

The Djibouti Code of Conduct and Its 2017 Amendment: A Treaty-Based Assessment of Anti-Piracy Enforcement in the Red Sea

مدونة جيبوتي لقواعد السلوك وتعديلها لعام ٢٠١٧:

فعالية المعاهدة لإنفاذ مكافحة القرصنة في البحر الأحمر

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Abstract:

The Djibouti Code of Conduct (DCoC) and its 2017 Jeddah Amendment (DCoC-JA) constitute a central regional framework for cooperation against piracy and related maritime crimes in the Western Indian Ocean and Gulf of Aden. The article demonstrates that the DCoC and its 2017 amendment do not constitute binding treaties under the United Nations Convention on the Law of the Sea definitions, the Vienna Convention on the Law of Treaties, and relevant International Court of Justice jurisprudence. Rather, they function as instruments of international soft law. While the DCoC and its 2017 amendment do not create new jurisdictional powers or enforcement obligations, they have played a significant role in operationalizing the duty to cooperate in the repression of piracy through training of enforcement agencies within participating states, capacity building, information sharing, and institutional coordination. This article thus argues that the effectiveness of anti-piracy enforcement in the Western Indian Ocean and the Gulf of Aden depends on the interaction between non-binding cooperative frameworks DCoC/DCoC-JA and binding treaty law and concludes that the DCoC and its 2017 amendment illustrate both the utility and the inherent limitations of soft law in addressing complex maritime security threats.

Keywords: Djibouti Code of Conduct (DCoC), Jeddah Amendment, International Maritime Organization, United Nations Convention on the Law of the Sea, maritime security

المستخلص:

تشكل مدونة جيبوتي DCoC لقواعد السلوك إطارا إقليميا والتي تم تعديلها لعام ٢٠١٧ المعروف بتعديل جده DCoC-JA ولها دور محوري للتعاون في مكافحة القرصنة والجرائم البحرية ذات الصلة في المحيط الهندي وخليج عدن. وتبين هذه الدراسة أن مدونة جيبوتي وتعديلها لعام ٢٠١٧ أن هذه المعادتان غير ملزمة وفقا لتعريفات اتفاقية الأمم المتحدة لقانون البحار، واتفاقية فيينا لقانون المعاهدات والاجتهادات القضائية ذات الصلة لمحكمة العدل الدولية، بل إنهم يعملان بوصفهما أدوات من أدوات القانون الدولي المرن.

وعلى الرغم من أن المدونة وتعديلها لا ينشئان صلاحيات قضائية جديدة أو التزامات تنفيذية ملزمة، فإنهما يؤديان دورا مهما في تفعيل واجب التعاون في قمع القرصنة، من خلال تدريب أجهزة إنفاذ القانون في الدول المشاركة في الاتفاقية وبناء القدرات، وتبادل المعلومات، والتنسيق المؤسسي فيما بينهم. وعليه، فإن المقالة تجادل بأن فعالية إنفاذ مكافحة القرصنة في المحيط الهندي الغربي وخليج عدن بأنها تعتمد على التفاعل بين أطر التعاون غير الملزمة وأحكام القانون المرن.

وتخلص المقالة بأن مدونة جيبوتي وتعديلها لعام ٢٠١٧ يجسدان في آن واحد فائدة القانون المرن وحدوده الكامنة في مواجهة التهديدات المعقدة للأمن البحري.

الكلمات المفتاحية: مدونة جيبوتي لقواعد السلوك، اتفاقية الأمم المتحدة، الأمن البحري، تعديل جده، المنظمة البحرية الدولية.

Introduction

Maritime piracy and armed robbery against sea vessels have long challenged the international legal order. Studies show that the challenge has been more critical in the volatile Gulf of Aden where the surge in piracy and armed robbery in the late 2000s has been associated with significant economic, political, legal, and social consequences (He et al., 2023; Nguyen and Le, 2019). Scholars suggest that criminal groups tend to exploit governance vacuums to target commercial shipping when state capacity collapses and cite the surge of attacks in the Western Indian Ocean and Gulf of Aden as a prominent contemporary example of such instances (Treves, 2009). Notably, the surge in piracy cases across this region in the 2000s threatened the safety of international navigation, disrupted global trade flows, and presented complex jurisdictional and enforcement issues for the global community (Treves, 2009). States along the region leverage existing legal frameworks and developed new ones to address the rising threat at the high seas.

The United Nations Convention on the Law of the Sea (UNCLOS) has developed baseline international legal frameworks like Articles 100–107 and 110 codify customary international law on piracy to govern efforts to combat piracy and expand the universal jurisdiction of States to seize pirate vessels and prosecute offenders on the high seas (Jessica, 2025; Roach, 2010; United Nations Conference on Trade and Development [UNCTAD], 2014). However, the complexity of the Western Indian Ocean and Gulf of Aden limits the effectiveness of UNCLOS with respect to conduct within territorial seas and the capacity of affected states and necessitates the expansion of cooperative mechanisms among affected nations (Roach, 2010; Treves, 2009). Coastal states in the Western Indian Ocean and the Gulf of Aden swiftly responded to these enforcement gaps by adopting the Djibouti Code of Conduct (DCoC) on 29 January 2009 under the guidance of the International Maritime Organization (IMO) (Chatham House, 2009; IMO, 2009). IMO (2009) states that DCoC serves as an instrument that commits participating states to cooperate “to the fullest possible extent” in the investigation, arrest and prosecution of piracy and armed robbery against ships. Countries that are signatories to this instrument also commit to shared operations, information sharing, capacity building, and legal cooperation (IMO, 2009). Chatham House (2009) adds that the DCoC reflects a regional complement to international frameworks by UNCLOS and United Nations Security Council (UNSC) that emphasize cooperation, information exchange, and regional capacity development.

DCoC’s success and the evolving maritime security environment necessitated a 2017 amendment at a high-level meeting convened in Jeddah, Saudi Arabia. In January 2017, representatives of states from the Western Indian Ocean and the Gulf of Aden produced the Jeddah Amendment to the Djibouti Code of Conduct 2017 (DCoC-JA) to broaden the cooperative commitments to cover a wider array of illicit maritime activities like human trafficking and smuggling, illegal, unreported and unregulated (IUU) fishing, narcotics and arms trafficking, and environmental crimes (IMO, 2017). This amendment sought to integrate anti-piracy enforcement with broader regional maritime security concerns. This paper critically examines whether, and to what extent, DCoC and its 2017 amendment serve as effective mechanisms for enhancing piracy enforcement in the Gulf of Aden and adjacent waters by interrogating the instruments and their interaction with the more binding UNSC and UNCLOS international laws as well as exploring their operational impact in areas where sovereignty, jurisdiction, and multilateral cooperation intersect. The paper is based on the premise that DCoC and its 2017 amendment are important regional governance instruments for coordination and capacity-building, but their non-binding status, gaps in extradition and mutual legal assistance, and reliance on state practice may limit the policies’ effectiveness and jurisdiction.

A brief note on methods

This study employs a qualitative doctrinal methodology grounded in international legal analysis to examine the legal character, normative significance, and operational role of the Djibouti Code of Conduct (DCoC) and its 2017 Jeddah Amendment within regional maritime security governance. The

analysis is treaty-based and text-focused, drawing primarily on the interpretation of international legal instruments and authoritative institutional documents.

The research undertakes a close textual and contextual examination of the DCoC and the Jeddah Amendment against established criteria for treaty formation under the Vienna Convention on the Law of Treaties, relevant provisions of the United Nations Convention on the Law of the Sea, and applicable United Nations Security Council resolutions. This doctrinal assessment is informed by International Court of Justice jurisprudence and leading scholarly literature on soft law, regional security cooperation, and maritime governance.

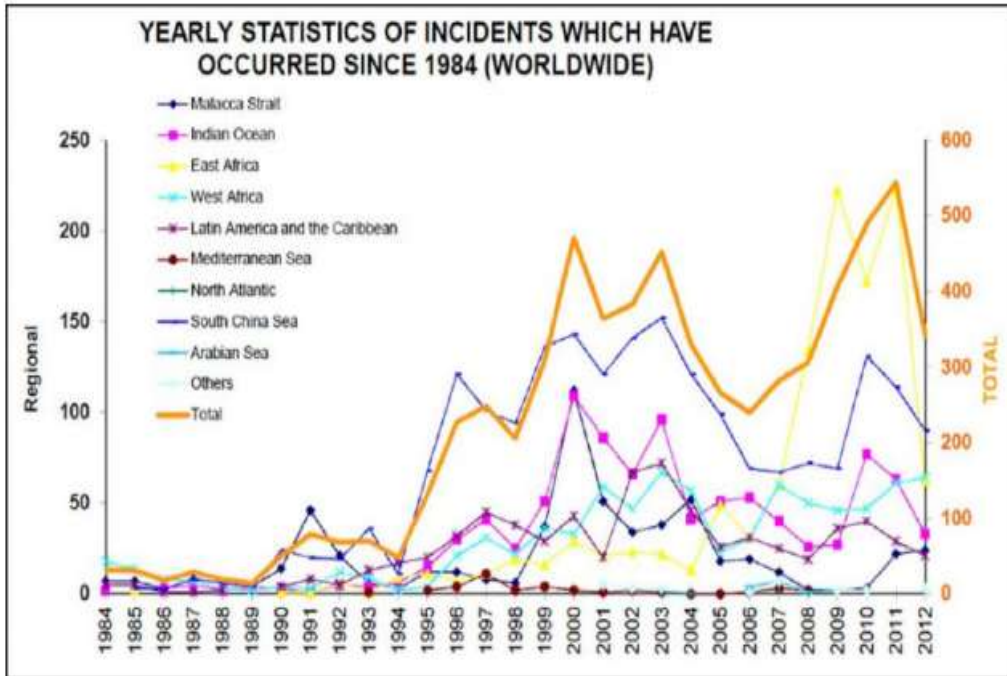
In addition, the study adopts a functional and normative approach to assess how the DCoC framework operates in practice, particularly through capacity building, information sharing, and institutional coordination, and how these mechanisms interact with binding international legal obligations. Secondary sources, including academic scholarship and reports by international organizations, are used to contextualize regional practice. The methodology prioritizes legal coherence and normative influence rather than empirical measurement of enforcement outcomes.

Context and Scope

Piracy and armed robbery remain key concerns at the sea. Data from the International Maritime Organization (IMO) and the International Maritime Bureau (IMB), among other maritime organizations show that piracy and armed robbery incidents remain high particularly in African coastlines (see figure 1 below) (He et al., 2023; Nguyen and Le, 2019). Notably, the Gulf of Aden recorded a whopping 222, 218, and 237 incidents of piracy and armed robbery in 2009, 2010, and 2011 (Akhahendaa et al., 2024). Surprisingly, this figure was more than half the 578 incidents reported worldwide in 2011 (Akhahendaa et al., 2024; He et al., 2023; Maouche, 2011). Akhahendaa et al. (2024) recognized legal frameworks as the most effective solution to combatting piracy and armed robbery at the sea but identified the weak judicial and legal systems in countries surrounding the Gulf of Aden as a key hindrance to ongoing efforts to prevent these crimes.

Figure 1

Trends in piracy and armed robbery incidents worldwide



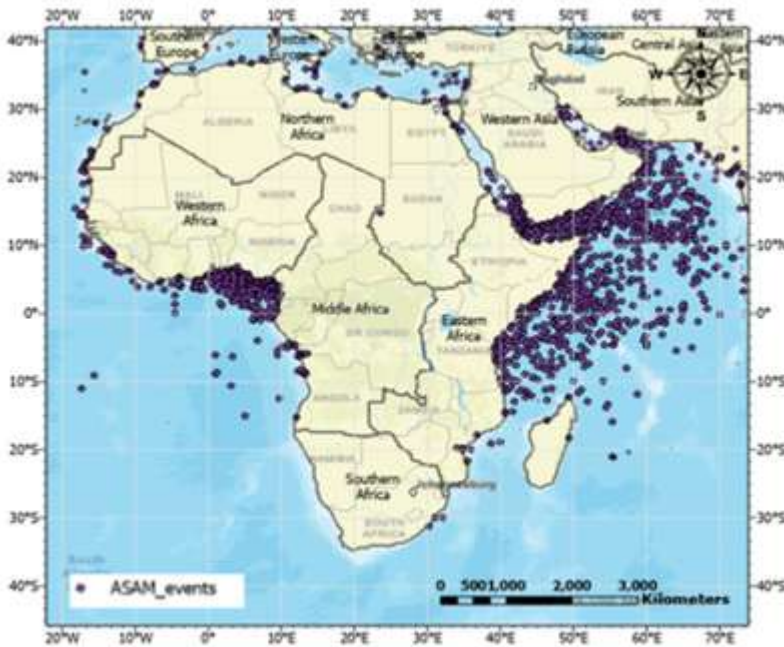
Source: Nguyen and Le (2019)

Piracy and armed robbery incidents have significant implications in the Gulf of Aden as well as in other parts of the world that are dependent on the route for the movement of goods (see figure 2

below). While the sea handles 80% of the global trade, it is estimated that 20,000 of the 93,000 merchant ships that carry goods across to different parts of the world pass through the Gulf of Aden (He et al., 2023). Studies show a 50% decline in traffic at the Gulf of Aden Suez Canal, \$15-18 billion in annual losses due to armed robbery and trade disruptions, kidnapping and sometimes death of seafarers, disruption in the flow of critical resources like oil and humanitarian aid to impoverished and war-torn regions in Eastern Africa and the Middle East, and severe economic crises resulting from inflation (He et al., 2023; Nguyen and Le, 2019). The surge of piracy and armed robbery incidents at the sea in the Gulf of Aden two decades ago and the deleterious implications of these crimes necessitated the formulation of multilateral initiatives among countries that lie along this volatile region. Among these efforts is the DCoC of 2009 whose success in enhancing response to piracy and armed robbery against ships led to its 2017 amendment to expand its scope to other areas beyond piracy.

Figure 2

The distribution of piracy events in Africa



Source: Akhahendaa et al. (2024)

International organizations responded swiftly to the rising threats of piracy and armed robbery against ships in the Gulf of Africa in the 2000s. One of these responses was the UNSC's escalation of the threat by adopting a series of Chapter VII resolutions like 1816 (2008) and 1846 (2008) that authorized cooperative enforcement measures like entering Somali territorial waters with consent and use all necessary means to repress piracy and armed robbery as well as interdict suspected pirate vessels within Somali territorial waters in accordance with international law (Treves, 2009). Additional resolutions like 1851 (2008), 1918 (2010), and 2077 (2012) further emphasized the criminalization of piracy in domestic law, enhance judicial capacity, and pursue prosecution, which helped bridge the enforcement gap created by UNCLOS's territorial limits and participating states' operational constraints (Treves, 2009; UNCTAD, 2014). Unfortunately, persistent challenges remained in prosecuting captured pirates and ensuring sustainable enforcement outcomes despite naval deployments and cooperative frameworks. In this case, coastal states and prosecuting jurisdictions encountered limitations in legal capacity, detention facilities, and evidentiary processes that were not adequately addressed by UNSC and UNCLOS (Treves, 2009; UNCTAD, 2014). These challenges

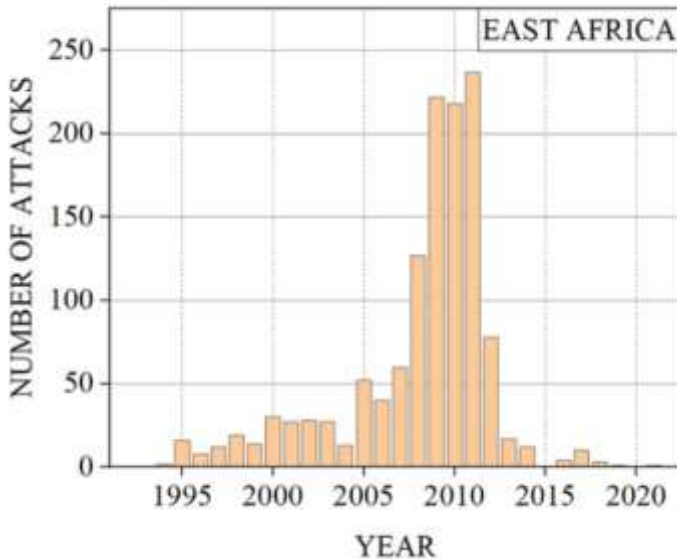
underscored the need for strengthened regional cooperation beyond international legal frameworks to enhance the management of the rising piracy and armed robbery incidents in the Indian Ocean.

DCoC was negotiated by countries along the Western Indian Ocean and Gulf of Aden regions to address heightened international piracy concerns. The framework was adopted on 29 January 2009 by nations within the affected area (see figure 3 below) to foster coordinated responses to piracy and armed robbery against ships (IMO, n.d.). The code is structured around enhancing regional and national training, improving national legislation to criminalize piracy and related offenses, establishing information-sharing mechanisms, and building counter-piracy operational capacity that serve as its four core pillars (IMO, n.d.). Scholars argue that DCoC operates as a voluntary regional agreement that operates alongside UNCLOS and UNSC authorizations and that its normative force lies in fostering cooperation and capacity rather than creating an obligation for binding enforcement (Mideln, 2015; Nyman, 2011; Petrig and Geiß, 2011). The code's reliance on voluntary commitments reflects the diversity of maritime capacity among signatory states and the urgent need to build sustainable cooperative platforms.

The Jeddah Amendment emerged from the success of DCoC in managing piracy and emerging and the diversification of maritime security challenges. As illustrated in figure 3 below, the cases of piracy along the Eastern Africa coast rose sharply in the late 2000s but decline sharply following the formulation of DCoC to zero cases in 2015 (Akhahendaa et al., 2024). However, participating states and international partners soon recognized that maritime security challenges in the Western Indian Ocean and the Gulf of Aden had diversified beyond classic piracy to human trafficking, smuggling of narcotics and illegal arms, illegal oil bunkering, and IUU fishing (IMO, 2017). As such, IMO (2017) convened a meeting in Jeddah during which an amendment to DCoC was developed in the form of revisions that called participating states to cooperate against transnational organized crime in the maritime domain. Both DCoC and its 2017 amendment indicate a shift from a narrow anti-piracy focus toward a more comprehensive regional maritime security approach that seeks to institutionalize cooperation mechanisms on intersecting threats to safety, security and economic development at the high seas in the Western Indian Ocean and the Gulf of Aden.

Figure 3

Piracy distribution in the Gulf of Aden



Source: Akhahendaa et al. (2024)

The International Legal Framework for Piracy

The international legal framework for piracy and armed robberies at the high seas is governed by the UNCLOS and the UNHC. On the one hand, UNCLOS was formulated under the UN Division for

Ocean Affairs and the Law of the Sea (UNDOALOS, n.d.) in December 1982 before entered into force in November 1994 as the foundational legal regime governing piracy in contemporary international law. UNCLOS codifies customary international law on piracy in Articles 100–107 and provides substantive definitions and jurisdictional rules that guide the enforcement of the international law. Notably, UNCLOS Article 100 imposes an obligation on all States to “cooperate to the fullest possible extent in the repression of piracy” both on the high seas and in other places both within and outside the jurisdiction of any State (UNDOALOS, n.d.). The division’s Article 101 then defines piracy precisely as “any illegal acts of violence or detention, or any act of depredation committed for private ends” by seafarers or passengers that occur on the high seas and directed against other people, property, ship, or aircraft outside the jurisdiction of any state (UNDOALOS, n.d.). Persons who engage in these acts voluntarily, incite, or facilitate them then engage in what UNCLOS defines as an act of piracy. Article 105 of UNCLOS further specifies that states may “seize a pirate ship or aircraft, or a ship or aircraft taken by piracy and under the control of pirates, and arrest the persons and seize the property on board” for such acts of piracy that occur on the high seas (UNDOALOS, n.d.). Such a state is at liberty to charge the captured individuals and decide the penalties to impose upon them and their ship or property.

Despite the clarity of UNCLOS Articles in their definition of piracy and recommendations for handling such crimes in the high seas, they suffer several limitations particularly when it comes to volatile regions like the Western Indian Ocean and the Gulf of Aden. Scholars agree that UNCLOS obliges states to cooperate in suppressing piracy but does not itself create an enforcement mechanism or a centralized prosecutorial authority (Nilasari et al., 2022; Treves, 2009; Wallner and Kokoszkiwicz, 2019). In this case, states’ compliance with UNCLOS’s obligations depends on national implementing legislation and cooperation arrangements for arrest, transfer and prosecution (Treves, 2009). As such, many States have adopted domestic statutes that incorporate the UNCLOS definition of piracy and provide jurisdictional bases for prosecution albeit with uneven implementations and gaps in domestic law that continue to impede consistent enforcement (Nilasari et al., 2022; Treves, 2009; Wallner and Kokoszkiwicz, 2019). As such, other agencies like UNSC have developed frameworks that should be implemented alongside UNCLOS to enhance legal response to the piracy crisis.

UNSC plays a crucial supporting role in operationalizing piracy response. Treves (2009) wrote that this supportive role is particularly crucial when state capacity is lacking as is the case with nations like Somalia that continue to face unending political crises. Precisely, the escalation of Somali-based piracy in the late 2000s led to the adoption of a series of resolutions under Chapter VII of the UN Charter that authorized states and regional organizations to take action against piracy and armed robbery off the coast of Somalia and around the Gulf of Aden (Treves, 2009). Precisely, Resolution 1816 (2008) authorized states cooperating with the Somalia to enter its territorial waters to repress piracy in coordination with the country’s Transitional Federal Government, and to use all necessary means as long as they are consistent with international law (Treves, 2009). Subsequent resolutions like 1846 (2008) and 1851 (2008) further expanded authorizations and encouraged states to conclude agreements enabling enforcement personnel to embark on board cooperating states’ vessels to assist in detention and prosecution (Treves, 2009; UNCTAD, 2014). While these UNSC resolutions already reaffirmed that UNCLOS sets out the legal framework applicable to combating piracy and armed robbery at sea, additional resolutions like 1897 (2009) and 2077 (2012) emphasized the need for regional cooperation, national legislation for criminalizing piracy, and the enforcement of consistent prosecution that aligns with human rights obligations (Treves, 2009; UNCTAD, 2014). In this regard, both UNCLOS and UNSC provide the normative baseline but effective enforcement of anti-piracy policies in areas like the Western Indian Ocean and the Gulf of Aden requires explicit multilateral authorization and cooperation based on the limited state capacity within the coastal region.

There are several inconsistencies that arise in current UNSC and UNCLOS legal frameworks. First, the high-seas requirement for piracy within these frameworks means that attacks occurring within a coastal state's territorial waters (less than 12 miles off the coast baseline) fall under the concept of armed robbery against ships rather than piracy (Laamrich, 2019; Treves, 2009; UNCLOS, n.d). The limitation of such a definition hinders international collaboration in narrow straits and particularly along volatile areas like the Gulf of Aden (Treves, 2009). Contrary to piracy, armed robbery is primarily a matter of domestic jurisdiction where the coastal state bears the responsibility for enforcement within their sovereign waters (Treves, 2009). Treves (2009) warns that geographic limitation of these definitions hinders the application of international frameworks like UNCLOS and UNSC. Luckily, regional frameworks like DCoC and the Jeddah Amendment seek to address this limitation by promoting collaboration in crime mitigation and information exchange among states within the pact.

A Close Textual Analysis of the Djibouti Code of Conduct and Its Origin

Adoption History and Participating States

DCoC was conceived following a high-level meeting that occurred in Djibouti between 29 states along the Western Indian Ocean coast and the Gulf of Aden. (See figure 4 below). The meeting was attended by senior government officials and legal experts representing states from the two regions and focused on issues surrounding maritime security, piracy, and armed robbery against ships anchoring or using the seaport at Djibouti City (IMO, n.d.). Under the guidance of IMO (n.d.), the code was adopted on 29 January 2009 as 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. The was conceived as a cooperative response to the resurgence of piracy and armed robbery against ships that derailed international navigations, threatened security interests among coastal state, and destabilized global trade routes (IMO, 2009). The original signatories included Djibouti, Kenya, Ethiopia, Madagascar, Maldives, Somalia, Seychelles, the Tanzania, and Yemen followed by Egypt, Eritrea, Comoros, Jordan, Mauritius, Mozambique, South Africa, Sudan, Oman, Saudi Arabia, and the United Arab Emirates as subsequent signatories (IMO, n.d.). Eventually, the code was ratified in 20 of 21 eligible states and reflected the geographic scope of shared maritime security interests that incorporated both African and Arabian Peninsula coastal states.

Figure 4

DCoC participating states



Source: IMO (n.d.)

DCoC was not submitted for formal treaty registration under the Vienna Convention on the Law of Treaties (VCLT) procedures. Additionally, the code did not purport to create legally binding

obligations in the classic *pacta sunt servanda* sense (Badar and Higgins, 2022; Cissé, 2024; IMO, 2009). However, it established a normative commitment among participating states to coordinate anti-piracy enforcement in a manner that is consistent with international laws like UNCLOS (IMO, 2009). This provision meant that DCoC only promoted voluntary cooperation supported by regional consensus and situated it within the category of soft law or political-legal instruments that seek practical harmonization of state practice without immediate binding treaty status (Badar and Higgins, 2022; Elkassar, 2025; Menzel, 2017; Petrig and Geiß, 2011). As such, the effectiveness of DCoC is dependent on its integration with international maritime policies and local judicial and legal systems.

Core Provisions and Thematic Pillars

DCoC emphasizes cooperation among participating states to the fullest possible extent in key elements of anti-piracy enforcement. The first provision is for participating states to collaborate in investigation, arrest and prosecution of persons reasonably suspected of committing piracy or armed robbery against seafarers and ships along the Western Indian Ocean coast and the Gulf of Aden (IMO, 2009). The second provision is the interdiction and seizure of suspect ships as well as individuals and property on board (IMO, 2009). The third provision is the rescue of ships, persons, and property that have been subjected to piracy and armed robbery as well as the facilitation of proper care, treatment, and repatriation of individuals to their respective nations (IMO, 2009). The final provision under DCoC's provision is for participating coastal states to conduct shared operations with the help of navies or law enforcement agencies from outside the region (IMO, 2009). These provisions reflect DCoC's integrated operational framework that encompasses the full enforcement cycle from interdiction and capture of those engaging in piracy and armed robbery to legal processing through arrest and prosecution and humanitarian responsibilities toward victims. Each of these provisions emphasizes cooperation. Unfortunately, scholars warn that they do not create enforceable obligations against non-compliant states (Badar and Higgins, 2022; Menzel, 2017; Petrig and Geiß, 2011). Rather, they establish expectations of common practice that participating states are committed to fulfil.

DCoC cooperative agenda is based on four thematic pillars. The first thematic pillar is the delivery of national and regional training among participating states (IMO, 2009). Notably, DCoC envisages enhanced training initiatives to help law enforcement, naval forces, and coast guard personnel within the region to develop counter-piracy competencies and better capabilities to respond to incidents of armed robbery at sea (IMO, 2009). IMO – through its donors and partners – supports training through its regional training center in Djibouti (IMO, n.d.). The second thematic pillar is enhancing national legislation. In this case, signatory states undertake to review and strengthen their respective national legislations to criminalize piracy and armed robbery against ships, empower their judicial and legal organs to exercise of jurisdiction, and facilitate investigation and prosecution of offenders (IMO, 2009; IMO, n.d.; Menzel, 2018). DCoC's legislative focus acknowledges that prosecutorial capacity within participating states is a critical precondition to operational enforcement. The third thematic pillar is information sharing and maritime domain awareness. Notably, DCoC mandates the establishment of information sharing networks and coordination centers like the Regional Maritime Rescue Coordination Centre in Mombasa (Kenya), the Maritime Rescue Coordination Centre in Dar es Salaam (Tanzania), and the Regional Maritime Information Sharing Centre in Sana'a (Yemen) (IMO, n.d.). While the center in Yemen is currently inactive due to the ongoing political crisis in the nation, the three centers underscore DCoC's commitment to supporting real-time exchange of incident data and risk information (IMO, n.d.). The final thematic pillar is building counter-piracy capacity. This pillar encompasses broader capacity building measures like improving surveillance systems, supporting equipment procurement, and enhancing maritime infrastructure to facilitate effective maritime law enforcement (IMO, n.d.; Petrig and Geiß, 2011). The four pillars reflect IMO's multidimensional approach that blends operational readiness, legal harmonization, and technological integration required for successful piracy suppression and combating of violent crime at the sea through prosecution, evidence sharing, and sustained capacity development.

DCoC's Legal Nature and Implications

DCoC was drafted and adopted in a regional setting. However, its text reflects an international approach through its emphasis on cooperation in a manner consistent with international law (IMO, 2009). The reference to international cooperation anchors DCoC within the broader framework established by UNCLOS, UNSC, and the Convention for the Suppression of Unlawful Acts (SUA), and pertinent UNSC resolutions aimed at combating piracy and armed robbery at sea (Laamrich, 2019; Roach, 2010; Treves, 2009). Scholarly analyses and reports reputable agencies like the United Nations (UN) characterize the DCoC as a regional cooperative instrument that facilitates harmonized state practice and capacity building to implement binding norms rather than legally binding in the strict sense (Cissé, 2024; Menzel, 2018; Petrig and Geiß, 2011). On the same note, the UN International Law Commission documentation on regional anti-piracy instruments clarifies that the DCoC is “not intended to be legally binding” and highlights its role in fostering institutional arrangements, national maritime security committees, and aligned legal frameworks among participating Western Indian Ocean and Gulf of Aden coastal states (Cissé, 2024, p. 18).

DCoC's soft-law character has important implications. Contrary to binding treaties like UNCLOS that create obligations enforceable under international law, DCoC's normative force depends on participating states' consent and implementation through domestic legal reform and practice (Badar and Higgins, 2022; Cissé, 2024; Elkassar, 2025; Menzel, 2017; Petrig and Geiß, 2011). As such, DCoC's commitments function as political-legal norms that shape how participating states align their conduct and laws with international anti-piracy standards (Cissé, 2024). However, this instrument does not create automatic enforcement mechanisms or adjudicative fora.

DCoC's Interaction with National and International Law

DCoC's requirements that participating states review and enact national legislation to criminalize piracy and armed robbery incidents at the sea reflect an understanding that effective enforcement ultimately relies on domestic legal frameworks. As such, all participating states are expected to align their national maritime statutes with UNCLOS definitions and other relevant international instruments like SUA to enable them arrest, prosecute, and punish offenders (Cissé, 2024; Laamrich, 2019; Roach, 2010; Treves, 2009). IMO (n.d.; 2009) emphasizes that this legislative alignment serves as a crucial bridge between the DCoC's cooperative aspirations and the legal bases for jurisdiction and prosecution under international law. Moreover, DCoC's collaborative framework explicitly allows for shared operations involving naval personnel and law enforcement officers from other signatory states to embark on patrol vessels of partners (IMO, 2009). This feature reflects regional trust and functional cooperation in maritime policy enforcement practice. However, arrangements of this nature remain subject to each participating and signatory state's domestic legal authority, status-of-forces agreements, and consent protocols under international law.

The 2017 Amendment: Scope Expansion and Legal Implications

Adoption Context and Legal Status

The 2017 Jeddah Amendment to the Djibouti Code of Conduct (DCoC-JA) was adopted in January 2017 as a revision to the DCoC. This amendment formally expanded the scope of the 2009 code of conduct beyond piracy and armed robbery against ships to a broader spectrum of illicit maritime activities (Gikonyo, 2019; IMO, 2017). The amendment entered into effect for participating states consistent with the voluntary nature of the original instrument (IMO, 2017). Similar to the original DCoC, the Jeddah Amendment is a non-binding, cooperative framework rather than a treaty imposing legally enforceable obligations (Cissé, 2024). DCoC-JA uses language closely aligned with treaty drafting like a commitment to “cooperation,” “ensure,” and “take appropriate action” (IMO, 2017, pp. 10, 15, 16, 22). The language has generated scholarly debate regarding DCoC-JA's quasi-normative character and its potential to influence customary or regional practice over time (Baddar & Higgins, 2022; Cissé, 2024; Elkassar, 2025; Gikonyo, 2019). However, this amendment has significantly expanded the scope of the original DCoC.

Substantive Expansion of Subject-Matter Jurisdiction and Legal Consequences

The most significant legal development that DCoC-JA introduced is the expansion of DCoC's substantive scope. While the original 2009 DCoC was narrowly focused on piracy and armed robbery against ships, the revised code extended cooperation to a wide range of illicit marine crimes (IMA). These IMAs included terrorism, arms trafficking, human trafficking, narcotics and psychotropic substances trafficking, IUU fishing, illegal dumping of toxic waste and other environmental crimes, and transnational organized crime in the maritime domain (Gikonyo, 2019; IMO, 2017; Owuondo, 2025). This expansion reflected a deliberate policy shift from a threat-specific piracy framework in the form of the original DCoC toward a comprehensive maritime security architecture based on the recognition that piracy frequently overlaps with organized criminal networks and broader instability in the maritime domain (Gikonyo, 2019; Owuondo, 2025). From a legal perspective, the shift toward a comprehensive maritime security architecture is significant since a majority of the new activities that it expanded coverage to fell outside the classical definition of piracy under Article 101 of UNCLOS and are governed by distinct treaty regimes, provisions of the UNSC and SUA Convention, the UN Convention against Transnational Organized Crime (UNTOC), and sector-specific agreements in areas like fisheries and environmental protection (Cissé, 2024; IMO, 2017; UNDOALOS, n.d). However, this expansion has several legal implications.

The inclusion of non-piracy offenses to DCoC through its 2017 expansion introduced a layer of legal complexities that were not encountered in the original code. Contrary to piracy being subject to universal jurisdiction on the high seas, other IMAs like human trafficking, drug smuggling, and IUU fishing heavily rely on flag-state, territorial, and local legal jurisdiction unless when authorized by treaty or UNSC mandate (Badar and Higgins, 2022; Gikonyo, 2019; Menzel, 2018). Consequently, DCoC-JA does not – and cannot for this matter – create new jurisdictional bases under international law (Gikonyo, 2019; IMO, 2017; Owuondo, 2025). Instead, IMO (2017) explicitly states that this amendment seeks to facilitate cooperation within existing legal frameworks. Nonetheless, the Jeddah Amendment underscores that cooperation against IMAs must be conducted in accordance with international law and thus reaffirms the primacy of UNCLOS, UNSC provisions, UNTOC, SUA, and relevant human rights instruments (Cissé, 2024; IMO, 2017). Although DCoC's provisions allow participating states to coordinate enforcement strategies, share information, and engage build capacity across a wider threat spectrum, the caveat surrounding its enforcement preserves the integrity of existing jurisdictional limits.

DCOC-JA's Institutional and Operational Enhancements

A notable conceptual innovation introduced under DCoC-JA is the instrument's explicit linkage between maritime security and the blue economy. Midlen (2025) explained that this amendment frames piracy and IMAs as direct threats to sustainable economic development in Western Indian Ocean and the Gulf of Aden, fisheries, port infrastructure, and maritime trade. IMO (2017) clarified that participating states commit to developing national maritime security strategies, strengthening inter-agency coordination, and integrating maritime security into broader development planning. From a legal-institutional perspective, DCoC-JA's provisions represent an evolution from reactive enforcement towards preventive governance and thus align maritime security with regional economic integration and both local and regional sustainable development goals (Midlen, 2025). Although commitments under DCoC are largely programmatic, they reinforce the normative expectation that participating states will embed maritime security considerations into their domestic legal and policy frameworks.

DCoC-JA further reinforced and expanded the information-sharing architecture established under the original code. IMO (2017) explained that DCOC-JA calls for enhanced use of regional maritime information fusion centers originally introduced under the 2009 DCoC and seeks to improve interoperability among national maritime authorities. Most importantly, this amendment encourages information exchange under the original scope of piracy and armed robbery incidents to the broader

IMAs (IMO, 2017). As such, DCoC-JA broadens maritime domain awareness across the region. The amendment further expanded capacity-building obligations that were originally introduced in the 2009 instrument. IMO (2017) explained that DCoC-JA emphasizes legislative reform, training of law enforcement and judicial authorities, and the development of technical capabilities like port security systems and vessel tracking. These new measures could enable participating states to exercise jurisdiction effectively under applicable international laws and domestic legal systems.

DCoC-JA's Legal Character

DCoC-JA can be described as a soft law with expanding normative reach. Despite the amendment's broadened scope and enhanced institutional ambitions, it does not alter the legal status originally introduced in the 2009 instrument as a non-binding instrument (Cissé, 2024; Elkassar, 2025; IMO, 2009; IMO, 2017). IMO (2017) clarified that the Jeddah Amendment does not provide for dispute settlement mechanism, sanctions for non-compliance among participating states, or registration as a treaty under Article 102 of the UN Charter. Nevertheless, this amendment does it purport to create new rights or obligations for observer states like the UK, the US, the EU, and India (IMO, 2017). Scholars have also observed that DCoC-JA strengthens the 2009 instrument's normative density and may influence regional state practice and contribute to the gradual consolidation of norms relating to maritime security cooperation by articulating detailed expectations regarding cooperation, legislation, and institutional development (Gikonyo, 2019; Midlen, 2025; Owuondo, 2025). This amendment thus exemplifies how soft law maritime instruments can exert practical regulatory effects without formal treaty status.

DCoC-JA's Implications for the Red Sea Region

DCoC-JA has significant implications in the Red Sea region. Scholars argue that the region's strategic importance as a global shipping corridor, overlapping jurisdictional claims, and persistent instability in adjacent coastal states create fertile ground for diverse IMAs (He et al., 2023; Nguyen and Le, 2019; Owuondo, 2025). Luckily, DCoC-JA provides a regionally tailored framework for addressing security challenges that transcend classical piracy by explicitly extending the scope of the 2009 instrument to IMAs and emphasizing the establishment of integrated maritime governance. However, the 2017 amendment's effectiveness remains contingent on domestic implementation, sustained political will among participating states, political stability within the Western Indian Ocean and Gulf of Aden region, and continued international support particularly from observer states (IMO, 2017). In this case, DCoC-JA's broadened cooperative commitments risk remaining aspirational rather than transformative if participating states do not achieve harmonized national legislation, mutual legal assistance arrangements, and improved prosecutorial capacity.

Doctrinal Assessment of Legal Status and Normative Effect

Legal Criteria for Treaty Status under International Law

VCLT's codification of customary international law governing treaties offers a framework for assessing the legal nature of DCoC and its 2017 amendment. Under VCLT, a treaty is "an international agreement concluded between States in written form and governed by international law" and comprises frameworks captured in a "single instrument or in two or more related instruments (similar to DCoC and DCoC-JA) and whatever its particular designation" (UN Economic Commission for Europe, 2022, pp. 3-4). Larsen (2023) added that determinative elements for anti-piracy treaties must include the intention of the parties to create legal obligations governed by international law and the existence of binding commitments capable of enforcement through international legal mechanisms. While the designation of an anti-piracy instrument as a code of conduct similar to DCoC rather than a treaty or an agreement is dispositive, it is highly relevant when assessing parties' intent (Larsen, 2023). Further, international jurisprudence confirms that intention is decisive as was the case in *Qatar v. Bahrain* where the International Court of Justice (ICJ) held that even a document styled as minutes could constitute a binding agreement if the language and circumstances demonstrated intent to be legally bound (Clabbers, 1995; Kwiatkowska, 2002). Conversely, instruments like DCoC and DCoC-

JA expressly framed as political commitments or cooperative frameworks and lacking dispute settlement provisions or binding language are generally understood as non-binding (Clabbers, 1995; Kwiatkowska, 2002).

The application of the above VCLT definition and the ICJ's criteria of legally-binding vs. non-binding instruments confirm that both the original DCoC and its 2017 amendment fall short of treaty status. Notably, neither of these instruments contains provisions on entry into force, reservations, amendment procedures, dispute settlement, or consequences of breach among signatories (IMO, 2009; IMO, 2017). On the same note, neither of the two instruments was deposited with the UN Secretariat under Article 102 of the UN Charter as required for treaties intended to have binding legal effect (Cissé, 2024). Nevertheless, IMO (1009, 2017) documentation explicitly describes the DCoC and DCoC-JA as voluntary and non-binding. The wording reinforces the conclusion that the participating coastal states did not intend to create enforceable treaty obligations either in 2009 or in 2017.

Soft Law in International Legal Doctrine

DCoC and its Amendment qualify as instruments of international soft law. Soft law refers to norms, principles, or standards that are not legally binding, yet are intended to influence State behavior and may have legal relevance in shaping interpretation, practice, or the development of customary international law (Abbott & Snidal 2000; Shelton 2000). The UN International Law Commission recognized that soft law instruments like declarations, guidelines, and codes of conduct play a significant role in areas where states seek flexibility, experimentation, or rapid cooperation without assuming binding obligations similar to those introduced by binding international regulations (Cissé, 2024). Soft law is prominent in areas like maritime security due to the diversity of state capacities and the sensitivity of sovereignty and jurisdictional issues (Elkassar, 2025; Larsen, 2023). The language used in the formulation of the DCoC and its 2017 amendments reflects classic soft-law drafting techniques as is the case with the repeated use of formulations like nations will endeavor to and cooperate to the fullest possible extent as well as explicit references to compliance in accordance with international law (Elkassar, 2025; IMO, 2009; IMO, 2017). The avoidance of mandatory statements like "shall" in the phrasing of DCoC and its 2017 amendment articulate clear expectations of conduct while reaffirming the instruments' non-binding treaty obligations.

Normative Effects of the DCoC and DCoC-JA

DCoC and the Jeddah Amendment exert normative and practical effects that are legally significant despite their non-binding nature. Notably, the instruments function as implementation frameworks for binding international law like UNCLOS Article, SUA, UNSC, and UNOC that oblige states to cooperate in repressing piracy (IMO, 2017; Laamrich, 2019; Roach, 2010; Treves, 2009 UNDOALOS, n.d). As such, DCoC and DCoC-JA operationalize the general duty of states by specifying concrete mechanisms for cooperation like training programs, information sharing, joint operations, and legislative reforms (IMO, 2009; IMO, 2017). These instruments have also contributed to harmonization of regional practice along the Western Indian Ocean coastline particularly among participating states like Kenya that have been facing heightened IMAs in recent years (Gikonyo, 2019; Owuondo, 2025). These states have adopted or revised domestic piracy legislation, established maritime security committees, and created institutional linkages that reflect DCoC's or Jeddah Amendment's cooperative architecture (Gikonyo, 2019; Owuondo, 2025). While DCoC and DCoC-JA do not legally compel the above actions among participating states, their enforcement demonstrates how soft law can catalyze compliance with binding norms through coordination and capacity building.

An important note is that DCoC-JA increases the normative density of the DCoC. As outlined by IMO (2017), this amendment articulates expectations relating to a broader set of illicit maritime activities and strengthens DCoC's role as a regional reference point for maritime security governance. These achievements are made despite the amendment remaining formally non-binding. In doctrinal terms, DCoC-JA contributes to the progressive development of international law by shaping regional

understandings of maritime security cooperation and underscores how such instruments can enhance maritime security particularly in regions lacking binding treaties.

Limits of Soft Law for Enforcement

Despite DCoC's and Jeddah Amendment's normative effects, their soft-law character of imposes clear legal limits. Larsen (2023) and Petrig and Geiß (2011) warned that soft law instruments cannot create new jurisdictional bases, authorize the use of force in maritime environments, or override sovereignty constraints that have already been established by binding international law. For instance, DCoC cannot confer universal jurisdiction over offenses like human trafficking or IUU fishing or authorize interdiction in territorial seas absent consent or UNSC authorization (Elkassar, 2025; UN International Law Council, 2024). Furthermore, DCoC lacks enforcement mechanisms due to the absence of forum in which non-compliance with the soft law can be adjudicated (Elkassar, 2025). The instrument also lacks legal consequences for failure to implement its commitments among participating states since compliance is entirely dependent on political will, peer pressure, donor support, and alignment with national interests. DCoC's and Jeddah Amendment's reliance on voluntarism explains the uneven implementation of the Code's provisions across the Western Indian Ocean coastline and the Gulf of Aden as well as the continued dependence on external actors like donor States for prosecution and capacity-building support (Gikonyo, 2019).

Custom and the Possibility of Legal Evolution

DCoC and its amendment's possible contribution to the formation of customary international law remains a critical doctrinal question. As soft laws, these instruments cannot create custom on their own (Elkassar, 2025). Currently, there is little evidence that participating states regard compliance with the DCoC as legally obligatory per se since they appear to treat the code as a policy framework for implementing existing legal duties under UNCLOS and related instruments (Elkassar, 2025; Owuondo, 2025; Roach, 2010; Treves, 2009; UNCTAD, 2014). DCoC and its amendment thus illustrate how soft law can function as an intermediate normative layer that enables participating states to bridge the gap between abstract treaty obligations and concrete enforcement practices.

Overall, the doctrinal conclusion for the purposes of a treaty-based assessment of anti-piracy enforcement is clear that DCoC and its 2017 amendment do not constitute treaties. Rather, these instruments materially influence how treaty obligations like UNCLOS and UNSC resolutions are implemented in practice along the Western Indian Ocean coastline and the Gulf of Aden. The instruments' value lies not in structuring cooperation, reducing coordination costs, and fostering conditions rather than creating new laws. Elkassar (2025) explained that the limits of soft law like the absence of harmonized legislation and mutual legal assistance agreements are most apparent where DCoC and DCoC-JA enforcement has failed and while their success is apparent through their interaction of binding legal authority like UNCLOS, domestic criminal law, and UNSC mandates.

Treaty-Based Alternatives and Future Legal Pathways

There are proposals to transform DCoC and its amendment into a binding regional treaty, similar to the Regional Cooperation Agreement on Combating Piracy and Armed Robbery against Ships in Asia (ReCAAP) (Elkassar, 2025; Sun, 2016). This transformation will create extradition and mutual legal assistance regimes and provide dispute settlement mechanisms (Larsen, 2023). However, this option has so far been precluded by political realities like sovereignty concerns and disparities in participating state capacity. As such, a more feasible pathway lies in incremental legalization. In this case, participating states must identify specific aspects of cooperation like evidence sharing and transfer of suspects and codify them into bilateral or sub regional treaties. Elkassar (2025) and Larsen (2023) wrote that this approach could preserve flexibility while strengthening enforcement predictability. In their current form, however, DCoC and DCoC-JA may continue to influence the interpretation of UNCLOS Articles and other international regulations and thus reinforce a robust understanding of the duty to cooperate without altering its legal character.

Conclusion

DCoC and its 2017 amendment represent a paradigmatic example of soft-law governance in international maritime security. While these instruments do not constitute treaties under VCLT and are thus not legally binding, they play a legally significant role in operationalizing binding obligations under UNCLOS and related international instruments. DCoC's principal contribution lies in facilitating enforcement rather than authorizing it. The instrument's strengths include its flexibility, inclusivity, and institutional coordination. However, the instrument's non-binding nature and a lack of enforcement mechanisms are significant limitations. Currently, effective anti-piracy enforcement along the Western Indian Ocean coastline and around the Gulf of Aden depends on the synergistic interaction between soft-law coordination frameworks like DCoC and DCoC-JA and binding international law like UNCLOS Articles and UNSC Articles. As such, DCoC and its 2017 amendment function alongside treaties rather than replacing them. While these instruments fill practical gaps, they leave fundamental questions of jurisdiction, enforcement authority, and accountability within the domain of treaty law.

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