



REPUBLIC OF CYPRUS
MINISTRY OF
COMMUNICATIONS AND WORKS



DEPARTMENT
OF MERCHANT SHIPPING
LEMESOS

Circular No. 10/2009

22 May 2009

TEN 5.13.09
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To all Owners, Managers
and Representatives of Ships
under the Cyprus Flag

Subject: Piracy and armed robbery off the coast of Somalia- UN Security Council Resolutions 1816(2008), 1838 (2008), 1846 (2008) and 1851 (2008)- European Union relevant measures

1. Further to the above matter, I wish to inform you of the adoption of UN Security Council Resolutions 1816(2008), 1838 (2008), 1846 (2008) and 1851 (2008) pertaining to the combating of piracy and armed robbery off the coast of Somalia.

These UN Security Council Resolutions establish a new provisional corpus of international rules (valid up to December 2009) pursuant to which States cooperating with the Transitional Federal Government of Somalia, may:

- *Enter the territorial waters of Somalia for the purpose of repressing acts of piracy and armed robbery at sea, in a manner consistent with such action permitted on the high seas with respect to piracy under relevant international law; and*
- *Use, within the territorial waters of Somalia, in a manner consistent with action permitted on the high seas with respect to piracy under relevant international law, all necessary means to repress acts of piracy and armed robbery.*

In implementing the above, the cooperating States must take appropriate steps to ensure that the activities they undertake *within the territorial waters of Somalia* pursuant to the above authorization do not have the practical effect of denying the right of innocent passage to the ships of any third State.

2. It is recalled that the EU adopted two relevant instruments under Title V of the EU Treaty setting the “military operation Atalanta”, namely *Council Joint Action 2008/851/CFSP of 10 November 2008 and Council Decision 2008/918/CFSP of 8 December 2008.*

Under these instruments, the mandate of the EU is established for twelve months (until December 2009) .i.e. to deter, prevent and repress acts of piracy and armed robbery off the Somali coast in accordance with the provisions of international law, namely the LOS 1982 Convention and relevant UN Security Council Resolutions (Res. 1816(2008) and Res. 1846(2008)).

The deployed forces under EU command may operate up to 500 nautical miles off the Somali coast and neighboring countries. Third States may be invited to participate in the operation. The mission is to protect vessels of the World Food Program, delivering food aid to displaced persons in Somalia, and vulnerable merchant vessels cruising off the Somali coast.

Protected vessels may receive on board military units belonging to the Atalanta operation. The conditions governing the presence of these units on board the protected merchant ships have to be agreed with the flag States of these vessels.

In terms of prosecution, arrested and detained pirates may be transferred to the competent authorities of the flag Member State of the vessel which took them captives, or if this State cannot, or does not wish to exercise its jurisdiction, to an EU Member State or any third State which wishes to exercise its jurisdiction over the pirates. Transfers of pirates to third States have to be mutually agreed, in order to guarantee the respect of human rights and in particular that none of the pirates shall be subjected to the death penalty, to torture or to any inhuman or degrading treatment (see article 12 of *Council Joint Action 2008/851/CFSP*).

3. It is further recalled that section 69 of the Cyprus Criminal Code (Cap. 154, as specifically amended by Law 15(I)/1999) dealing with the issue of piracy provides that “*Any person who performs any act which constitutes piracy¹, is guilty of an offence and is liable to imprisonment for life*”.

Owners, managers and representatives of ships under the Cyprus flag are advised to take note of this Circular and to abide by Circular No. 04/2009 of 12.02.2009 on Revised Maritime Security Instructions with respect to piracy.

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Director
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Cc: -Permanent Secretary, Ministry of Communications and Works
- Maritime Offices of the Department of Merchant Shipping abroad
- Attorney General of the Republic
- Permanent Secretary, Ministry of Foreign Affairs

¹ In accordance with section 69 of the Cyprus Criminal Code, piracy consists of any of the following acts:

- (a) any illegal acts of violence or detention, or any act of depredation, committed for private ends by the crew or the passengers of a private ship or a private aircraft, and directed:
 - (i) on the high seas, against another ship or aircraft, or against persons or property on board such ship or aircraft;
 - (ii) against a ship, aircraft, persons 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 described in subparagraph (a) or (b).

- Diplomatic Missions and Honorary Consular Officers of the Republic
- Permanent Secretary, Ministry of Defence
- Permanent Secretary, Ministry of Justice and Public Order
- Chief, Cyprus Police Force
- General Manager, Cyprus Ports Authority
- Cyprus Shipping Chamber
- Cyprus Union of Shipowners
- Cyprus Bar Association

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