



17th St. & Constitution Avenue N.W.  
Washington, D.C. 20006  
United States of America

Organization of American States

P. 202.458.3000  
[www.oas.org](http://www.oas.org)

INTER-AMERICAN DRUG ABUSE  
CONTROL COMMISSION

**CICAD**

Secretariat for Multidimensional Security

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# **MODEL OPERATING PROCEDURES GUIDE FOR COMBINED MARITIME COUNTER DRUG OPERATIONS**

Viña del Mar, Chile

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## **PREAMBLE**

A Working Group of Experts from ten (10) CICAD member States examined the issue of Maritime Narcotrafficking involving illicit drugs and related contraband in the hemisphere. A recommendation that was made to the CICAD XXXIV REGULAR SESSION; to develop a Model Maritime Operating Procedures Guide for Joint or Combined Bilateral/Multilateral Interdiction Operations was accepted.

## **PURPOSE**

**This Guide may serve as a reference by those member States to the extent that their respective national laws and regulations allow them to engage in such international cooperation. Operations pursuant to international cooperation against maritime narcotrafficking must at all time respect the jurisdictional limits and national legal systems of the States involved. Furthermore, this Guide is not to be interpreted as a legal instrument that introduces new obligations for the member States.**

## **JURISDICTION**

This Guide is intended to provide a framework of elements that countries should consider when contemplating entering into agreements to carry out combined counterdrug operations. It encourages international cooperation in the fight against illicit drugs with consideration and respect for national sovereignty and the provisions of relevant international agreements and conventions such as the United Nations Convention on the Law of the Sea (1982), United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (Vienna, 1988) and other agreements and instruments.

The Guide also recognizes the authority of states as defined by the jurisdictional waters under their control.

## **I. SITUATIONS FOR CONDUCTING COMBINED OPERATIONS**

## PLANNED OPERATIONS

Planned operations are operations that are planned in advance between the participating States for the suppression of illicit maritime of narcotic drugs and psychotic substances. Planned operations may be conducted for intelligence patrols, taking enforcement actions or enforcing international conventions, bilateral/multilateral agreements with respect to counter drug situations

On the receipt or analysis of intelligence on drug trafficking patterns or routes, States may collaborate with each other to plan coordinated aerial and surface activity within their capacity to respond to and interdict suspect vessels and over a predetermined period.

All information/intelligence gained during any operation with respect maritime drug trafficking within another States territory shall be immediately shared with that State.

## UNPLANNED OPERATIONS

Unplanned operations may be conducted in response to immediate situations related to the control of drugs and chemical precursors within the limits of each country's capability and jurisdiction. These operations may include detection and monitoring (D&M) and interdiction, taking into consideration the location of the suspect vessel. Should it be necessary to carry out such operations within the jurisdictional waters of another State, they may only be done so with the express consent and knowledge of the competent authorities of that State.

During the patrol and surveillance activity of law enforcement agencies, situations may develop where immediate action may be required to interdict suspect vessels. There will be cases where once an order to stop or land is disregarded and a pursuit has commenced, suspect vessels will attempt to seek refuge in another Member State's territory in the vicinity. In situations when it is necessary to continue a pursuit into that State's waters, the pursuit shall be carried out by the law enforcement agencies of said State, which shall take over the pursuit.

Additionally, a Member State may request the assistance of another Member State to respond to a drug trafficking incident in progress for which it is unable to mobilize promptly enough to effect an interdiction. The Requesting Member State may request the participation of available law enforcement assets of another Member State within their capability to respond.

These types of missions are termed unplanned or impromptu operations and require the participating Member States to act expeditiously based on mutual cooperation and respect for national sovereignty.

The following is the procedure that should be followed when pursuing suspect vessels into the jurisdictional waters of a Member State where the pursuit of a suspect vessel may extend and terminate, subject to their consent.

#### UNPLANNED OPERATIONS INVOLVING LAW ENFORCEMENT UNITS OPERATING IN INTERNATIONAL WATERS

From the time the Commander of a law enforcement asset operating in international waters (as defined by the participating country) has reason to believe that a pursuit which he has commenced in international waters may venture into a third party member State's jurisdictional waters, he must first attempt to inform the appropriate National Authority of that member State of the situation, either directly or through his Command, advise what action he intends to take with respect to the pursuit (especially the use of disabling fire), and request clearance to enter its jurisdictional waters and carry it out. Subject to the aforementioned clearance, that action may entail, but not necessarily be limited to, the following:

- Dispatch of a surface asset to intercept
- Dispatch of ground forces to the suspected point of landing
- Dispatch of aircraft to takeover the pursuit

In such cases, should the suspect vessel or aircraft proceed towards a Member State's jurisdictional waters after the pursuit has commenced outside that State's territory, pursuit may continue to interception provided the vessel is outside the territorial limits of that State. In such cases, when the offence is committed on board the vessel of a State which has granted permission to another State to intercept and seize said vessel, the flag State of the vessel shall have preminent jurisdiction over the accused and any confiscated items and substances, unless it waives said jurisdiction. No action may be taken against the intercepted vessel without the express consent of the flag State. In situations where such consent is impossible to obtain or is not permitted by the laws of the flag State, the vessel must turn itself over to the authorities of the flag State.

During any vessel pursuit outside of jurisdictional waters, due regard shall be given to the safety of shipping, offshore installations and other vessels in the vicinity. The use of disabling fire should be restricted until clear conditions exist.

If a suspect vessel enters a busy traffic zone outside of jurisdictional waters pursuit should be broken off and handed off to the nearest local authorities.

If that State chooses to dispatch an asset to the scene, a handover of the pursuit of the suspect should be effected.

### Impromptu Requests from Member States

In the event that a Member State acquires information of a drug trafficking activity either about to enter or leave its territory and it is aware that a law enforcement asset of another Member State is in the vicinity a request may be made to that asset directly through the National Competent Authority for assistance but must be copied to its Command. The signal should include but not be limited to:

- Type of assistance required
- Vessel type
- Vessel name/number
- Nationality.
- Vessel position or route
- Suspected activity
- Type of drug/quantity
- Number of people onboard
- Known/suspected weapons or special risk onboard
- Contact details of any other responding agencies or assets
- Any other relevant information

The asset shall then respond by advising on whether it is able to assist within its capability (current mission requirements, endurance, flight time, weather or other limitations).

A Member State may receive information of an impending trans-jurisdictional maritime drug transaction and initiate an unplanned operation with assets of another Member State within its borders or in its jurisdictional waters.

If an encounter of the suspect vessel by the asset of the other State is made outside the requesting Coastal State's jurisdictional waters and evidence of illicit narcotics are discovered, then the law enforcement asset may deal with the subject in accordance with the terms of existing agreements, and shall turn over the vessel, all confiscated properties and substances, and any persons detained to the requesting Coastal State.

At any point during such an operation should it appear to the on scene commander that the operation may extend into the jurisdictional waters of another neighbouring Member State, he must inform the neighbouring Member State, through the appropriate channels, of the likelihood of any possible

actions, the identities of the assets involved, the exchange of guard frequencies, and any specific requirements of that State.

In the event the encounter is made within the requesting Coastal State's jurisdictional waters, after the vessel is stopped and boarded with the authority of said State, if evidence of illicit cargo is found, the vessel and its contents are to be handed to the local authorities.

## **II. COOPERATIVE PROCEDURES**

### **PURPOSE**

The purpose of these procedures is to facilitate the planning of cooperative counterdrug operations, and to coordinate an effective response to situations of an unplanned nature, such as the detection of targets of mutual interest and violation of law as stipulated under International Conventions, Treaties, Bilateral /Multilateral Agreements and National Legislation.

States should, in keeping with international agreements and approached, ensure that their relevant National Authority is properly manned 24 hours / 7 days a week and has the capacity to communicate with Member States on the specified channels as agreed and also communicate with all of their local law enforcement agencies.

The appropriate National Authority must have all relevant information of ongoing local law enforcement activity so that they may advise responding assets of other Member States.

### **TRAINING AND EXERCISES**

States are encouraged to engage in training and exercises in order to ensure preparedness for operations and to improve procedures. The results of these exercises and lessons learnt should be shared with other Member States in order to develop a best practices guide.

### **LOGISTICAL / TECHNICAL SUPPORT**

During Combined Counterdrug Operations arrangements should be made to facilitate support to participating States by the host State, to the extent permitted by its domestic laws and in accordance with the procedures contained therein.

Access to emergency medical treatment in cases requiring such should be facilitated and given the highest priority at the closest suitable facility.

Member States should facilitate effective coordination between their law enforcement authorities and promote the exchange of law enforcement officials and other experts, in accordance with their domestic law, including the posting of liaison officers.

Member should assist one another to plan and implement training of law enforcement officials in the conduct of maritime law enforcement operations, including combined operations and boarding, searching and detention of vessels in accordance with their domestic laws.

## DESIGNATION OF ON-SCENE COMMANDER

In all situations involving Joint or Combined Counterdrug Operations, an On-Scene Commander/Coordinator should be appointed. This is for on-scene coordination purposes only, and has no sovereignty implications. In most instances this falls to the host country. Designation of an On-Scene commander should be done as soon as possible, and all parties should be aware of the designation. The selection of the On-Scene commander should be carried out with consideration to but not contingent on the following:

- Jurisdictional Authority of the host country
- Endurance
- Communications Capability

## ACTION PLAN

A well defined Action Plan should be laid out by member states participating in Joint or Combined Operations. Action Plans should be developed taking all resources into account. An action plan may include:

- An Operations Order when applicable.
- Joint review of intelligence / information.
- Aircraft coordination.
- Personnel exchange.
- Reporting requirements.
- Rendezvous times.
- Command & Control.
- Definition of use of force
- Definition of rules of engagement

## USE OF FORCE / RULES OF ENGAGEMENT

Member States should adopt and implement rules and regulations regarding the use of force and firearms *respecting the sovereignty and the internal legal system of each state* and in observance of human rights. State officials need to

be fully aware of their regulations and responsibilities, as well as those of all States involved in any Joint or Combined Operation. Member States should exchange their regulations with respect to the use of force and rules of engagement when involved in law enforcement activities.

Thresholds or limits for the use of force vary from country to country. Prior to commencement of an operation, all participating States shall agree on the Use of Force and Rules of Engagement. The following guidelines are recommended for law enforcement officials employed in support of counterdrug operations.

## **BOARDING POLICY**

States must be aware of and abide by national legislation, international treaties in force, in particular the United Nations Convention of the Law of the Sea of 1982, United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (Vienna, 1988), and bilateral / multilateral agreements governing boardings in connection with the suppression of maritime drug trafficking involving illicit drugs and related contraband.

## **THE USE OF FORCE AND FIREARMS BY BOARDING OFFICERS**

The use of force and firearms by boarding officers is primarily regulated by national law, as well as by a number of international instruments. States participating in combined operations need to first define when, under what circumstances and to what extent force and firearms will be used in boarding operations. Boarding officers need to be thoroughly familiar with the domestic laws in this regard of the jurisdiction where the operation is taking place as well as the details of the plan for using force and firearms in the operation in question.

Nothing in this guide should be construed to limit boardings of vessels, conducted by any Party in accordance with international law, seaward of any State's territorial sea, whether based, inter alia,

- on the right of visit,
- the rendering of assistance to persons, vessels and property in distress or peril,
- the consent of the vessel master, or
- an authorization from the flag State to take law enforcement action.

## **LAW ENFORCEMENT ACTION**

### **a) Action Request**

States need to make a formal request for cooperation and law enforcement action from another Member State through that State's relevant Competent Authority. The type of action being requested needs to be clearly stated and agreed by all involved States prior to commencing any action.

#### **b) Briefing: Intelligence / Information**

Requesting States must share all pertinent information concerning a proposed operation. A line of communication needs to be established to ensure the immediate flow of information between all involved States. Important details may include:

- Vessel name/number
- Vessel/ type
- Nationality
- Vessel/ position
- Suspected activity
- Type of drug/quantity
- Number of people onboard
- Known/suspected weapons onboard.

#### **c) Objective of Operation**

States need to have concise and clear objectives; this must be articulated to all involved. States need to establish exactly how the objectives will be accomplished, and include this information in the Operational Plan.

#### **d) Operational Plan**

An Operational Plan must be developed in consultation with all involved States, and if possible an Operations Order published and distributed. The Operational Plan is a detailed written plan that identifies the objective(s) of the operation, and how the objective(s) will be met. The Operational Plan will include the Roles and Responsibilities of all parties.

#### **e) Evidence Gathering / Evidence Seizure / Evidence Handling**

States need to be cognizant of legal requirements/procedures of their State and of other States involved in the operation; in order to preserve evidence and the chain of custody of such evidence.

Prior to commencement of an operation, all involved States need to agree upon the following:

- § What evidence is being sought

- § Who will seize the evidence
- § How evidence will be handled and stored
- § Where it will be stored
- § How evidence will be inventoried
- § If evidence can be turned over to another jurisdiction
- § Other legal issues

This information should be included in the operations order.

#### **f) Arrest / Prosecution**

The parties in the combined operation must know which entities in each have arrest and prosecutorial powers. Such parties must agree upon arrest actions and jurisdiction for prosecution prior to the operation, specifying the following:.

- § Who will be responsible for conducting arrest
- § Who will secure prisoners
- § Who will prosecute
- § Where prisoners will be secured

In the event that prisoners are of nationalities other than the participating parties, their countries should be promptly informed through their diplomatic representatives.

#### **g) Liaison Officers**

When possible, Member States should identify liaison officers to be on-sight during an operation to assist with ensuring proper flow of intelligence/information.

#### **h) Report of Action taken**

Detailed reports of any enforcement actions taken should be completed in as much detail as possible and provided to other involved Member States.

Prior to commencement of an operation, States need to agree upon a reporting procedure of this Report of Action which may include:

- § Who is responsible for completing the report
- § What format should the report take
- § What details need to be included in the report
- § Who will receive the report

## **COMMUNICATIONS PROCEDURES**

**Communications plans should be agreed upon by participating countries and should include all necessary protocols for effective communications. Established protocols should include, but not be limited to:**

- § Communication security/operational security.
- § Compatible methods of communications.
- § Establish agreed codes/geographical points/actions.

## **DEBRIEFING**

States are encouraged to conduct debriefings after each operation to assess:

- § Actions taken
- § Information/Intelligence
- § Logistical issues
- § Legal issues
- § Best practices/failures
- § Recommendations for procedural improvement
- § Other relevant details

A report should be generated from these debriefings, and shared with all States involved in the operation. Recommendations on how to improve operations should be implemented.