CHARTER OF THE OMIFC DEPARTMENT

Organisation of the Charter of Free Oceanic Nations (OCNOL)
Oceanic Maritime Intelligence Fusion Centre (OMIFC)

Dual fusion · Admissible evidence · Trusted neutrality Reference: OCNOL-CHAT/2026.0001-V3

Status: draft submitted for adoption by the Conference of the States Parties, by consensus, in pursuance of Articles 34(1)(b) and 102(1) of the OCNOL Treaty

PREAMBLE

The International Multilateral Treaty on Maritime Cooperation and the Protection of the Blue Pacific Continent, hereinafter 'the Treaty', establishes the Organisation of the Charter of Free Oceanic Nations, an intergovernmental organisation for regional cooperation. It establishes within the Organisation the OMIFC Department, an organ responsible for maritime observation, environmental and climate monitoring, and the technical establishment of evidence.

This Charter is adopted by the Conference of the States Parties in pursuance of Article 102 of the Treaty. It lays down the modalities for the application of Title XII. It is subordinate to the Treaty and its annexes. It creates no competence; it regulates the exercise of those which the Treaty confers.

Each article sets out a principle, specifies its modalities, identifies its limits and defines the scope of the commitment. A commitment that cannot be verified is merely a promise; a commitment that is fully elaborated and capable of being monitored is a norm. The States Parties have willed that the value of a third party entrusted with gathering and circulating intelligence shall rest exclusively on the prohibitions that it imposes upon itself and on the ability of each State to verify that they are observed. This Charter gives those prohibitions their operational form.

The Charter is organised into five parts: the dual fusion, which defines the nature of OMIFC; admissible evidence and trusted neutrality, which underpin its distinctive value; the status and action of OMIFC, which set out what it does and what it never does; and governance, which renders these commitments verifiable. None of them stands without the others.

The strength of OMIFC derives from the quality of its data, the fusion of its sensors, its scientific capabilities, its evidentiary chains, its speed, its network, the trust of States and its respect for its limits. It derives from no sovereign power.

PRELIMINARY ARTICLE. THE DUAL FUSION

LEGAL BASIS: Treaty, preamble (IV); Articles 10(7); 13(4) and (5); 102(2); 119

PRINCIPLE. The name of OMIFC bears the word ‘fusion’, and that word commits it at two levels. OMIFC fuses signals: it brings together the data derived from its own means and from lawfully available sources, in order to transform scattered indications into verifiable items. OMIFC fuses trust: it brings together the information that States entrust to it, or whose use the Treaty permits, in order to transform isolated acts of vigilance into common knowledge. The first fusion is technical; the second is institutional. The machine correlates sensors

; the institution draws nations together.

MODALITIES. The fusion of signals is effected through the Organisation’s information system, which receives, correlates and analyses, in space and in time, the information relating to vessels, aircraft, ocean conditions, risks and events. It produces verifiable information for the use of the competent authorities, which decide and act. The fusion of trust is effected through the position of OMIFC as a neutral third party and through the neutral space provided for in Article 119 of the Treaty: OMIFC collects and circulates what no State would entrust directly to another, each State remaining master of the perimeter of what it shares.

LIMITS. Both fusions share a common condition: neutrality. A centre belonging to one power could fuse signals, but never rival sovereignties. OMIFC fuses only what is entrusted to it or what the Treaty permits it to use. Bringing information together confers upon it neither ownership of that information, nor the informational sovereignty of States, nor any hierarchical authority over them or power to substitute itself for them.

SCOPE. OMIFC is answerable, under the conditions laid down in the Treaty, for never perverting either fusion: never making signals say more than they establish, and never using the information of one State to the detriment of another.

TITLE I. ADMISSIBLE EVIDENCE

Article 1. Evidence, and not a mere report

LEGAL BASIS: Treaty, Articles 1(8); 10(4); 23(6); 80; 81(1); 82; 100(3) and (6);

106(1); 107(2); 163(5).

PRINCIPLE. Any data capable of becoming useful to judicial proceedings shall be established as an item of evidence from the moment it is obtained, and shall not be left in the state of a mere report. A report informs; an item of evidence established according to rules that are known, verifiable and capable of being invoked against third parties may be submitted to the court. A fact that has not been established cannot usefully be put before the courts, and protects neither resources nor persons.

MODALITIES. An item becomes an admissible item of evidence only if it satisfies the requirements of integrity, traceability, cross-checking and reproducibility, which are governed by Articles 2 to 4. OMIFC distinguishes at all times between the ascertained fact, the interpretation proposed and the hypothesis that remains to be verified, and never presents these three levels in a form that would confuse them. It designates as a ‘mere report’ any information that does not satisfy the conditions for an item of evidence, in particular information transmitted by local actors. It brings to the attention of the injured State, the court seised

of the matter and the Oceanian Emergency Committee any exculpatory material at its disposal, under the same conditions and with the same diligence as incriminating material. Its agents may be heard as technical witnesses or appointed as experts in accordance with the law of the forum State; the agent who made the findings is identified in the case file.

LIMITS. OMIFC establishes evidence; it does not judge. It characterises facts and gives no legal classification to any offence. It does not rule on the intent of the perpetrators, on the penalty or on the expediency of prosecution. Its reports, findings and alerts may be produced before the national authorities; they are assessed under the law of the competent State and do not bind the court either as to the legal classification of the facts or as to the intent of their perpetrators. The opening of a file amounts neither to the institution of criminal proceedings nor to a finding of any person’s guilt.

SCOPE. OMIFC guarantees the technical rigour of the establishment, preservation and presentation of the item; the judge alone remains competent to assess its legal and probative value. OMIFC never classifies as evidence anything that does not satisfy the conditions for it, and never presents an uncertain report as a certainty.

Article 2. Data integrity

LEGAL BASIS: Treaty, Articles 81; 107(1); 108(2); 109; Annex IV, Articles 3 to 6; Annex XV.

PRINCIPLE. An item has value only if no one can alter it without the alteration being detectable. Every item is dated, time-stamped and assigned a digital fingerprint (hash) from the moment OMIFC obtains it, whether by its own capture or by receipt.

MODALITIES. The fingerprint is calculated by a published method entered in the cryptographic agility framework that the Organisation establishes and revises at least every three years. The time-stamp is derived from a reliable and documented time source, in Coordinated Universal Time. The source data is preserved in its original state, in read-only form, separately from the processed data and distinguishable from it at all times. Any transformation is carried out on a copy, documented as to its method and parameters, logged and reversible. Before a method ceases to be approved, the preserved items receive a new fingerprint, the earlier fingerprint being preserved alongside it. An item whose integrity or provenance cannot be established is preserved, flagged as such and transmitted with that indication; it is never presented as an admissible item of evidence nor reclassified as conclusive evidence.

LIMITS. Integrity establishes that an item has not been modified; it does not establish that the item is true. The Organisation guarantees the integrity of what it has received; it does not guarantee the veracity of what a third party has issued. A sensor may malfunction, and a signal may be ambiguous. To seal doubtful data renders it unaltered, not reliable: that is why integrity has value only when combined with the cross-checking provided for in Article 4.

SCOPE. OMIFC is answerable for the implementation of the means of fingerprinting and time-stamping and for the detection of any breach of integrity. It records and reports any affected item rather than concealing it.

Article 3. Traceability and the chain of custody

LEGAL BASIS: Treaty, Articles 5(c); 108; 109(5); Annex I, Article 9; Annex IV, Articles 7, 8 and 14.

PRINCIPLE. An item of evidence must be able to retrace its entire course, from its obtaining to its delivery. The chain of custody is established from the moment of obtaining, is continuous and is recorded. It cannot be reconstituted after the event.

MODALITIES. Every access and every operation is recorded, together with the identity of the person involved, the nature of the operation and the time-stamp. The access log cannot be altered. The chain is delivered together with the item that it documents and forms one body with it, within a single self-contained set comprising the source data, the processed data, the metadata, the fingerprints, a statement of the limits of reliability and the restrictions on use imposed by the owning State. Any break is recorded, together with its cause and its possible consequences for reliability, and is brought without delay to the attention of the Independent Supervisor, the owning State and the court seised.

LIMITS. Traceability covers the item for as long as it remains in the custody of OMIFC. Once it has been delivered, its preservation is the responsibility of the receiving authority. OMIFC documents precisely the time and conditions of delivery, so that continuity is established up to that point. The Organisation may retain the technical copy necessary for verifying integrity, subject to the State's right of ownership and to the rules of confidentiality.

SCOPE. OMIFC is answerable for the continuity and accuracy of the chain of custody throughout its custody. The access log may be communicated to the Independent Supervisor and to any court seised, and neither immunity nor trade secrecy may stand in the way.

Article 4. Cross-checking of sources and the degree of confidence

LEGAL BASIS: Treaty, Articles 37(1)(k); 103; 105; 106; 107(4); Annex V,

Articles 3, 6 and 13.

PRINCIPLE. No single source suffices to identify a vessel or to present a fact as certain. Cross-checking is the core of the work of fusion and the bulwark against unfounded accusation.

MODALITIES. OMIFC cross-checks the data derived from the means listed in Article 103 of the Treaty, in particular passive acoustics, identification and tracking systems, optical and radar satellite imagery, and environmental sensors. It grades its findings according to the three levels of Annex V:

- **detection**, which establishes the presence of an object at a place and at a moment; it may rest on a single source, the nature of which is prominently indicated;
- **characterisation**, which establishes the nature of the activity; it rests on at least two independent sources, or on a single source accompanied by a prominent reservation and a lowered degree of confidence;
- **identification**, which establishes the individuality of the vessel; it never rests on a single source.

The degree of confidence is expressed on the single scale adopted and published by the Conference. The absence of transmission from a mandatory identification system is treated as an element of assessment and not as an established fact; its possible technical causes are indicated. A transmission whose consistency or provenance cannot be corroborated is treated in the same way, and any indications of falsification noted are documented. Areas and periods not observed are documented on the same footing as those that are. Any finding that is invalidated by a subsequent item is the subject of a written rectification addressed to the same recipients. Automated processing produces no conclusion capable of being relied upon against any party without prior human validation by an identified agent.

LIMITS. Cross-checking reduces the risk of error; it does not eliminate it. Two sources may agree and be mistaken together. OMIFC does not claim to be infallible; it guarantees transparency as to the degree of confidence. It employs no device for intercepting private communications. It employs no category of means that the Conference has not authorised by consensus.

SCOPE. OMIFC is answerable for never overstating a finding, never presenting a single source as a certainty, and never using a term of legal classification to designate a level of finding.

Article 5. Admissibility and State ownership

LEGAL BASIS: Treaty, Articles 8(5); 110; 111; 112; 113; 184.

PRINCIPLE. Evidence is established to serve the State, within its law and under its authority. It is designed with a view to its admissibility before the courts concerned. An item of evidence established in the maritime spaces of a State Party remains the property of that State; the Organisation is its technical custodian and at no time acquires the right to dispose of it.

MODALITIES. OMIFC conducts with each State Party the adaptation of its protocols to the law of that State, on the basis of the requirements communicated to it by the State. It shall not transfer, communicate or use the item for any other purpose, including statistical or scientific purposes or the development of its systems, without the explicit agreement of the owning State. This undertaking admits only the exceptions provided for by the Treaty:

- in the event of a life-threatening emergency, the data strictly necessary to save lives may be shared with the competent rescue authorities; the owning State is informed without delay, and such data may not serve as evidence without its agreement;
- the State exposed to an event with transboundary effects has the right of access and use provided for in Article 111;
- a transmission legally required for the execution of a recognised national warrant follows Article 112(6) and (7).

In an undetermined zone, the item is deemed to be the joint property of the States Parties that claim the space. The owning State may at any time require the return or the erasure of the items concerning it, subject to those placed on the record in judicial proceedings then pending.

LIMITS. Admissibility depends on the law of each State, which may change and may differ from one jurisdiction to another. OMIFC undertakes a documented effort of adaptation, not a result that only the State's legislature and courts control. Inadmissibility in one State has no effect on admissibility before the courts of another.

SCOPE. OMIFC shall never dispose of the item of evidence of a State outside the cases provided for by the Treaty. This undertaking survives the withdrawal of the State, the dissolution of the Organisation and the termination of the functions of the persons concerned. Any failure to observe it constitutes a breach within the meaning of Article 98 of the Treaty and engages the responsibility of the Organisation.

TITLE II. TRUSTED NEUTRALITY

Article 6. The prohibitions entailed by neutrality

LEGAL BASIS: Treaty, Articles 13(1); 15; 100(6); 101; 102(2), (4) and (5); Annex XIV, Article 4.

PRINCIPLE. The neutrality of OMIFC is a verifiable commitment, not a declaration. It is defined by five prohibitions which the Treaty imposes and which this Charter renders operational.

MODALITIES. OMIFC shall refrain, in all circumstances, from:

1. representing a State, a power or a private interest, or acting on behalf of one against another;
2. transferring or communicating the data of a State Party without its explicit agreement, subject only to Article 110(2) and Article 112(6) of the Treaty;
3. exercising any sovereign function: law-making, sanction, interception, boarding, prosecution, the use of force and any coercive measure remain within the exclusive competence of the States Parties;
4. to serve a political, partisan or ideological agenda;
5. ranking the States Parties: each receives the same rigour, the same diligence and the same confidentiality, irrespective of its contribution, the extent of its maritime spaces, its weight and its participation in the neutral space.

In application of these prohibitions, OMIFC offers no assessment of the policy, management or administration of a State Party, nor of the expediency of prosecution. It converts no technical information into a political or military assessment. It designates no State as a threat. It conducts no targeted surveillance of a vessel on the sole ground of the nationality of its crew, its flag or the origin of its operator.

LIMITS. Neutrality is not indifference. OMIFC is not neutral in the face of danger, the destruction of resources or harm to persons: it serves the protection of human life, of the Oceanian populations and of marine resources. Its neutrality is political and national; it takes the side of no State and no power. Its non-indifference is expressed exclusively through findings, alerts and transmission to the competent authorities.

It never impairs its objectivity: any person who is the subject of a finding benefits from the same rigour, and exculpatory material is treated with the same diligence as incriminating material. These prohibitions concern the conduct of OMIFC and do not prejudge the use that the States Parties make of what they receive.

SCOPE. Each of these prohibitions may be invoked against the Organisation by any State Party. Their violation constitutes the gravest breach that the Treaty can find and opens as of right the procedure under its Article 98.

Article 7. Data sovereignty

LEGAL BASIS: Treaty, Articles 26; 28; 76(4); 78; 79; 83; 85(4); 86; 87(6);

95; 120.

PRINCIPLE. A State's trust rests on one certainty: its data remains its own. The transmission or retention of data by the Organisation entails neither a transfer of sovereignty, nor a transfer of ownership, nor a transfer of jurisdiction. The data remains attached to its origin and to the authority that assumes legal responsibility for it.

MODALITIES. The data of a State is processed according to the principles of purpose limitation, proportionality, traceability and minimisation. It is used only for the purposes for which it was transmitted and is not retained beyond what is necessary; on closure, it is returned, deleted or anonymised, and deletion is the subject of a verifiable attestation. The restrictions on use, dissemination and retention imposed by the transmitting State are recorded and observed, and bind the Organisation and the receiving State alike. The Organisation's access to national information is effected by transmission, secure interface or authorised request, and never by intrusion into national systems. Data entrusted to the Organisation is retained only within the territory of States Parties. Any incident compromising its confidentiality, integrity or availability shall be notified without delay to the owning State and to the Independent Supervisor. The archives and data of the Organisation are inviolable; any request for access founded on an extraterritorial legal basis shall be notified to the Independent Supervisor and to each State concerned, and the Organisation shall comply with it only after their written agreement, subject to Articles 111 and 112(6) and (7) of the Treaty. OMIFC shall maintain no file of persons and shall carry out no biometric recognition or systematic cross-referencing of identities, except for the identification of victims and missing persons in a rescue operation.

LIMITS. Data sovereignty is exercised within the limits set by the Treaty. Data may be communicated without authorisation in the event of a duly established life-threatening emergency or by express provision of the Treaty; it may be retained temporarily where a competent judicial authority has ordered its preservation, or by way of emergency preservation, without any secondary use.

It is also exercised within the technical limits of what is possible: data that has been shared and then read by another State cannot be taken back. OMIFC therefore ensures that every act of sharing is explicit and informed, the State knowing, before it shares, what becomes irreversible.

SCOPE. OMIFC is answerable for the implementation of the means that guarantee this control and for the clarity of the information given to the State before any sharing. No provision of this Charter confers on the Organisation a general power of surveillance over the population.

Article 8. The neutral space for pooling

LEGAL BASIS: Treaty, Articles 5(g); 15(2); 100(1); 119; 120.

PRINCIPLE. OMIFC holds at the disposal of the States Parties the neutral space for the consensual sharing of maritime intelligence and monitoring data established by the Treaty. Within it, OMIFC is the technical custodian and guarantor of neutrality, never the beneficiary.

MODALITIES. Each State defines the perimeter, recipients, purpose and duration of what it shares, and may withdraw its consent at any time. In an emergency, data is communicated without agreement only if the State has lodged an advance authorisation covering that category of data and that purpose. Every access is logged in an unalterable register accessible to the owning State and to the Independent Supervisor. Every security incident shall be notified within twenty-four hours; the State concerned may immediately suspend the processing.

LIMITS. No State is bound to share, and participation conditions no other right derived from the Treaty. The status of custodian entails neither ownership, nor sovereignty, nor any right to exploit the data for the benefit of the Organisation. No data is transferred or communicated to a third party without the written agreement of the State that supplied it.

SCOPE. OMIFC is answerable for the neutrality of the space, the accuracy of the register of access and equal treatment between the States that participate in it and those that do not.

TITLE III. THE STATUS AND ACTION OF OMIFC

Article 9. The status of OMIFC within the Organisation

LEGAL BASIS: Treaty, Articles 1(2) and (5); 2(d) and (g); 6(12); 12; 17; 31(1)

to (3); 99(1); 102(1).

PRINCIPLE. OMIFC is the specialised department for observation, monitoring and the technical establishment of evidence, instituted within OCNOL by the Treaty. It is an organ of the Organisation. It has no separate legal personality and is not an organisation independent of OCNOL.

MODALITIES. OMIFC exercises only the competences that the Treaty confers upon it and does not encroach upon those of the other organs. The functions of observation and evidence are exercised separately from those of administration, emergency coordination and oversight: no one agent falls simultaneously under OMIFC, the operational Oceanian Emergency Committee and the Independent Supervisor. OMIFC adopts its rules of procedure, which are subject to approval by the Conference and are published.

LIMITS. The hierarchy of norms applicable to OMIFC is as follows: the Treaty, then its annexes, then this Charter. The Charter may neither derogate from the Treaty nor confer upon OMIFC a competence that the Treaty does not attribute to it. In the event of divergence, the Treaty prevails and the contrary provision of the Charter is without effect.

The competences of OMIFC are to be interpreted strictly; none may be inferred from the object of the Organisation, from its practice, from the silence of the Treaty or of this Charter, or from the alleged need to secure the effectiveness of a provision (effet utile). The privileges and immunities of the Organisation do not authorise OMIFC to exercise any competence not expressly attributed to it.

SCOPE. OMIFC shall not avail itself of any competence, status or recognition that does not result from the Treaty. Any act exceeding the competences of the Organisation is null and void; any State Party may invoke that nullity and the Independent Supervisor may find it of its own motion.

Article 10. Technical assistance to national authorities and its limits

LEGAL BASIS: Treaty, Articles 10(12); 11; 13; 19(1); 100(1), (4), (7) and (8); 102(3);

135; 140(2); 143; 146.

PRINCIPLE. OMIFC lends technical assistance to the national authorities, at their request, within the limits of the Treaty. Its capacity serves the decision of the State; it never takes its place. OMIFC carries out no boarding, no pursuit and no coercive measure. It does not direct, command or trigger any law-enforcement operation, whatever the gravity of what it observes.

MODALITIES. The assistance of OMIFC takes only the forms that the Treaty provides:

1. **Referral to the duty judge.** Where an alert concerns serious indications of a serious offence, OMIFC refers the matter to the duty judge of the injured State, or to the department responsible for submitting it to that judge, by the secure channel, with its report, under the conditions of Article 135 of the Treaty. The referral is notified for information to the national contact point. It identifies the vessel, its position, course and speed, the facts characterised and the item of Annex II to which they relate. It contains no legal classification. It expressly states the reservations as to reliability, the possibly single nature of the source, the blind spots, any shortfall in the performance of the means, and the exculpatory material. The judge decides with sovereign discretion whether or not to issue the maritime warrant, which is neither created, issued, signed nor validated by OCNOL;
2. **Modelling and the status of means.** In the event of a crisis or of judicial proceedings, OMIFC provides on request risk models, dispersion maps and the status of the available means;

3. **Contribution to maritime judicial vigilance.** OMIFC contributes, for the part of observation that falls within its missions, to the vigilance that the Organisation provides under Article 143 of the Treaty where a recognised warrant could not be executed: re-identification, location and alerting of the competent authorities, for the duration and within the limits set by the issuing judicial authority, and within the limits of the competences and authorisations that the Organisation holds;
4. **Technical assistance in the preservation of evidence.** An OMIFC agent may be present on board a unit of the executing State for the sole purpose of technical assistance in the preservation of evidence, on the cumulative conditions of Article 146 of the Treaty: a written request from the executing State, the authority of that State over the unit, and the express authorisation of the duty judge. The agent's presence, the nature of the agent's assistance and the times of embarkation and disembarkation are entered in the official record.

LIMITS. No OMIFC agent takes part in the physical execution of a boarding. The agent present on board exercises no power of coercion, conducts no questioning, takes no part in any search and retains no item in the agent's possession; any item that the agent helps to preserve is immediately handed over to the executing authority. The agent's presence is never a condition of the boarding, which falls exclusively to the executing State. OMIFC neither owns, operates nor charters any military vessel, any police unit, any armed asset or any device intended for boarding or the use of force. It conducts no criminal investigation, subjects no one to questioning under compulsion, detains no person and addresses no operational order to the forces of a State Party. Maritime judicial vigilance entails neither a new warrant nor any power of prosecution or coercion; the information it produces is an authenticated alert that does not prejudge the decision of the competent authority. OMIFC neither extends, reduces nor modifies the duration or scope of a warrant.

SCOPE. Any interpretation of this Charter that would make OMIFC an operational force, a police service or a prosecuting authority is excluded. Any overstepping of these limits constitutes a violation of Article 102 of the Treaty and opens as of right the procedure under its Article 98.

Article 11. Territorial consent and technical means

LEGAL BASIS: Treaty, Articles 3(i); 8(7); 11; 99; 101(2) and (3); 103; 104; 105; Annexes V, XVI and XVII.

PRINCIPLE. No technical capability of OMIFC amounts to territorial authorisation. Technical capabilities never create legal competence.

MODALITIES. OMIFC conducts no targeted observation in the maritime spaces of a State for law-enforcement purposes without that State's written consent. Consent may be general or limited by space, duration, category of facts, technical means or condition of notification; it is entered in a register accessible to the State concerned. The absence of an entry is equivalent to the absence of consent for law-enforcement observation. Withdrawal of consent takes effect upon its notification, without any statement of reasons, and without retroactive effect on items lawfully established. The use of drones, autonomous assets or sensors in the territorial sea, archipelagic waters, internal waters, ports, national airspace or the territory of a State requires the authorisation provided for by its law.

The monitoring of transboundary natural phenomena may be conducted without consent where it rests on open data, partner scientific networks or sensors lawfully located outside spaces under sovereignty. Detailed observation of the territory, of infrastructure or of the population for humanitarian purposes requires the authorisation of the State, except for incidental capture strictly necessary for the immediate safeguarding of human life. Each activity satisfies the tests of necessity and proportionality of Annex XVI, and each autonomous asset is certified, geolocated and logged in accordance with Annex XVII.

LIMITS. The own assets of OMIFC are exclusively unarmed technical means intended for observation, measurement, location, transmission, alerting and technical assistance. None may stop, immobilise, board, pursue or compel a vessel or a person, jam or intercept private communications, or present itself as a national unit.

Acoustic observation is exclusively passive. OMIFC conducts no observation directed towards land territory, persons on land or the installations of a State, except for port installations strictly necessary to establish an act of landing or transhipment and except for disaster-stricken areas for the purpose of assessing damage. It observes no warship and no State vessel assigned to a non-commercial public service; any data collected inadvertently on such a vessel is destroyed without delay and the destruction recorded. Monitoring and humanitarian observation data may not be used for law-enforcement purposes without a distinct legal basis. The actual performance of the means is tested, and any relevant shortfall is indicated in the items produced.

SCOPE. Any irregular observation is suspended. The data resulting from it is isolated and then destroyed under the supervision of the Independent Supervisor, unless its retention is indispensable to the defence of a person.

Article 12. Alerts, emergencies and support for rescue operations

LEGAL BASIS: Treaty, Articles 1(9) and (10); 10(5), (6) and (10); 11(6) to (9);

13(2), (5) and (7); 15(5); 41(7), (9) and (10); 100(2), (4), (5) and (7); 102(3); 104;

105(2); 121; 122(5); 124(6); Annexes XI, XII, XIII, XVIII and XX.

PRINCIPLE. OMIFC is a technical capability for observation, location, modelling, transmission, alerting, coordination of information and technical assistance for decision-making. It does not command rescue operations; it supplies decision-support data to the Oceanian Emergency Committee and to the competent authorities. The maximum protection of human life is the priority objective of the Organisation.

MODALITIES. OMIFC maintains permanent surveillance of natural hazards, in particular seismic, volcanic, tsunami, cyclonic and climatic hazards, of environmental hazards, in particular large-scale pollution and tank degassing, and of humanitarian risks at sea. It transmits its alerts without delay to the competent authorities of the States concerned; the transmission of alerts and of the information necessary for rescue may not be deferred on account of a maritime boundary or of uncertainty as to the competent State. An alert concerning physical parameters characterising an imminent risk constitutes a recommendation to activate the Oceanian Emergency Committee and seises the Committee as of right. An alert concerning a tsunami confirmed by at least two independent seismic or tide-gauge sensors entails activation of the Committee as of right, without prior validation.

A natural-hazard alert may be disseminated automatically, subject to immediate human confirmation. OMIFC transmits as a priority to the competent search and rescue coordination centre all information relating to a distress, in particular the positions, drift and signals of survival craft, together with their uncertainty. It proposes the thresholds for activating the Committee, which the Conference defines.

LIMITS. OMIFC does not command rescue operations, designate any operational command, decide the place of disembarkation, order the use of any national asset, direct any military or civilian asset or disseminate any message liable to be mistaken for an official rescue order.

The legally competent coordination centre retains operational primacy; OMIFC keeps a record of, and reports, any divergence of analysis without substituting itself for that centre. The dissemination of alerts to the population falls exclusively to the national authority; OMIFC neither modifies, delays nor withdraws any national alert. An alert creates no obligation for the State: each State decides sovereignly on measures for the protection of persons and property. Where an alert has not been followed by measures, the official and confidential report provided for in Article 1(10) of the Treaty falls to the Secretary-General. The technical participation of an OMIFC asset in an operation confers no power of command upon the Organisation.

SCOPE. OMIFC is answerable for the speed, accuracy and traceability of its alerts and transmissions, and for stating their uncertainties. Detection, location or transmission does not constitute a guarantee of rescue.

Article 13. Responsibility and liability

LEGAL BASIS: Treaty, Articles 17(9); 20; 21; 55(5); 92; 110(6); 145(5); Annex XI, Article 8; Annex XII, Article 12; Annex XVIII, Article 8; Annex XXII.

PRINCIPLE. OMIFC is answerable for what it does, under the conditions laid down in the Treaty. It is not answerable for the decisions that the Treaty reserves to States and to judges.

MODALITIES. OMIFC is answerable:

- for the technical rigour of its own processes;
- for the integrity of the data it holds and for traceability during its custody;
- for compliance with procedures, consent, confidentiality and neutrality;
- for the acts of its agents and of its autonomous assets where responsibility is attributable to them under Article 20 of the Treaty, and for the acts of its service providers towards States Parties and third parties.

Damage directly attributable to the exercise of its official functions falls under the regime of liability, insurance and claims of Articles 20 and 21 and of Annex XXII of the Treaty. Where the annulment of a warrant results from the inadequacy of the items supplied by the Organisation, the matter is referred as of right to the Independent Supervisor.

LIMITS. OMIFC is not answerable, as such, for the decision of a judge, for a governmental decision, for a State's choice not to act after an alert, for the outcome of a search and rescue operation, for the arrest or trial of a person, for the execution of a decision by a State, or for the consequences of a sovereign decision taken by a State. The fact that a State has received information, an alert or a recommendation from OMIFC does not, of itself, transfer to the Organisation responsibility for damage caused by a national asset.

SCOPE. This Article is not an exemption from liability. It in no way reduces the regime of responsibility, reparation and compensation established by the Treaty, which prevails.

TITLE IV. GOVERNANCE

Article 14. Independent oversight

LEGAL BASIS: Treaty, Articles 31(3); 52; 87; 97; 98(1); 105(3) and (4);

113(4).

PRINCIPLE. Compliance with the Charter cannot rest on the goodwill alone of those whom it binds. The party that performs is not the sole judge of its own conformity. That function is exercised by the Independent Supervisor instituted by the Treaty.

MODALITIES. The Independent Supervisor has unrestricted access, without notice, to the premises, systems, logs, registers, contracts and personnel of OMIFC; no secrecy may be set up against the Supervisor. A finding of a breach of this Charter may be requested by any State Party, by any agent of the Organisation, who may suffer no prejudice for doing so, and by any person demonstrating an interest. Any State Party may request an audit of the data that belong to it. OMIFC keeps at the disposal of the Supervisor the registers of consent, integrity, preservation, sharing, processing, training and incidents, together with the documentation and impact assessments of its automated processing. It organises its internal verification procedures so as to feed this oversight. Any agent may submit a report directly to the Supervisor, without going through the hierarchical channel.

LIMITS. The internal procedures of OMIFC have no power to find a breach and do not replace the Independent Supervisor. This Charter institutes no organ or body of oversight specific to OMIFC.

SCOPE. OMIFC is answerable for the completeness and truthfulness of the information it supplies to the Supervisor, and for the execution of corrective measures.

Article 15. Finding and correction of a breach

LEGAL BASIS: Treaty, Articles 30(5); 85(4); 96(4); 97(6); 98; 102(5); Annex IV, Article 13.

PRINCIPLE. A commitment is verifiable only if a breach can be found and corrected. The finding falls to the Independent Supervisor; the corrective measures, to the Conference; their execution, to OMIFC.

MODALITIES. Any suspected breach of which OMIFC becomes aware is recorded and brought without delay to the attention of the Independent Supervisor. Any security incident affecting an item or data is notified within twenty-four hours to the Supervisor and to the owning State; any personal data breach is notified to the Supervisor within the same period. The Supervisor acknowledges receipt of the request within five days and gives a written and reasoned decision within forty-five days, which may be extended once by thirty days. The Supervisor may order the provisional suspension of a processing operation in case of serious and imminent risk. Where the breach is found, the Conference may order the suspension of the processing or activity, the destruction of data irregularly collected and the rectification of the items communicated. OMIFC executes these measures; the Supervisor verifies their execution and reports on it.

LIMITS. This procedure aims at correction and prevention, not at criminal sanction, which falls to the competent authorities. A breach capable of constituting an offence is brought to the attention of the competent authorities, the Organisation cooperating with them in the proper administration of justice.

SCOPE. OMIFC conceals no breach that has been found. Concealment of a breach constitutes a distinct breach. Failure to execute a corrective measure constitutes a new breach.

Article 16. Candour, maturity and review

LEGAL BASIS: Treaty, Articles 34(1)(b); 38(5); 46(6); 102(1); 103(5);

113(4); 179(3) and (4); 185(4), (8) and (10); 189; 192.

PRINCIPLE. The Charter has value only if it speaks truly of the actual state of the department. In every presentation, OMIFC distinguishes between what is operational, what is being bedded in and what remains to be brought into service.

MODALITIES. The functions of OMIFC are exercised as their conditions of application are met, in particular the bedding-in period of the alert systems, the operational entry into force of the Oceanian Emergency Committee and the applicability of Titles XVIII to XXV between the States that have notified their national measures and their duty authority. OMIFC communicates the actual performance of its means, not their nominal performance. Its public communication in a crisis is limited to the technical findings that it has itself established, after informing the States concerned, without giving the facts any legal classification. The Charter is amended by the Conference, by consensus. An amendment falling under Article 185(4) of the Treaty requires the unanimous written acceptance of all States Parties.

LIMITS. The Charter may be raised; it may not be lowered. A revision may clarify the Treaty, strengthen the requirements borne by OMIFC, improve procedures and develop technical means within the limits of Article 103. No revision may diminish a guarantee of the Treaty, enlarge or create a competence, alter a limit, affect the sovereignty or rights of States, create an obligation for a State Party, or restrict the performance of an obligation that the Treaty imposes on the Organisation. No revision may remove a prohibition of neutrality, lower an evidentiary requirement or weaken data sovereignty.

SCOPE. OMIFC is answerable for the candour of its presentations and for the maintenance of its principles over time. No act, protocol, agreement, contract or financing may circumvent the procedure for amending this Charter.

Article 17. Interpretation and primacy of the Treaty

LEGAL BASIS: Treaty, Articles 1(9); 6(4) and (12); 12; 17(7); 102(1).

PRINCIPLE. This Charter shall be interpreted in accordance with the Treaty and its annexes, which shall prevail.

MODALITIES. The provisions of the Charter that describe an action of OMIFC are interpreted strictly. The provisions that set out a guarantee are interpreted in the manner most favourable to the State or the person they protect.

LIMITS. No provision of this Charter may be invoked to attribute to OMIFC any competence, decision-making power or function that the Treaty does not expressly confer upon it. No provision of this Charter may be invoked to delay, condition or refuse a transmission that the Treaty makes mandatory, in particular that of alerts and of information necessary for rescue.

SCOPE. Any provision of this Charter that is contrary to the Treaty or its annexes is without effect. The terms used bear the meaning given to them by Articles 2 to 5 of the Treaty.

Adopted by the Conference of the States Parties, by consensus, in pursuance of Articles 34(1)(b) and 102(1) of the Treaty.

Done in French and English, both texts being equally authentic. [Place and date of the session of the Conference]