

**Statement for the Ninth Coordination Meeting on International Migration at
United Nations Headquarters in New York from
17 to 18 February 2011**

Ladies and Gentlemen,

My name is Nicola King and I am a Legal Officer with the Division for Ocean Affairs and the Law of the Sea within the Office of Legal Affairs (OLA). DOALOS specializes in matters related to the law of the sea. It serves as the secretariat of the 1982 United Nations Convention on the Law of the Sea (UNCLOS), which, as you know, provides a comprehensive legal framework for all activities on the oceans and seas. This pivotal international legal instrument contains 320 articles and 9 annexes. To date, 161 States, including the European Union, have ratified UNCLOS.

UNCLOS is a framework Convention. As such, it does not specifically address the issue of migration by sea. It rather contains broad provisions relating to the duty to render assistance. This is an important issue because migration by sea can be very treacherous and often migrants are transported in unseaworthy vessels. Additionally, the duty to render assistance is important for the safety and security of maritime navigation, including seafarers and trade cargo and thereby relevant to safe migration and development.

The provisions on the duty to render assistance are contained in article 98 of UNCLOS which gives expression to the long-standing maritime tradition and obligation of rescuing persons in distress at sea. This article provides that "[e]very State shall require the master of a ship flying its flag, in so far as he can do so without serious danger to the ship, the crew or the passengers" to, *inter alia*, "render assistance to any person found at sea in danger of being lost." Article 98 also requires coastal States to "promote the establishment, operation and maintenance of an adequate and effective search and rescue service." Article 98 is applicable to both the Exclusive Economic Zone (200 nautical miles) and the high seas. Article 18(2) relates to the rendering of assistance in the territorial sea (up to 12 nautical miles).

It should further be noted that UNCLOS sets out the rights and duties of States in the various maritime zones which include the enforcement measures that States may take against irregular migration.

The provisions in UNCLOS are supplemented by a number of International Maritime Organization (IMO) instruments, such as the 1979 International Convention on Maritime Search and Rescue (SAR Convention), the 1974 International Convention for the Safety of Life at Sea (SOLAS), the 2004 Amendments to SOLAS and SAR Conventions; and a number of IMO Guidelines.

There are also two Protocols to the United Nations Convention against Transnational Organized Crime (2000) which are also relevant to the issue of migration by sea: (1) the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (2000) and (2) the Protocol Against the Smuggling of Migrants by Land, Sea and Air (2000).

Turning now to the work of DOALOS, pursuant to relevant General Assembly resolutions, DOALOS has a mandate to provide States and intergovernmental organizations with information and advice on the uniform and consistent application of the provisions of UNCLOS, as well as to promote the Convention more generally. DOALOS can also provide

technical assistance, to States at their request with regard to the implementation of the provisions of the Convention. Additionally, DOALOS provides substantive servicing to the General Assembly. The item "Oceans and the law of the Sea" is extensively debated at the General Assembly in plenary session every year. Paragraphs 117-120 of General Assembly resolution 65/37 adopted on 7 December 2010 address the issue of migration by sea. The discussions in the General Assembly are informed by various Secretary-General's reports on oceans and the law of the sea, for example, A/65/69/Add.2, and these include sections on migration by sea. Further information is available on DOALOS' website <http://www.un.org/depts/los/>.

DOALOS has actively participated in a number of meetings related to migration. For example in 2010: DOALOS delivered a paper on Irregular Migration by Sea at the Center for Migration Studies/IOM Conference on Irregular Migration, Legal and Policy Perspectives, New York in 21-22 January 2010; it gave presentations on the Law of the Sea and Migration as part of UNITAR and IOM Training Courses in International Migration Law in New York in June 2010 and San Remo, Italy in September/October 2010; and it participated in the meetings of the Expert Group established to draft the UNODC Model Law against the Smuggling of Migrants and the Expert Group Meeting on the International Framework for Action to implement the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime, which was held in Vienna in July 2010. Lastly, DOALOS participates in the Inter-agency initiative on the treatment of persons rescued at sea. This group includes: United Nations High Commissioner for Refugees, United Nations Office on Drugs and Crime, Office of the High Commissioner for Human Rights, International Labour Organization, IMO, International Organization for Migration and DOALOS.

Thank you.