

AGREEMENT FOR THE SETTING UP OF A
REGIONAL
MARITIME INFORMATION EXCHANGE AND
SHARING MECHANISM
IN THE WESTERN INDIAN OCEAN REGION

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**AGREEMENT FOR THE SETTING UP OF A REGIONAL
MARITIME INFORMATION EXCHANGE AND SHARING MECHANISM
IN THE WESTERN INDIAN OCEAN REGION**

The Parties to this Agreement,

Noting the United Nations Convention on the Law of the Sea of 10th December 1982;

Noting the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 20th December 1988;

Noting the Convention for the suppression of Unlawful Acts against the Safety of Maritime Navigation of 10th March 1988 and its Protocol of 2005;

Noting the Convention for the Prevention of Marine Pollution by ships of 2nd November 1973;

Noting the International Convention for the Safety of Life at Sea of 1st November 1974;

Noting the United Nations Convention against Transnational Organized Crime of 15th November 2000 and its Protocol against the Smuggling of Migrants by Land, Sea and Air;

Noting the relevant resolutions of the United Nations Security Council (UN Security Council) and the International Maritime Organisation (IMO) regulations;

Noting 2050 Africa's Integrated Maritime Strategy;

Noting the decision of the Eastern and Southern Africa and Indian Ocean region (ESA-IO) Council of Ministers, held in Djibouti on 15th May 2016, entrusting to Madagascar the hosting and creation of a Maritime Information Fusion Centre;

Recalling that:

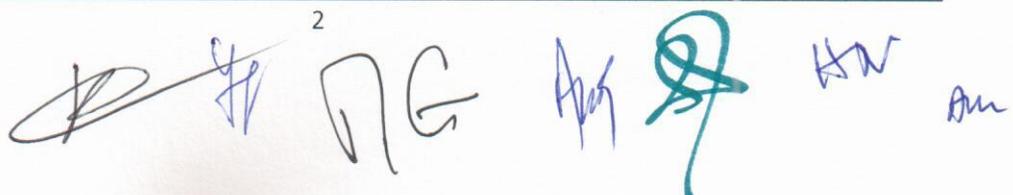
- a) the Ministerial platform of the ESA-IO region, meeting in Grand Bay, Republic of Mauritius, in October 2010, decided to implement the Maritime Security Programme (MASE) and particularly Results 4 and 5, which recommend signatory States to pool their resources and to strengthen their regional operational cooperation in order to improve surveillance and control of their maritime domain;
- b) The Djibouti Code of Conduct concerning the Repression of Piracy and Armed Robbery against Ships in the Western Indian Ocean and the Gulf of Aden, done at Djibouti on 29 January 2009; and the Jeddah Amendment to the Djibouti Code of Conduct of January 12, 2017; and
- c) the responsibility of each Regional State to ensure by its own means the missions of State action at sea incumbent upon them in the areas under their sovereignty or sovereign rights or exclusive jurisdiction, as well as their obligations as regards ships under their flag, wherever they are;

Recognising the increased role of the Regional Economic Communities and Regional Organisations of the ESA-IO region in the fight against maritime threats in general and against maritime piracy in particular;

Considering the commitment of each State to the exchange and sharing of maritime information;

Considering that non-military navigation constitutes most of maritime navigation, likely to become the object or the instrument of illegal actions, the sharing of information on non-military navigation improves the understanding of maritime situation in general;

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Considering that the 2050 African Integrated Maritime Strategy seeks to:

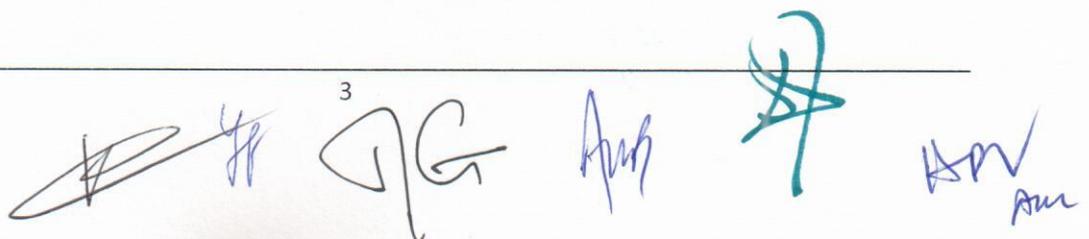
- a) encourage the implementation of joint regional surveillance operations and the establishment of naval or coast guard networks around Africa with an important cross-border pursuit function; and
- b) promote in collaboration with the relevant actors, continental and regional agreements, provisions and capacities, including the pulling of assets through the development of joint programmes, in particular on law enforcement, search and rescue services, humanitarian crisis and emergency rescue services;

Acknowledging that the opportunity to share information remains at the discretion of the Parties to this Agreement;

HAVE HEREBY AGREED that a regional cooperation programme shall be established between the States Parties to the MASE programme, signatories of this Agreement, for the exchange and sharing of maritime information, referred to as the "Agreement for the Setting up of a Regional Maritime Information Exchange and Sharing Mechanism in the Western Indian Ocean Region", or the "Agreement".

Its terms and conditions are defined as follows:

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NATURE AND SCOPE OF THE AGREEMENT

Article 1

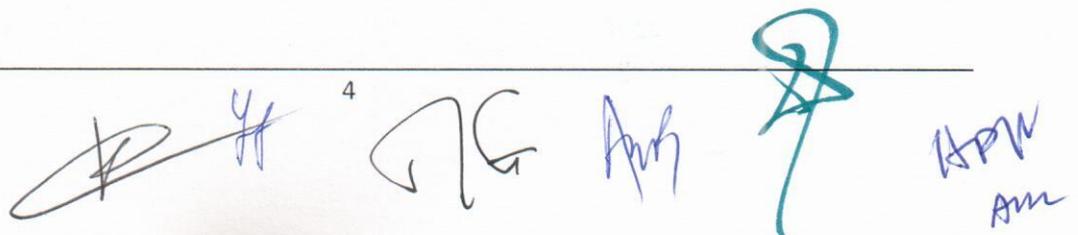
Interpretation

For the purposes of this Agreement:

1. **"Abnormal situation"** means the behaviour of one or more vessels outside of the rules of navigation;
2. **"Data processing"** means all operations relating to data performed by persons or other means and processes or using algorithms to extract the information needed to monitor maritime traffic and detect unusual situations;
3. **"Depositary"** means the Secretary General of the Indian Ocean Commission (IOC);
4. **"Maritime information fusion"** means the process used to analyse and centralise a visualization interface the maritime information collected;
5. **"Maritime information"** means any information and communication support, including documents and copies thereof, enabling the location or identification of a vessel or maritime event. It shall include the position, nature, registration, flag State, place of departure and destination, crew, passengers, cargo type, speed and any other information relating to the management of vessels and maritime safety and security;
6. **"Need-to-know"** means the absolute need to know a piece of information in the framework of a given function and for the proper execution of a precise operation;
7. **"Protective marking"** means a marking given to maritime information concerning its handling conditions;
8. **"Recognised maritime picture"** means a real-time or near-real-time maritime picture on which all maritime activities are identified;
9. **"Regional maritime zone"** means all of the maritime zones and superjacent airspace under the exclusive jurisdiction or sovereignty or sovereign rights of the State parties in line with their respective national legislation, and the high seas and the superjacent airspace, encompassed by the Regional Maritime Information Fusion Centre, defined by the following limits:

Latitudes 26° North and 37° South
Longitudes 20° East and 76.5° East
10. **"Security clearance certificate"** means the document proving a person's clearance to access and process protected information, data or communication support; and
11. **"Sensitive information"** means any maritime information which, because of its source or nature, bears a protective marking.

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Article 2

Parties and Partners

1. The Parties to this Agreement are States involved in the exchange and sharing of maritime information and participating in the implementation of Results 4 and 5 of the MASE programme.
2. The other States of the Eastern and Southern Africa and Indian Ocean (ESA-IO) may become Parties to this Agreement.
3. Subject to paragraph 4 and the conditions set thereunder, State Parties may decide to have as partners, in particular:
 - a) States desiring to contribute to promoting maritime security in the regional maritime zone;
 - b) international organisations in the field of maritime safety and security; and
 - c) internationally recognised funding organisations.
4. Where no State Party objects to the admission of a third party pursuant to this article, the latter shall become Party or Partner to this Agreement under set conditions. In this regard, any such request shall be made to the Depository who in turn informs State Parties.
5. The Parties and Partners agree to cooperate in good faith, in line with the commitments made as per the provisions of this Agreement.

Article 3

Objectives

1. The purpose of this Agreement is to lay the basis for a regional cooperation framework amongst the State Parties to enhance maritime safety and security in the regional maritime zones in accordance with the national sovereignty, territorial integrity and non-interference in the internal affairs of States in accordance with national and international law.
2. This Agreement aims specifically to:
 - a) improve the Parties' knowledge of the maritime situation through a single recognised maritime picture of the regional maritime zone;
 - b) monitor maritime activities in real-time or near-real-time in order to speed up the planning and organisation of operational responses to threats and to strengthen control operations through more foresight and better targeting;
 - c) build the capacities of the State Parties in order to master the knowledge and technology of maritime information fusion; among others;
 - d) promote the culture of sharing and exchanging maritime information in the ESA-IO region; and
 - e) enhance the sharing and exchange of maritime information between the Regional Maritime Information Fusion Centre (RMIFC) and national information and fusion centres and between RMIFC and Regional Cooperation Operations Centre (RCOC).

Article 4

Scope of the Agreement

1. This Agreement shall not apply to warships or equivalent, or to State vessels not exercising commercial activities belonging to the Parties and to non-regional States in transit in the regional maritime zone.
2. Nothing contained in this agreement shall be in contravention to the provisions of international instruments including UNCLOS. In case of any inconsistency between any provision of this agreement and any other international instrument, the latter shall prevail.
3. A State Party retains its full discretion as to which information it may communicate pursuant to this Agreement.











MODALITIES FOR THE EXCHANGE OF MARITIME INFORMATION

Article 5

Regional Maritime Information Fusion Centre

1. There is established a Centre, known as the Regional Maritime Information Fusion Centre (RMIFC).
2. The RMIFC benefits from legal personality under the terms of domestic and international law, as well as the protections, privileges and immunities provided for in the Hosting Agreement signed on 18th February 2016 between the Indian Ocean Commission and the Republic of Madagascar.
3. The RMIFC collaborates closely with the Regional Coordination Operations Centre (RCOC).
4. The State Parties shall designate a Liaison Officer within the RMIFC to establish a connection between their national structures and facilities and the Centre.
5. The RMIFC receives, stores, processes, merges, shares and exchanges maritime information for the sole purpose of maritime security, safety of harbour and maritime approaches, protection of the marine environment and monitoring of maritime traffic in conformity with rules and procedures as agreed by the Parties. It relies in particular on information from the Parties.
6. The Centre shall be governed by the rules set out in the Annex titled "Governance of Regional Centres" of this Agreement. This Annex shall also apply to the RCOC.
7. After the signing of this Agreement, the State Parties shall study the possibilities for the financial sustainability of the Centre

Article 6

Responsibilities of the State Parties

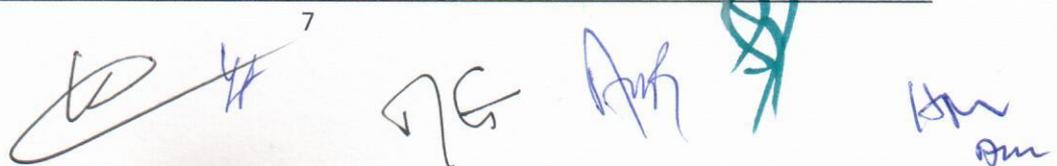
1. Each State Party shall enact internal regulations that allow the sharing of data in order to fulfil the objectives of this Agreement.
2. Each State Party shall endeavour to multiply the sources and quantity of reliable information provided to the RMIFC.
3. Each State Party shall guarantee compliance with the confidentiality and integrity clauses on the access and use of the data shared under this Agreement.
4. Each State Party shall endeavour to ensure that the existing national structures and installations are maintained in constant operational condition in order to collect, process and protect maritime information and data.

Article 7

Responsibilities of the Host State

1. The Host State commits to establish the RMIFC in accordance with the call for expressions of interest, regarding in particular the independence of the Centre and the granting of a sufficient budget, a budget for the day-to-day running of operations, national human resources and suitable infrastructure to fulfil its tasks.

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2. The Republic of Madagascar shall inform the other State Parties of any change in its legislation or circumstances, which may prejudice the operation of the RMIFC.

Article 8

Maritime information fusion

1. Subject to article 4 of this Agreement, the Parties and Partners shall exchange maritime information they collect during their missions to monitor maritime traffic. The collection of maritime information shall cover the regional maritime zone.
2. The fusion of maritime information shall be based on the various sources of information and data provided to RMIFC by the Parties and Partners.

Article 9

Access to maritime information and data

The State Parties agree that:

- a. access to shared data and their use shall be limited to those who hold specific access rights, possess the appropriate security clearance certificate and fulfil the need-to-know requirement.
- b. the modalities for obtaining, using or withdrawing from this certificate shall be determined by State Parties in accordance with the Annex to this Agreement;
- c. access to the regional maritime information database is available only to Parties which contribute information for exchange and sharing;
- d. each user shall have appropriate access rights, depending on the nature of data, based on bilateral and international agreements, or data licensing policy;
- e. State Parties shall agree on the criteria and grant of access rights, security clearance, copyright and intellectual property and licensing for the purpose of this Agreement; and
- f. no third party shall have access to the shared data and/or the regional maritime information database without the prior consent of the State Parties and the agreement of the latter on the terms and conditions of such access.

Article 10

Procedures for the exchange and sharing of maritime information and data

1. The sharing of maritime information shall take place electronically, verbally, visually in writing, or in any other secured form.
2. The dispatch of the maritime surface status and its analysis report by RMIFC to the State Parties shall, as reasonably practicable, take place securely and under encryption via electronic means, and accessible only to authorized personnel holding security clearance certificates.
3. The reception by RMIFC of the maritime information and data sent by the Parties shall take place as reasonably practicable securely and under encryption via electronic means, and only accessible to authorized personnel holding security clearance certificates.

Article 11

Information and Data protection measures

1. The information and data processed within RMIFC shall be confidential and may be used only for the purposes of maritime safety and security;
2. Where a Party or the RMIFC communicates information from the RMIFC to a third party, the Party or the RMIFC shall require the third party to use the information in accordance with article 10.1 of this Agreement;
3. Sensitive information shall systematically bear protective markings in order to inform the nature of the communications;
4. State Parties commit to adhere to the confidentiality rules of processed data in line with this Agreement.
5. Each Party and RMIFC shall ensure that sensitive information obtained shall remain confidential unless the disclosure of the information is permitted under this Agreement or that the information is already in the public domain.
6. In the event of an actual or suspected loss of data, or unauthorised disclosure of maritime information under para. 3, the relevant State Party and/or the RMIFC may inquire into same. When an inquiry is conducted, the relevant State Party and the RMIFC shall apprise each other of the updates and findings of the inquiry. Nothing in this Article shall prejudice the right of the State Party to take such action as may be deemed necessary pursuant to its national legislation or to seek to suspend or terminate the Agreement.

Article 12

Use of maritime information for judicial purposes

1. State Parties and the RMIFC shall only provide information necessary for a judicial inquiry after the consent of the State Party or Partner who shared the information and the State conducting the operation.
2. This transmission shall be limited to the data required by the judicial authority and be necessary for the investigation.

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FINAL PROVISIONS

Article 13

Maritime zones and Territorial limits

Nothing in this Agreement, nor any act or activity undertaken by the State Parties, the RMIFC, the RCOC, a Partner or third parties in the implementation of or as a consequence of the Agreement, shall be construed as implying acceptance by any State Party of a claim to territory or maritime boundaries by another State Party. This shall also apply to any protocol, annex or document made pursuant to or in connection with this Agreement.

Article 14

Amendment

1. At any time after having signed the Agreement and after this Agreement has come into force, a State Party may propose an amendment to this agreement by communicating the text of its proposed amendments to the Depositary, which shall forward it diligently to all State Parties.
2. An amendment shall be adopted by State Parties during one of their meetings unless one represented State Party expresses its opposition.
3. An amendment shall enter into force thirty (30) days after receipt by the Depositary of the instruments of acceptance or approval of the amendment by all State Parties unless the State Parties agree otherwise.

Article 15

Settlement of Disputes

In the event of any doubt or dispute between two or more State Parties arising from the interpretation or implementation of this Agreement, the State Parties shall consult among themselves in order to settle the dispute through diplomatic channels.

Article 16

Reservations

Each State Party may, formulate reservations to this Agreement, to the extent that these are compatible with the objectives of the Agreement.

Article 17

Declarations and communications

The foregoing article shall not prevent a State, when signing, ratifying, accepting or approving this Agreement, from making any declarations or communications, in whatever form or description, in particular so as to harmonize its laws and regulations with the provisions of this Agreement, provided that such declarations and communications are not intended to exclude or modify the legal effect of the provisions of this Agreement in their application to that State.

Article 18

Suspension and Termination

1. In the event of failings in the implementation of this Agreement by one or several Parties, particularly as regards the rules of confidentiality, usage restrictions, data access and updating of the database and ensuring the maintenance of infrastructure, the Parties shall be informed immediately in writing. This Agreement may be fully or partially suspended, including in the event of serious breaches of the principles contained herein.
2. In the event of non-settlement of a dispute or reported failings by one or several Parties, this Agreement may be terminated by one or more Parties that notify their intentions to the Depositary in writing at least three (3) months prior to termination taking effect. Upon receipt of the notification, the Parties shall carry out consultations in order to resolve any disputes amicably within the notice period of three (3) months, or urgently if the conditions of confidentiality are affected.
3. A serious proven breach of one of the principles of confidentiality that could undermine the whole data exchange system may give rise to the immediate suspension of data exchanges between the Party concerned. This suspension shall take place upon the written, substantiated request of a Party or RMIFC and it is extended after a majority decision of two third of the State Parties. Immediate suspension should not be considered as being a sanction.

Article 19

Withdrawal

1. Any State Party may withdraw from this Agreement. Withdrawal shall take effect three (3) months after receipt, by the Depositary, of the notification of withdrawal.
2. Upon reception of the notification of withdrawal, the Depositary sends a copy of the withdrawal notification to other State Parties.
3. This Agreement will continue to apply after withdrawal for any administrative or judicial proceedings arising from measures taken under this Agreement concerning the withdrawing State Party.

Article 20

Annex to the Agreement

The Annex to this Agreement is considered an integral part of the Agreement.

Article 21

Depositary

1. The original version of this Agreement shall be deposited with the Indian Ocean Commission, which shall serve as the Depositary.
2. The Depositary shall transmit a certified copy of the Agreement to all signatories.

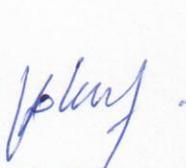
Article 22

Entry into force

This Agreement shall come into force on the date of its signature by at least three (3) State Parties. This Agreement comes into force as soon as the Depositary notifies the other State Parties of this third required signature.

In witness whereof the undersigned, being duly authorised by the State Parties, have signed this Agreement.

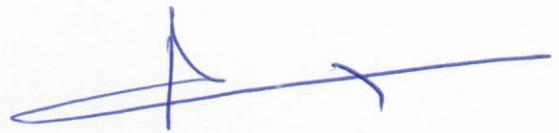
Done at Balaclava, Mauritius, on April 29th 2018, in the English and French languages, both versions being equally authentic.



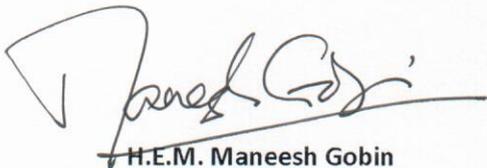
H.E.M. Youssoufa Mohamed Ali
Secretary of Cabinet of the
Presidency
Minister of Defence
Union of Comoros



H.E.M. Ali Hassan Bahdon
Minister of Defence
in charge of relations with
Parliament
Republic of Djibouti



H.E.M. Henry Rabary-Njaka
Minister of Foreign Affairs
Republic of Madagascar



H.E.M. Maneesh Gobin
Attorney General
Minister of Justice, Human Rights
and Institutional Reforms
Republic of Mauritius



H.E. Mrs Macsuzy Mondon
Designated Minister
Minister of Home Affairs and Local
Government
Republic of Seychelles



**ANNEX TO THE AGREEMENT FOR THE SETTING UP OF REGIONAL MARITIME INFORMATION
EXCHANGE AND SHARING MECHANISM IN THE WESTERN INDIAN OCEAN**

“GOVERNANCE OF REGIONAL CENTRES”

I. Subject

1. At the regional level, a governing structure is created with the aim of ensuring the organisational structure and operational framework of the Centres set up by the Agreement for the Setting up of a Regional Maritime Information Exchange and Sharing Mechanism in the Western Indian Ocean Region and the Regional Agreement on the Coordination of Operations at Sea in the Western Indian Ocean respectively.
2. The purpose of this Annex is to:
 - a) establish a structure for dialogue and discussion for the Regional Maritime Information Fusion Centre (RMIFC) and the Regional Coordination Operation Centre (RCOC) thereafter referred to as Centres or Regional Centres
 - b) define the roles and responsibilities of each stakeholder in the organisation, operation and decision-making process of the Centres;
 - c) promote a common vision for implementation of sustainable activities of the Centres.

II. Decision-making Structure of the Centres

1. At the strategic level, there is a single governing body, referred to as the “Steering Committee”, common to both Centres set up by the Parties which defines their main orientation.
2. At the operational level, a structure, referred to as a “Technical Committee”, for day-to-day matters is established for each Centre.

III. The Steering Committee

A. Membership and mandates

1. State Parties will constitute the Steering Committee.
2. Participation of Partners and other States to the meetings of the Steering Committee is governed by the provisions of the specific agreements entered into at the time of their admission.
3. The Steering Committee is represented by its Chairperson.
4. The Steering Committee meets twice a year. The Committee will meet in extraordinary session when necessary.
5. The chairmanship of the Steering Committee is held by Parties’ representatives on a rotational basis chosen by the other Parties. The Host States cannot hold the Chairmanship.
6. Each State Party is represented by its National Focal Person in the Steering Committee.

B. Responsibilities of the Steering Committee

1. The Steering Committee has the overall responsibility to:
 - a) ensure that Regional Centres comply with and implement the mission entrusted to them by the State Parties;
 - b) ensure compliance with the confidentiality provisions in force in the Centres;
 - c) Ensure compliance or the adoption of national regulatory frameworks promoting the regional objectives set;
 - d) decides on the admission of new members;
 - e) set medium and long-term goals;
 - f) ensure monitoring and enforcement of decisions taken;
 - g) approve and control the budget of each Regional Centre;
 - h) define the profile and terms and conditions of appointment of the Director of each Regional Centre and validate his appointment on the proposal of the concerned country;
 - i) define the profile and terms and conditions of appointment of the deputy Director of each Regional Centre and validate his appointment; and
 - j) do such act ancillary to any of the above item.
2. Further, the Steering Committee shall examine and adopt, on the proposal of the Director of each of the Regional Centre:
 - a) strategic directions;
 - b) the strategic plan defining medium-and long-term goals;
 - c) the annual budget;
 - d) the annual activity report and the approval of the accounts;
 - e) the organisational structure of the Regional Centres; and
 - f) any organisational restructuring.

IV. The Technical committee

A. Membership

1. The Technical Committee is set up for each Centre:
2. Each Technical Committee is composed of the director of the Centre, the deputy director and the liaison officer of each of the State Parties. Liaison officers from other States and partner institutions attend only in a consultative role.
3. The Technical Committee holds regular meetings at the Centre under the chairmanship of the director of the Centre or his deputy.

B. Mandate of the Technical Committee

1. The Technical Committee is the implementing body for the decisions of the Steering Committee and is central to the functioning of the Centre.
2. The Technical Committee is responsible for:

- a) ensure the implementation, under the responsibility of the Director of the Centre, of the decisions of the Steering Committee;
- b) the development of the short-and medium-term work plans;
- c) the development and dissemination of deliverables;
- d) the development of protocols specially those relating to information security;
- e) the development of agreements, contracts and memoranda of understanding necessary for the Centre;
- f) the preparation of agreements relating to the admission of partners;
- g) the tasks distribution and day to day functioning of the Centre;
- h) the development of the internal rules of procedure of the Centre;
- i) the communication policy of the Centre;
- j) the development of training and capacity building plans.

V. The Director of the Centre:

1. The Director of the Centre is responsible for the operation of the Centre and reports to the Steering Committee on the implementation of the strategic directions and decisions set.
2. The Director is accountable to the Steering Committee.
3. The Director will ensure liaison with the authorities of the host country and will ensure the implementation of the Hosting Agreement.
4. In his capacity as Director, the holder of the position is responsible for:
 - a) implementing the decisions of the Steering Committee;
 - b) developing strategic plans for implementing the goals set by the Steering Committee;
 - c) developing exchanges with other Centres, naval forces in the region, maritime bodies and sea users;
 - d) ensuring compliance with the confidentiality provisions in place at the Centres, in particular with regard to the exchange and sharing of maritime information;
 - e) ensuring compliance with data confidentiality clauses and access restrictions at the Centre;
 - f) developing and presenting the budget to the Steering Committee and ensuring that the budget caters for the needs of the Centre and implement the approved budget; and
 - g) Validating an annual report analysing trends and issues relating to maritime safety in the Eastern and Southern Africa -Indian Ocean region.
5. The modalities for the designation of the Director of the RMIFC and RCOC will be decided at a later date.

VI. The Deputy Director

1. The Deputy Director supports the Director of the Centre in the exercise of the latter's functions.
2. The Deputy Director is responsible for the internal organisation and coordination of the different operational units of the Centre.

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3. In absence of the Director, the Deputy Director ensures his replacement. To this end, he will take into account the functions listed in a delegation of authority established by the Director.
4. The modalities for the designation of the Deputy Director of the RMIFC and RCOC will be decided at a later date.

VII. The financial resources of the Centres

1. In addition to the financial contribution of the Host countries to the Centres, the Centre's budget may be financed by contributions from:
 - a) State Parties
 - b) other State Parties and Partner Organisations;
 - c) intergovernmental organisations or non-governmental organisations; and
 - d) other sources, such as its own revenues
2. The diversity of funding sources is a guarantee for the long-term financial sustainability of the Centres. As such, the Centres can conduct *ad hoc* or specific studies for the benefit of other organisations or actors on the evolution of maritime threats and trends as well as risks related to regional maritime security. These *ad hoc* or specific studies will be undertaken in line with the clauses relating to the use of the maritime information and data mentioned in the Agreement.
3. The Steering Committee may authorise the Director of the Centre, in accordance with the guidelines previously set in this regard, to accept contributions as well as donations or grants, subject to the following conditions:
 - a) Autonomy of the Centre is not threatened;
 - b) Compatibility with the objectives and mandate of the Centre and
 - c) Formal and systematic approval by the Steering Committee before disbursement.

ADDENDA

Pursuant Article 2 of this Agreement, the French Republic becomes a Party to this Agreement for the Setting up of a Regional Maritime Information Exchange and Sharing Mechanism in the Western Indian Ocean.

In witness whereof, the undersigned Authority duly mandated by the French Republic have signed this Agreement.

Done in Nairobi, Republic of Kenya, on November 26th 2018, in English and French languages, both versions being equally authentic.

Signature subject to approval



H.E. Mrs Aline Kuster-Ménager

Ambassador of France in Kenya

French Republic

ADDENDA

Pursuant to Article 2 of this Agreement, the Republic of Kenya becomes a Party to this Agreement for the Setting up of a Regional Maritime Information Exchange and Sharing Mechanism in the Western Indian Ocean.

In witness whereof, the undersigned Authority duly mandated by the Republic of Kenya have signed this Agreement.

Done in Nairobi, Republic of Kenya, on November 26th 2018, in English and French languages, both versions being equally authentic.



Amb. Raychelle Omamo, SC, EGH

Cabinet Secretary for Defence

Republic of Kenya

Subject to the
Declaration dated
27th Nov. 2018