – Harmonizing of national legislation**

Each State Party shall, where appropriate:

- a) harmonise its national laws to conform with relevant international legal instruments including UNCLOS, SOLAS and the Protocol of the 2005 Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation of 1 November 2005; and
- b) train the staff responsible for their implementation, in particular personnel within the justice system.

### **Article 9 – Resources to guarantee maritime security and safety**

Each State Party shall adopt policies that guarantee the availability of resources either by public funds or by forging public-private partnerships, needed for investment in equipment, operations and training in the field of maritime security and safety in accordance with their domestic procedures.

### **Article 10 – Financial obligations of Flag States and Coastal States**

Each State Party shall encourage cooperation between Flag States and Coastal States, so that, in a spirit of co-responsibility, the financial obligations of security and safety in the African maritime domain are shared and supported by the different actors concerned.

### **Article 11 – Maritime Security and Safety Fund**

State Parties undertake to establish a Maritime Security and Safety Fund.

## **Chapter III Maritime governance**

### **Article 12 – Maritime governance**

Each State Party shall ensure good maritime governance based on better information sharing, effective communication, and efficient coordination of their actions.

### **Article 13 – Maritime boundaries**

Each State Party shall endeavour to delimit its respective maritime boundaries in conformity with provisions of relevant international instruments.

### **Article 14 – Protection of maritime territories**

Each State Party shall protect its maritime territories and ensure its maritime security and safety in conformity with the relevant international laws and principles.



### **Article 15 – Flag State responsibilities and Port State Control**

Each State Party shall fulfil its Flag State and Port State Control responsibilities within their jurisdictions to:

- a) eradicate sub-standard shipping practices;
- b) enhance security and safety; and
- c) protect the marine environment from pollution.

### **Article 16 – Trafficking in human beings and smuggling of migrants by sea**

Each State Party shall develop and implement sound migration policies aimed at eliminating trafficking in human beings, especially women and children, as well as smuggling of migrants by sea.

### **Article 17 – Drug trafficking**

Each State Party shall develop and implement balanced and integrated strategies aimed at combatting drug trafficking and related challenges in the maritime domain.

### **Article 18 – Safety of navigation**

Each State Party undertakes to promote safety of navigation as well as the protection and sustainable use of the marine environment by:

- 1) providing appropriate aids to navigation according to available resources;
- 2) ensuring the best possible standardisation in aids to navigation; and
- 3) facilitating access to information relating to aids to navigation.

## **Chapter IV**

### **Development of the blue/ocean economy**

#### **Article 19 – Exploitation of the maritime domain**

- 1) Each State Party shall explore and exploit their respective maritime domains in accordance with relevant international principles and standards.
- 2) Each State Party shall facilitate the engagement of non-state actors, especially the private sector, in the development and implementation of the blue/ocean economy.

#### **Article 20 – Fisheries and aquaculture**

- 1) Each State Party shall implement appropriate fisheries and aquaculture policies for the conservation, management and sustainable exploitation of fish stocks and other biological resources.
- 2) Each State Party shall carry out the necessary reforms for good governance in the fishery sector and the promotion of continental fishing and aquaculture to contribute to the creation of employment in the sector, reduce food insecurity and malnutrition and promote economic diversification.
- 3) Each State Party shall take appropriate measures to effectively combat IUU fishing activities within the framework of its respective national jurisdictions and to take legal steps aimed at prosecuting the perpetrators engaged in IUU fishing.

### **Article 21 – Creation of wealth and jobs through coastal and maritime tourism**

Each State Party undertakes to promote coastal and maritime tourism as a key sector, with due consideration to the environmental dimensions, that generates considerable revenue and creates jobs, and agree to promote the sustainable development of all associated activities.

### **Article 22 – Integrated human resource strategy for maritime development**

- 1) Each State Party shall develop an integrated human resources strategy for the maritime sector to support the provision of skills, taking into account gender balance, in the entire maritime value chain which includes shipping and logistics, offshore activities, fishing, coastal and maritime tourism, and safety and security.
- 2) Each State Party shall set up a human resources development agenda, including training, in accordance with the potential for economic growth and job creation opportunities more widely along the maritime value chain.

### **Article 23 – Competitiveness improvement**

Each State Party shall improve competitiveness of its maritime industries, particularly in international trade. To this end, each State Party commits to:

- a) Encourage the creation and development of African maritime companies;
- b) Promote access of African operators to maritime transport auxiliary services and professions;
- c) Create an enabling environment to foster equity investment by African operators in foreign companies operating in Africa in maritime transport auxiliary services and professions;
- d) Prioritize trans-African cabotage to national and regional African maritime companies, in order to promote intra-African trade and facilitate the socio-economic integration of the continent.

### **Article 24 – Development of infrastructure and equipment relating to maritime activities**

- 1) Each State Party shall develop and strengthen its infrastructure to enable its port facilities to achieve its economic growth potential and competitiveness.
- 2) Each State Party shall encourage public-private partnerships to facilitate modernisation of African maritime industries in order to provide standard quality services and contribute to the attainment of the objectives of sustainable development.

### **Article 25 – Measures to mitigate climate change and environmental threats**

- 1) Each State Party shall adopt specific adaptation and mitigation measures to contain climate change and environmental threats to the marine environment in conformity with relevant international instruments.
- 2) Each State Party shall establish information exchange and early warning systems on marine pollution, including the dumping of toxic and hazardous waste and unauthorized emissions from the high seas.

### **Article 26 – Protection of marine biological species, fauna and flora**

Each State Party shall preserve the marine environment and protect the biological species of marine fauna and flora in the development process of its environment and biodiversity.

### **Article 27 – Toxic and hazardous waste dumping**

- 1) Each State Party shall develop a mechanism for the detection, prevention and reporting of marine pollution, particularly through the dumping of toxic and hazardous waste.
- 2) Each State Party shall prohibit the import, export, handling, accumulation or dumping of trans-boundary hazardous waste, including radioactive materials, chemical and organic waste in conformity with provisions of the Bamako and Basel Conventions.

### **Article 28 – Prevention of illegal exploitation and theft of marine resources**

- 1) Each State Party shall endeavour to prevent and effectively fight the illegal exploitation and theft of marine resources in its respective maritime territory.
- 2) Each State Party shall prohibit trade in products derived from illegal exploitation and plundering of marine resources within its maritime domain.
- 3) Each State Party shall prohibit trade in products derived from illegal exploitation and plundering of marine resources from any State Party.

### **Article 29 – Maritime disaster risk management**

Each State Party shall develop an integrated multi-sectoral and multidisciplinary strategy for ensuring disaster risk management and reducing the severity and impacts of a disaster.

## **Chapter V Cooperation**

### **Article 30 – Cooperation in the exploitation of the maritime domain**

State Parties shall cooperate at national, regional and continental levels, in:

- 1) developing and exploiting marine resources in their territorial waters through scientific and technological exchanges, partnerships for research and innovation, as well as the promotion and strengthening of the blue/ocean economy; in accordance with relevant international principles and standards;
- 2) facilitating business partnerships in the maritime domain;
- 3) harnessing state-of-the-art technologies, in conformity with the African Space Policy and Strategy and other relevant instruments for maritime security and safety.

### **Article 31 – Cooperation in fishing and aquaculture**

- 1) State Parties shall cooperate in order to ensure the sustainability of marine biodiversity.
- 2) State Parties shall cooperate within the framework of the Fisheries Committees established by its regional competent bodies and specialized institutions in order to strengthen and promote sustainable management of fishery resources.

### **Article 32 – Cooperation in combating crimes at sea**

- 1) State Parties shall cooperate and coordinate their actions in combating transnational organized crimes of all kinds including the circulation and trafficking of arms, maritime terrorism, drug trafficking, trafficking

in protected species or of its trophies, money laundering and its predicate offences; acts of piracy and armed robbery against ships, taking of hostages at sea, theft of oil and gas, trafficking in persons, smuggling of migrants, pollution of the seas and oceans, IUU fishing, and illegal dumping of toxic and hazardous waste.

- 2) State Parties shall take adequate measures, individually and collectively, to effectively fight organized crime, including transnational organized crime, and ensure that the perpetrators of such crimes are effectively prosecuted and denied the advantage of the proceeds of their crimes.

### **Article 33 – Maritime information sharing**

- 1) State Parties shall establish a platform for exchange and sharing of experiences and best practices on maritime security and safety.
- 2) State Parties shall endeavour to develop a system of information-sharing integrating national, regional and continental structures for maritime domain awareness aimed at:
  - a) preventing the commission of unlawful acts at sea;
  - b) the arrest and detention of individuals preparing to or committing any unlawful acts at sea; and
  - c) the seizure or confiscation of ships and equipment used in the commission of any unlawful acts at sea.

### **Article 34 – Cooperation in intelligence sharing**

State Parties shall encourage cooperation in sharing intelligence between its national services, regional and continental agencies and appropriate international specialized organs, to ensure the effectiveness of the fight against unlawful acts at sea.

### **Article 35 – Strategies for awareness on maritime related issues**

Each State Party shall adopt appropriate maritime strategies for awareness on maritime related issues adapted to its national, regional and international maritime security and safety situations in order to create greater awareness of the seas and oceans.

### **Article 36 – Scientific and academic cooperation**

Each State Party shall encourage:

- 1) the strengthening of cooperation between its universities and training and research institutes in relation to seas and oceans including those of the Pan African University;
- 2) maritime scientific research campaigns for development purposes; and
- 3) support initiatives by training institutions in respect of capacity building in maritime security and safety.

### **Article 37 – Continental cooperation framework**

State Parties shall establish a framework for close cooperation in the field of maritime security and safety with the national cross-sectoral mechanisms, the Regional Economic Communities and other relevant bodies.

### **Article 38 – Regional cooperation structures**

State Parties shall establish, where they do not exist, regional cooperation structures in the fight against crime at sea.

### **Article 39 – National coordination framework**

- 1) Each State Party shall develop national legal frameworks to coordinate their respective legal interventions at sea.
- 2) Each State Party shall endeavour to incorporate cooperation mechanisms in its national legal frameworks with a view to effectively combatting crime at sea.
- 3) Each State Party undertakes to promote, strengthen and sustain maritime rescue coordination centres and the maritime rescue sub-centres for the efficient organization of maritime search and rescue services.

### **Article 40 – Judicial and legal cooperation**

- 1) State Parties agree to mutual judicial and legal cooperation on the basis of the present Charter;
- 2) Each State Party shall cooperate on the basis of its bilateral or multilateral agreements, or in the absence of a cooperation agreement, on the basis of its national legislation.
- 3) Notwithstanding the differences in the legal framework of each State Party, national legislation shall guarantee joint investigation mechanisms, secure information exchange procedures, judicial requests, extradition and transfer of detainees and other related mechanisms.

## **Chapter VI Monitoring and control**

### **Article 41 – Committee of States Parties**

- 1) A 15-member Committee of States Parties is hereby established which shall be responsible for monitoring the implementation of this Charter and recommending follow-up actions.
- 2) The Committee shall be composed of the Ministers responsible for maritime affairs or such other Ministers or Authorities as may be designated by the governments of the States Parties.
- 3) The Committee members shall be elected every three years, from among the five regions of the continent on the basis of rotation, gender and geographical distribution in accordance with AU procedures and practice.
- 4) States Parties shall adopt the rules of procedure of the Committee.

### **Article 42 – State Parties reports**

Each State Party to the present Charter shall undertake to submit to the Committee a report on the measures they have undertaken to give effect to the provisions of this Charter:

- 1) within two years of the entry into force of the Charter for the State Party concerned; and
- 2) thereafter, every five years.

### **Article 43 – Reports of the Committee**

The Committee of the States Parties shall present, every two years, to the Assembly of the Union, a report on the progress made in the implementation of the Charter.

### **Article 44 – Secretariat of the Committee**

The Commission shall act as the Secretariat of the Committee of the States Parties.

### **Article 45 – Settlement of disputes**

- 1) Any dispute or difference arising between States Parties with regard to the interpretation, application and implementation of this Charter shall be settled by mutual consent between the States concerned, including through negotiations, mediation, conciliation or other peaceful means;
2. In the event of failure by the disputing parties to settle the dispute or difference in accordance with Article 45(1), the disputing Parties may, by mutual consent, refer the dispute to:
  - a) The African Court of Justice Human and Peoples’ Rights, where applicable; or
  - b) An Arbitration Panel of three (3) Arbitrators whose appointment shall be as follows:
    - i) two (2) Arbitrators each appointed by a Party to the dispute; and
    - ii) a third Arbitrator who shall be President of the Panel and appointed by the Chairperson of the African Union Commission.
3. The decision of the Panel of Arbitrators shall be final and binding.

### **Article 46 – Annexes, guidelines and modalities**

1. Member States shall adopt, as and when necessary, Annexes to complement this Charter. The Annexes shall be an integral part of this Charter.
2. A State Party which accedes to this Charter prior to the adoption of Annexes retains the right to subsequently accede to the Annexes.
3. In the event of a State Party acceding to this Charter after the adoption of annexes, the State Party must declare its intention to be bound by one or all of the Annexes.
4. State Parties shall also adopt guidelines and modalities to guide State Parties in fulfilling their obligations under this Charter.

## **Chapter VII Final provisions**

### **Article 47 – Popularization of the Charter**

Each State Party shall take all appropriate measures to ensure the widest possible dissemination of this Charter.

### **Article 48 – Safeguard clause**

- 1) No provision in this Charter shall be interpreted as derogating from the principles and values contained in other relevant instruments for the promotion of Maritime Security and Safety and Development in Africa.
- 2) Nothing in this Charter shall be construed as preventing a Party from taking any action, compatible with the provisions of the United Nations Charter or any other international instrument and that is limited to the exigencies of the situation, as it considers necessary to its external or internal security.

### **Article 49 – Signature, ratification and accession**

1. This Charter shall be open to Member States of the Union for signature, ratification or accession.
2. The instrument of ratification or accession to the present Charter shall be deposited with the Chairperson of the Commission who shall notify Member States of the Union of the deposit of the instruments of ratification or accession.

### **Article 50 – Entry into force**

1. This Charter shall enter into force thirty (30) days after the deposit of the fifteenth (15<sup>th</sup>) instrument of ratification.
2. The Chairperson of the Commission shall notify all Members States of the entry into force of the present Charter.
3. For any Member State acceding to the present Charter, the Charter shall come into force in respect of that State on the date of the deposit of its instrument of accession.

### **Article 51 – Reservations**

1. A State Party may, when, ratifying or acceding to this Charter, submit in writing, a reservation with respect to any of the provisions of this Charter. Reservation shall not be incompatible with the object and purpose of this Charter.
2. Unless otherwise provided, a reservation may be withdrawn at any time.
3. The withdrawal of a reservation must be submitted in writing to the Chairperson of the Commission who shall notify other States Parties of the withdrawal accordingly.

### **Article 52 – Depository**

This Charter shall be deposited with the Chairperson of the Commission, who shall transmit a certified true copy of the Charter to the Government of each signatory State.

### **Article 53 – Registration**

The Chairperson of the Commission shall upon the entry into force of this Charter, register the Charter with the United Nations Secretary General in conformity with Article 102 of the Charter of the United Nations.

### **Article 54 – Withdrawal**

- 1) At any time after three years from the date of entry into force of this Charter a State Party may withdraw by giving written notification to the Depository.
- 2) Withdrawal shall be effective one year after receipt of notification by the Depository, or on such later date as may be specified in the notification.
- 3) Withdrawal shall not affect any obligation of the withdrawing State Party prior to the withdrawal.

### **Article 55 – Amendment and revision**

1. Any State Party may submit proposal(s) for the amendment or revision of this Charter. Such proposal(s) shall be adopted by the Assembly.
2. Proposals for amendment or revision shall be submitted in writing to the Chairperson of the Commission who shall transmit such proposals to the Assembly at least six months before the meeting at which it shall be considered for adoption.
3. Amendments or revisions shall be adopted by the Assembly by consensus or, failing which, by a two-thirds majority of the Assembly.
4. The amendment or revision shall enter into force thirty (30) days after the deposit of the receipt of the fifteenth (15<sup>th</sup>) instrument of ratification to the Chairperson of the Commission of the African Union.

### **Article 56 – Authentic texts**

This Charter is drawn up in four (4) original texts, in Arabic, English, French and Portuguese languages, all four (4) texts being equally authentic.

**IN WITNESS WHEREOF** the undersigned, being duly authorized to that effect, has signed this Charter.

**Adopted by the Extraordinary Session of the Assembly, held in Lomé, Togo, on 15 October 2016.**