

**IF YOU
HELP
THE
SHIP**



**YOU
SHARE
THE
CRIME**

ASCOMARE STATEMENT ON THE VESSEL-TO-VESSEL TRANSFER OF ARMS AND OTHER ITEMS IN ANCHORAGE AREAS

The [*Associazione di Consulenza in Diritto del Mare \(ASCOMARE\)*](#) expresses grave concern at the practice whereby certain States knowingly authorize, facilitate, or turn a blind eye to the provision of services involving arms and dual-use items to vessels that materially support States responsible for, or otherwise contributing to, genocide, apartheid, or other serious violations of peremptory norms of international law (*jus cogens*). Such services are reportedly provided while the vessels concerned are docked or operating in anchorage areas located outside the territorial sea. This includes reported instances of services rendered by the [*CPG ALMA \(Liberian flag\) to the HOLGER G \(Portuguese flag\) in waters outside the port of Maputo, Mozambique*](#).¹

ASCOMARE recalls that the conduct of such operations beyond the territorial sea does not place them outside the scope of international law. All States, including States Parties to the [*United Nations Convention on the Law of the Sea \(UNCLOS\)*](#), are bound by obligations requiring them to ensure that activities carried out under their jurisdiction or control, including by vessels flying their flag, do not contribute to internationally wrongful acts. These obligations encompass the duty to prevent aid or assistance, including complicity, in genocide, apartheid, violations of the right of peoples to self-determination, and other serious breaches of *jus cogens*, as elaborated in the [*Legal Opinion*](#) of 11 March 2025 commissioned by the [*Palestinian BDS National Committee*](#) and prepared by a team of law of the sea experts coordinated by ASCOMARE.

These obligations give effect to the requirement that States exercise due diligence under international law, including by:

- ❖ Assessing the risk of non-compliance by vessels flying their flag, operating in their waters, or docking in their ports with international law binding upon them;
- ❖ Establishing, implementing, and enforcing an adequate legal and administrative framework to monitor and ensure compliance;
- ❖ Taking appropriate action where there are reasonable grounds to believe that a risk of non-compliance exists; and
- ❖ Adopting a precautionary approach where the potential consequences of non-compliance could result in irreparable harm or disproportionate damage to the protected legal interest.

Where a State is, or should be, aware that maritime activities under its jurisdiction or control present a clear or high risk of contributing to violations of international law, that State is under an obligation to take all measures reasonably available to it to prevent such contribution. In circumstances where a high risk of contribution to serious breaches of international law is

¹ Information made available to ASCOMARE indicates that similar practices occurred in anchorage areas within waters off the Maltese territorial sea in relation to the HOLGER G.

identified, the obligations of prevention and precaution entail, as appropriate, the denial of port entry and access to port services to the vessels concerned, as well as the adoption of other measures necessary to ensure that such activities do not facilitate the commission or continuation of those breaches, in accordance with the [operational guidelines and template developed by experts from Law for Palestine and ASCOMARE \(11 November 2025\)](#).

ASCOMARE recalls in this regard that activities such as bunkering, transshipment, and other forms of logistical support carried out in anchorage areas may constitute a form of material assistance. Where such activities are undertaken to support vessels involved in the facilitation of genocide, apartheid, or other serious breaches of peremptory norms of *jus cogens*, both the vessels providing such support and the vessels benefiting therefrom must be regarded as presenting a clear risk of contributing to internationally wrongful acts, thereby triggering the application of the above-mentioned obligations and action.

ASCOMARE therefore calls upon all States to act as follows:

- ❖ **Flag States** should ensure that vessels flying their flag are not used to transport arms, equipment, or dual-use items destined for the commission of international crimes, nor to provide support, including through bunkering or transshipment, to vessels engaged in such activities, whether on land or at sea.
- ❖ **Coastal States** should prevent the passage through their territorial seas of vessels providing support, including through bunkering or transshipment, and should assess the activities of vessels operating in maritime areas under their jurisdiction or control, considering further action, as appropriate, where such activities risk supporting or facilitating international crimes.
- ❖ **Port States** should deny access to ports and port services to vessels involved in the transport or transshipment of arms, equipment, or dual-use items destined for the commission of international crimes, in line with the position adopted by the Hague Group (Belize, Bolivia, Colombia, Cuba, Honduras, Malaysia, Namibia, Senegal, and South Africa) in their [joint statement of 31 January 2025](#).
- ❖ **All States concerned** should apply the operational guidelines and templates developed by ASCOMARE and Law for Palestine to operationalize their due diligence obligations under international law, including UNCLOS.

State inaction in the face of such serious risks exposes it to accountability under international law before courts and tribunals, including the International Tribunal for the Law of the Sea, and signals complicity in violations of *jus cogens* norms.

Lecce, 22 December 2025