

Bulletin No. 51

Law of the Sea



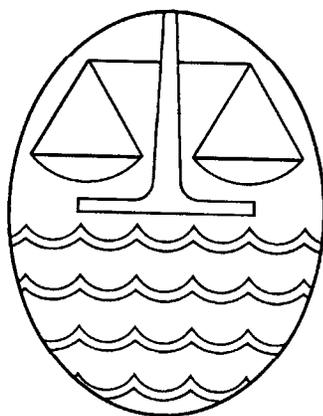
*Division for Ocean Affairs
and the Law of the Sea
Office of Legal Affairs*



United Nations

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Office of Legal Affairs

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Bulletin No. 51



United Nations
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NOTE

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Furthermore, publication in the Bulletin of information concerning developments relating to the law of the sea emanating from actions and decisions taken by States does not imply recognition by the United Nations of the validity of the actions and decisions in question.

IF ANY MATERIAL CONTAINED IN THE BULLETIN IS REPRODUCED IN PART OR IN WHOLE, DUE ACKNOWLEDGEMENT SHOULD BE GIVEN.

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I. UNITED NATIONS CONVENTION ON THE LAW OF THE SEA

A. Status of the United Nations Convention on the Law of the Sea, of the Agreement relating to the implementation of Part XI of the Convention and of the Agreement for the implementation of the provisions of the Convention relating to the conservation and management of straddling fish stocks and highly migratory fish stocks

1. Table recapitulating the status of the Convention and of the related Agreements, as at 31 March 2003

State or entity	United Nations Convention on the Law of the Sea (in force as from 16 November 1994)		Agreement relating to the implementation of Part XI of the Convention (in force as from 28 July 1996)		Agreement for the implementation of the provisions of the Convention relating to the conservation and management of straddling fish stocks and highly migratory fish stocks (in force as from 11 December 2001)	
	Signature  (☐ - declaration)	Ratification; formal confirmation(fc); accession(a); succession(s); (☐ - declaration)	Signature 	Ratification; formal confirmation(fc); accession(a); definitive signature(ds); participation(p); ¹ simplified procedure (sp); ²	Signature  (☐ - declaration or statement)	Ratification; accession(a) ³ (☐ - declaration)
TOTALS	157 (☐35)	142 (☐52)	79	112	59 (☐5)	34 (☐8)
<i>Afghanistan</i>						
Albania						
Algeria	☐	☐11 June 1996		11 June 1996 (p)		
Andorra						
Angola	☐	5 December 1990				
Antigua and Barbuda		2 February 1989				
Argentina	☐	☐1 December 1995		1 December 1995		
Armenia		9 December 2002 (a)		9 December 2002 (a)		
Australia		5 October 1994		5 October 1994		23 December 1999
Austria		☐14 July 1995		14 July 1995		

¹ States bound by the Agreement by having ratified, acceded or succeeded to the Convention under article 4, paragraph 1, of the Agreement.

² States bound by the Agreement under the simplified procedure set out in article 5 of the Agreement.

³ In accordance with its article 40, the Agreement shall enter into force 30 days after the date of deposit of the thirtieth instrument of ratification or accession.

State or entity <i>Italicized text</i> indicates non-members of the United Nations; Shaded row indicates landlocked States	United Nations Convention on the Law of the Sea (in force as from 16 November 1994)		Agreement relating to the implementation of Part XI of the Convention (in force as from 28 July 1996)		Agreement for the implementation of the provisions of the Convention relating to the conservation and management of straddling fish stocks and highly migratory fish stocks (in force as from 11 December 2001)	
	Signature  (☐ - declaration)	Ratification; formal confirmation(fc); accession(a); succession(s); (☐ - declaration)	Signature 	Ratification; formal confirmation(fc); accession(a); definitive signature(ds); participation(p); ¹ simplified procedure (sp); ²	Signature  (☐ - declaration or statement)	Ratification; accession(a) ³ (☐ - declaration)
Azerbaijan						
Bahamas		29 July 1983		28 July 1995		16 January 1997(a)
Bahrain		30 May 1985				
Bangladesh		☐27 July 2001		27 July 2001 (a)		
Barbados		12 October 1993		28 July 1995 (sp)		22 September 2000(a)
Belarus	☐					
Belgium	☐	☐13 November 1998		13 November 1998		
Belize		13 August 1983		21 October 1994 (ds)		
Benin		16 October 1997		16 October 1997 (p)		
Bhutan						
Bolivia	☐	28 April 1995		28 April 1995 (p)		
Bosnia and Herzegovina		12 January 1994 (s)				
Botswana		2 May 1990				
Brazil	☐	☐22 December 1988				8 March 2000
Brunei Darussalam		5 November 1996		5 November 1996 (p)		
Bulgaria		15 May 1996		15 May 1996 (a)		
Burkina Faso						
Burundi						
Cambodia						
Cameroon		19 November 1985		28 August 2002		
Canada						☐3 August 1999
Cape Verde	☐	☐10 August 1987				
Central African Republic						
Chad						
Chile	☐	☐25 August 1997		25 August 1997 (a)		
China		☐7 June 1996		7 June 1996 (p)	☐	
Colombia						
Comoros		21 June 1994				
Congo						

State or entity	United Nations Convention on the Law of the Sea (in force as from 16 November 1994)		Agreement relating to the implementation of Part XI of the Convention (in force as from 28 July 1996)		Agreement for the implementation of the provisions of the Convention relating to the conservation and management of straddling fish stocks and highly migratory fish stocks (in force as from 11 December 2001)	
	Signature  (☐ - declaration)	Ratification; formal confirmation(fc); accession(a); succession(s); (☐ - declaration)	Signature 	Ratification; formal confirmation(fc); accession(a); definitive signature(ds); participation(p); ¹ simplified procedure (sp); ²	Signature  (☐ - declaration or statement)	Ratification; accession(a) ³ (☐ - declaration)
<i>Cook Islands</i>		15 February 1995		15 February 1995 (a)		1 April 1999 (a)
Costa Rica	☐	21 September 1992		20 September 2001 (a)		18 June 2001 (a)
Côte d'Ivoire		26 March 1984		28 July 1995 (sp)		
Croatia		☐5 April 1995 (s)		5 April 1995 (p)		
Cuba	☐	☐15 August 1984		17 October 2002 (a)		
Cyprus		12 December 1988		27 July 1995		25 September 2002 (a)
Czech Republic		☐21 June 1996		21 June 1996		
Democratic People's Republic of Korea						
Democratic Republic of the Congo		17 February 1989				
Denmark						
Djibouti		8 October 1991				
Dominica		24 October 1991				
Dominican Republic						
Ecuador						
Egypt		☐26 August 1983				
El Salvador						
Equatorial Guinea		21 July 1997		21 July 1997 (p)		
Eritrea						
Estonia						
Ethiopia						
<i>European Community</i>	☐	☐1 April 1998 (fc)		1 April 1998(fc)	☐	
Fiji		10 December 1982		28 July 1995		12 December 1996
Finland	☐	☐21 June 1996		21 June 1996		
France	☐	☐11 April 1996		11 April 1996	☐	
Gabon		11 March 1998		11 March 1998 (p)		
Gambia		22 May 1984				
Georgia		21 March 1996 (a)		21 March 1996 (p)		

State or entity	United Nations Convention on the Law of the Sea (in force as from 16 November 1994)		Agreement relating to the implementation of Part XI of the Convention (in force as from 28 July 1996)		Agreement for the implementation of the provisions of the Convention relating to the conservation and management of straddling fish stocks and highly migratory fish stocks (in force as from 11 December 2001)	
	Signature  (☐ - declaration)	Ratification; formal confirmation(fc); accession(a); succession(s); (☐ - declaration)	Signature 	Ratification; formal confirmation(fc); accession(a); definitive signature(ds); participation(p); ¹ simplified procedure (sp); ²	Signature  (☐ - declaration or statement)	Ratification; accession(a) ³ (☐ - declaration)
Germany		☐14 October 1994 (a)		14 October 1994		
Ghana		7 June 1983				
Greece	☐	☐21 July 1995		21 July 1995		
Grenada		25 April 1991		28 July 1995 (sp)		
Guatemala		☐11 February 1997		11 February 1997 (p)		
Guinea	☐	6 September 1985		28 July 1995 (sp)		
Guinea-Bissau		☐25 August 1986				
Guyana		16 November 1993				
Haiti		31 July 1996		31 July 1996 (p)		
<i>Holy See</i>						
Honduras		5 October 1993				
Hungary		☐5 February 2002		5 February 2002 (a)		
Iceland		☐21 June 1985		28 July 1995 (sp)		14 February 1997
India		☐29 June 1995		29 June 1995		
Indonesia		3 February 1986		2 June 2000		
Iran (Islamic Republic of)	☐					17 April 1998(a)
Iraq	☐	30 July 1985				
Ireland		☐21 June 1996		21 June 1996		
Israel						
Italy	☐	☐13 January 1995		13 January 1995		⁴
Jamaica		21 March 1983		28 July 1995 (sp)		
Japan		20 June 1996		20 June 1996		
Jordan		27 November 1995 (a)		27 November 1995 (p)		
Kazakhstan						
Kenya		2 March 1989		29 July 1994 (ds)		

⁴ On 4 June 1999, the Government of Italy informed the Secretary-General that "Italy intends to withdraw the instrument of ratification it deposited on 4 March 1999, in order to proceed subsequently to complete that formality in conjunction with all the States members of the European Union".

State or entity	United Nations Convention on the Law of the Sea (in force as from 16 November 1994)		Agreement relating to the implementation of Part XI of the Convention (in force as from 28 July 1996)		Agreement for the implementation of the provisions of the Convention relating to the conservation and management of straddling fish stocks and highly migratory fish stocks (in force as from 11 December 2001)	
	Signature  (☐ - declaration)	Ratification; formal confirmation(fc); accession(a); succession(s); (☐ - declaration)	Signature 	Ratification; formal confirmation(fc); accession(a); definitive signature(ds); participation(p); ¹ simplified procedure (sp); ²	Signature  (☐ - declaration or statement)	Ratification; accession(a) ³ (☐ - declaration)
Kiribati		24 February 2003 (a)		24 February 2003 (a)		
Kuwait		☐2 May 1986		2 August 2002 (a)		
Kyrgyzstan						
Lao People's Democratic Republic		5 June 1998		5 June 1998 (p)		
Latvia						
Lebanon		5 January 1995		5 January 1995 (p)		
Lesotho						
Liberia						
Libyan Arab Jamahiriya						
Liechtenstein						
Lithuania						
Luxembourg	☐	5 October 2000		5 October 2000		⁵
Madagascar		22 August 2001		22 August 2001 (p)		
Malawi						
Malaysia		☐14 October 1996		14 October 1996 (p)		
Maldives		7 September 2000		7 September 2000		30 December 1998
Mali	☐	16 July 1985				
Malta		☐20 May 1993		26 June 1996		☐11 November 2001(a)

⁵ On 21 December 2000, the Government of Luxembourg informed the Secretary-General of the following:

“The Permanent Mission of the Grand Duchy of Luxembourg had indeed received instructions to deposit the instrument of ratification of the above-mentioned Agreement with the Secretary-General of the United Nations; this was done on 5 October 2000. It turned out, however, that deposit on that date was premature since, in accordance with decision 98-414-CE of the Council of the European Union, of 8 June 1998, the instrument was to be deposited simultaneously with the instruments of ratification of all States members of the European Union.

“Accordingly, I should be grateful if you would note that Luxembourg wishes to withdraw the instrument of ratification deposited on 5 October 2000. A simultaneous deposit of the instruments of the Community and of all member States is to take place subsequently.”

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	Signature  (☐ - declaration)	Ratification; formal confirmation(fc); accession(a); succession(s); (☐ - declaration)	Signature 	Ratification; formal confirmation(fc); accession(a); definitive signature(ds); participation(p); ¹ simplified procedure (sp); ²	Signature  (☐ - declaration or statement)	Ratification; accession(a) ³ (☐ - declaration)
<i>Marshall Islands</i>		9 August 1991 (a)				19 March 2003
<i>Mauritania</i>		17 July 1996		17 July 1996 (p)		
<i>Mauritius</i>		4 November 1994		4 November 1994 (p)		☐25 March 1997(a)
<i>Mexico</i>		18 March 1983				
<i>Micronesia (Federated States of)</i>		29 April 1991 (a)		6 September 1995		23 May 1997
<i>Monaco</i>		20 March 1996		20 March 1996 (p)		9 June 1999(a)
<i>Mongolia</i>		13 August 1996		13 August 1996 (p)		
<i>Morocco</i>						
<i>Mozambique</i>		13 March 1997		13 March 1997 (a)		
<i>Myanmar</i>		21 May 1996		21 May 1996 (a)		
<i>Namibia</i>		18 April 1983		28 July 1995 (sp)		8 April 1998
<i>Nauru</i>		23 January 1996		23 January 1996 (p)		10 January 1997(a)
<i>Nepal</i>		2 November 1998		2 November 1998 (p)		
<i>Netherlands</i>		☐28 June 1996		28 June 1996	☐	
<i>New Zealand</i>		19 July 1996		19 July 1996		18 April 2001
<i>Nicaragua</i>	☐	☐3 May 2000		3 May 2000 (p)		
<i>Niger</i>						
<i>Nigeria</i>		14 August 1986		28 July 1995 (sp)		
<i>Niue</i>						
<i>Norway</i>		☐24 June 1996		24 June 1996 (a)		☐30 December 1996
<i>Oman</i>	☐	☐17 August 1989		26 February 1997 (a)		
<i>Pakistan</i>		☐26 February 1997		26 February 1997 (p)		
<i>Palau</i>		30 September 1996 (a)		30 September 1996 (p)		
<i>Panama</i>		☐1 July 1996		1 July 1996 (p)		
<i>Papua New Guinea</i>		14 January 1997		14 January 1997 (p)		4 June 1999
<i>Paraguay</i>		26 September 1986		10 July 1995		
<i>Peru</i>						
<i>Philippines</i>	☐	☐8 May 1984		23 July 1997		

State or entity	United Nations Convention on the Law of the Sea (in force as from 16 November 1994)		Agreement relating to the implementation of Part XI of the Convention (in force as from 28 July 1996)		Agreement for the implementation of the provisions of the Convention relating to the conservation and management of straddling fish stocks and highly migratory fish stocks (in force as from 11 December 2001)	
	Signature  (☐ - declaration)	Ratification; formal confirmation(fc); accession(a); succession(s); (☐ - declaration)	Signature 	Ratification; formal confirmation(fc); accession(a); definitive signature(ds); participation(p); ¹ simplified procedure (sp); ²	Signature  (☐ - declaration or statement)	Ratification; accession(a) ³ (☐ - declaration)
Poland		13 November 1998		13 November 1998		
Portugal		☐3 November 1997		3 November 1997		
Qatar		9 December 2002		9 December 2002 (p)		
Republic of Korea		29 January 1996		29 January 1996		
Republic of Moldova						
Romania		☐17 December 1996		17 December 1996 (a)		
Russian Federation		☐12 March 1997		12 March 1997 (a)		☐4 August 1997
Rwanda						
Saint Kitts and Nevis		7 January 1993				
Saint Lucia		27 March 1985				9 August 1996
Saint Vincent and the Grenadines		1 October 1993				
Samoa		14 August 1995		14 August 1995 (p)		25 October 1996
San Marino						
Sao Tome and Principe		3 November 1987				
Saudi Arabia		☐24 April 1996		24 April 1996 (p)		
Senegal		25 October 1984		25 July 1995		30 January 1997
Seychelles		16 September 1991		15 December 1994		20 March 1998
Serbia and Montenegro ⁶	⁷	☐12 March 2001 (s)		28 July 1995 (sp) ⁸		
Sierra Leone		12 December 1994		12 December 1994 (p)		
Singapore		17 November 1994		17 November 1994 (p)		

⁶ As of 4 February 2003, the country name of the Federal Republic of Yugoslavia has changed to Serbia and Montenegro.

⁷ The former Yugoslavia had signed and ratified the Convention on 10 December 1982 and 5 May 1986, respectively.

⁸ The former Yugoslavia had signed the Agreement and notified the Secretary-General that it had selected the application of the simplified procedure set out in articles 4 (3) (c) and 5 of the Agreement, on 12 May and 28 July 1995, respectively. On 12 March 2001, the Secretary-General received from the Government of Yugoslavia a notification confirming the signature and the notification of application of the simplified procedure under article 5.

State or entity	United Nations Convention on the Law of the Sea (in force as from 16 November 1994)		Agreement relating to the implementation of Part XI of the Convention (in force as from 28 July 1996)		Agreement for the implementation of the provisions of the Convention relating to the conservation and management of straddling fish stocks and highly migratory fish stocks (in force as from 11 December 2001)	
	Signature  (☐ - declaration)	Ratification; formal confirmation(fc); accession(a); succession(s); (☐ - declaration)	Signature 	Ratification; formal confirmation(fc); accession(a); definitive signature(ds); participation(p); ¹ simplified procedure (sp); ²	Signature  (☐ - declaration or statement)	Ratification; accession(a) ³ (☐ - declaration)
<i>Slovakia</i>		8 May 1996		8 May 1996		
<i>Slovenia</i>		☐16 June 1995 (s)		16 June 1995		
<i>Solomon Islands</i>		23 June 1997		23 June 1997 (p)		13 February 1997(a)
<i>Somalia</i>		24 July 1989				
<i>South Africa</i>	☐	☐23 December 1997		23 December 1997		
<i>Spain</i>	☐	☐15 January 1997		15 January 1997		
<i>Sri Lanka</i>		19 July 1994		28 July 1995 (sp)		24 October 1996
<i>Sudan</i>	☐	23 January 1985				
<i>Suriname</i>		9 July 1998		9 July 1998 (p)		
<i>Swaziland</i>						
<i>Sweden</i>	☐	☐25 June 1996		25 June 1996		
<i>Switzerland</i>						
<i>Syrian Arab Republic</i>						
<i>Tajikistan</i>						
<i>Thailand</i>						
<i>The former Yugoslav Republic of Macedonia</i>		19 August 1994 (s)		19 August 1994 (p)		
<i>Timor-Leste</i>						
<i>Togo</i>		16 April 1985		28 July 1995 (sp)		
<i>Tonga</i>		2 August 1995 (a)		2 August 1995 (p)		31 July 1996
<i>Trinidad and Tobago</i>		25 April 1986		28 July 1995 (sp)		
<i>Tunisia</i>		☐24 April 1985		24 May 2002		
<i>Turkey</i>						
<i>Turkmenistan</i>						
<i>Tuvalu</i>		9 December 2002		9 December 2002 (p)		
<i>Uganda</i>		9 November 1990		28 July 1995 (sp)		
<i>Ukraine</i>	☐	☐26 July 1999		26 July 1999		27 February 2003

State or entity	United Nations Convention on the Law of the Sea (in force as from 16 November 1994)		Agreement relating to the implementation of Part XI of the Convention (in force as from 28 July 1996)		Agreement for the implementation of the provisions of the Convention relating to the conservation and management of straddling fish stocks and highly migratory fish stocks (in force as from 11 December 2001)	
	Signature  (☐ - declaration)	Ratification; formal confirmation(fc); accession(a); succession(s); (☐ - declaration)	Signature 	Ratification; formal confirmation(fc); accession(a); definitive signature(ds); participation(p); ¹ simplified procedure (sp); ²	Signature  (☐ - declaration or statement)	Ratification; accession(a) ³ (☐ - declaration)
<i>United Arab Emirates</i>						
United Kingdom		☐25 July 1997 (a)		25 July 1997		☐10 December 2001 ²

² On 4 December 1995, the Agreement was signed by the Government of the United Kingdom of Great Britain and Northern Ireland on behalf of Bermuda, British Indian Ocean Territory, British Virgin Islands, Falkland Islands, Pitcairn Islands, South Georgia and the South Sandwich Islands, St. Helena including Ascension Island, and Turks and Caicos Islands.

Subsequently, on 27 June 1996, the Agreement was signed by the United Kingdom for the United Kingdom of Great Britain and Northern Ireland.

On 3 December 1999, an instrument of ratification was lodged by the United Kingdom on behalf of Pitcairn, Henderson, Ducie and Oeno Islands, Falkland Islands, South Georgia and South Sandwich Islands, Bermuda, Turks and Caicos Islands, British Indian Ocean Territory, British Virgin Islands and Anguilla with the following declarations:

"1. The United Kingdom understands that the terms 'geographical particularities', 'specific characteristics of the subregion or region', 'socio-economic geographical and environmental factors', 'natural characteristics of that sea' or any other similar terms employed in reference to a geographical region do not prejudice the rights and duties of States under international law.

"2. The United Kingdom understands that no provision of this Agreement may be interpreted in such a way as to conflict with the principle of freedom of the high seas, recognized by international law.

"3. The United Kingdom understands that the term 'States whose nationals fish on the high seas' shall not provide any new grounds for jurisdiction based on the nationality of persons involved in fishing on the high seas rather than on the principle of flag State jurisdiction.

"4. The Agreement does not grant any State the right to maintain or apply unilateral measures during the transitional period as referred to in article 21(3). Thereafter, if no agreement has been reached, States shall act only in accordance with the provisions provided for in articles 21 and 22 of the Agreement."

Upon a request for clarification as to why the above ratification excluded the metropolitan territory of the United Kingdom of Great Britain and Northern Ireland, and subsequent consultations, the following additional declaration was provided by the United Kingdom of Great Britain and Northern Ireland on 10 December 2001:

"1. The United Kingdom is a keen supporter of the Straddling Fish Stocks Agreement. Legislation of the European Communities (Council decision 10176/97 of 8 June 1998) binds the United Kingdom as a matter of EC law to deposit its instrument of ratification in relation to the metropolitan territory simultaneously with the European Community and the other member States.

State or entity	United Nations Convention on the Law of the Sea (in force as from 16 November 1994)		Agreement relating to the implementation of Part XI of the Convention (in force as from 28 July 1996)		Agreement for the implementation of the provisions of the Convention relating to the conservation and management of straddling fish stocks and highly migratory fish stocks (in force as from 11 December 2001)	
	Signature  (☐ - declaration)	Ratification; formal confirmation(fc); accession(a); succession(s); (☐ - declaration)	Signature 	Ratification; formal confirmation(fc); accession(a); definitive signature(ds); participation(p); ¹ simplified procedure (sp); ²	Signature  (☐ - declaration or statement)	Ratification; accession(a) ³ (☐ - declaration)
<i>United Republic of Tanzania</i>		☐30 September 1985		25 June 1998		
<i>United States of America</i>						☐21 August 1996

"It is hoped that this event will take place later this year. The constraints imposed by that Council decision only apply in respect of the United Kingdom metropolitan territory and those overseas territories to which the EC treaties apply.

"2. In the light of its temporary inability to ratify the Agreement in relation to the metropolitan territory and the strong desire of the United Kingdom to implement the Agreement in respect of those overseas territories to which the EC treaty does not apply, because of the advantages it will bring to them, the United Kingdom lodged its instrument of ratification to the Agreement, with declarations, in respect of those overseas territories on 3 December 1999.

"3. The United Kingdom is concerned that upon entry into force of the Agreement, the overseas territories covered by this ratification should enjoy the rights and obligations accruing under the Agreement. I would therefore be grateful if you would arrange for the above formal declaration to be circulated in order to make it clear to all concerned the nature of the United Kingdom's approach to ratification of this convention. ..."

Accordingly, the above action was accepted in deposit on 10 December 2001, the date on which the second declaration was lodged with the Secretary-General.

State or entity	United Nations Convention on the Law of the Sea (in force as from 16 November 1994)		Agreement relating to the implementation of Part XI of the Convention (in force as from 28 July 1996)		Agreement for the implementation of the provisions of the Convention relating to the conservation and management of straddling fish stocks and highly migratory fish stocks (in force as from 11 December 2001)	
	Signature  (☐ - declaration)	Ratification; formal confirmation(fc); accession(a); succession(s); (☐ - declaration)	Signature 	Ratification; formal confirmation(fc); accession(a); definitive signature(ds); participation(p); ¹ simplified procedure (sp); ²	Signature  (☐ - declaration or statement)	Ratification; accession(a) ³ (☐ - declaration)
Uruguay	☐	☐10 December 1992			☐	☐10 September 1999
Uzbekistan						
Vanuatu		10 August 1999		10 August 1999(p)		
Venezuela						
Viet Nam		☐25 July 1994				
Yemen	☐	☐21 July 1987				
Zambia		7 March 1983		28 July 1995 (sp)		
Zimbabwe		24 February 1993		28 July 1995 (sp)		
TOTALS	157 (☐35)	142 (☐52)	79	112	59 (☐5)	34 (☐8)

Italicized text indicates non-members of the United Nations;
 Shaded row indicates landlocked States

2. Chronological lists of ratifications of, accessions and successions to the Convention and the related Agreements, as at 31 March 2003

(a) The Convention

1. Fiji (10 December 1982)
2. Zambia (7 March 1983)
3. Mexico (18 March 1983)
4. Jamaica (21 March 1983)
5. Namibia (18 April 1983)
6. Ghana (7 June 1983)
7. Bahamas (29 July 1983)
8. Belize (13 August 1983)
9. Egypt (26 August 1983)
10. Côte d'Ivoire (26 March 1984)
11. Philippines (8 May 1984)
12. Gambia (22 May 1984)
13. Cuba (15 August 1984)
14. Senegal (25 October 1984)
15. Sudan (23 January 1985)
16. Saint Lucia (27 March 1985)
17. Togo (16 April 1985)
18. Tunisia (24 April 1985)
19. Bahrain (30 May 1985)
20. Iceland (21 June 1985)
21. Mali (16 July 1985)
22. Iraq (30 July 1985)
23. Guinea (6 September 1985)
24. United Republic of Tanzania (30 September 1985)
25. Cameroon (19 November 1985)
26. Indonesia (3 February 1986)
27. Trinidad and Tobago (25 April 1986)
28. Kuwait (2 May 1986)
29. Nigeria (14 August 1986)
30. Guinea-Bissau (25 August 1986)
31. Paraguay (26 September 1986)
32. Yemen (21 July 1987)
33. Cape Verde (10 August 1987)
34. São Tome and Principe (3 November 1987)
35. Cyprus (12 December 1988)
36. Brazil (22 December 1988)
37. Antigua and Barbuda (2 February 1989)
38. Democratic Republic of the Congo (17 February 1989)
39. Kenya (2 March 1989)
40. Somalia (24 July 1989)
41. Oman (17 August 1989)
42. Botswana (2 May 1990)
43. Uganda (9 November 1990)
44. Angola (5 December 1990)
45. Grenada (25 April 1991)
46. Micronesia (Federated States of) (29 April 1991)
47. Marshall Islands (9 August 1991)
48. Seychelles (16 September 1991)
49. Djibouti (8 October 1991)
50. Dominica (24 October 1991)
51. Costa Rica (21 September 1992)
52. Uruguay (10 December 1992)
53. Saint Kitts and Nevis (7 January 1993)
54. Zimbabwe (24 February 1993)
55. Malta (20 May 1993)
56. Saint Vincent and the Grenadines (1 October 1993)
57. Honduras (5 October 1993)
58. Barbados (12 October 1993)
59. Guyana (16 November 1993)
60. Bosnia and Herzegovina (12 January 1994)
61. Comoros (21 June 1994)
62. Sri Lanka (19 July 1994)
63. Viet Nam (25 July 1994)
64. The former Yugoslav Republic of Macedonia (19 August 1994)
65. Australia (5 October 1994)
66. Germany (14 October 1994)
67. Mauritius (4 November 1994)
68. Singapore (17 November 1994)
69. Sierra Leone (12 December 1994)
70. Lebanon (5 January 1995)
71. Italy (13 January 1995)
72. Cook Islands (15 February 1995)
73. Croatia (5 April 1995)
74. Bolivia (28 April 1995)
75. Slovenia (16 June 1995)
76. India (29 June 1995)
77. Austria (14 July 1995)
78. Greece (21 July 1995)
79. Tonga (2 August 1995)
80. Samoa (14 August 1995)
81. Jordan (27 November 1995)
82. Argentina (1 December 1995)
83. Nauru (23 January 1996)
84. Republic of Korea (29 January 1996)
85. Monaco (20 March 1996)

86. Georgia (21 March 1996)
87. France (11 April 1996)
88. Saudi Arabia (24 April 1996)
89. Slovakia (8 May 1996)
90. Bulgaria (15 May 1996)
91. Myanmar (21 May 1996)
92. China (7 June 1996)
93. Algeria (11 June 1996)
94. Japan (20 June 1996)
95. Czech Republic (21 June 1996)
96. Finland (21 June 1996)
97. Ireland (21 June 1996)
98. Norway (24 June 1996)
99. Sweden (25 June 1996)
100. Netherlands (28 June 1996)
101. Panama (1 July 1996)
102. Mauritania (17 July 1996)
103. New Zealand (19 July 1996)
104. Haiti (31 July 1996)
105. Mongolia (13 August 1996)
106. Palau (30 September 1996)
107. Malaysia (14 October 1996)
108. Brunei Darussalam (5 November 1996)
109. Romania (17 December 1996)
110. Papua New Guinea (14 January 1997)
111. Spain (15 January 1997)
112. Guatemala (11 February 1997)
113. Pakistan (26 February 1997)
114. Russian Federation (12 March 1997)
115. Mozambique (13 March 1997)
116. Solomon Islands (23 June 1997)
117. Equatorial Guinea (21 July 1997)
118. United Kingdom of Great Britain and Northern Ireland (25 July 1997)
119. Chile (25 August 1997)
120. Benin (16 October 1997)
121. Portugal (3 November 1997)
122. South Africa (23 December 1997)
123. Gabon (11 March 1998)
124. European Community (1 April 1998)
125. Lao People's Democratic Republic (5 June 1998)
126. Suriname (9 July 1998)
127. Nepal (2 November 1998)
128. Belgium (13 November 1998)
129. Poland (13 November 1998)
130. Ukraine (26 July 1999)
131. Vanuatu (10 August 1999)
132. Nicaragua (3 May 2000)
133. Maldives (7 September 2000)
134. Luxembourg (5 October 2000)
135. Serbia and Montenegro (12 March 2001)
136. Bangladesh (27 July 2001)
137. Madagascar (22 August 2001)
138. Hungary (5 February 2002)
139. Armenia (9 December 2002)
140. Qatar (9 December 2002)
141. Tuvalu (9 December 2002)
142. Kiribati (24 February 2003)

(b) Agreement relating to the implementation of Part XI of the Convention

1. Kenya (29 July 1994)
2. The former Yugoslav Republic of Macedonia (19 August 1994)
3. Australia (5 October 1994)
4. Germany (14 October 1994)
5. Belize (21 October 1994)
6. Mauritius (4 November 1994)
7. Singapore (17 November 1994)
8. Sierra Leone (12 December 1994)
9. Seychelles (15 December 1994)
10. Lebanon (5 January 1995)
11. Italy (13 January 1995)
12. Cook Islands (15 February 1995)
13. Croatia (5 April 1995)
14. Bolivia (28 April 1995)
15. Slovenia (16 June 1995)
16. India (29 June 1995)
17. Paraguay (10 July 1995)
18. Austria (14 July 1995)
19. Greece (21 July 1995)
20. Senegal (25 July 1995)
21. Cyprus (27 July 1995)
22. Bahamas (28 July 1995)
23. Barbados (28 July 1995)
24. Côte d'Ivoire (28 July 1995)
25. Fiji (28 July 1995)
26. Grenada (28 July 1995)
27. Guinea (28 July 1995)
28. Iceland (28 July 1995)
29. Jamaica (28 July 1995)
30. Namibia (28 July 1995)
31. Nigeria (28 July 1995)
32. Sri Lanka (28 July 1995)
33. Togo (28 July 1995)
34. Trinidad and Tobago (28 July 1995)
35. Uganda (28 July 1995)
36. Yugoslavia (28 July 1995)
37. Zambia (28 July 1995)
38. Zimbabwe (28 July 1995)
39. Tonga (2 August 1995)

40. Samoa (14 August 1995)
41. Micronesia (Federated States of)
(6 September 1995)
42. Jordan (27 November 1995)
43. Argentina (1 December 1995)
44. Nauru (23 January 1996)
45. Republic of Korea (29 January 1996)
46. Monaco (20 March 1996)
47. Georgia (21 March 1996)
48. France (11 April 1996)
49. Saudi Arabia (24 April 1996)
50. Slovakia (8 May 1996)
51. Bulgaria (15 May 1996)
52. Myanmar (21 May 1996)
53. China (7 June 1996)
54. Algeria (11 June 1996)
55. Japan (20 June 1996)
56. Czech Republic (21 June 1996)
57. Finland (21 June 1996)
58. Ireland (21 June 1996)
59. Norway (24 June 1996)
60. Sweden (25 June 1996)
61. Malta (26 June 1996)
62. Netherlands (28 June 1996)
63. Panama (1 July 1996)
64. Mauritania (17 July 1996)
65. New Zealand (19 July 1996)
66. Haiti (31 July 1996)
67. Mongolia (13 August 1996)
68. Palau (30 September 1996)
69. Malaysia (14 October 1996)
70. Brunei Darussalam (5 November 1996)
71. Romania (17 December 1996)
72. Papua New Guinea (14 January 1997)
73. Spain (15 January 1997)
74. Guatemala (11 February 1997)
75. Oman (26 February 1997)
76. Pakistan (26 February 1997)
77. Russian Federation (12 March 1997)
78. Mozambique (13 March 1997)
79. Solomon Islands (23 June 1997)
80. Equatorial Guinea (21 July 1997)
81. Philippines (23 July 1997)
82. United Kingdom of Great Britain
and Northern Ireland (25 July 1997)
83. Chile (25 August 1997)
84. Benin (16 October 1997)
85. Portugal (3 November 1997)
86. South Africa (23 December 1997)
87. Gabon (11 March 1998)
88. European Community (1 April 1998)
89. Lao People's Democratic Republic
(5 June 1998)
90. United Republic of Tanzania (25 June 1998)
91. Suriname (9 July 1998)
92. Nepal (2 November 1998)
93. Belgium (13 November 1998)
94. Poland (13 November 1998)
95. Ukraine (26 July 1999)
96. Vanuatu (10 August 1999)
97. Nicaragua (3 May 2000)
98. Indonesia (2 June 2000)
99. Maldives (7 September 2000)
100. Luxembourg (5 October 2000)
101. Bangladesh (27 July 2001)
102. Madagascar (22 August 2001)
103. Costa Rica (20 September 2001)
104. Hungary (5 February 2002)
105. Tunisia (24 May 2002)
106. Cameroon (28 August 2002)
107. Kuwait (2 August 2002)
108. Cuba (17 October 2002)
109. Armenia (9 December 2002)
110. Qatar (9 December 2002)
111. Tuvalu (9 December 2002)
112. Kiribati (24 February 2003)

(c) Agreement for the implementation of the provisions of the Convention relating to the conservation and management of straddling fish stocks and highly migratory fish stocks

1. Tonga (31 July 1996)
2. Saint Lucia (9 August 1996)
3. United States of America (21 August 1996)
4. Sri Lanka (24 October 1996)
5. Samoa (25 October 1996)
6. Fiji (12 December 1996)
7. Norway (30 December 1996)
8. Nauru (10 January 1997)
9. Bahamas (16 January 1997)
10. Senegal (30 January 1997)
11. Solomon Islands (13 February 1997)
12. Iceland (14 February 1997)
13. Mauritius (25 March 1997)
14. Micronesia (Federated States of)
(23 May 1997)
15. Russian Federation (4 August 1997)
16. Seychelles (20 March 1998)
17. Namibia (8 April 1998)
18. Iran (Islamic Republic of) (17 April 1998)
19. Maldives (30 December 1998)
20. Cook Islands (1 April 1999)
21. Papua New Guinea (4 June 1999)

22. Monaco (9 June 1999)
23. Canada (3 August 1999)
24. Uruguay (10 September 1999)
25. Australia (23 December 1999)
26. Brazil (8 March 2000)
27. Barbados (22 September 2000)
28. New Zealand (18 April 2001)
29. Costa Rica (18 June 2001)
30. Malta (11 November 2001)
31. United Kingdom on behalf of Pitcairn, Henderson, Ducie and Oeno Islands, Falkland Islands, South Georgia and South Sandwich Islands, Bermuda, Turks and Caicos Islands, British Indian Ocean Territory, British Virgin Islands and Anguilla (10 December 2001)
32. Cyprus (25 September 2002)
33. Ukraine (27 February 2003)
34. Marshall Islands (19 March 2003)

3. Declarations by States

(a) Mexico

*Declaration of 6 January 2003 pursuant to articles 287 and 298
of the United Nations Convention on the Law of the Sea*

In accordance with the terms of article 287 of the United Nations Convention on the Law of the Sea, the Government of Mexico declares that it chooses, in no order of preference, one of the following means for the settlement of disputes concerning the interpretation or application of the Convention:

1. The International Tribunal for the Law of the Sea established in accordance with annex VI;
2. The International Court of Justice;
3. A special arbitral tribunal constituted in accordance with annex VIII for one or more of the categories of disputes specified therein.

The Government of Mexico declares that, pursuant to article 298 of the Convention, it does not accept the procedures provided for in part XV, section 2, with respect to the following categories of disputes:

1. Disputes relating to sea boundary delimitations, or those involving historic bays or titles, pursuant to paragraph 1 (a) of article 298;
2. Disputes concerning military activities and the other activities referred to in paragraph 1 (b) of article 298.

(b) Kiribati

*Declaration of 24 February 2003 made upon accession
to the United Nations Convention on the Law of the Sea*

In exercise of the right conferred by article 310 of the Convention, the Republic of Kiribati, upon accession to the United Nations Convention on the Law of the Sea, declares that in accepting the provisions of Part IV, article 47, of the said Convention, wishes to highlight its concerns relating to the formula used for drawing archipelagic baselines.

Part IV calculations for archipelagic waters do not allow a baseline to be drawn around all the islands of each of the three groups of islands that make up the Republic of Kiribati. These groups of islands are spread over an expanse of over 3 million square kilometres of ocean, and the existing formula as spelt out in Part IV of the Convention will divide Kiribati's three island groups into three distinct exclusive zone waters and international waters.

The Government of Kiribati wishes to propose that the formula used for drawing archipelagic baselines be revisited in the future to take into consideration the above-mentioned concerns of Kiribati.

Accession by Kiribati to the United Nations Convention on the Law of the Sea does not in any way prejudice its status as an archipelagic State or its legal rights to declare all or part of its maritime territory as archipelagic waters under the said Convention.

(c) United Kingdom of Great Britain and Northern Ireland

*Declaration of 7 April 2003 pursuant to article 298, paragraph 1,
of the United Nations Convention on the Law of the Sea*

... the United Kingdom of Great Britain and Northern Ireland does not accept any of the procedures provided for in section 2 of Part XV of the Convention with respect to the categories of disputes referred to in paragraph 1(b) and (c) of article 298.

II. LEGAL INFORMATION RELEVANT TO THE UNITED NATIONS CONVENTION ON THE LAW OF THE SEA

A. United Nations General Assembly resolutions of interest

1. General Assembly resolution 57/141 of 12 December 2002: Oceans and the law of the sea

The General Assembly,

Recalling its resolutions 49/28 of 6 December 1994, 52/26 of 26 November 1997, 54/33 of 24 November 1999, 55/7 of 30 October 2000, 56/12 of 28 November 2001 and other relevant resolutions adopted subsequent to the entry into force of the United Nations Convention on the Law of the Sea (“the Convention”)¹ on 16 November 1994,

Emphasizing the universal and unified character of the Convention and its fundamental importance for the maintenance and strengthening of international peace and security, as well as for the sustainable development of the oceans and seas,

Reaffirming that the Convention sets out the legal framework within which all activities in the oceans and seas must be carried out and is of strategic importance as the basis for national, regional and global action and cooperation in the marine sector, and that its integrity needs to be maintained, as recognized also by the United Nations Conference on Environment and Development in chapter 17 of Agenda 21,²

Conscious that the problems of ocean space are closely interrelated and need to be considered as a whole through an integrated, interdisciplinary and intersectoral approach,

Convinced of the need, building on arrangements established in accordance with the Convention, to improve coordination at the national level and cooperation and coordination at both intergovernmental and inter-agency levels, in order to address all aspects of oceans and seas in an integrated manner,

Recognizing the important role that the competent international organizations have in relation to ocean affairs, in implementing the Convention and in promoting the sustainable development of the oceans and seas,

Welcoming the outcome of the World Summit on Sustainable Development, held at Johannesburg, South Africa, from 26 August to 4 September 2002,³

¹ See *The Law of the Sea: Official Texts of the United Nations Convention on the Law of the Sea of 10 December 1982 and of the Agreement relating to the Implementation of Part XI of the United Nations Convention on the Law of the Sea of 10 December 1982 with Index and Excerpts from the Final Act of the Third United Nations Conference on the Law of the Sea* (United Nations publication, Sales No. E.97.V.10).

² *Report of the United Nations Conference on Environment and Development, Rio de Janeiro, 3-14 June 1992* (United Nations publication, Sales No. E.93.I.8 and corrigenda), vol. 1: *Resolutions adopted by the Conference*, resolution 1, annex II.

³ See *Report of the World Summit on Sustainable Development, Johannesburg, South Africa, 26 August-4 September 2002* (United Nations publication, Sales No. E.03.II.A.1 and corrigendum), chap. I.

Recalling the essential role of international cooperation and coordination in promoting the integrated management and sustainable development of the oceans and seas, and recalling also that the role of international cooperation and coordination on a bilateral basis and, where applicable, within a subregional, regional, interregional or global framework is to support and supplement the national efforts of all States, including coastal States, in promoting the implementation and observance of the Convention and the integrated management and sustainable development of coastal and marine areas,

Recalling also article 200 of the Convention,¹ in which States are encouraged to participate actively in regional and global programmes to acquire knowledge for the assessment of the nature and extent of marine pollution, and welcoming in this regard the recommendation of the World Summit on Sustainable Development to establish by 2004 a regular process under the United Nations for global reporting and assessment of the state of the marine environment, including socio-economic aspects, both current and foreseeable, building on existing regional assessments,⁴

Underlining once again the essential need for capacity-building to ensure that all States, especially developing countries, in particular least developed countries and small island developing States, are able both to implement the Convention and to benefit from the sustainable development of the oceans and seas, as well as to participate fully in global and regional forums and processes dealing with oceans and law of the sea issues,

Emphasizing the need to strengthen the ability of competent international organizations to contribute, at the global, regional, subregional and bilateral levels, including through cooperation programmes with Governments, to the development of national and local capacity in marine science and the sustainable management of oceans and their resources,

Taking note of the report of the Secretary-General,⁵ and emphasizing in this regard the critical role of the annual comprehensive report of the Secretary-General, which integrates information on developments relating to the implementation of the Convention and the work of the Organization, its specialized agencies and other institutions in the field of ocean affairs and the law of the sea at the global and regional levels, and as a result constitutes the basis for the annual consideration and review of developments relating to ocean affairs and the law of the sea by the General Assembly as the global institution having the competence to undertake such a review,

Taking note also of the report on the work of the United Nations Open-ended Informal Consultative Process (“the Consultative Process”) established by the General Assembly in its resolution 54/33 in order to facilitate the annual review by the Assembly of developments in ocean affairs at its third meeting,⁶

Reiterating its concern at the adverse impacts on the marine environment from ships, including pollution, in particular through the illegal release of oil and other harmful substances and by the dumping of hazardous waste, including radioactive materials, nuclear waste and dangerous chemicals, as well as physical impacts on coral,

Welcoming resolution GC(46)/RES/9 adopted on 20 September 2002 by the General Conference of the International Atomic Energy Agency at its forty-sixth session, concerning measures to strengthen international cooperation in nuclear, radiation, transport and waste safety, including those aspects relating to maritime transport safety,⁷

⁴ *Ibid.*, resolution 2, annex, para. 36(b).

⁵ See A/57/57 and Add.1.

⁶ See A/57/80.

⁷ See International Atomic Energy Agency, *Resolutions and Other Decisions of the General Conference, Forty-sixth Regular Session, 16-20 September 2002* (GC(46)/RES/DEC(2002)).

Noting the responsibilities of the Secretary-General under the Convention and related resolutions of the General Assembly, in particular resolutions 49/28, 52/26 and 54/33, and in this context the expected increase in responsibilities of the Division for Ocean Affairs and the Law of the Sea of the Office of Legal Affairs of the Secretariat in view of the progress in the work of the Commission on the Limits of the Continental Shelf (“the Commission”) and the anticipated receipt of submissions from States, in addition to the expected growing involvement of the Division with requests for technical assistance from States and its role in inter-agency coordination and cooperation,

I. Implementation of the Convention and related agreements and instruments

1. *Calls upon* all States that have not done so, in order to achieve the goal of universal participation, to become parties to the Convention¹ and the Agreement relating to the Implementation of Part XI of the United Nations Convention on the Law of the Sea of 10 December 1982 (“the Agreement”);¹

2. *Reaffirms* the unified character of the Convention;

3. *Once again calls upon* States to harmonize, as a matter of priority, their national legislation with the provisions of the Convention, to ensure the consistent application of those provisions and to ensure also that any declarations or statements that they have made or make when signing, ratifying or acceding to the Convention are in conformity therewith and, otherwise, to withdraw any of their declarations or statements that are not in conformity;

4. *Encourages* States parties to the Convention to deposit with the Secretary-General charts and lists of geographical coordinates, as provided for in the Convention;

5. *Welcomes* the entry into force on 11 December 2001 of the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks,⁸ and calls upon all States that have not yet done so to become parties to it;

6. *Emphasizes* the essential need also to improve the implementation of international agreements in accordance with article 311 of the Convention and, where appropriate, to foster the conditions for the application of instruments of a voluntary nature, and recalls the important role of international organizations in achieving these goals;

II. World Summit on Sustainable Development

7. *Welcomes* the Plan of Implementation of the World Summit on Sustainable Development (“Johannesburg Plan of Implementation”), adopted on 4 September 2002,⁹ which once again emphasizes the importance of addressing the sustainable development of oceans and seas and provides for the further implementation of chapter 17 of Agenda 21;²

8. *Also welcomes* the commitments set out in the Johannesburg Plan of Implementation to actions at all levels, within specific periods for certain goals, to ensure the sustainable development of the oceans, including sustainable fisheries, the promotion of the conservation and management of the oceans, the enhancement of maritime safety and the protection of the marine environment from pollution, and the improvement of scientific understanding and assessment of marine and coastal ecosystems as a fundamental basis for sound decision-making;

⁸ *International Fisheries Instruments with Index* (United Nations publication, Sales No. E.98.V.11), sect. I; see also A/CONF.164/37.

⁹ *Report of the World Summit on Sustainable Development, Johannesburg, South Africa, 26 August-4 September 2002* (United Nations publication, Sales No. E.03.II.A.1 and corrigendum), chap. I, resolution 2, annex.

III. Meeting of States Parties

9. *Requests* the Secretary-General to convene the thirteenth Meeting of States Parties to the Convention in New York from 9 to 13 June 2003 and to provide the services required;

IV. Settlement of disputes

10. *Notes with satisfaction* the continued contribution of the International Tribunal for the Law of the Sea (“the Tribunal”) to the peaceful settlement of disputes in accordance with Part XV of the Convention, underlines its important role and authority concerning the interpretation or application of the Convention and the Agreement, encourages States parties to the Convention to consider making a written declaration choosing from the means set out in article 287 for the settlement of disputes concerning the interpretation or application of the Convention and the Agreement, and invites States parties to note the provisions of annexes V, VI, VII and VIII to the Convention concerning, respectively, conciliation, the Tribunal, arbitration and special arbitration;

11. *Equally pays tribute* to the important and long-standing role of the International Court of Justice with regard to the peaceful settlement of disputes concerning the law of the sea;

12. *Recalls* the obligation under article 296 of the Convention requiring all parties to a dispute before a court or a tribunal referred to in article 287 of the Convention to comply promptly with any decision rendered by such court or tribunal;

13. *Encourages* States parties to the Convention that have not yet done so to nominate conciliators and arbitrators in accordance with annexes V and VII to the Convention, and requests the Secretary-General to continue to update and circulate lists of these conciliators and arbitrators on a regular basis;

V. The Area

14. *Notes with satisfaction* the first examination by the Council of the International Seabed Authority (“the Authority”) of annual reports on prospecting and exploration for polymetallic nodules in the Area submitted by contractors to the Authority;

15. *Notes* the preliminary discussion of issues relating to the regulations for prospecting and exploration for polymetallic sulphides and cobalt-rich crusts in the Area;

16. *Reiterates* the importance of the ongoing elaboration by the Authority, pursuant to article 145 of the Convention, of rules, regulations and procedures to ensure the effective protection of the marine environment, the protection and conservation of the natural resources of the Area and the prevention of damage to its flora and fauna from harmful effects that may arise from activities in the Area;

VI. Effective functioning of the Authority and the Tribunal

17. *Appeals* to all States parties to the Convention to pay their assessed contributions to the Authority and to the Tribunal in full and on time, and appeals also to all former provisional members of the Authority to pay any outstanding contributions;

18. *Calls upon* States that have not done so to consider ratifying or acceding to the Agreement on the Privileges and Immunities of the Tribunal¹⁰ and to the Protocol on the Privileges and Immunities of the Authority;¹¹

¹⁰ SPLOS/25.

¹¹ ISBA/4/A/8, annex.

VII. The continental shelf and the work of the Commission

19. *Notes with satisfaction* the progress in the work of the Commission, especially that the consideration of submissions regarding the establishment of the outer limits of the continental shelf beyond 200 nautical miles has begun with receipt of the first submission, made by the Russian Federation on 20 December 2001;

20. *Encourages* States parties that are in a position to do so to make every effort to make submissions to the Commission within the time period established by the Convention, taking into account the decision of the eleventh Meeting of States Parties to the Convention;¹²

21. *Encourages* States and relevant international organizations and institutions to consider developing and making available training courses to assist developing States in the preparation of such submissions, based on the outline for a five-day training course¹³ prepared by the Commission in order to facilitate the preparation of submissions in accordance with its Scientific and Technical Guidelines;¹⁴

22. *Approves* the convening by the Secretary-General of the twelfth session of the Commission in New York from 28 April to 2 May 2003, followed by two weeks of meetings of a subcommission in the event that a submission is made to the Commission, and of the thirteenth session of the Commission from 25 to 29 August 2003;

VIII. Marine science and technology

23. *Stresses* the importance of the issues of marine science and technology and the need to focus on how best to implement the many obligations of States and competent international organizations under Parts XIII and XIV of the Convention, and calls upon States to adopt, as appropriate and in accordance with international law, such national laws, regulations, policies and procedures as are necessary to promote and facilitate marine scientific research and cooperation, especially those relating to consent for marine scientific research projects as provided for in the Convention;

24. *Calls upon* States, through national and regional institutions, to ensure that, in respect of marine scientific research conducted pursuant to Part XIII of the Convention in areas over which a coastal State has jurisdiction, the rights of the coastal State under the Convention are respected and that, at the request of the coastal State, information, reports, results, conclusions and assessments of data, samples and research results are made available, and access to data and samples are provided, to that coastal State;

25. *Urges* relevant bodies of the United Nations system to develop, with the Intergovernmental Oceanographic Commission of the United Nations Educational, Scientific and Cultural Organization acting as a focal point and, where appropriate, other competent organizations, appropriate interactions in the field of marine science with regional fisheries organizations, environmental and scientific bodies or regional centres foreseen by Part XIV of the Convention, and encourages States to strengthen existing centres and to establish, where appropriate, such regional centres;

¹² SPLOS/72.

¹³ CLCS/24 and Corr.1.

¹⁴ CLCS/11 and Corr.1 and Add.1 and Corr.1.

IX. Maritime safety and security

26. *Urges* all States and relevant international bodies to cooperate to prevent and combat piracy and armed robbery at sea by adopting measures, including those relating to assistance with capacity-building, prevention, reporting and investigating incidents, and bringing the alleged perpetrators to justice, in accordance with international law, and through the adoption of national legislation, as well as through training seafarers, port staff and enforcement personnel, providing enforcement vessels and equipment and guarding against fraudulent ship registration;

27. *Calls upon* States and private entities concerned to cooperate fully with the International Maritime Organization, including by submitting reports on incidents to the organization and by implementing its guidelines on preventing attacks of piracy and armed robbery;

28. *Urges* States to become parties to the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation and its Protocol,¹⁵ invites States to participate in the review of those instruments by the Legal Committee of the International Maritime Organization to strengthen the means of combating such unlawful acts, including terrorist acts, and further urges States to take appropriate measures to ensure the effective implementation of those instruments, in particular through the adoption of legislation, where appropriate, aimed at ensuring that there is a proper framework for responses to incidents of armed robbery and terrorist acts at sea;

29. *Welcomes* initiatives at the International Maritime Organization to counter the threat to maritime security from terrorism, and encourages States to support this endeavour fully, including at the Conference of Contracting Governments to the International Convention for the Safety of Life at Sea of 1974, which is being held in London from 9 to 13 December 2002;

30. *Once again invites* the International Hydrographic Organization, in cooperation with other relevant international organizations and interested Member States, to provide the necessary assistance to States, in particular to developing countries, in order to enhance hydrographic capability to ensure, in particular, the safety of navigation and the protection of the marine environment;

31. *Notes* the increasing problem of unsafe transport at sea generally, and particularly in the smuggling of migrants;

32. *Urges* Member States to work together cooperatively and with the International Maritime Organization to strengthen measures to prevent the embarkation of ships involved in the smuggling of migrants;

33. *Urges* States that have not yet done so to become parties to the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime,¹⁶ and to take appropriate measures to ensure its effective implementation;

34. *Welcomes* the initiatives by the International Maritime Organization, the Office of the United Nations High Commissioner for Refugees and the International Organization for Migration to address the issue of the treatment of persons rescued at sea;

X. Capacity-building

35. *Reiterates its call* in paragraph 8 of its resolution 56/12, in line as well with the Johannesburg Plan of Implementation, for reviews by the relevant international organizations and financial institutions and the donor community of the efforts to build capacity in order to identify the gaps that may need to be filled for ensuring consistent approaches, both nationally and internationally, in order to implement the Convention and chapter 17 of Agenda 21;

¹⁵ International Maritime Organization publication, Sales No. 462.88.12E.

¹⁶ General Assembly resolution 55/25, annex III.

36. *Calls upon* bilateral and multilateral donor agencies to keep their programmes systematically under review to ensure the availability in all States, particularly in developing States, of the economic, legal, navigational, scientific and technical skills necessary for the full implementation of the Convention and the sustainable development of the oceans and seas nationally, regionally and globally, and in so doing to bear in mind the rights of landlocked developing States;

37. *Calls upon* States and international financial institutions, including through bilateral, regional and international cooperation programmes and technical partnerships, to continue to strengthen capacity-building activities, in particular in developing countries, in the field of marine scientific research by, inter alia, training the necessary skilled personnel, providing the necessary equipment, facilities and vessels, and transferring environmentally sound technologies;

38. *Calls upon* the United Nations Environment Programme, working within the Global Resource Information Database (GRID) system for data and information management, to expand on a voluntary basis the capacity of existing GRID centres to store and handle research data from the outer continental margin, on a basis to be mutually agreed with the coastal State, and complementary to existing regional data centres, giving due regard to confidentiality needs and in accordance with Part XIII of the Convention, and making use of existing data management mechanisms under the Intergovernmental Oceanographic Commission and the International Hydrographic Organization, with a view to serving the needs of coastal States, and in particular developing countries and small island developing States, in their compliance with article 76 of the Convention;

39. *Encourages* States to assist developing States, and especially least developed States and small island developing States, on a bilateral and, where appropriate, regional level, in the preparation of submissions to the Commission, including the assessment of the nature of the continental shelf of a coastal State made in the form of a desktop study, and the mapping of the outer limits of its continental shelf;

40. *Requests* the Secretary-General to compile in a uniform format a directory of sources of training, advice and expertise and technological services, including relevant institutions and other sources of technical information and practice, which may contribute to the preparation of such submissions, to be available to Member States and to be posted on the web site of the Division for Ocean Affairs and the Law of the Sea, bearing in mind that an entry in the directory would not imply official endorsement by the Secretariat of the United Nations of any such sources;

XI. Marine environment, marine resources and sustainable development

41. *Emphasizes once again* the importance of the implementation of Part XII of the Convention in order to protect and preserve the marine environment and its living marine resources against pollution and physical degradation, and calls upon all States to cooperate and take measures, directly or through competent international organizations, for the protection and preservation of the marine environment;

42. *Calls upon* States to continue to prioritize action on marine pollution from land-based sources as part of their national sustainable development strategies and programmes, in an integrated and inclusive manner, as a means of implementing the Global Programme of Action for the Protection of the Marine Environment from Land-based Activities;¹⁷

¹⁷ A/51/116, annex II.

43. *Also calls upon* States to advance the implementation of the Global Programme of Action for the Protection of the Marine Environment from Land-based Activities and the Montreal Declaration on the Protection of the Marine Environment from Land-based Activities,¹⁸ to enhance maritime safety and the protection of the marine environment from pollution and other physical impacts, and to improve the scientific understanding and assessment of marine and coastal ecosystems as a fundamental basis for sound decision-making through the actions identified in the Johannesburg Plan of Implementation;

44. *Invites* all relevant United Nations agencies to review individually their arrangements for collecting information and data relevant to the marine environment and for ensuring the quality of those data, using to the fullest possible extent what is available at the regional level, and to consider collectively how to ensure that the resulting information and data sets provide, within the constraints of existing resources, an acceptably consistent, coherent and comprehensive basis for international decision-making;

45. *Decides* to establish by 2004 a regular process under the United Nations for the global reporting and assessment of the state of the marine environment, including socio-economic aspects, both current and foreseeable, building on existing regional assessments, and requests the Secretary-General, in close collaboration with Member States, relevant organizations and agencies and programmes of the United Nations system, namely, the United Nations Environment Programme, the Intergovernmental Oceanographic Commission, the Food and Agriculture Organization of the United Nations, the International Maritime Organization, the World Health Organization, the International Atomic Energy Agency, the World Meteorological Organization and the secretariat of the Convention on Biological Diversity, other competent intergovernmental organizations and relevant non-governmental organizations, to prepare proposals on modalities for a regular process for the global reporting and assessment of the state of the marine environment, drawing, inter alia, upon the work of the United Nations Environment Programme pursuant to Governing Council decision 21/13, and taking into account the recently completed review by the Joint Group of Experts on the Scientific Aspects of Marine Environmental Protection, and to submit these proposals to the General Assembly at its fifty-eighth session for its consideration and decision, including on the convening of a possible intergovernmental meeting;

46. *Encourages* States to ratify or to accede to international agreements to prevent, reduce, control and eliminate pollution from ships, dumping, the carriage of hazardous and noxious substances, anti-fouling systems on ships and persistent organic pollutants, as well as agreements that provide for compensation for damage resulting from marine pollution;

47. *Welcomes* the decision of the International Maritime Organization to approve in principle the concept of a voluntary Model Audit Scheme as a means of enhancing the performance of member States in implementing appropriate conventions of the organization relating to maritime safety and the prevention of maritime pollution, and encourages the organization to continue to develop such a scheme;

48. *Notes with deep concern* the extremely serious damage of an environmental, social and economic nature brought about by oil spills as a result of recent maritime accidents which have affected several countries, and therefore calls upon all States and relevant international organizations to adopt all necessary and appropriate measures in accordance with international law to prevent catastrophes of this kind from occurring in the future;

49. *Invites* States to cooperate at the regional level to develop regionally shared goals and timetables in pursuance of the Global Programme of Action for the Protection of the Marine Environment from Land-based Activities, including through regional seas conventions;

¹⁸E/CN.17/2002/PC.2/15, annex, sect. 1.

50. *Calls upon* States to take measures for the protection and preservation of coral reefs and to support international efforts in this regard, in particular the measures outlined in decision VI/3 adopted by the Conference of the Parties to the Convention on Biological Diversity at its sixth meeting, held at The Hague from 7 to 19 April 2002;¹⁹

51. *Also calls upon* States to develop national, regional and international programmes for halting the loss of marine biodiversity, in particular fragile ecosystems;

52. *Further calls upon* States to accelerate the development of measures to address the problem of invasive alien species in ballast water, and urges the International Maritime Organization to finalize the International Convention on the Control and Management of Ships' Ballast Water and Sediments;

53. *Calls upon* States to promote the conservation and management of the oceans in accordance with chapter 17 of Agenda 21 and other relevant international instruments, to develop and facilitate the use of diverse approaches and tools, including the ecosystem approach, the elimination of destructive fishing practices, the establishment of marine protected areas consistent with international law and based on scientific information, including representative networks by 2012 and time/area closures for the protection of nursery grounds and periods, proper coastal and land use and watershed planning, and the integration of marine and coastal areas management into key sectors;

54. *Welcomes* the work of the Food and Agriculture Organization of the United Nations, which has special knowledge and expertise in various aspects of fisheries, in implementing the Code of Conduct for Responsible Fisheries,²⁰ for the conservation and management of fisheries resources;

55. *Urges* States to take all necessary steps to implement the International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing, adopted by the Committee on Fisheries of the Food and Agriculture Organization of the United Nations,²¹ including through relevant regional and subregional fisheries management organizations and arrangements;

56. *Encourages* relevant international organizations, including the Food and Agriculture Organization of the United Nations, the International Hydrographic Organization, the International Maritime Organization, the International Seabed Authority, the United Nations Environment Programme, the World Meteorological Organization, the secretariat of the Convention on Biological Diversity and the United Nations Secretariat (Division for Ocean Affairs and the Law of the Sea), with the assistance of regional and subregional fisheries organizations, to consider urgently ways to integrate and improve, on a scientific basis, the management of risks to marine biodiversity of seamounts and certain other underwater features within the framework of the Convention;

XII. Regional cooperation

57. *Emphasizes* the importance of regional organizations and arrangements for cooperation and coordination in integrated oceans management, and, where there are separate regional structures for different aspects of oceans management, such as environmental protection, fisheries management, navigation, scientific research and maritime delimitation, calls for those different structures, where appropriate, to work together for optimal cooperation and coordination;

¹⁹See UNEP/CBD/COP/6/20, annex I.

²⁰*International Fisheries Instruments with Index* (United Nations publication, Sales No. E.98.V.II), sect. III.

²¹See Food and Agriculture Organization of the United Nations, *Technical Guidelines for Responsible Fisheries*, No. 9.

58. *Takes note* of the Fund for Peace: Peaceful Settlement of Territorial Disputes established by the General Assembly of the Organization of American States in 2000 as a primary mechanism, given its broader regional scope, for the prevention and resolution of pending territorial, land border and maritime boundary disputes, and also takes note of the Caribbean-focused Trust Fund established by the Conference on Maritime Delimitation in the Caribbean, held in Mexico City from 6 to 8 May 2002, which is intended to facilitate, mainly as a conduit for technical assistance, the voluntary undertaking of maritime delimitation negotiations between Caribbean States, and calls upon States and others in a position to do so to contribute to these Funds;

59. *Also takes note* of the Pacific Islands Regional Ocean Policy approved at the thirty-third meeting of the Pacific Island Forum, held in Suva from 15 to 17 August 2002;²²

XIII. Open-ended informal consultative process on oceans and the law of the sea

60. *Reaffirms* its decision to undertake an annual review and evaluation of the implementation of the Convention and other developments relating to ocean affairs and the law of the sea, welcomes the work of the the Consultative Process over the past three years, notes the contribution of the Consultative Process to strengthening the annual debate of the General Assembly on oceans and the law of the sea, and decides to continue with the Consultative Process for the next three years, in accordance with resolution 54/33, with a further review of its effectiveness and utility at the sixtieth session;

61. *Requests* the Secretary-General to convene the meeting of the Consultative Process in New York from 2 to 6 June 2003, and to provide it with the necessary facilities for the performance of its work and to arrange for support to be provided by the Division for Ocean Affairs and the Law of the Sea, in cooperation with other relevant parts of the Secretariat, including the Division for Sustainable Development of the Department of Economic and Social Affairs, as appropriate;

62. *Recommends* that, in its deliberations on the report of the Secretary-General on oceans and the law of the sea at its meeting, the Consultative Process should organize its discussions around the following areas:

(a) Protecting vulnerable marine ecosystems;

(b) The safety of navigation; for example, capacity-building for the production of nautical charts;

as well as issues discussed at previous meetings;

XIV. Inter-agency coordination and cooperation

63. *Invites* the Secretary-General to establish an effective, transparent and regular inter-agency coordination mechanism on oceans and coastal issues within the United Nations system;

64. *Recommends* that this new mechanism should have a clear mandate and be established on the basis of principles of continuity, regularity and accountability, taking into account paragraph 49 of Part A of the report on the work of the Consultative Process at its third meeting;⁶

65. *Invites* Member States and, where appropriate, competent international organizations to identify focal points for the exchange of practical and administrative information concerning law of the sea and ocean issues with the United Nations Secretariat;

66. *Requests* the Secretary-General to bring the present resolution to the attention of heads of intergovernmental organizations, the specialized agencies and funds and programmes of the United Nations engaged in activities relating to ocean affairs and the law of the sea, drawing their attention to paragraphs of particular relevance to them, and underlines the importance of their constructive and timely input for the report of the Secretary-General on oceans and the law of the sea and of their participation in relevant meetings and processes;

²² See A/57/331, annex, para. 23.

67. *Invites* the competent international organizations, as well as funding institutions, to take specific account of the present resolution in their programmes and activities and to contribute to the preparation of the comprehensive report of the Secretary-General on oceans and the law of the sea;

XV. Activities of the Division for Ocean Affairs and the Law of the Sea

68. *Expresses its appreciation* to the Secretary-General for the annual comprehensive report on oceans and the law of the sea,⁵ prepared by the Division for Ocean Affairs and the Law of the Sea, as well as for the other activities of the Division, in accordance with the provisions of the Convention and the mandate set forth in resolutions 49/28, 52/26, 54/33 and 56/12;

69. *Requests* the Secretary-General to continue to carry out the responsibilities entrusted to him in the Convention and related resolutions of the General Assembly, including resolutions 49/28 and 52/26, and to ensure that appropriate resources are made available to the Division for Ocean Affairs and the Law of the Sea for the performance of such responsibilities under the approved budget for the Organization;

70. *Invites* Member States and others in a position to do so to support the training activities under the TRAIN-SEA-COAST Programme of the Division for Ocean Affairs and the Law of the Sea;

XVI. Trust funds and fellowship

71. *Recognizes* the importance of the trust funds established by the Secretary-General pursuant to General Assembly resolution 55/7 for the purpose of assisting States in the settlement of disputes through the Tribunal,²³ and of assisting developing countries, in particular the least developed countries and small island developing States, in the preparation of submissions to the Commission in compliance with article 76 of the Convention,²⁴ in defraying the cost of participation of Commission members in the meetings of the Commission,²⁵ and in attending the meetings of the Consultative Process,²⁶ as well as other trust funds²⁷ established for the purpose of assisting States in the implementation of the Convention, and invites States, intergovernmental organizations and agencies, national institutions, non-governmental organizations and international financial institutions, as well as natural and juridical persons, to make voluntary financial or other contributions to these trust funds;

72. *Invites* Member States and others in a position to do so to contribute to the further development of the Hamilton Shirley Amerasinghe Memorial Fellowship Programme on the Law of the Sea established by the General Assembly in its resolution 35/116 of 10 December 1980;

²³ See General Assembly resolution 55/7, para. 9.

²⁴ *Ibid.*, para. 18.

²⁵ *Ibid.*, para. 20.

²⁶ *Ibid.*, para. 45.

²⁷ See ISBA/8/A/11.

XVII. Fifty-eighth session of the General Assembly

73. *Requests* the Secretary-General to report to the General Assembly at its fifty-eighth session on the implementation of the present resolution, including other developments and issues relating to ocean affairs and the law of the sea, in connection with his annual comprehensive report on oceans and the law of the sea, and to provide the report in accordance with the modalities set out in resolutions 49/28, 52/26 and 54/33, and also requests the Secretary-General to make the report available, in its current comprehensive format, at least six weeks in advance of the meeting of the Consultative Process;

74. *Decides* to include in the provisional agenda of its fifty-eighth session the item entitled “Oceans and the law of the sea”.

2. General Assembly resolution 57/142 of 12 December 2002: Large-scale pelagic drift-net fishing, unauthorized fishing in zones of national jurisdiction and on the high seas/illegal, unreported and unregulated fishing, fisheries by-catch and discards, and other developments

The General Assembly,

Reaffirming its resolutions 46/215 of 20 December 1991, 49/116 and 49/118 of 9 December 1994, 50/25 of 5 December 1995, 51/36 of 9 December 1996, 52/29 of 26 November 1997, 53/33 of 24 November 1998 and 55/8 of 30 October 2000, as well as other resolutions on large-scale pelagic drift-net fishing, unauthorized fishing in zones of national jurisdiction and on the high seas, fisheries by-catch and discards, and other developments, and noting resolution 57/143 of 12 December 2002,

Noting that the Code of Conduct for Responsible Fisheries of the Food and Agriculture Organization of the United Nations¹ sets out principles and global standards of behaviour for responsible practices to conserve, manage and develop fisheries, including guidelines for fishing on the high seas and in areas under the national jurisdiction of other States, and on fishing gear selectivity and practices, with the aim of reducing by-catch and discards,

Welcoming the outcomes of the World Summit on Sustainable Development² concerning the importance of achieving sustainable fisheries to the maintenance of oceans, seas, islands and coastal areas as an integrated and essential component of the Earth's ecosystem, for global food security and for sustaining economic prosperity and the well-being of many national economies, particularly in developing countries,

Noting the importance of the wide application of the precautionary approach to the conservation, management and exploitation of straddling fish stocks and highly migratory fish stocks, in accordance with the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks ("the Agreement"),³ and the Code of Conduct for Responsible Fisheries,

Noting also the importance of implementing the principles elaborated in article 5 of the Agreement, including ecosystem considerations, in the conservation and management of straddling fish stocks and highly migratory fish stocks,

Noting further the Reykjavik Declaration on Responsible Fisheries in the Marine Ecosystem⁴ and decisions V/6⁵ and VI/12⁶ of the Conference of the Parties to the Convention on Biological Diversity,

Recognizing the importance of integrated, multidisciplinary and multisectoral coastal and ocean management⁴ at the national, subregional and regional levels,

¹ *International Fisheries Instruments with Index* (United Nations publication, Sales No. E.98.V.11), sect. III.

² See *Report of the World Summit on Sustainable Development, Johannesburg, South Africa, 26 August-4 September 2002* (United Nations publications, Sales No. E.03.II.A.1 and corrigendum), chap. I.

³ *International Fisheries Instruments with Index* (United Nations publication, Sales No. E.98.V.11); sect I; see also A/CONF.164/37.

⁴ E/CN.17/2002/PC.2/3, annex.

⁵ See UNEP/CBD/COP/5/23, annex III.

⁶ See UNEP/CBD/COP/6/20, annex I.

Recognizing also that coordination and cooperation at the global, regional, subregional as well as national levels in the areas, inter alia, of data collection, information-sharing, capacity-building and training are crucial for the conservation, management and sustainable development of marine living resources,

Recognizing further the duty provided as a principle in the Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas (“the Compliance Agreement”),⁷ the Agreement and the Code of Conduct for Responsible Fisheries for flag States to exercise effective control over fishing vessels flying their flag and vessels flying their flag which provide support to such vessels, and to ensure that the activities of such vessels do not undermine the effectiveness of conservation and management measures taken in accordance with international law and adopted at the national, subregional, regional or global levels,

Emphasizing the call made in the Plan of Implementation of the World Summit on Sustainable Development (“Johannesburg Plan of Implementation”)⁸ for States to ratify or accede to and then effectively implement the Agreement and the Compliance Agreement, and noting with concern that the latter agreement has not yet entered into force,

Noting that the Committee on Fisheries of the Food and Agriculture Organization of the United Nations in February 1999 adopted international plans of action for the management of fishing capacity, for reducing the incidental catch of seabirds in longline fisheries and for the conservation and management of sharks, and noting with concern that only a small number of countries have begun implementation of the international plans of action,

Concerned also that illegal, unreported and unregulated fishing threatens seriously to deplete populations of certain fish species and significantly damage marine ecosystems and that illegal, unreported and unregulated fishing has a detrimental impact on sustainable fisheries, including the food security and the economies of many States, particularly developing States, and in that regard urging States and entities referred to in the United Nations Convention on the Law of the Sea (“the Convention”)⁹ and in article 1, paragraph 2 (b), of the Agreement to collaborate in efforts to address these types of fishing activities,

Welcoming the adoption by the Food and Agriculture Organization of the United Nations in 2001 of an International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing,¹⁰ which focuses on the primary responsibility of the flag State and the use of all available jurisdiction in accordance with international law, including port State measures, coastal State measures, market-related measures and measures to ensure that nationals do not support or engage in illegal, unreported and unregulated fishing,

Noting that the objective of the International Plan of Action is to prevent, deter and eliminate illegal, unreported and unregulated fishing by providing all States with comprehensive, effective and transparent measures by which to act, including through appropriate regional fisheries management organizations in accordance with international law,

⁷ *International Fisheries Instruments with Index* (United Nations publication, Sales No. E.98.V.11), sect. II.

⁸ See *Report of the World Summit on Sustainable Development, Johannesburg, South Africa, 26 August-4 September 2002* (United Nations publication, Sales No. E.03.II.A.1 and corrigendum), chap. I. resolution 2, annex.

⁹ See *The Law of the Sea: Official Texts of the United Nations Convention on the Law of the Sea of 10 December 1982 and of the Agreement relating to the Implementation of Part XI of the United Nations Convention on the Law of the Sea of 10 December 1982 with Index and Excerpts from the Final Act of the Third United Nations Conference on the Law of the Sea* (United Nations publication, Sales No. E.97.V.10).

¹⁰ See Food and Agriculture Organization of the United Nations, *Technical Guidelines for Responsible Fisheries*, No. 9.

Taking note with appreciation of the report of the Secretary-General,¹¹ and emphasizing the useful role that the report plays in bringing together information relating to the sustainable development of the world's marine living resources provided by States, relevant international organizations, regional and subregional fisheries organizations and non-governmental organizations,

Noting with satisfaction that the incidence of reported large-scale pelagic drift-net fishing activities in most regions of the world's oceans and seas has continued to be low,

Concerned that the practice of large-scale pelagic drift-net fishing remains a threat to marine living resources,

Expressing its continuing concern that efforts should be made to ensure that the implementation of resolution 46/215 in some parts of the world does not result in the transfer to other parts of the world of drift-nets that contravene the resolution,

Expressing concern at the significant level of by-catch, including of juvenile fish, and discards in several of the world's fisheries, recognizing that the development and use of selective, environmentally safe and cost-effective fishing gear and techniques will be important for reducing or eliminating by-catch and discards, and calling attention to the impact this activity can have on efforts to conserve and manage fish stocks, including restoring some stocks to sustainable levels,

Expressing concern also at the reports of continued loss of seabirds, particularly albatrosses, as a result of incidental mortality from longline fishing operations, and the loss of other marine species, including sharks and fin-fish species, as a result of incidental mortality, noting with satisfaction the successful conclusion of negotiations on the Agreement for the Conservation of Albatrosses and Petrels under the Convention on the Conservation of Migratory Species of Wild Animals, and encouraging States to give due consideration to participation in this Agreement,

Noting with satisfaction the recent entry into force of the Inter-American Convention for the Protection and Conservation of Sea Turtles and Their Habitats, which contains provisions to minimize the incidental catch of sea turtles in fishing operations,

Noting with satisfaction also the recent adoption of regional sea turtle conservation instruments in the West African and Indian Ocean-South East Asia regions,

Recognizing the continuing need for the International Maritime Organization, the Food and Agriculture Organization of the United Nations, the United Nations Environment Programme, in particular its Regional Seas programme, and regional and subregional fisheries management organizations and arrangements to address the issue of marine debris derived from land-based and ship-generated sources of pollution, including derelict fishing gear, which can cause mortality and habitat destruction of marine living resources,

1. *Reaffirms* the importance it attaches to the long-term conservation, management and sustainable use of the marine living resources of the world's oceans and seas and the obligations of States to cooperate to this end, in accordance with international law, as reflected in the relevant provisions of the Convention,⁹ in particular the provisions on cooperation set out in part V and part VII, section 2, of the Convention regarding straddling stocks, highly migratory species, marine mammals, anadromous stocks and marine living resources of the high seas, and where applicable, the Agreement,³

2. *Also reaffirms* the commitment made at the World Summit on Sustainable Development to restore depleted fish stocks on an urgent basis and where possible not later than 2015;²

3. *Urges* all States to apply the precautionary approach widely to the conservation, management and exploitation of straddling fish stocks and highly migratory fish stocks, and calls upon States parties to the Agreement to implement fully the provisions of article 6 of the Agreement as a matter of priority;

¹¹ A/57/459.

4. *Encourages* States to apply by 2010 the ecosystem approach, notes the Reykjavik Declaration on Responsible Fisheries in the Marine Ecosystem⁴ and decisions V/6⁵ and VI/12⁶ of the Conference of the Parties to the Convention on Biological Diversity, supports continuing work under way in the Food and Agriculture Organization of the United Nations to develop guidelines for the implementation of ecosystem considerations in fisheries management, and notes the importance of relevant provisions of the Agreement and the Code of Conduct for Responsible Fisheries to this approach;

5. *Reaffirms* the importance it attaches to compliance with its resolutions 46/215, 49/116, 49/118, 50/25, 52/29, 53/33 and 55/8, and urges States and entities referred to in the Convention and in article 1, paragraph 2 (b), of the Agreement to enforce fully the measures recommended in those resolutions;

6. *Reiterates* the importance of efforts by States directly or, as appropriate, through the relevant regional and subregional organizations, and by other international organizations, including through financial and/or technical assistance, to increase the capacity of developing States to achieve the goals and implement the actions called for in the present resolution;

7. *Appeals* to States and regional fisheries organizations, including regional fisheries management bodies and regional fisheries arrangements, to promote the application of the Code of Conduct for Responsible Fisheries within their areas of competence;

8. *Encourages* coastal States to develop ocean policies and mechanisms on integrated management, including at the subregional and regional levels, and also including assistance to developing States in accomplishing these objectives;

9. *Calls upon* States and other entities referred to in article 10, paragraph 1, of the Compliance Agreement⁷ that have not deposited instruments of acceptance of the Compliance Agreement to do so as a matter of priority;

10. *Calls upon* States not to permit vessels flying their flag to engage in fishing on the high seas or in areas under the national jurisdiction of other States, unless duly authorized by the authorities of the States concerned and in accordance with the conditions set out in the authorization, without having effective control over their activities, and to take specific measures, in accordance with the relevant provisions of the Convention, the Agreement and the Compliance Agreement, to control fishing operations by vessels flying their flag;

11. *Also calls upon* States, in accordance with Agenda 21, adopted at the United Nations Conference on Environment and Development,¹² to take effective action, consistent with international law, to deter reflagging of vessels by their nationals as a means of avoiding compliance with applicable conservation and management measures for fishing vessels on the high seas;

12. *Notes with satisfaction* the continuing activities in the Food and Agriculture Organization of the United Nations through its Interregional Programme of Assistance to Developing Countries for the Implementation of the Code of Conduct for Responsible Fisheries, including the Global Partnerships for Responsible Fisheries, as a special programme funded through donor trust fund contributions aimed at, inter alia, promoting the implementation of the Code of Conduct and its associated international plans of action;

13. *Encourages* States to implement directly or, as appropriate, through the relevant international, regional and subregional organizations and arrangements, the international plans of action of the Food and Agriculture Organization of the United Nations for reducing the incidental catch of seabirds in longline fisheries, for the conservation and management of sharks and for the management of fishing capacity, since, according to the timetables contained within the international plans of action, progress on implementation, in particular through the development of national plans of action, should be either completed or at an advanced stage;

¹² *Report of the United Nations Conference on Environment and Development, Rio de Janeiro, 3-14 June 1992* (United Nations publication, Sales No. E.93.I.8 and corrigenda), vol. I: *Resolutions adopted by the Conference*, resolution 1, annex II.

14. *Urges* States to develop and implement national and, where appropriate, regional plans of action, to put into effect by 2004 the International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing of the Food and Agriculture Organization of the United Nations¹⁰ and to establish effective monitoring, reporting and enforcement and control of fishing vessels, including by flag States, to further the International Plan of Action;

15. *Also urges* States, as a matter of priority, to coordinate their activities and cooperate directly and, as appropriate, through relevant regional fisheries management organizations, in the implementation of the International Plan of Action, to promote information-sharing, to encourage the full participation of all stakeholders, and in all efforts to coordinate all the work of the Food and Agriculture Organization of the United Nations with other international organizations, including the International Maritime Organization;

16. *Invites* the Food and Agriculture Organization of the United Nations to continue its cooperative arrangements with United Nations agencies on the implementation of the International Plan of Action and to report to the Secretary-General, for inclusion in his annual report on oceans and the law of the sea, on priorities for cooperation and coordination in this work;

17. *Affirms* the need to strengthen, where necessary, the international legal framework for intergovernmental cooperation in the management of fish stocks and in combating illegal, unreported and unregulated fishing, in a manner consistent with international law;

18. *Notes with satisfaction* the continuing activities of the Food and Agriculture Organization of the United Nations aimed at providing assistance to developing countries in upgrading their capabilities in monitoring, control and surveillance, including through its Global Partnership for Responsible Fisheries project, “Management for Responsible Fisheries, Phase I”, which provides assistance to developing countries in upgrading their capabilities in monitoring, control and surveillance, and improving the provision of scientific advice for fisheries management;

19. *Also notes with satisfaction* the establishment of the International Monitoring, Control, and Surveillance Network for Fisheries-Related Activities, a voluntary network of monitoring, control and surveillance professionals designed to facilitate exchange of information and to support countries in satisfying their obligations pursuant to international agreements, in particular the Compliance Agreement, and encourages States to consider becoming members of the Network;

20. *Urges* States to eliminate subsidies that contribute to illegal, unreported and unregulated fishing and to over-capacity, while completing the efforts undertaken at the World Trade Organization to clarify and improve its disciplines on fisheries subsidies, taking into account the importance of this sector to developing countries;

21. *Urges* States, relevant international organizations and regional and subregional fisheries management organizations and arrangements that have not done so to take action to reduce or eliminate by-catch, fish discards and post-harvest losses, including juvenile fish, consistent with international law and relevant international instruments, including the Code of Conduct for Responsible Fisheries, and in particular to consider measures including, as appropriate, technical measures related to fish size, mesh size or gear, discards, closed seasons and areas and zones reserved for selected fisheries, particularly artisanal fisheries, the establishment of mechanisms for communicating information on areas of high concentration of juvenile fish, taking into account the importance of ensuring confidentiality of such information, and support for studies and research that will minimize by-catch of juvenile fish;

22. *Notes with satisfaction* the activities of the Food and Agriculture Organization of the United Nations, in cooperation with relevant United Nations agencies, in particular United Nations Environment Programme and the Global Environment Facility, aimed at promoting the reduction of by-catch and discards in fisheries activities;

23. *Calls upon* the Food and Agriculture Organization of the United Nations, the United Nations Environment Programme, in particular its Regional Seas programme, the International Maritime Organization, regional and subregional fisheries management organizations and arrangements and other appropriate intergovernmental organizations to take up, as a matter of priority, the issue of marine debris as it relates to fisheries and, where appropriate, to promote better coordination and help States to implement fully relevant international agreements, including annex V to the Guidelines of the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto;

24. *Invites* States entitled to become parties to the Inter-American Convention for the Protection and Conservation of Sea Turtles and their Habitats to consider doing so, and to participate in its work;

25. *Invites* States entitled to become parties to the Memorandum of Understanding concerning Conservation Measures for Marine Turtles of the Atlantic Coast of Africa and the Memorandum of Understanding on the Conservation and Management of Marine Turtles and Their Habitats of the Indian Ocean and South-East Asia to consider doing so, and to participate in their work;

26. *Invites* regional and subregional fisheries management organizations and arrangements to ensure that all States having a real interest in the fisheries concerned may become members of such organizations or participate in such arrangements, in accordance with the Convention and the Agreement;

27. *Requests* the Secretary-General to bring the present resolution to the attention of all members of the international community, relevant intergovernmental organizations, the organizations and bodies of the United Nations system, regional and subregional fisheries management organizations and relevant non-governmental organizations, and to invite them to provide the Secretary-General with information relevant to the implementation of the present resolution;

28. *Also requests* the Secretary-General to submit to the General Assembly at its fifty-ninth session a report on “Sustainable fisheries, including through the 1995 Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks, and related instruments”, taking into account information provided by States, relevant specialized agencies, in particular the Food and Agriculture Organization of the United Nations, and other appropriate organs, organizations and programmes of the United Nations system, regional and subregional organizations and arrangements for the conservation and management of straddling fish stocks and highly migratory fish stocks, as well as other relevant intergovernmental bodies and non-governmental organizations, and consisting of elements to be provided by the General Assembly in its resolution on fisheries to be adopted at its fifty-eighth session;

29. *Decides* to include in the provisional agenda of its fifty-eighth session, under the item entitled “Oceans and the law of the sea”, the sub-item entitled “Sustainable fisheries, including through the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks, and related instruments”.

3. General Assembly resolution 57/143 of 12 December 2002: Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks

The General Assembly,

Recalling the relevant provisions of the United Nations Convention on the Law of the Sea of (“the Convention”),¹ and bearing in mind the relationship between the Convention and the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks (“the Agreement”),²

Recalling also its resolution 56/13 of 28 November 2001, and bearing in mind its resolution 57/142 of 12 December 2002,

Recognizing that, in accordance with the Convention, the Agreement sets forth provisions concerning the conservation and management of straddling fish stocks and highly migratory fish stocks, including provisions on subregional and regional cooperation in enforcement, binding dispute settlement and the rights and obligations of States in authorizing the use of vessels flying their flags for fishing on the high seas,

Welcoming the entry into force of the Agreement, and noting that the entry into force of the Agreement entails responsibilities for States parties and other important considerations as outlined in the Agreement,

Welcoming also the outcomes of the World Summit on Sustainable Development,³ in particular, those relating to the conservation and management of straddling fish stocks and highly migratory fish stocks,

Deploring the fact that the straddling fish stocks and highly migratory fish stocks in many parts of the world are overfished or subject to sparsely regulated and heavy fishing efforts, mainly as a result of, inter alia, unauthorized fishing, inadequate regulatory measures and excess fishing capacity,

Recognizing that insufficient monitoring, control and surveillance measures and inadequate flag State control over vessels fishing for straddling fish stocks and highly migratory fish stocks in many parts of the world exacerbate the problem of overfishing, and recognizing also the urgent need for capacity-building in monitoring, control and surveillance measures and addressing inadequate flag State control for developing States, in particular the least developed among them and small island developing States,

Noting the obligation of all States, pursuant to the provisions of the Convention, to cooperate in the conservation and management of straddling fish stocks and highly migratory fish stocks,

¹ See *The Law of the Sea: Official Texts of the United Nations Convention on the Law of the Sea of 10 December 1982 and of the Agreement relating to the Implementation of Part XI of the United Nations Convention on the Law of the Sea of 10 December 1982 with Index and Excerpts from the Final Act of the Third United Nations Conference on the Law of the Sea* (United Nations publication, Sales No. E.97.V.10).

² *International Fisheries Instruments with Index* (United Nations publication, Sales No. E.98.V.11), sect. I; see also A/CONF.164/37.

³ See *Report of the World Summit on Sustainable Development, Johannesburg, South Africa, 26 August-4 September 2002* (United Nations publication, Sales No. E.03.II.A.1 and corrigendum), chap. I.

Conscious that the Agreement requires States, and entities referred to in the Convention and in article 1, paragraph 2 (b), of the Agreement, to pursue cooperation in relation to straddling fish stocks and highly migratory fish stocks either directly or through appropriate subregional or regional fisheries management organizations or arrangements, taking into account the specific characteristics of the subregion or region, to ensure the effective conservation, management and long-term sustainability of such stocks, and to establish such organizations or arrangements where none exist,

Recognizing the obligation of States to cooperate, either directly or through subregional, regional or global organizations, to enhance the ability of developing States, in particular the least developed among them and small island developing States, to conserve and manage straddling fish stocks and highly migratory fish stocks and to develop their own fisheries for such stocks,

Calling attention to the circumstances affecting fisheries in many developing States, in particular African States and small island developing States,

Taking into account that, in accordance with the Convention, the Agreement and the Code of Conduct for Responsible Fisheries of the Food and Agriculture Organization of the United Nations,⁴ States fishing for straddling fish stocks or highly migratory fish stocks on the high seas, and relevant coastal States, shall give effect to their duty to cooperate either directly or by becoming members of the subregional or regional fisheries management organizations or participants in arrangements of that nature, or by agreeing to apply the conservation and management measures established by such organizations or arrangements, and that States having a real interest in the fisheries concerned may become members of such organizations or participants in such arrangements,

Recognizing the importance of the Agreement for the conservation and management of straddling fish stocks and highly migratory fish stocks and the need for the regular consideration by the General Assembly of developments relating thereto,

Noting the outcomes of the first informal consultations of States parties to the Agreement, and taking into account the recommendations to the General Assembly by the States parties that participated in that meeting,⁵

Emphasizing that, as recognized during the first informal consultations of States parties to the Agreement, implementation of the provisions in Part VII of the Agreement is fundamental to the successful implementation of the Agreement and, in particular, to assisting developing States, in particular the least developed among them and small island developing States, in meeting their obligations and realizing their rights under the Agreement,

Welcoming the conclusion of negotiations, and the ongoing preparatory work, to establish new regional instruments, arrangements and organizations in several heretofore unmanaged fisheries, and noting the role of the Convention and the Agreement, while taking into account the Code of Conduct for Responsible Fisheries, in the elaboration of these instruments, arrangements and organizations,

Welcoming also the fact that a growing number of States, and entities referred to in the Convention and in article 1, paragraph 2 (b), of the Agreement, as well as regional and subregional fisheries management organizations and arrangements, have enacted legislation, established regulations, adopted conventions or taken other measures as steps towards implementation of the provisions of the Agreement,

1. *Expresses its deep satisfaction* at the entry into force of the Agreement;²

2. *Calls upon* all States, and entities referred to in the Convention¹ and in article 1, paragraph 2 (b), of the Agreement, that have not done so to ratify or accede to it and to consider applying it provisionally;

⁴ *International Fisheries Instruments with Index* (United Nations publication, Sales No. E.98.V.11), sect. III.

⁵ See A/57/57/Add.1.

3. *Calls upon* all States that have not done so, in order to achieve the goal of universal participation, to become parties to the Convention, which sets out the legal framework within which all activities in the oceans and seas must be carried out, taking into account the relationship between the Convention and the Agreement;

4. *Reaffirms* the outcomes of the World Summit on Sustainable Development,³ in particular, those relating to the conservation and management of straddling fish stocks and highly migratory fish stocks;

5. *Emphasizes* the importance of the effective implementation of the provisions of the Agreement, including those provisions relating to bilateral, regional and subregional cooperation in enforcement, and urges continued efforts in this regard;

6. *Urges* all States, and entities referred to in the Convention and in article 1, paragraph 2 (b), of the Agreement, to pursue cooperation in relation to straddling fish stocks and highly migratory fish stocks, either directly or through appropriate subregional or regional fisheries management organizations or arrangements, to ensure the effective conservation, management and long-term sustainability of such stocks, to agree upon measures necessary to coordinate and, where there are no subregional or regional fisheries management organizations or arrangements in respect of particular straddling or highly migratory fish stocks, to cooperate to establish such organizations or enter into other appropriate arrangements;

7. *Welcomes* the initiation of negotiations and ongoing preparatory work to establish regional and subregional fisheries management organizations or arrangements in several fisheries, and urges participants in those negotiations to apply provisions of the Convention and the Agreement to their work;

8. *Calls upon* all States to ensure that their vessels comply with the conservation and management measures that have been adopted by subregional and regional fisheries management organizations and arrangements in accordance with relevant provisions of the Convention and of the Agreement;

9. *Invites* States and international financial institutions and organizations of the United Nations system to provide assistance according to Part VII of the Agreement, including, if appropriate, the development of special financial mechanisms or instruments to assist developing States, in particular the least developed among them and small island developing States, to enable them to develop their national capacity to exploit fishery resources, including developing their domestically flagged fishing fleet, value-added processing and the expansion of their economic base in the fishing industry, consistent with the duty to ensure the proper conservation and management of those fisheries resources;

10. *Invites* States and relevant intergovernmental organizations to develop projects, programmes and partnerships with relevant stakeholders and mobilize resources for the effective implementation of the outcome of the African Process for the Protection and Development of the Marine and Coastal Environment, and to consider the inclusion of fisheries components in this work;

11. *Also invites* States and relevant intergovernmental organizations to further implement sustainable fisheries management and improve financial returns from fisheries by supporting and strengthening relevant regional fisheries management organizations, as appropriate, such as the recently established Caribbean Regional Fisheries Mechanism and such agreements as the Convention on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific;

12. *Recognizes* the benefits of developing a programme of assistance with multiple components in accordance with Part VII of the Agreement, to complement programmes at the bilateral, subregional, regional and global levels;

13. *Requests* the Secretary-General to include in his next report on the status and implementation of the Agreement a background study on current activities under Part VII of the Agreement, and emphasizes the importance of this request to the successful development of terms of reference for a Part VII fund, calls for the study to include a survey of current assistance programmes under way in support of Part VII principles and an analysis of such programmes, and requests that the study be completed before the next round of informal consultations of the Secretary-General with States parties to the Agreement;

14. *Considers* that one component of a programme of assistance to be developed in accordance with Part VII of the Agreement should be the establishment of a voluntary trust fund (Part VII fund) within the United Nations system, to support developing States parties, in particular the least developed among them and small island developing States, dedicated to Part VII implementation, notes the role of the Food and Agriculture Organization of the United Nations as the specialized agency responsible for fisheries, and that of the Division for Ocean Affairs and the Law of the Sea of the Office of Legal Affairs of the Secretariat as the secretariat for the Agreement, and requests the Committee on Fisheries of the Food and Agriculture Organization of the United Nations at its next meeting to consider its participation in the development and management of the Part VII fund;

15. *Urges* States parties to the Agreement to develop detailed terms of reference for the Part VII fund, and requests that the following activities be considered for early implementation through the Part VII fund:

(a) Facilitating the participation of developing States parties in relevant regional and subregional fisheries management organizations and arrangements;

(b) Assisting with travel costs associated with the participation of developing States parties in meetings of relevant global organizations;

(c) Supporting ongoing and future negotiations to establish new regional or subregional fisheries management organizations and arrangements in areas where such bodies are not currently in place, and to strengthen existing subregional and regional fisheries management organizations and arrangements;

(d) Building capacity for activities in key areas such as monitoring, control and surveillance, data collection and scientific research;

(e) Exchanging information and experience on the implementation of the Agreement;

(f) Assisting with human resources development and technical assistance;

16. *Emphasizes* the importance of outreach to potential donor organizations to contribute to the programme of assistance;

17. *Recalls* paragraph 6 of its resolution 56/13, and requests the Secretary-General to convene a second round of informal consultations with States that have either ratified or acceded to the Agreement, for the purposes and objectives of considering the national, regional, subregional and global implementation of the Agreement, and making any appropriate recommendation to the General Assembly;

18. *Requests* the Secretary-General to invite States, and entities referred to in the Convention and in article 1, paragraph 2 (b), of the Agreement, not party to the Agreement, as well as the United Nations Development Programme, the Food and Agriculture Organization of the United Nations and other specialized agencies, the Commission on Sustainable Development, the World Bank, the Global Environment Facility and other relevant international financial institutions, regional fishery bodies and arrangements and relevant non-governmental organizations to attend the second round of informal consultations with States parties to the Agreement as observers;

19. *Also requests* the Secretary-General to develop, in consultation with the Food and Agriculture Organization of the United Nations, a voluntary survey to solicit information from States parties and other States that may wish to participate, as well as regional and subregional fisheries management organizations and arrangements, on activities related to the implementation of provisions of the Agreement, similar to the survey currently in use by the Food and Agriculture Organization concerning implementation of the Code of Conduct for Responsible Fisheries,⁴ with a view to encouraging through this mechanism greater exchange of information with regard to implementation of the Agreement, and to include the results of the survey in the report of the Secretary-General to the General Assembly at its fifty-eighth session, on the understanding that such a report will also be available to the second round of informal consultations of States parties for their consideration;

20. *Further requests* the Secretary-General to submit to the General Assembly at its fifty-ninth session a report on “Sustainable fisheries, including through the 1995 Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks, and related instruments”, taking into account information provided by States, relevant specialized agencies, in particular the Food and Agriculture Organization of the United Nations, and other appropriate organs, organizations and programmes of the United Nations system, regional and subregional organizations and arrangements for the conservation and management of straddling fish stocks and highly migratory fish stocks, as well as other relevant intergovernmental bodies and non-governmental organizations, and consisting of elements to be provided by the General Assembly in its resolution on fisheries to be adopted at the fifty-eighth session;

21. *Decides* to include in the provisional agenda of its fifty-eighth session, under the item entitled “Oceans and the law of the sea”, a sub-item entitled “Sustainable fisheries, including through the 1995 Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks, and related instruments”.

B. National legislation

1. Czech Republic

- (a) Act 61 on Maritime Navigation*
of 24 February 2000

Parliament has passed the following Act of the Czech Republic:

PART ONE
GENERAL PROVISIONS

Section 1
Scope of the Act

1. This Act regulates:
- (a) Conditions for operation of seagoing vessels, maritime navigation under the national flag of the Czech Republic, and the rights and obligations of legal and natural persons connected with it;
 - (b) The execution of the state administration in matters of maritime navigation.
2. This Act does not apply to the maritime navigation of military vessels, water scooters and inflatable boats or to the maritime navigation of small vessels, provided they are operated under the laws covering inland navigation.¹

Section 2
Basic terms

1. Maritime navigation means the operation of seagoing vessels and seagoing yachts on the high seas² in the exclusive economic zone² and archipelagic waters,² in the territorial sea² and on stretches of inland waterways connected with the territorial sea up to a port performing the functions of a port for seagoing vessels and for the stay of seagoing vessels and seagoing pleasure yachts in ports.²
2. Seagoing vessel means a seagoing merchant ship or seagoing yacht.
3. Near-coast navigation means the operation of seagoing vessels exclusively in the territorial sea between ports of a coastal State or coastal States.

* Text communicated on 7 January 2003 by the Permanent Mission of the Czech Republic to the United Nations through note 16/2003.

¹Act No. 114/1995 Coll., on inland navigation, as amended by Act No. 358/1999 Coll.

²United Nations Convention on the Law of the Sea, published under No. 240/1996 Coll.

4. Seagoing merchant ship means a seagoing vessel operating under its own propulsion for the purpose of carrying cargo or passengers or carrying cargo and passengers (hereinafter referred to as “ship”).
5. Seagoing yacht means a seagoing vessel the length of whose hull exceeds 2.5 metres but is not more than 24 metres, equipped with sails or an engine or both, designed for maritime navigation for hire and for the purpose of profit.
6. Pleasure yacht means a vessel the length of whose hull exceeds 2.5 metres but is not more than 24 metres, and which is equipped with sails or an engine or both and is designed for maritime navigation for sports or recreational purposes on its own account.
7. Ferry boat means a ship designed for the carriage of road and rail vehicles which are driven on and off the ship under their own power and passengers travelling on a regular line, as in a sea ferry.
8. Ship of the Ro/Ro type means a ship with a lift-off bow ramp, side doors or stern ramp, designed exclusively for the carriage of vehicles or other cargoes on undercarriages or low-bed trailers.
9. Classification society means, for the purposes of this Act, a legal person who is a member of the International Association of Classification Societies, carries out classification of seagoing vessels and issues certificates thereof. The classification society may be authorized by the Maritime Authority of the Czech Republic to issue statutory certificates in compliance with international agreements binding on the Czech Republic and published in the Collection of Laws or Collection of International Agreements (hereafter referred to as “international agreements binding on the Czech Republic”).³

Section 3 Maritime Authority

State administration and state supervision in matters of maritime navigation shall be executed by the Ministry of Transport and Communications. The Ministry of Transport and Communications shall perform the function of the Maritime Authority (hereinafter referred to as “the Authority”) in relation to international agreements binding on the Czech Republic.

PART TWO THE RIGHT TO FLY THE FLAG AND THE MARITIME REGISTER

The right to fly the flag

Section 4

1. The right and obligation to fly the national flag of the Czech Republic shall arise by the entry of the seagoing vessel in the Maritime Register of the Czech Republic (hereinafter referred to as “Maritime Register”) or following a decision of the Authority on an interim passport for flying the national flag of the Czech Republic (hereinafter referred to as “interim passport”).

³ For example, International Convention for the Safety of Life at Sea (SOLAS), 1974, published under No. 52/1995 Coll., 1978 Protocol to SOLAS, 1974, published under No. 52/1995 Coll.

2. The law of the Czech Republic shall apply aboard a seagoing vessel flying the national flag of the Czech Republic. The law of the Czech Republic shall apply on a territorial sea or inland waterway connected with the territorial sea and in a port for a seagoing vessel flying the national flag of the Czech Republic, unless the coastal State enforces its right under international law.
3. With its entry in the Maritime Register a seagoing vessel acquires the nationality of the Czech Republic. The owner of the seagoing vessel shall pay an annual fee for the right to fly the national flag of the Czech Republic.
4. The amount of the annual fee shall be set out in accordance with the type of the seagoing vessel, its size and maritime navigation trading area. The method of payment and proof of payment of the fee shall be determined by the Government.

Section 5

1. Maritime navigation is to be carried out under the national flag of the Czech Republic, with the exception of maritime navigation carried out for the purpose of:
 - (a) Fishery;
 - (b) Ferry boats or ships of the Ro/Ro type;
 - (c) Regular passenger liner service by a passenger ship.
2. Cabotage is to be carried out under the national flag of the Czech Republic only with the approval of the coastal States in whose territorial sea the cabotage takes place.

Section 6

1. The owner of a seagoing vessel shall be a legal or natural person who demonstrates his legal claim to the ownership of the seagoing vessel at the time of entry of the seagoing vessel in the Maritime Register.
2. Seagoing vessel operator means a natural person having his permanent residence in the Czech Republic or a legal person established in the Czech Republic which under its name carries out maritime navigation under the national flag of the Czech Republic and concurrently is the owner of the seagoing vessel or is authorized by the seagoing vessel owner to operate the seagoing vessel under its own name and under its own responsibility.
3. A person authorized to operate a seagoing vessel under paragraph 2 must not authorize another person to operate such vessel without the previous agreement of the seagoing vessel owner.

Maritime Register

Section 7

1. The Maritime Register shall be a public list in which the data on seagoing vessels shall be entered. The Maritime Register shall be kept by the Authority.
2. A seagoing vessel may be entered in the Maritime Register only following a decision of the Authority thereon. The right to fly the national flag of the Czech Republic shall arise on the day of the entry of the ship in the Register.
3. The records of ships, of seagoing yachts and of ships under construction shall be kept separately in the Maritime Register.

4. Any person may examine the Maritime Register and take extracts from it and copies of it.
5. An administrative fee shall be charged for operations connected with keeping the records.⁴

Section 8

1. The following data shall be entered in the Maritime Register:
 - (a) Name of the seagoing vessel;
 - (b) Ship's identification number assigned by the International Maritime Organization⁵ or identification number of the hull of the yacht assigned by the manufacturer or classification society;
 - (c) Purpose for which the seagoing vessel is designed;
 - (d) Ship call sign (distinctive letters);
 - (e) Seagoing vessel owner:
 - (i) For a natural person the following data shall be entered: first name, surname, date of birth, personal identification number and address of permanent residence;
 - (ii) For a legal person the following data shall be entered: trade name, place of establishment, legal form, identification number, place of business, if appropriate, name of statutory representative;
 - (f) Seagoing vessel operator in the case where a different entity is involved (for the entry of data the same requirements apply as for the seagoing vessel owner);
 - (g) Basic technical particulars on the seagoing vessel;
 - (h) Mortgage liens and rights of retention placed on the seagoing vessel and other facts limiting the handling of the seagoing vessel;
 - (i) Parallel registration of a ship;
 - (j) Any decision on the suspension of a seagoing vessel's registration;
 - (k) Reason for and date of removal of a seagoing vessel from the Maritime Register;
 - (l) Date on which the seagoing vessel was entered in the Maritime Register and signature of the Registrar.
2. The person concerned by an entry in the Maritime Register cannot claim that that entry does not reflect reality with regard to a person who acts in good faith on the basis of that entry.
3. The method of record-keeping for seagoing vessels, including the basic technical particulars of seagoing vessels and other technical particulars to be entered in the Maritime Register, shall be specified in an implementing regulation.

⁴Act No. 368/1992 Coll., on administrative dues, as amended.

⁵Convention on the International Maritime Organization, 1948, published under No. 52/1995 Coll.

Section 9

Decision on the entry of a seagoing vessel in the Maritime Register

1. The Authority shall take a decision on the entry of seagoing vessel in the Maritime Register on the basis of an application in writing and under the following conditions:
 - (a) The seagoing vessel operator must be a natural person who has reached the age of 21, is qualified to perform legal acts and has a clean record, or a legal person whose statutory body or the members of whose statutory body have reached 21 years of age, are qualified to perform legal acts and have a clean record;
 - (b) The seagoing vessel must be technically seaworthy;
 - (c) The seagoing vessel may not be entered in the Maritime Register of another State, with the exception of cases where the registration of a ship in the Maritime Register of another State has been suspended for reasons of parallel registration.
2. With its entry in the Maritime Register the seagoing vessel shall acquire the nationality of the Czech Republic. The entry of a seagoing vessel in the Maritime Register shall certify the ownership of the seagoing vessel.
3. The Authority shall certify the entry of a seagoing vessel in the Maritime Register by issuing a certificate of registry. The ship's certificate of registry shall be issued for an unspecified time period. The yacht's certificate of registry shall be issued for a time period covering the validity of the yacht's technical seaworthiness.

Section 10

Clean record of an operator of a seagoing vessel

A person who has been sentenced ex officio for a criminal act the subject matter of which relates to maritime navigation or a person who has been sentenced ex officio for another criminal act committed intentionally, provided that such person is considered to have been sentenced, shall not be considered as having a clean record.

Section 11

Procedure for the entry of a seagoing vessel in the Maritime Register

1. An application for entry of a seagoing vessel in the Maritime Register shall be filed by the operator of the seagoing vessel.
2. The application for entry in the Maritime Register shall contain:
 - (a) The business name, registered office, legal form and identification number of the legal person owning the seagoing vessel or the name, permanent residence address, business name and personal identification number of the natural person in possession of the seagoing vessel;
 - (b) The business name, registered office, legal form and identification of the legal person who is in possession of the seagoing vessel and is authorized to operate the vessel in his own name and under his own responsibility, and the personal identification number of the natural person who is in possession of the seagoing vessel and is authorized to operate the vessel under his own name and under his own responsibility, unless the owner of the seagoing vessel is also its operator;
 - (c) The basic technical particulars of the seagoing vessel which is the subject of the entry in accordance with section 8 (1).
3. The application for entry in the Maritime Register shall be substantiated by:

- (a) Where a natural person is the applicant, an extract from the Penal Register concerning the natural person, or where a legal person is the applicant, an extract from the Penal Register covering all members of the statutory body, the extract from the Penal Register shall be no more than six months old;
 - (b) If the applicant is a legal person that has already been entered, an extract from the Business Register or a document attesting to the establishment of said legal person;
 - (c) A document certifying the ownership of the seagoing vessel;
 - (d) A document certifying the legal relation of the operator of the seagoing vessel to the seagoing vessel;
 - (e) A document certifying the technical seaworthiness of the seagoing vessel;
 - (f) In the case of a parallel registration, a document on the previous removal of the seagoing vessel from the Maritime Register of another State, or in the case of a new ship, an affidavit stating that the ship is not entered in the Maritime Register of another State;
 - (g) An authenticated duplicate of a document on a mortgage lien or a retention right placed on the seagoing vessel, if such exists, or on other facts limiting the handling of the seagoing vessel;
 - (h) A document certifying the identification number assigned by the International Maritime Organization³ or the identification number of the seagoing yacht's hull assigned by the manufacturer or the classification society;
 - (i) A document demonstrating that the operator of the seagoing vessel satisfies the conditions relating to permanent residence of the registered office in the Czech Republic laid down in section 6 (2) of this Act;
 - (j) A document attesting to payment of the administrative fee.⁴
4. There is no legal right of a seagoing vessel to an entry in the Maritime Register.
5. The particulars and specimen of the application for entry in the Maritime Register and details on documents substantiating the application for entry of a seagoing vessel in the Maritime Register shall be set out in an implementing regulation.

Demonstration of the technical seaworthiness of a seagoing vessel

Section 12

1. The technical seaworthiness of a ship shall be demonstrated by:
- (a) Certificate attesting to the ship's class issued by the classification society;
 - (b) Certificates attesting to the construction of the ship and its equipment and tackle (hereinafter referred to as "statutory certification") issued by the classification society and authorized by the Authority in accordance with the requirements of international agreements binding on the Czech Republic.³
2. In the case of a newly built ship the technical seaworthiness of the ship shall be demonstrated by the certificate attesting to the new construction issued by the shipbuilder.

Section 13

1. The technical seaworthiness of a seagoing yacht, its maritime navigation equipment and its area of allowable maritime navigation, including a delimitation of the distance of its allowable maritime navigation from the mainland and the coast, shall be demonstrated by a certificate of seaworthiness issued by the classification society or other person authorized or recognized by the Authority.
2. The certificate of technical seaworthiness of a seagoing yacht for purposes of maritime navigation shall be in force for a maximum period of five years from the date of its issuance.
3. The requirements for the technological and rescue equipment of a seagoing yacht for purposes of maritime navigation and the delimitation of the distance of its area of allowable maritime navigation from the mainland or the coast shall be set out in an implementing regulation.

Section 14

Entry of a ship under construction in the Maritime Register

1. A ship under construction may be entered in the Maritime Register. The application for entry of a ship under construction shall be submitted by the owner of the ship.
2. A decision to enter a ship under construction in the Maritime Register shall be made by the Authority. The application for entry of a ship under construction in the Maritime Register shall contain the business name, the registered office and legal form of the legal person in possession of the ship under construction and the ship's identification number, or the name, permanent residence address, business name and personal identification number of the natural person who is in possession of the ship under construction.
3. The application for entry of a ship under construction in the Maritime Register shall be substantiated by:
 - (a) A verified copy of the contract or document on the establishment or founding of the legal person, and an extract from the Commercial Register in the case of a legal person entered in the Commercial Register;
 - (b) A document certifying the ownership of the ship under construction;
 - (c) A document on the ship's state of construction;
 - (d) A document demonstrating compliance with the requirements relating to the national citizenship of the ship's operator and the legal person's property under section 6 (2) of this Act;
 - (e) A document attesting to the payment of the administrative fee.
4. The entry of a ship under construction in the Maritime Register shall be certified by the issuance by the Authority of a certificate attesting thereto.
5. A new application shall be submitted for entry of a newly built ship in the Maritime Register, in accordance with the provisions of section 11 of this Act.

Parallel registration of a ship

Section 15

1. Parallel registration of a ship means registration of a ship in the Maritime Register of another State provided the original registration in the Maritime Register of the previous State has been suspended. Parallel registration may be effected only in the case where the legislation of both States so allows.
2. A ship which is entered in the Maritime Register of another State and whose registration in that State has been suspended may be parallel-registered in the Maritime Register of the Czech Republic. The entry of such ship shall be subject to the provisions of sections 7 to 11.
3. The Authority shall make its decision on the parallel registration of a ship following the submission of an application by its owner. In addition to the documents required for the entry of a ship under section 11 (3), the applicant shall submit:
 - (a) A document attesting to the suspension of registration in the Maritime Register of the other State;
 - (b) A certification by the appropriate authority of the other State that it agrees to the parallel registration and that the legislation of the other State allows the parallel registration;
 - (c) A copy of the lease contract between the owner and the operator of the ship,⁶
 - (d) Excerpts of mortgage liens and other legal defects entered in the Maritime Register of the other State;
 - (e) A document attesting to the approval of creditors, if any, with the parallel registration.
4. The operator of a ship parallel-registered in the Maritime Register shall operate the ship under the national flag of the Czech Republic and under the legislation of the Czech Republic but must not burden the ship with a mortgage lien or sell it.
5. The ship may be registered in parallel only for the period of validity of the lease contract between its owner and operator. The Authority shall notify the original Maritime Register of the termination of the parallel registration.

Section 16

1. Following the submission of the application by the shipowner, the Authority may decide on the suspension of registration of the ship in the Maritime Register, for the purpose of its parallel registration in the Maritime Register of another State.
2. The shipowner shall accompany the application for suspension of registration of the ship in the Maritime Register with the following:
 - (a) Certification by the appropriate Authority of the other State that it agrees with the parallel registration and that the legislation of the other State allows the parallel registration;
 - (b) A lease contract between the shipowner and ship operator,⁶
 - (c) A document stating the reason for the parallel registration;

⁶ United Nations Convention on the Conditions for Registration of Ships.

- (d) A document attesting to the agreement of creditors, if any, with the parallel registration;
 - (e) A joint declaration of the shipowner and the ship operator on their obligation to notify the Maritime Register of the other State within a period of one month of all changes to the name and other data concerning the ship, throughout the period of the parallel registration.
3. The registration of a ship in the Maritime Register may be suspended for a period not exceeding that of the validity of the lease contract⁶ between the shipowner and the ship operator.
 4. If the Authority decides on the suspension of registration of the ship, the shipowner shall without delay return the certificate of registry, which the Authority shall keep for the whole period of suspension of the ship's registration.
 5. The shipowner shall make an advance payment of the fee prescribed under section 4 (3) for the entire period of suspension of the registration.
 6. The registration in the Maritime Register shall be suspended throughout the period of parallel registration, with the exception of entries relating to the transfer of the ship's ownership and changes or adjustments to or removals of mortgage liens, if applicable.
 7. Throughout the period of the registration of the ship in the Maritime Register of the other State, such ship shall fly the flag of the other State.

Section 17

Obligation to report

1. The owner of a seagoing vessel entered in the Maritime Register shall notify the Authority of all amendments relating to data and documents that have been set out, in accordance with section 11 of this Act, in the application for entry in the Maritime Register and, within 10 days following notification of such alterations, shall submit documents relating thereto. According to the circumstances of the case, the Authority shall make the amendments to the data in the Maritime Register or make a decision, pursuant to section 18 of this Act, on suspending the validity of the certificate of registry.
2. The courts and the administrative authorities shall notify the Authority without delay of any decisions relating to the entry of a seagoing vessel in the Maritime Register.

Section 18

Suspension of validity of the certificate of registry

1. The Authority may decide to suspend the validity of a certificate of registry of a seagoing vessel if there has been a change in the facts forming the basis of the original decision to enter the vessel in the Maritime Register. According to the requirements and nature of the amendment to be made, the Authority shall stipulate the method and time limit for the removal of the ascertained shortcomings and their causes.
2. If the Authority suspends the validity of a certificate of registry, the seagoing vessel shall lose, for the period of suspension of the registration, the right to fly the national flag of the Czech Republic. The operator of the seagoing vessel shall turn over the certificate of registry to the Authority without delay. In the case of cancellation of the decision to suspend the validity of the certificate of registry, the Authority shall without delay return the certificate of registry to the seagoing vessel operator.

Section 19
Removal of a seagoing vessel from the Maritime Register

1. A decision to remove a seagoing vessel from the Maritime Register shall be made by the Authority following the submission of an application therefor by the owner of the seagoing vessel or on the initiative of the Authority.
2. On its own initiative, the Authority shall decide on the removal of a seagoing vessel from the Maritime Register if:
 - (a) It ascertains that the seagoing vessel owner has given false data or has concealed important facts which will prevent the seagoing vessel from flying the national flag of the Czech Republic;
 - (b) The operator of the seagoing vessel has ceased to satisfy the conditions for entry of the seagoing vessel in the Maritime Register;
 - (c) The successor to the operator of the seagoing vessel fails to demonstrate within the time limit set by the Authority that he satisfies the conditions laid down by this Act for the entry of a seagoing vessel in the Maritime Register;
 - (d) The seagoing vessel has been totally destroyed or if the vessel is deemed not to be permanently seaworthy.
3. The Authority shall notify the mortgagee of the removal of the vessel from the Maritime Register; provided the Authority effected the removal of the vessel from the Maritime Register on its own initiative, it shall so notify the operator as well as the owner of the seagoing vessel, unless the operator is also the owner of the seagoing vessel.
4. If the Authority decides that the seagoing vessel shall be removed from the Maritime Register, the seagoing vessel shall lose the right to fly the national flag of the Czech Republic and the operator of the seagoing vessel shall return the certificate of registry to the Authority without delay.

Section 20
Interim passport

1. Until such time as the seagoing vessel owner satisfies all the conditions required for entry in the Maritime Register, the seagoing vessel may fly the national flag of the Czech Republic under an interim passport, which may be granted by the Authority to the seagoing vessel for that purpose.
2. The interim passport for navigation shall be granted by the Authority if there is a justified assumption that the seagoing vessel, in view of its technical condition, will satisfy, within the period for which the permit is to be granted, all the conditions for entry of the seagoing vessel in the Maritime Register.
3. For the purposes of granting the interim passport, the technical seaworthiness of a ship shall be demonstrated by:
 - (a) A certificate as to the ship's class;
 - (b) Statutory certificates issued by classification societies.

In the case of a newly built ship, the technical seaworthiness of the ship shall be demonstrated by a certificate attesting to the new construction issued by the shipbuilders.

4. For the purposes of granting the interim passport of a seagoing yacht, the technical seaworthiness of the seagoing yacht shall be demonstrated by a seagoing yacht's seaworthiness certificate issued by the classification society. In the case of a new seagoing yacht, the technical seaworthiness of the seagoing yacht shall be demonstrated by a certificate on the new seagoing yacht issued by the manufacturer of the seagoing yacht.

5. The interim passport may be granted to a seagoing vessel only once, for a maximum period of six months. Such period shall not be extended.
6. Upon granting the permit for navigation, the Authority shall issue the seagoing vessel an interim certificate of registry. The interim certificate of registry shall certify the right of the seagoing vessel to fly the national flag of the Czech Republic.
7. Details on granting the interim passport shall be set out by implementing regulations.

Section 21

Use of the national flag of the Czech Republic

1. The operator of the seagoing vessel or pleasure seagoing yacht shall ensure that the seagoing vessel or pleasure seagoing yacht hoists the national flag of the Czech Republic at the most visible place on the main mast or on the stern. At the place designated for the national flag of the Czech Republic, no other flag or symbol may be hoisted. When other flags are used on a seagoing vessel or pleasure seagoing yacht, such flags may not be of greater size than the national flag of the Czech Republic which must be hoisted along with those flags at the same time.
2. The manner and reasons for the hoisting, placement and the size of the national flag of the Czech Republic and other flags used on a seagoing vessel or pleasure seagoing yacht shall be set out in an implementing regulation.

Section 22

Port of registry and designation of a seagoing vessel

1. The port of registry (port) of a seagoing vessel shall be the place so indicated in the entry for the seagoing vessel in the Maritime Register.
2. The port of registry of a seagoing vessel flying the national flag of the Czech Republic shall be designated as “Praha”.
3. A ship shall be designated by its name. The name of the ship must be clearly different from the names of other ships entered in the Maritime Register. The ship’s name must not injure the dignity of the Czech Republic.
4. A seagoing yacht shall be designated by its registration number, which shall be preceded by the words “CZE”.
5. The name of the ship, the seagoing yacht’s registration number and name of the port of registry shall be situated on the stern. The ship shall be designated by its name on both sides of its bow. The designation of a seagoing vessel shall be indicated by visible and legible letters and numbers.

Section 23

Property right to and maritime lien on a seagoing vessel

1. Unless otherwise follows from this Act, the provisions of the Civil Code and the Commercial Code on property rights to and the lien on movable property shall apply to property rights to and the maritime lien (mortgage) on a seagoing vessel.
2. Contracts on the assignment of property rights to a seagoing vessel shall be in writing. The assignment of the property and the placing of a maritime lien (mortgage) on a seagoing vessel entered in the Maritime Register shall apply as of the date of entry in the Maritime Register.

3. The approval of the mortgagee shall be necessary for the assignment of ownership of a mortgaged seagoing vessel.
4. A maritime lien (mortgage) on a seagoing vessel shall be contracted by making its entry in the Maritime Register, according to the precedence of proposals received.

Section 24
Obligations of a seagoing vessel operator

1. The operator of a seagoing vessel shall:
 - (a) Carry out maritime navigation under the national flag of the Czech Republic only on condition that the vessel has been entered in the Maritime Register or has been granted an interim passport;
 - (b) Carry out maritime navigation according to this Act;
 - (c) Provide for the technical seaworthiness of the vessel throughout the period of its operation;
 - (d) Ensure the safe navigation of the vessel by designating the master of a ship or the yachtmaster of a seagoing yacht competent for the navigation of a seagoing vessel;
 - (e) Ensure that the ship is manned by a qualified crew of a size and composition corresponding to the requirements of the international agreement binding on the Czech Republic;⁷
 - (f) Equip the ship with tackle of the approved type, with accompanying documentation and designation, and on an ongoing basis provide for such tackle in compliance with the requirements of the international agreement binding on the Czech Republic,³
 - (g) Ensure on an ongoing basis that the ship is supplied with water and foodstuffs;
 - (h) Ensure that all the equipment on the seagoing vessel is of the approved type, is accompanied with approved documentation and that its operation complies with the requirements for the safety and protection of health and the maritime environment in accordance with international agreements binding on the Czech Republic;⁸
 - (i) Notify the Authority, without delay, of any events on the seagoing vessel involving births, deaths, missing persons or a man overboard as well as any serious loss of health;
 - (j) Notify the Authority, without delay, of the involvement of the seagoing vessel in a casualty at sea, with the exception of a casualty causing loss of up to CZK 200,000, and ensure the documentation of the conditions at the time of the casualty, including proofs and witnesses' testimony;
 - (k) Notify the Authority, without delay, of any event affecting the technical seaworthiness of the seagoing vessel or otherwise affecting its technical condition;

⁷International Convention on Standards of Training, Certification and Watchkeeping for seafarers (STCW), 1978, published under No. 53/1995 Coll.

⁸ International Convention for the Safety of Life at Sea (SOLAS), 1974, published under No. 52/1995 Coll.; 1978 Protocol to the International Convention for the Safety of Life at Sea, 1974, published under No. 52/1995 Coll.; 1978 Protocol to the International Convention for the Prevention of Pollution from Ships (MARPOL), 1973, published under No. 71/1995 Coll.

- (1) Ensure that the vessel throughout its period of operation carries liability insurance against harm resulting from the ship's operations and that the insurance premiums are in force.
2. At a time of war or conflict involving the Czech Republic, the ship's operator shall provide the Authority with daily data on the geographical position of the ship.
3. The operator of a seagoing vessel must not use a seagoing vessel flying the national flag of the Czech Republic or allow its use for the unauthorized transport of drugs, psychotropic substances, weapons, explosives or slaves.

Mandatory documents of a seagoing vessel

Section 25

1. In carrying out maritime navigation the ship's operator shall ensure that the following documents are on board the ship:
 - (a) Certificate of registry;
 - (b) Safe manning certificate of ship with crew;
 - (c) Ship station licence;
 - (d) International tonnage certificate;
 - (e) Certificate of class;
 - (f) Statutory certificate;
 - (g) Deratization certificate;
 - (h) Logbook;
 - (i) Engine room logbook;
 - (j) Logbook of manoeuvres;
 - (k) Sick bay log (medical logbook);
 - (l) Radio log;
 - (m) Radar log;
 - (n) Oil record book;
 - (o) Garbage book;
 - (p) Muster roll (log);
 - (q) Ship's technical documentation;

- (r) Other documents pursuant to international agreements binding on the Czech Republic.²
2. The authenticity and completeness of the documents under (h) to (p) above must be approved by the Authority prior to the first entry in such documents. The Authority shall indicate its approval on the document in question.
 3. The certificate of registry, the logbook, the engine room logbook, the radio logbook and the muster roll shall have the nature of a public document.
 4. The documents shall be kept by the ship's operator for three years from the date of the last entry in the documents. The shipowner shall ensure the placement of the documents for safe keeping in the Authority's archives after the expiry of three years from the date of the last entry in the documents.

Section 26

1. In carrying out maritime navigation the operator of the seagoing yacht shall ensure that the following documents and logbooks are on board the seagoing yacht:
 - (a) Registration certificate;
 - (b) Logbook;
 - (c) List of persons on board the yacht;
 - (d) List of passengers, provided the yacht carries passengers.
2. The owner of a seagoing yacht shall ensure that the registration certificate is submitted to the Authority after the expiry of its period of validity.
3. The owner of a seagoing yacht shall ensure that the logbook is kept for a period of three years from the date of the last entry in the logbook.

Section 27

1. Mandatory documents shall be available on board a seagoing vessel in the original.
2. The types of documents and their essentials shall be set out in an implementing regulation.

² International Convention for the Safety of Life at Sea (SOLAS), 1974, published under No. 52/1995 Coll.; 1978 Protocol to the International Convention for the Safety of Life at Sea (SOLAS), 1974, published under No. 52/1995 Coll. ; 1978 Protocol to the International Convention for the Prevention of Pollution from Ships (MARPOL), 1973, published under No. 71/1995 Coll.; International Convention on Standards of Training, Certification and Watchkeeping for Seafarers (STCW), 1978, published under No. 53/1995 Coll.

PART THREE
CREW OF A SEAGOING VESSEL

Ship's crew

Section 28

1. The natural persons whose names are entered in the muster roll and who carry out activities for ensuring the safety of a ship's operations shall be the ship's crew. The ship's crew shall comprise the ship's master (captain), the officers and the ratings. The ratings shall comprise watchkeepers and auxiliary personnel.
2. Officers shall be those members of the ship's crew who were appointed to the rank of officer. The ranks of officer are the following:
 - (a) Chief mate;
 - (b) Deck officer in charge of a navigational watch;
 - (c) Chief engineering officer;
 - (d) Second engineering officer;
 - (e) Engineering officer in charge of a navigational watch;
 - (f) Radio operator;
 - (g) Electrical engineer.
3. For the purpose of ensuring the ship's operations, the ship's crew shall be broken down to the following levels:
 - (a) Command (management) level, which includes the master of a ship, the chief mate, the chief engineering officer and the second engineering officer;
 - (b) Operational level, which includes the deck officer in charge of a navigational watch, the engineering officer in charge of a navigational watch, radio operators and electrical engineers;
 - (c) Auxiliary level, which includes members of the navigational watch.
4. The ship operator shall ensure that the master of the ship is a national of the Czech Republic.
5. Following a request of the ship operator, the Authority may, in extraordinary situations which may immediately endanger the safety of the ship's operations, allow the master of the ship to be of another nationality.
6. The officers and other members of the ship's crew shall be appointed to particular functions following a work contract concluded with the ship operator.

Section 29

1. The size and composition the ship's crew shall be such as to ensure safe maritime navigation.

2. When entering a ship in the Maritime Register, the Authority shall ensure that the ship's crew meets minimum requirements with respect to its size and composition taking into account the kind, type, equipment and size of the ship and the navigation area, in accordance with the international agreement binding on the Czech Republic.⁷ The Authority shall issue a safe manning certificate of a ship with a crew.

Section 30

Seagoing yacht's crew and persons on board a seagoing yacht

1. The crew of the seagoing yacht shall comprise the master of the yacht and the members of the yacht's ratings. The minimum requirements for the size and composition of a seagoing yacht's ratings shall be set out by the Authority in terms of its safety requirements when entering the yacht in the Maritime Register, taking into account the size, type and engine equipment of the yacht.
2. The maximum number of persons on board a seagoing yacht who may take part in maritime navigation shall be set out by the Authority when entering the yacht in the Maritime Register, taking into account the size and type of the yacht.
3. The Authority shall enter in the certificate of registry the safe manning information of a seagoing yacht with crew and the maximum number of persons allowed to take part in maritime navigation.

Section 31

Employment of foreigners and stateless persons

The employment of foreigners or stateless persons as members of the crew of a seagoing vessel shall not be subject to the requirement of a residence permit in the territory of the Czech Republic¹⁰ or to an employment permit,¹¹ in accordance with special legislation.

Section 32

Ship's master and seagoing yacht's master

1. The master of a ship and the yachtmaster of a seagoing yacht (hereafter referred to as "master of a seagoing vessel") shall be authorized and obliged to exercise the command power on board the seagoing vessel. The master of a seagoing vessel shall be appointed and recalled by the operator of the seagoing vessel.
2. The master of a seagoing vessel who for whatever reasons shall be unable to perform his functions shall be substituted by the chief mate.
3. The master of a seagoing vessel and the chief mate shall be under obligation to take the captain's oath before the Authority.
4. The wording of the captain's oath shall be laid down by implementing regulation.

¹⁰ Act No. 326/1999 Coll, on the stay of foreigners on the territory of the Czech Republic and on amendment to certain Acts.

¹¹ Act No. 1/1991 Coll., on employment, as amended.

Section 33
Basic obligations of the master of a seagoing vessel

1. The master of a seagoing vessel shall:
 - (a) Pilot the ship and ensure safe nautical navigation; to this end he shall be authorized to use all measures necessary to ensure the safe course of navigation, to keep order on board ship and to ensure the ship's seaworthiness, including seeing to the competence of the crew, in compliance with the legislation of the Czech Republic, the provisions of international agreements binding on the Czech Republic¹² and regulations of the coastal State;
 - (b) In piloting the ship, comply with the international law and practices generally adopted and recognized in maritime navigation;
 - (c) Ensure the safety of the passengers and crew, including the periodic organization of alarm drills and practical drills in emergency procedures in compliance with international agreements binding on the Czech Republic;³ details on alarm-related activities aboard ship shall be laid down by implementing regulation;
 - (d) Ensure the proper care of the cargo;
 - (e) Ensure that mandatory documents stipulated under this Act and international agreements binding on the Czech Republic² are available on board ship as well as the documents prescribed by this Act for crew members and appropriate documents relating to cargo;
 - (f) Carry out all measures necessary for avoiding danger threatening persons, ship and cargo;
 - (g) Inform the shipowner and ship operator of the involvement of the ship in a maritime casualty;
 - (h) Prevent the pollution of the sea environment;
 - (i) Provide help to a person, ship or aircraft in distress, if he can do so without serious danger to his ship, its crew or passengers carried;
 - (j) In the case of a collision with another ship, notify the master of the ship involved in the collision of the name of his ship and the name of the port of registry, the name of the place of departure and the destination of his ship;
 - (k) Receive complaints of the ship's crew members and passengers, make a note of the complaints, enter brief information on them in the logbook and effect the necessary measures;
 - (l) Ensure that animals carried as cargo on board ship are treated in compliance with special regulations;¹³
 - (m) Ensure adherence to labour safety regulations as provided for by implementing regulation, and periodic examination of the ship's crew members with respect to their knowledge of such regulations;

¹² For example, International Convention for the Safety of Life at Sea (SOLAS), 1974, published under No. 52/1995 Coll.; 1978 Protocol to the International Convention for the Safety of Life at Sea (SOLAS), 1974, published under No. 52/1995 Coll.; International Convention on Standards of Training, Certification and Watchkeeping for Seafarers (STCW), 1978, published under No. 53/1995 Coll.; Convention on the International Regulations for Preventing Collisions at Sea, 1972 (COLREG), published under No. 263/1995 Coll.

¹³ Act No. 246/1992 Coll., on the protection of animals against maltreatment, as amended. Act No. 166/1999 Coll., on veterinary care and on the amendment to certain associated Acts (Veterinary Act).

- (n) Cause to disembark any ship's crew member the validity of whose documents attesting to professional qualifications or fitness of health have expired or who is no longer in good health.
2. The yachtmaster of a seagoing yacht shall satisfy all obligations referred to under paragraph 1 to ensure the operation of the yacht.

Section 34

Relation of the master of a seagoing vessel to persons on board the vessel

1. All persons on board a seagoing vessel shall comply with the orders of the master of the vessel issued within the limits of his power.
2. The master of a seagoing vessel shall avail himself of all necessary measures against any person on board a seagoing vessel who fails to comply with his order. If such person endangers the safety of the seagoing vessel, persons or cargo and such danger cannot be otherwise averted, and if there is a justified suspicion that a crime has been committed, the master of the seagoing vessel shall be authorized to place such person in a special space, but only for the time required for navigation to the nearest port, at the latest.
3. The master of a seagoing vessel shall make a notation in the logbook describing any such measure, and he shall notify, without delay, the Czech Republic's diplomatic representation in the nearest port at which the ship or the seagoing yacht is to arrive. If a foreign national is involved, the master of the seagoing vessel shall also notify the nearest police office. Furthermore, the master of the seagoing vessel shall agree with the Czech Republic's diplomatic representation upon further procedures to be taken, in accordance with the nature of the matter.

Section 35

Verification by the master of a seagoing vessel of the signature or duplicate of a document

1. The master of a seagoing vessel shall be authorized, if the urgent interest of the shipowner, the ship operator unless he is the shipowner, a ship's crew member or other person on board the ship so requires, to carry out an official verification of a signature or a determination of the conformity of a duplicate or copy with the document.
2. The method of verification shall be set out by implementing regulation.

Section 36

Sea protest

1. If in connection with the ship's operations a damage to the ship, its cargo or the health of the passengers on board the ship has occurred or might possibly occur, the master of the ship shall submit a written report thereof (hereinafter referred to as "sea protest").
2. The sea protest shall contain a complete and accurate description of all relevant circumstances in connection with which the damage has occurred or might possibly occur to the ship, its cargo or the health of the passengers, and the measures applied to avert or mitigate the damage. The relevant extracts from the logbook and from the crew list shall be annexed to the sea protest.
3. The master of a ship shall submit the sea protest in the nearest port at which the ship shall arrive to the Czech Republic's diplomatic representation or notary or maritime authority or the court of the country in whose port the ship has arrived.
4. The master of a ship shall submit the sea protest within 24 hours following the arrival of the ship in the port.

5. If the event about which the sea protest is being submitted occurred in a port, the master of the ship shall submit the sea protest within 24 hours following the event.

Section 37

Sea casualty (accident)

1. A sea casualty (accident) means:

- (a) Total loss of a seagoing vessel;
- (b) Serious damage to the health or the death or the disappearance of a person carried by a seagoing vessel, or serious damage to the health or the death or the disappearance of a person connected with the operation of a seagoing vessel;
- (c) Damage to the seagoing vessel's construction or to the mandatory tackle of the seagoing vessel, bringing about the technical unseaworthiness of the seagoing vessel;
- (d) An act of piracy against the seagoing vessel;
- (e) Pollution of the sea environment;
- (f) Collision of a seagoing vessel with another seagoing vessel or other solid object;
- (g) Fire on board a seagoing vessel;
- (h) Running aground or stranding ashore,

provided such a casualty occurred during maritime navigation.

2. The technical determination of the causes of a sea casualty shall be performed by the Authority, which shall take measures for their prevention.

Section 38

Measures to be taken in the event of the unavoidable total loss of a seagoing vessel

1. If in the opinion of the master of a seagoing vessel an unavoidable total loss is threatening the vessel, the master of the vessel shall provide for all measures to be taken towards the rescue of the passengers on board, the crew and obligatory documents, valuables, charts and cash.

2. The master of a seagoing vessel shall be the last one to abandon the vessel.

Section 39

Measures to be taken in the event a crime is committed aboard a seagoing vessel

1. If the master of a seagoing vessel has a justified suspicion that a crime has been committed aboard the vessel, he shall:

- (a) Take without delay such measures as to prevent the offender from persisting in the criminal activity or evading responsibility therefor;
- (b) Give the offender and the witnesses a hearing and carry out other operations necessary for securing the proofs;

- (c) Draw up a protocol on each hearing of the offender or witnesses or other acts committed by him; the protocol shall be signed together with him by the person affected by the act in question.
2. The master of the seagoing vessel shall submit protocols referred to in paragraph 1(c), together with objects relevant to the criminal act, to the Czech Republic's diplomatic representation that is nearest to the port at which the seagoing vessel is to arrive. At the same time, the master of the seagoing vessel shall agree with the Czech Republic's diplomatic representation upon the official procedure for handing over the person suspected of committing the crime.
3. Unless this Act provides otherwise, the master of a seagoing vessel shall proceed in carrying out the investigation operations referred to in paragraphs 1 and 2 in accordance with the Criminal Code.¹⁴

Section 40
Measures in the event of a birth or death aboard a seagoing vessel,
the disappearance of a person or of a man overboard

1. For every birth or death occurring aboard a seagoing vessel, the master of the vessel shall draw up a note in the presence of two crew members if the birth or death occurs aboard a ship, or if the birth or death occurs aboard a yacht in the presence of two individuals on board, and notify the Czech Republic's diplomatic representation that is nearest to the port at which the seagoing vessel is to arrive, as well as the seagoing vessel operator. In the case of a death aboard a seagoing vessel, the procedure to be followed shall not be subject to special regulations¹⁵.
2. If a death has occurred aboard a seagoing vessel, the examination of the deceased shall be carried out by a physician, provided he is a member of the ship's crew, or other physician present on board the seagoing vessel or physician who was for that purpose called to the seagoing vessel by means of radio or satellite. The purpose of the examination of the deceased shall be to certify the death and ascertain its cause.
3. With the agreement of the physician present on the seagoing vessel, the master of the vessel shall take a decision on the transport of the deceased to the nearest port; in exceptional cases when there is a danger of an infection of persons on board the master of the seagoing vessel, with the agreement of the physician on board, may decide that the deceased should be buried at sea. In the absence of a physician on board, the master of a seagoing vessel shall always ensure the transfer of the deceased at the nearest port.
4. The master of a seagoing vessel shall make a muster of all property which the deceased was holding on board the vessel and ensure that measures are taken for its safe keeping until an official decision on turning it over to the designated person or body or its disbursement in accordance with paragraph 5 is implemented. The master shall make an entry to that effect in the logbook.
5. The entry regarding a birth or a death aboard a seagoing vessel, together with the property and the last will and testament, if any, of the deceased shall be submitted by the master of a seagoing vessel to the Czech Republic's diplomatic representation that is nearest to the port at which the seagoing vessel shall arrive.
6. In the case of a missing person or a person who has fallen overboard, the master of a seagoing vessel shall make a detailed entry thereof in the logbook and submit a report to the seagoing vessel operator.

¹⁴ Act No. 141/1961 Coll., section 161, on penal proceedings of the court (Penal Code), as amended.

¹⁵ Decree No. 19/1998 Coll., on the procedure in case of death and on funeral services.

Section 41
Use of a pilot

1. The master of a seagoing vessel shall be authorized to engage on board ship a pilot for such areas where the use of a pilot is not compulsory, if he considers it necessary for the safety of navigation.
2. When a pilot has been engaged, the shipmaster remains responsible for the piloting of the ship, with the exception of areas where, according to local regulations, the pilot undertakes the responsibility for piloting the ship.

Section 42
Competence of the members of the ship's crew

1. Every crew member of a ship (hereafter referred to as "crew member") shall have the requisite medically attested fitness and the professional competence for the performance of his functions on board ship.
2. Where a ship is equipped with satellite communications equipment as provided in the international agreement binding on the Czech Republic,⁷ the master of the ship and at least two deck officers shall have the appropriate certificate of a GMDSS board operator issued in accordance with the international agreement binding on the Czech Republic.⁷
3. Where there is no physician on board the ship, at least one member of the ship's crew shall have the valid certificate of competence of a medical officer issued by the appropriate authority of a member State of the International Maritime Organization in accordance with the international agreement binding on the Czech Republic.⁷

Section 43
Certificate of competence of a crew member

1. A certificate of competence of a crew member (hereafter referred to as "certificate of competence") shall certify:
 - (a) The medical fitness and professional competence of the holder for performing the designated function on board a ship;
 - (b) An attestation of the qualifications of the holder for performing the function on board a ship.
2. The certificate of competence shall be issued by the Authority.

Section 44
Professional competence

1. The applicant shall demonstrate his professional competence through:
 - (a) The requisite experience on board a ship;
 - (b) Examination in the requisite knowledge as provided in the international agreement binding on the Czech Republic;³
 - (c) Examination in the knowledge of the Czech Republic's law in the field of maritime navigation, including associated provisions of the penal, civil and commercial law and proficiency in the English language; the competence being measured involves the performance of a function at a command rank.

2. Examinations under paragraph 1 shall be administered by the Authority's examining board. The Minister of Transport and Communications shall appoint, in accordance with the international agreement binding on the Czech Republic,⁷ the persons supervising the activity of examining boards and the competence of its members.
3. Details regarding the manner of administering the examinations and their contents, the composition of the examining board, the competence of the members of the examining board and the scope or professional qualifications for the execution of specific activities of crew members shall be laid down by implementing regulation.

Section 45 Attestation of qualifications

The applicant, in the case of a legal person authorized or approved by the Authority, shall provide his attestation of qualifications by a certificate of having passed a course as provided in the international agreement binding on the Czech Republic.⁷ The Authority shall publicize in the Transport Bulletin the list of authorized and approved legal persons.

Section 46 Certificates of competence

1. If the applicant demonstrates his medical fitness and professional competence, the Authority shall issue a certificate of competence certifying the medical fitness and professional competence of the holder for performing the designated function. In such a case the certificate of competence shall be issued for a non-specified period.
2. Where the applicant has successfully completed a course as provided in the international agreement binding on the Czech Republic,⁷ the Authority shall issue a certificate of competence attesting to the qualifications of the certificate holder. In such a case, the certificate shall be issued for a specified period.
3. The certificate of competence referred to in paragraph 1 shall be applicable for the performance of the function of shipmaster and officer, provided an endorsing clause is affixed to it attesting to the continuing good health and professional competence of the holder (hereafter referred to as "endorsement of the certificate of competence"). The endorsement of the certificate of competence shall be issued by the Authority, in accordance with the provisions of the international agreement binding on the Czech Republic,⁷ for a maximum period of five years. After the expiration of this period a new endorsement of the certificate of competence may be issued, provided the holder demonstrates his continued medical fitness and professional competence.
4. Details on the types of certificates of competence and details about their issuance, the length of required experience on board a ship, specimen certificates and specimen endorsements of certificates shall be laid down by implementing regulation.

Section 47 Recognition of certificates of competence

1. The Authority shall recognize certificates of competence issued by the appropriate authority of a member State of the International Maritime Organization, in accordance with the international agreement binding on the Czech Republic,⁷ to an applicant attesting to his medical fitness and, where he will perform functions at a command rank, attesting to his having passed an examination, administered by the Authority or a legal person authorized by the Authority, on his knowledge of the Czech Republic's legislation in the field of maritime navigation, including the associated provisions of penal, civil and commercial law, and in proficiency in the English language.

2. Details on the recognition of certificates of competence shall be laid down by implementing regulation.

Section 48
Medical (health) fitness

1. A member of the ship's crew shall demonstrate his medical fitness. Medical fitness shall be demonstrated through a certificate¹⁶ of medical fitness, which shall be periodically verified according to paragraph 6 at intervals laid down by implementing regulation.
2. After administering a general health check-up and any other necessary examinations of a member of the ship's crew, the examining physician, under the authorization of the Authority in agreement with the Ministry of Health, in accordance with the international agreement binding on the Czech Republic,⁷ shall ascertain the medical fitness of the crew member and issue the certificate of medical fitness. The Authority shall publicize the list of authorized physicians in the Transport Bulletin.
3. The lapse of time between the submission of an application for a certificate of competence or for the recognition of a certificate of competence issued by the appropriate authority of a member State of the International Maritime Organization or for the endorsement of a certificate of competence and the issuance of a certificate of medical fitness shall not exceed three months.
4. If the examining physician determines that the state of health of a crew member does not meet the medical requirements for the performance of the function he currently performs, the examining physician shall indicate such fact in the certificate of medical fitness.
5. If the examining physician determines that there has been a change in the state of health of the holder of a certificate of medical fitness that entails a change in his health fitness, he shall issue a new medical fitness certificate and send it without delay to the Authority.
6. The types of preventive health check-ups, their contents, including professional examinations, their length, the criteria for medical fitness, the particulars of the certificate of medical fitness, the length of periods of validity and restrictions on the periods of validity of the medical fitness certificate as well as the list of persons who may initiate preventive health check-ups, shall be laid down by implementing regulation.

Section 49
Certificate of competence of the yachtmaster of a seagoing yacht

1. In maritime navigation operations a yacht may be piloted only by a person at least 18 years of age who is the holder of a certificate of competence for piloting a seagoing yacht.
2. The Authority shall issue a certificate of competence for the navigation of a seagoing yacht to applicants who demonstrate the requisite health fitness and professional competence for piloting a seagoing yacht. The certificate of competence shall be issued for a specified period.
3. The applicant shall demonstrate his professional competence for piloting a seagoing yacht in the area of allowable maritime navigation by presenting evidence of the requisite experience and of having passed an examination administered by an examining board composed of examining officers appointed by the Authority.

¹⁶ Section 21 and 77 of Act No. 20/1996 Coll., on public health care, as most recently amended.

4. The medical fitness of the master of a seagoing yacht shall be determined and the certificate of medical fitness issued, following a medical check-up and any other necessary examinations of the person concerned, by the examining physician authorized by the Authority in accordance with section 48 (2) of this Act. The date of submission of the application for a certificate of competence or the date when the yacht is to set sail shall be no later than three months following the issuance of the health fitness certificate.
5. Details concerning training, the manner of proving experience, the examining board and the administration of the examinations, the requirements as to the knowledge of the applicant, the types, specimens, validity and scope of authorization of certificates of competence and the conditions for their issuance, as well as the validity of any previously issued certificates of competence, shall be set out by implementing regulation.

Section 50

Suspension of a certificate of competence

1. The Authority shall suspend the certificate of competence and order the verification of the professional competence or a review of the medical fitness of a crew member of a seagoing vessel when the crew member in performing the activity which he is authorized to perform by the certificate of competence endangers the safety of maritime navigation or gives evidence of shortcomings that might endanger the safety of maritime navigation or his own health.
2. According to the results of the verification of the professional competence or the review of his medical fitness by an assessment of his state of health, the Authority may restrict or prohibit the activity which the crew member of a seagoing vessel has been authorized to perform.
3. In the case of the prohibition of the activity, the Authority shall withdraw the certificate of competence or issue a decision cancelling the recognition of the certificate of competence and withdrawing endorsement of the certificate of competence.
4. Details on the reasons for the retention or withdrawal of the certificate of competence shall be set out by implementing regulation.

Section 51

Muster roll

1. Every person involved in maritime navigation on board a ship shall be entered in the muster roll .
2. The entry of a crew member in the muster roll shall attest to the fact that service aboard ship was taken up (hereafter referred to as “embarkation”), and the removal of a crew member from the muster roll shall certify the completion of service aboard ship (hereafter referred to as “disembarkation”).
3. The entry of a passenger in the muster roll shall attest to the beginning of his/her stay aboard ship and the removal of a passenger from the muster roll shall certify the termination of his/her stay aboard ship.
4. Entries in the muster roll shall be made by the master of the ship immediately after embarkation. Upon the embarkation or disembarkation of a crew member, the master of the ship shall made an entry so indicating in the seaman’s book of the crew member in question.

Section 52

1. Every person involved in maritime navigation on board a seagoing yacht shall be entered in the logbook.

2. The entry of persons into the logbook of a seagoing yacht shall be made by the yachtmaster before the yacht sets sail from port. Before the seagoing yacht sets sail from port, the yachtmaster shall make a list of all persons on board the seagoing yacht as well as a list of passengers, provided the seagoing yacht carries passengers.

Section 53

Prior to each embarkation a crew member shall produce his valid certificates of competence. The certificates of competence shall be effective throughout the duration of service on board ship.

Seaman's books

Section 54

1. Every crew member shall bear a seafarer's identification paper.¹⁷ The seafarer's identification paper shall mean the seaman's book. Without a seaman's book a seafarer may not embark on a ship.
2. An application for a seaman's book submitted by a national of the Czech Republic who presents a document certifying to his having been accepted as a crew member or to his previously having been a crew member shall be decided on by the Authority. If the application is accepted in full, the decision to issue the seaman's book shall not be subject to section 47 of the Administrative Code.¹⁸
3. The Authority may issue a seaman's book to a national of the Czech Republic for a maximum period of 10 years.
4. A crew member who is not a national of the Czech Republic shall bear the seaman's book of the State of which he is a national.
5. The seaman's book of a crew member shall contain information on his identity, qualifications and length of embarkation. A seaman's book issued by the Authority and registered by the Ministry of Interior of the Czech Republic shall constitute a travel document of the Czech Republic.¹⁹
6. Data entered in the seaman's book and a model seaman's book shall be set out by implementing regulation.

Section 55

1. In the case of an application for a seaman's book submitted by a natural person who is not a national of the Czech Republic, the Authority may decide to issue the seaman's book in accordance with section 54 (2) of this Act, provided the applicant submits to the Authority a residence permit in the Czech Republic¹⁰ issued no more than five years earlier or provided the applicant can demonstrate that he has previously served on board a ship.
2. The Authority may issue a seaman's book to a natural person who is not a national of the Czech Republic for a maximum period of five years, provided the conditions stipulated in paragraph 1 have been satisfied.

¹⁷ International Convention on Standards of Training, Certification and Watchkeeping for Seafarers (STCW), 1978.

¹⁸ Act No. 71/1967 Coll., on administrative proceedings (Administrative Code), as amended by Act No. 29/2000 Coll.

¹⁹ Act No. 329/1999, on travel documents on the amendment to Act No. 283/1991 Coll., on the Police of the Czech Republic, as amended (Act on Travel Documents).

PART FOUR
PLEASURE YACHTS

Section 56

The verification of the technical worthiness of pleasure yachts for maritime navigation, the competence of their operators, including record-keeping and the issuance of the appropriate documents, may be delegated by the Authority to a legal person having its registered office in the territory of the Czech Republic and demonstrating that it disposes of the requisite technological equipment and competent staff.

Section 57

1. The Authority or the legal person authorized under section 56 by the Authority shall:
 - (a) Verify the technical seaworthiness of pleasure yachts and issue certificates of competence of pleasure yachts for maritime navigation;
 - (b) Keep the records of pleasure yachts;
 - (c) Assign registration markings to pleasure yachts;
 - (d) Verify the competence of the operators of pleasure yachts and issue certificates of competence for the piloting of pleasure yachts;
 - (e) Exercise supervision over the activities of users of pleasure yachts.
2. Details on the conditions for technical seaworthiness, the assignment of registration markings, record-keeping for pleasure yachts and conditions for the issuance of certificates of competence for operating pleasure yachts shall be set out by implementing regulation.

Section 58

1. The operator of a pleasure yacht may use the pleasure yacht under the following conditions:
 - (a) The technical seaworthiness of the pleasure yacht has been verified and a certificate of seaworthiness has been issued;
 - (b) The pleasure yacht complies with the requirements of the safety and protection of the environment;
 - (c) The pleasure yacht has been registered with the Authority or a legal person authorized by the Authority and a registration marking has been assigned to the yacht;
 - (d) The operator of the pleasure yacht holds a certificate of competence for piloting a pleasure yacht.
2. In order to protect the safety of maritime navigation or in furtherance of any other public interest, the Authority may restrict or ban certain types of maritime navigation within certain parts of the allowable maritime navigation area.

PART FIVE
SERVICE ABOARD SHIP AND LABOUR-LEGAL RELATIONS
OF MEMBERS OF THE SHIP'S CREW

Section 59
Duty aboard ship

1. A crew member shall be considered to be on duty aboard ship without interruption from the moment of embarkation until the moment of disembarkation, unless he is exempted from duty aboard ship.
2. The length of uninterrupted duty aboard ship shall not exceed 12 months.
3. When a crew member does not perform any work, the duty aboard ship shall be considered, for the purpose of compensation for loss or damage, as an activity directly associated with the fulfilment of working assignments, with the exception of excursion ashore.
4. Excursion ashore shall mean the time from the moment the crew member enters on dry land until the moment he leaves dry land. Leaving the ship for the purpose of fulfilling naval duties or for treatment in a health service institution does not constitute an excursion ashore.

Section 60
Watchkeeping

Watchkeeping shall be the performance of obligations within a set time period during which the crew member must ensure the safety of the ship's operations and the protection of the marine environment. Watchkeeping shall consist of deck duty and engine room duty. Deck duty shall be performed on the ship's bridge, on the deck and in the radio station of the ship. Engine room duty shall be performed in the engine room.

Section 61
Duties of a ship's crew member

1. While on duty a crew member shall be obliged to:
 - (a) Fulfil the commands of the shipmaster and the crew members of superior rank and render service and show respect to the master of the ship and crew members of superior rank;
 - (b) Adhere to the rules of decorum and communal life in his dealings with other crew members and passengers on board;
 - (c) Observe maritime customs and the principles of good seamanship and adhere to regulations on safety and labour hygiene;
 - (d) Provide help in the rescue of persons, ships, cargo or other property;
 - (e) Undergo an examination to determine whether he is under the influence of alcoholic spirits or other narcotic or psychotropic substances, if such examination was ordered by the master of the ship, at such times as when the crew member does no work, or to determine whether he will be under the influence of such substances when he is to take up his duties, or during watchkeeping; by analogy, he shall undergo such an examination if an injury occurred at work or if there is a suspicion that the crew member was performing his duties under the influence of alcoholic spirits or other narcotic or psychotropic substances.

2. In the course of duty on board a ship the crew member shall not keep on board ship any narcotic or psychotropic substances, firearms, ammunition, explosives or protected animals, nor shall he assist another person in such activities. Permission to keep crew members' own animals on board ship shall be granted by the shipmaster.

Section 62
Service of ship's crew members

1. A crew member may serve on board a ship only on the basis of a contract of service concluded with the ship operator. The contract of service shall stipulate the day, hour and place of embarkation of the crew member, including the particulars of the ship.
2. Crew members must be at least 18 years of age on the day of embarkation.
3. The probationary period cannot be stipulated in the contract of service.
4. A crew member cannot be employed in a secondary occupation.
5. A crew member may also be assigned to another job if the shipmaster so decides, when there is a possible danger to persons, ship or cargo.

Section 63
Work period and rest period of ship's crew members

1. The established working period shall consist of 40 hours weekly, unless the ship operator by internal regulation reduces the number of working hours while maintaining the amount of salary received equal to that for 40 hours weekly.
2. An arrangement for a working period shorter than that established under paragraph 1 cannot be concluded with a crew member.
3. If the nature of the work or the conditions of service on board a ship prevent the workload from being staggered equally from week to week, the shipmaster may stagger the workload unequally, making sure nevertheless that the average weekly workload over a given period, four days as a rule, does not exceed the weekly limit.
4. The uninterrupted length of a single shift, including overtime work, shall not exceed twelve hours. An uninterrupted period of rest between two shifts shall not be shorter than eight hours. These provisions shall not apply when the shipmaster deems that the safety of persons, ship or cargo is endangered. The total period of rest for crew members in charge of the navigational watch shall not be shorter than ten hours during every 24-hour period and shall be divided into more than two parts, at least one of which shall be of six hours.
5. In the case of an urgent operational need or if he decides that the safety of persons, ship or cargo is endangered, the shipmaster shall be authorized to declare emergency working conditions.
6. Unless grave operational reasons preclude it, the shipmaster may grant a crew member a longer period of rest if he so requests or provide him with time off in lieu of working overtime or on holidays.

Section 64
Monetary compensation

If service contracted for a specified navigation period terminates prematurely as a result of shipwreck, total loss of the ship or the unseaworthiness of the ship, the crew members shall be entitled, apart from the compensation due to them under the Labour Code, to a special compensation in the amount of double the average of their monthly earnings.

Section 65
Repatriation of ship's crew members

1. A ship's crew member has the right to be transported to the place of the registered office of the operator or to the place specified in the service contract (hereafter referred to as "repatriation") under the following circumstances:
 - (a) In connection with the expiry of the ship's right to fly the flag of the Czech Republic;
 - (b) In the case of a shipwreck;
 - (c) Upon the termination of service;
 - (d) If the crew member has lost his health fitness for performing work on board ship;
 - (e) If the ship operator is unable to meet his financial obligations towards the ship's crew members.
2. The shipmaster may order the repatriation of a ship's crew member in the case of a grave breach of discipline at work or of his marine duties or if the crew member is suspected of committing a criminal act.
3. The costs of repatriation shall be covered by the ship operator with the exception of repatriation under paragraph 2, where the costs of repatriation are covered by the ship's crew member, if the justification of the order for his repatriation is established.
4. A ship's crew member may come to an agreement with the ship operator on the extension of his service.
5. For purposes of providing compensation for travel expenses and health care during the period of repatriation, such time shall be considered as lasting from the time of embarkation to the arrival in the place specified in the service contract, or otherwise agreed, apart from the period during which the ship's crew member interrupted the repatriation without serious reason.

Section 66
Social conditions and compensation provided to the crew members during their time of duty on board ship

1. The operator shall provide without charge to the ship's crew members during their time of duty on board ship accommodation, meals, drinking and utility water, the requisites for work, the means for basic hygiene, immediate and urgent health care if it cannot be provided by the ship physician, and other sanitary facilities in accordance with the international agreement binding on the Czech Republic.²⁰

²⁰ International Labour Organization (ILO) Convention (No. 163) concerning Seafarers' Welfare at Sea and in Ports, published under No. 432/1991 Coll.

2. A ship shall be equipped with appropriate accommodation and catering spaces, spaces and facilities for stowage and cooling of provisions and the preparation of meals and beverages, spaces equipped for resting and for spending free time and with hygienic and sanitary facilities or, when appropriate, special spaces for the sick. Such spaces shall have adequate ventilation, heating and lighting and shall be kept clean. Sanitary facilities and services provided on board ship shall be accessible to all the ship's crew members, unless designed for passengers exclusively.
3. A ship must be supplied with drinking water and provisions in an amount appropriate to the number of ship's crew members and the length and nature of the maritime voyage.
4. The number of persons accommodated collectively shall be consonant with the design of the ship and shall be such as to afford adequate rest.
5. The shipmaster or the officer authorized by him shall on a regular basis verify the cleanliness of the spaces referred to under the preceding provisions. A note shall be made of the results of the verification and of the measures adopted.
6. The vessel operator and the shipmaster shall ensure that the ship's crew members are provided free of charge with regular postal services, that they or their family members can, in justified cases and against compensation for the costs incurred, use means of communication, and that, unless serious operational reasons preclude it, crew members can meet with their family members in ports, or alternatively, can receive a visit from family members on board ship.

Section 67
Health care of ship's crew members

1. The ship operator shall ensure:
 - (a) That the ship meets the requirements for health care and hygienic conditions laid down in the international agreements binding on the Czech Republic;²¹
 - (b) That the ship's medicine cabinet is equipped with sanitary supplies, outfits, drugs and sanitary technology, as provided for by implementing regulation, and that they are replenished regularly;
 - (c) That the ship's crew members can visit a physician in ports at which the ship calls to obtain the necessary treatment.
2. If there is no physician on board a ship, the ship operator shall ensure that one member of the ship's crew possesses a certificate of competence as a medical officer for providing expanded first aid beyond that entailed in the general obligation of citizens²² (hereafter referred to as "medical officer certificate of competence") and will provide such expanded first aid throughout the voyage. For the purpose of providing the necessary expanded first aid, the ship operator shall enable the holder of a medical officer certificate of competence during the voyage to consult with a physician by means of radio or satellite at any hour whatsoever. The holder of the medical officer certificate of competence shall be entitled to issue medicines and sanitary supplies from the ship's medicine cabinet, as stipulated by implementing regulation, only following the decision of the consultant.

²¹ ILO Convention (No. 164) concerning Health Protection and Medical Care for Seafarers, published under No. 445/1991, Coll.

²² Section 9 (4) (c) of Act No. 20/1996 Coll., as most recently amended.

3. The ship's physician or holder of the medical officer certificate of competence shall keep records on persons who were treated during the voyage. The physician shall draw up and issue a report on the state of health of the treated person. The holder of the medical officer certificate of competence shall keep a record of the state of health of the treated person.
4. The implementing legal regulation shall set out the manner of storage of the drugs and sanitary supplies in the medicine cabinet, the management and control of the drugs and sanitary supplies, the scope of the course of expanded first aid and the content of the records of the persons treated during the voyage.

Section 68
Application of the Labour Code

Unless this Act provides otherwise, the labour-legal relations of the members of the ship's crew of seagoing vessels shall be governed by the Labour Code.

PART SIX
GENERAL AVERAGE AND RESCUE OF PROPERTY

Section 69
General average

1. If a ship and its cargo are in general maritime peril, the shipmaster may, while ensuring as a priority the safety of the passengers on board, decide under extraordinary circumstances to undergo a reasonable and intentional sacrifice or a smaller damage in order to prevent a greater damage. General average shall mean damage arising under conditions of general maritime peril in extraordinary circumstances as a result of a reasonable and intentional sacrifice or a damage undergone for the purpose of preserving the property involved from peril and to maintain the value of the property.
2. A general average shall be adjusted on the basis of the value of the vessel, its freight and cargo between the ship operator and the cargo owner, who shall cover the proportionate part of the damage caused by the general average.
3. Unless otherwise stipulated by the provisions on general average as laid down by this Act, the general average shall be governed, according to the nature of the matter, by the regulations of civil or commercial law relating to compensation for loss or damage. If it is not possible to deal with the general average according to those regulations, it shall be determined in accordance with commercial practice.
4. All damage to the ship or cargo that is not general average shall be deemed a particular average governed, according to the nature of the matter, by the regulations of the civil or commercial law on compensation for loss or damage.

Section 70

1. In order to ensure a claim for compensation due to general average, the ship operator shall have the right to a lien on cargo carried by the ship.
2. The shipmaster shall not release the cargo encumbered with the corresponding proportion of the damage caused by the general average until the corresponding proportion of the damage has been paid or until the ship operator is given a corresponding security in the form of an adequate financial deposit or unless the parties agree otherwise.

3. Following a request by the persons involved in a general average and to the debit of whom the general average must be adjusted, the ship operator shall provide a security for the corresponding proportion of the damage caused by the general average and devolving upon the ship, namely before the ship leaves the port of termination of the voyage during which the general average occurred.

Section 71
Proceedings on general average

1. In the case of a general average, the ship operator shall:
 - (a) Declare the general average and inform the cargo owner and other persons involved thereof;
 - (b) Take the necessary measures to prepare an adjustment of the general average (hereafter referred to as “average adjustment”);
 - (c) Appoint the average adjuster who is to prepare the average adjustment.
2. The assessment of compensation and the adjustment of the proper proportions of the damage caused by the general average shall be made in the port of registry of the ship or in the port in which the voyage terminated following the general average, unless otherwise agreed by the participants.
3. The average adjuster shall make out the average adjustment in writing and affix his seal to it. The average adjuster shall promulgate the average adjustment in the Commercial Bulletin.²³
4. If none of the interested parties to the general average submits, within three months from the date of publication of the above-mentioned promulgation, to the other participants in the general average an application for repeal of the average adjustment, the average adjustment shall come into force as a court decision with legal effect, and may be enforced by the court.
5. If the court repeals the average adjustment, the average adjuster shall make out a new average adjustment; in making out the new average adjustment, the average adjuster shall be bound by the legal opinion of the court.
6. If the court rejects the action for the repeal of the average adjustment, the average adjustment shall be executory by the date when the judgement becomes legally effective.
7. If the participants in the general average have agreed on the application of international customs relating to general average, the provisions on general average shall not be applicable, with the exception of the proceedings on general average.

Section 72

1 The average adjuster shall be appointed by the Economic Chamber of the Czech Republic.²⁴ The appointment of the average adjuster shall be conditional on his having passed the examination on knowledge of legal regulations relating to general average and knowledge of appropriate international customs.

²³ Government Order No. 63/1992 Coll., on Commercial Bulletin.

²⁴ Act No. 301/1992 Coll., on the Economic Chamber of the Czech Republic and the Agrarian Chamber of the Czech Republic, as amended.

2. The person who has passed the above examination shall obtain a certificate to that effect. The average adjuster shall use a stamp with the inscription “Average adjuster of the Economic Chamber of the Czech Republic”.

Section 73
Salvage of property

1. The conditions for effecting the salvage of a ship and other valuables on board a ship and the manner of settlement between the rescuer and the person being rescued shall be governed by international customs.
2. For the completed salvage of a ship and other valuables on board the ship the rescuer shall be provided with a reward consonant with the degree of the danger to the salvaged valuables, to the rescuer and with respect to his effort and success of the rescue.
3. The reward shall be provided by the ship operator to the ship which was given the help. The ship operator shall have a right to be given a share in the compensation from the owners of other valuables on board the ship who benefited from the successful rescue.

Section 74
Maritime lien

Any party which rescued during the course of maritime navigation a ship and other valuables on board the ship or provided help to a ship, aircraft or other property has a right to be rewarded for such rescue and reimbursed the costs incurred during maritime navigation, in connection with such rescue or with providing help to the ship, aircraft or other property. To ensure the receipt of such reward, the rescuer shall have the right to a legal maritime lien on the ship, aircraft or other property which was rescued or which was given help. Such legal maritime lien shall have precedence over other rights of lien.

PART SEVEN
STATE ADMINISTRATION AND STATE SUPERVISION IN THE FIELD OF MARITIME NAVIGATION

Section 75

In order to ensure the safety of maritime navigation the Authority shall be authorized to issue orders to operators of seagoing vessels and to other persons involved in maritime navigation.

Section 76
State supervision

1. In maritime navigation, state supervision shall be executed within the scope of its competence by the Authority which authorizes its employees for this purpose (hereafter referred to as “authorized persons”). The authorization document shall contain the first name and surname of the authorized person, the citizen’s identification number and picture, the scope and territorial range of the authorization and the period of validity.

2. The authorized person shall determine whether the person on which this Act imposes obligations (hereafter referred to as “obligated person”) is satisfying such obligations properly and whether he adheres to the conditions set out in the decisions issued by the Authority. The obligated person shall enable the authorized person to execute the authorization. After the person authorized by the Authority produces his document on authorization issued by the Authority, the obligated person shall provide the authorized person with access to all objects and to all documents. In that connection, the obligated person shall further provide the authorized person free of charge with a stay on board the seagoing vessel, including the use, during the course of navigation, of the telephone and radio equipment of the seagoing vessel, as well as other necessary matters.

3. If during the execution of state supervision the authorized person ascertains that a breach of the obligations following from this Act has occurred, he shall set out the manner and time required for removing the defects and their causes, according to the nature of the ascertained defects. The authorized person shall without delay make out a written record of the results of the survey, with copies to the obligated person and to the Authority. Within the prescribed time the obligated person shall provide for the removal of the defects revealed in execution of the state supervision. The measures adopted for removing the defects shall be communicated by the obligated person to the Authority. Other rights and obligations of authorized persons in the execution of state supervision shall be set out by special regulation.²⁵

4. If the life or health of persons on board a seagoing vessel, the safety of sea navigation or the safe carriage of cargo is imminently endangered, the authorized person shall be authorized to order the termination of activity and withhold the documents relating to that activity, notifying the Authority thereof without delay. The conditions for returning such documents shall be decided upon by the Authority. The issue of the measures to be taken shall not be subject to general regulations on administrative proceedings. Within 10 days from the delivery of the notification the Authority shall open administrative proceedings in the matter of withdrawing the relevant documents or the ban on the activity.

Section 77 Securing the safety of maritime navigation

The seagoing vessel operator and other persons involved in maritime navigation shall observe the orders of the Authority issued for the purpose of maintaining the safety of maritime navigation, the resolutions and recommendations of the International Maritime Organization on the operation of ships at sea, and regulations on the equipment and technical seaworthiness of ships and the protection of the marine environment, issued according to international agreements binding on the Czech Republic,³ in the wording adopted by the Czech Republic as represented by the Authority. The texts of the resolutions and recommendations shall be available at the Authority and the resolutions and recommendations adopted by the Czech Republic shall be referred to in the wording published in the Transport Bulletin.

Section 78 Fines

1. The Authority shall impose a fine of up to CZK 2,000,000 on any legal or natural person who:
 - (a) Engages in maritime navigation operations under the national flag of the Czech Republic without a valid certificate of registry or for a purpose other than that specified in the certificate of registry;
 - (b) Fails to maintain the seagoing vessel in a seaworthy condition;

²⁵ Sections 2 (d) and 8 to 20 of Act No. 552/1991 Coll., on state inspection, as most recently amended.

- (c) Fails to ensure periodic technical inspections of the ship according to international agreements binding on the Czech Republic;
 - (d) Fails to ensure the safe manning of the seagoing vessel with crew.
2. The Authority shall impose a fine of up to CZK 1,000,000 on any legal or natural person who:
- (a) Fails to have available on a seagoing vessel the mandatory documents laid down by the present Act or fails to keep such documents for a period of three years following the last entry in them or who fails to hand over a given document to the Authority's archives;
 - (b) Fails to ensure that the shipmaster is a national of the Czech Republic, unless an exemption has been granted;
 - (c) Fails to ensure that service on board is performed only by persons who are competent in terms of their health and profession and have valid certificates of competence attesting thereto;
 - (d) Fails to make sure that the Authority is notified, without delay, of the involvement of the seagoing vessel in a maritime accident or of an event affecting the seaworthiness of the seagoing vessel or otherwise affecting the technical condition of the seagoing vessel, including the keeping of evidence and witnesses' testimony;
 - (e) Fails to carry current liability insurance against harm resulting from the ship's operations and to maintain payments on the insurance premiums;
 - (f) Fails to return, without unnecessary delay, to the Authority the certificate of registry of the seagoing vessel if it has been removed from the Maritime Register or if registration has been suspended.
3. The Authority shall impose a fine of up to CZK 500,000 on any legal or natural person who breaches his obligation by:
- (a) Failing to keep the mandatory documents for a period of three years following the last entry in such documents;
 - (b) Failing to ensure the handing over of a given document to the Authority's archives;
 - (c) Failing to notify the Authority, without delay, in the event of a birth, death or serious damage to health on board the seagoing vessel;
 - (d) Failing to notify the Authority of any alteration of facts to be entered in the Maritime Register;
 - (e) Failing to ensure the marking of a seagoing vessel;
 - (f) Obstructing the exercise of state supervision of maritime navigation or preventing the exercise of such supervision or failing to implement measures laid down by the person authorized to exercise state supervision of maritime navigation.
4. The Authority shall impose a fine of up to CZK 500,000 to the master of a seagoing vessel who:
- (a) Impairs by his own actions the seaworthiness of the vessel;
 - (b) Fails to ensure that the equipment on board the vessel complies with the legislation on safety and the protection of health;
 - (c) Fails to ensure proper care for the persons and cargo taken on board;
 - (d) Fails to ensure that the mandatory documents and papers are available on board the vessel;

- (e) Allows a person performing watchkeeping duties to do so under the influence of alcohol or drugs;
 - (f) Causes the pollution of the environment by a seagoing ship; or
 - (g) Fails to ensure that the person performing watchkeeping duties has the necessary qualifications.
5. The Authority shall impose a fine of up to CZK 200,000 on a natural person who fails to comply with the orders of the master issued within the commander's power.
6. The upper limit of fines as may be imposed by the Authority in connection with the operation of a seagoing yacht shall be 50 per cent of the amounts as set out in paragraphs 1 to 3.

Section 79

1. A fine must be imposed within two years from the day when the Authority learned about the unlawful act, but within five years at the latest from the time when the act occurred.
2. The collection and enforcement of fines shall be effected under special regulation.²⁶ The fine shall be collected and enforced by the Authority.
3. In setting the amount of the fine, the gravity and the period of duration of the unlawful act and the range of its consequences shall be taken into account.
4. The fines imposed and collected under this Act shall constitute revenue of the state budget.

PART SEVEN JOINT, INTERIM AND FINAL PROVISIONS

Section 80

In proceedings regulated by this Act the general regulations on administrative proceedings shall be applied, unless otherwise provided by this Act.

Section 81

For a floating engine or floating equipment designed for the survey and exploitation of natural wealth in the sea, on and under the seabed, the provisions of the second part of this Act shall apply as appropriate.

Section 82

1. The provisions of this Act shall be applicable unless an international agreement binding on the Czech Republic or generally recognized regulations of international law provide otherwise.
2. Unless an international agreement binding on the Czech Republic²⁷ provides otherwise, in all matters of maritime transport the provisions on transportation of the Civil Code and the Commercial Code shall be applicable.

²⁶ Act No. 337/1992 Coll., on the administration of taxes and dues, as most recently amended.

²⁷ United Nations Convention on the Carriage of Goods by Sea, 1978, published under No. 193/1996 Coll.

Section 83
Transitory provisions

1. Unless otherwise provided, the legal relations and rights arising from the legislation currently in force shall be governed by this Act until the effective date of this Act.
2. The fines under this Act may be imposed only for an unlawful act which occurred after the effective date of this Act.
3. Owners of seagoing vessels flying the national flag of the Czech Republic shall, within one year from the effective date of this Act, submit a request to the Authority for the entry of the seagoing vessel in the Maritime Register. Pending the decision of the Authority, the seagoing operators flying the national flag of the Czech Republic shall be deemed to be persons authorized to fly the national flag of the Czech Republic.

Section 84
State subsidy

1. Upon the submission of an application therefor, the Ministry of Transport and Communications may provide the shipowner with a state subsidy for maritime navigation operations.
2. A national of the Czech Republic engaged in marine professional studies abroad at an institution recognized by the Ministry of Transport and Communications may be given financial assistance for that purpose by the Ministry of Transport and Communications.
3. The conditions for providing financial assistance for marine professional studies abroad shall be set out by implementing regulation.

Section 85

1. The Ministry of Transport and Communications shall issue implementing regulations to implement section 8 (3), section 11 (5), section 13 (3), section 20 (7), section 21 (2), section 27 (2), section 32 (4), section 33 (1) (c) and (m), section 35 (2), section 44 (3), section 46 (4), section 47 (2), section 48(6), section 49 (5), section 50 (4), section 54 (6), section 57 (2), section 67 (2) and (4), and section 84 (3).
2. The Government shall issue order for the implementation of section 4 (4).

Section 86

The following are hereby repealed:

1. Act No. 61/1952 Coll., on maritime navigation, as amended by Act No. 42/1980 Coll.
2. Order of the Minister of Transport No. 75/1953 Coll., implementing certain provisions of Act on Maritime Navigation.
3. Order of the Minister of Transport No. 39/1955 Coll., on the limitation of the responsibility of the seagoing vessel operator, as amended by Act No. 513/1991 Coll.
4. Decree of the Ministry of Transport No. 86/1955 Official Journal, on general average in maritime transport.

5. Decree of the Ministry of Transport No. 160/1956 Official Journal, on the conditions for the sea-borne carriage of cargo, as amended by Act No. 513/1991 Coll.
6. Decree of the Ministry of Transport No. 65/1967 Coll., on navigation and seaman's books.
7. Decree of the Federal Ministry of Transport No. 89/1985 Coll., on the amendment of certain rights and obligations following from legal-labour relations of crews of Czechoslovak seagoing vessels.
8. Decree No. 7210/75-25 of the Federal Ministry of Transport, on alarm operations on Czechoslovak seagoing vessels, as registered under item 11/1975 Coll.
9. Decree of the Federal Ministry of Transport No. 328/1990 Coll., on professional competence and authorization for the performance of the function of ship's crew members of Czechoslovak seagoing vessels, as registered under item 51/1990 Coll.
10. Decree No. 19 404/1988-0320 of the Federal Ministry of Transport and Communications, on the remuneration of crews of Czechoslovak seagoing vessels, as registered under item 14/1989 Coll.
11. Decree of the Federal Ministry of Transport No. 562/1990 Coll., amending the Decree on the remuneration of crews of Czechoslovak seagoing vessels, as registered under item 90/1990 Coll.
12. Decree of the Federal Ministry of Transport No. 343/1990 Coll., on tonnage marking on Czechoslovak seagoing vessels, as registered under item 54/1990 Coll.
13. Directive No. 49/1967 of the Ministry of Health of the Czechoslovak Socialist Republic, on assessing the health fitness for work, as amended by Directive No. 17/1970 Coll. of the Ministry of Health of the Czechoslovak Socialist Republic and Decree No. 31/1993 Coll., section 14 (2) and annex 3, relating to crew members of seagoing vessels.

Section 87

This Act shall apply as from 1 July 2000.

Signed by:

Klaus

Havel

Zeman

(b) Act No. 158 of May 18, 2000
on Prospecting, Exploration for and Exploitation of Mineral Resources from the Seabed
beyond the Limits of National Jurisdiction and Amendments to Related Acts

The Parliament has passed the following law of the Czech Republic:

PART ONE
PROSPECTING, EXPLORATION FOR AND EXPLOITATION OF MINERAL RESOURCES FROM THE
SEABED BEYOND THE LIMITS OF NATIONAL JURISDICTION

CHAPTER I
Introductory provisions

§ 1
Subject matter and purpose

1. This Act governs the rights and obligations of natural persons domiciled in the territory of the Czech Republic and of legal entities with their seats in the territory of the Czech Republic, engaged in prospecting, exploration for and exploitation of mineral resources from the seabed and ocean floor and subsoil thereof, beyond the limits of national jurisdiction as well as the associated state administration activities.

2. The purpose of the Act concerns implementation of principles and rules of international law, according to which the seabed, the subsoil thereof and the mineral resources specified in section 1 are considered the common heritage of mankind.

§ 2
Definition of fundamental terms

For the purposes hereof the following terms shall have the respective meanings specified below:

- (a) Area means the seabed and ocean floor and subsoil thereof beyond the limits of national jurisdiction as determined in accordance with international law;
- (b) Mineral resources means all solid, liquid and gaseous mineral resources in the Area, including polymetallic nodules, polymetallic sulphides and cobalt-bearing crusts;
- (c) Prospecting means the identification of mineral resources in the Area including the assessment of their value, without the right to explore or exploit;
- (d) Activities in the Area means all activities of exploration for or exploitation of mineral resources in the Area along with the corresponding rights, including planning, performing and assessing, exploratory and mining activities;
- (e) Harm to the marine environment means contamination of the marine environment by the introduction by humans, directly or indirectly, into the marine environment of such substances or energies that exhibit or might exhibit deleterious effects such as damaging living resources and marine life, endangering human health, preventing marine activities including fishery or any other lawful utilization of the sea, deteriorating the quality of sea water and restricting conditions for recreation.

CHAPTER II
Conditions imposed on prospecting and activities in the Area

§ 3

Prospecting and activities in the Area may be carried out by natural persons domiciled in the territory of the Czech Republic or legal entities with their seat in the territory of the Czech Republic under the terms and conditions specified herein ("Authorized Persons"). Work connected with prospecting and activities in the Area shall be managed by, and responsibility for them shall be entrusted to, a natural person to whom the Ministry of Industry and Trade ("Ministry") has granted a certificate of expertise.

§ 4

Conditions imposed on granting a certificate of expertise

A certificate of expertise may be granted under the following conditions:

- (a) Minimum age of 21 years;
- (b) Soundness in body and mind;
- (c) Clean criminal record; and
- (d) Demonstration of expertise under § 6.

§ 5

Clean criminal record

1. A person shall be deemed to have a clean criminal record for the purposes hereof if he was not sentenced by a judgement having the force of *res judicata*:

- (a) For a criminal offence, intentional or through negligence, in connection with prospecting or activities in the Area;
- (b) For any other intentional criminal offence to an unconditional confinement of at least one year's duration.

2. A person who has committed and been sentenced for any of the crimes specified in section 1 above, if he is considered never to have been sentenced,¹⁾ shall be also deemed to have a clean criminal record.

§ 6

Expertise

1. For the purposes hereof expertise shall mean:

- (a) Completed university education, specialization in geology or mining, and three years of experience in geological surveying or mining mineral raw materials;
- (b) Demonstrable knowledge of either the English or the French language at the level of state language examination;²⁾ and

¹⁾ For example, §§ 58, 60, 60a and 70 of Act No. 140/1961 Coll., Penal Code, as amended.

²⁾ § 7 of Regulation No. 526/1992 Coll. of the Ministry of Education, Youth and Sports, on State Language Schools and State Language Examinations.

- (c) Demonstrable knowledge of the provisions hereof; Parts I, XI, XII and XV of the United Nations Convention on the Law of the Sea³⁾ ("the Convention"); Annexes III to VI to the Convention; the Agreement relating to the Implementation of Part XI of the Convention⁴⁾ ("the Agreement") and its Annex; and the mandatory principles, rules, regulations and procedures issued by the International Seabed Authority ("the Authority");
- (d) Experience in prospecting or in activities in the Area of at least one year's duration, at least one month of which should be in maritime activities; maritime experience can be replaced by successful graduation from a special course organized by the International Ocean Institute or successful graduation from a training programme organized by the Authority.

2. Expertise shall be demonstrated by a certificate issued by the Ministry pursuant to the protocol of a successful examination concerning expertise specified in section 1, clauses (b) and (c), before an examination board established by the Ministry, provided the remaining requirements for expertise in §§ 4 to 6 and § 7, sections 1 to 3, hereof are met. In testing the expertise under the provisions of section 1, clauses (b) and (c), the examination board shall observe rules of procedure issued by the Ministry.

§ 7 Certificate

1. A natural person who intends to engage in prospecting or activities in the Area as such or as an authorized representative of other persons ("Statutory Representative") shall file with the Ministry an application requesting the issuance of a certificate of expertise.

2. In the application the applicant shall state his/her name and surname, domicile and citizen's card index number or identification number.

3. The applicant shall enclose with the application an excerpt from the criminal record,⁵⁾ not older than three months and authenticated copies of documents listed in § 6, section 1, clauses (a) and (d). In the event the applicant, a natural person, has stayed during the last five years outside the territory of the Czech Republic, he/she shall submit documents identified in the preceding sentence from all States in which he/she stayed without interruption for more than three months during the last five years.

4. If the conditions imposed in §§ 4 to 6 and in § 7, sections 1 to 3, are satisfied, the Ministry shall issue a certificate of expertise valid for seven years after the effective date thereof. Otherwise the Ministry shall disallow the application.

5. For issuance of the certificate of expertise the Ministry shall charge a fee in accordance with a separate regulation.⁶⁾

³⁾ Communication of the Ministry of Foreign Affairs No. 240/1996 Coll., on the conclusion of the United Nations Convention on the Law of the Sea.

⁴⁾ Communication of the Ministry of Foreign Affairs No. 241/1996 Coll., on the conclusion of the Agreement relating to the Implementation of Part XI of the United Nations Convention on the Law of the Sea.

⁵⁾ § 11 of the Criminal Record Act No. 269/1994 Coll.

⁶⁾ Act No. 368/1992 Coll., on Administrative Charges, as amended; item No. 22, clause (a), of the Administrative Charges Tariff.

§ 8
Prospecting

1. The Authorized Person shall notify the Authority in writing of an intention to prospect. The notification shall be submitted in any of the official languages of the United Nations.

2. In the notification the Authorized Person shall state:

- (a) His/her name and surname, nationality, citizen's card index number or identification number if a natural person;
- (b) Its business name, registered office and identification number, if a legal entity;
- (c) Name and surname, domicile, citizen's card index number or identification number and nationality of natural persons that constitute the statutory body of the legal entity involved, if such body exists;
- (d) Telephone/fax number and email address;
- (e) Name and surname, domicile, citizen's card index number or identification number and nationality of the natural person acting as the Statutory Representative;
- (f) Type of mineral resource prospected for;
- (g) The obligation that the prospecting activities will satisfy the provisions of the Convention, the Agreement and the mandatory principles, rules, regulations and procedures as issued by the Authority;
- (h) A consent to inspections by the Authority concerning compliance with the obligation under clause (g);
- (i) Coordinates of the territory in which the prospecting activities will take place;
- (j) A description of the prospecting activities;
- (k) The intended starting date of prospecting;
- (l) The expected duration of prospecting.

3. The Authorized Person shall attach to the notification a document evidencing that insurance against damage caused by the prospecting activities has been put into effect.

4. At the same time the Authorized Person shall send to the Ministry for its records a copy of the notification under section 1 above, authenticated under a specific legal regulation,⁷⁾ and an official translation of the notification to the Czech language.⁸⁾

5. The Authorized Person may commence prospecting only after a document evidencing registration of the notification by the Authority has been submitted to the Ministry for its files.

§ 9
Activities in the Area

1. The Authorized Person may carry out activities in the Area only pursuant to a written contract concluded between the Authorized Person and the Authority, and under the terms and conditions laid down herein.

2. Negotiations with the Authority concerning activities in the Area may start only after the Ministry has issued its prior consent (“certificate of sponsorship”).

⁷⁾ Act No. 41/1993 Coll., on Authentication of Coincidence of Copies or a Copy and the Original and Issuance of Certificates by the Municipalities and District Offices, as amended by Act No. 15/1997 Coll.

⁸⁾ Act No. 36/1967 Coll., on Authorized Experts and Interpreters.

§ 10
Certificate of sponsorship

1. In an application requesting a certificate of sponsorship the Authorized Person shall state:

- (a) His/her name and surname, nationality, citizen's card index number or identification number, if a natural person;
- (b) Its business name, registered office and identification number, if a legal entity;
- (c) Name and surname, domicile, citizen's card index number or identification number and nationality of natural persons that constitute the statutory body of the legal entity involved, if such body exists;
- (d) Telephone/fax number and email address;
- (e) Type of mineral resource the activities in the Area will be focused on;
- (f) The obligation that the activities in the Area will comply with the provisions of the written contract concluded with the Authority, the Convention, the Agreement and the mandatory principles, rules, regulations and procedures issued by the Authority;
- (g) A consent to inspections by the Authority concerning compliance with the obligation under clause (f);
- (h) Specification of works to be carried out as part of activities in the Area;
- (i) The expected starting date of activities in the Area;
- (j) The expected duration of activities in the Area;
- (k) Location of activities in the Area;

2. The Authorized Person shall enclose with the application:

- (a) An excerpt from the Companies Register, if a person obliged to be entered in the Companies Register is involved;
- (b) A document evidencing that a Statutory Representative has been appointed, unless the Authorized Person is the holder of a certificate of expertise;
- (c) A document evidencing that an amount of at least US\$ 30 million or its equivalent in another currency was expended for prospecting; not less than 10 per cent of the above amount must have been expended for determination of the location, surveying and assessment of that part of the seabed, ocean floor or subsoil thereof to which the activities in the Area will refer pursuant to section 1, clause (h);
- (d) A draft plan of work under section 1, clause (h), underlying the contract to be concluded with the Authority and covering performance of the work;
- (e) A document evidencing ownership or lease of an exploratory vessel or a mining aggregate;
- (f) A document evidencing insurance against damage caused by activities in the Area;
- (g) A document evidencing availability of financial funds covering the work under section 1, clause (h);
- (h) A document evidencing payment of the fee charged for the application requesting a Certificate of Sponsorship.

3. The Authorized Person, member of an international consortium that intends to carry out activities in the Area, shall similarly specify in the application the particulars and enclose documents under sections 1 and 2 above.

4. The Authorized Person that concluded with the Authority a contract covering only exploration for mineral resources and that intends subsequently to exploit shall, prior to exploitation, conclude with the Authority a contract covering exploitation. Prior to entering into such contract the Authorized Person shall obtain from the Ministry a new certificate of sponsorship with exploitation. The application requesting this certificate of sponsorship shall specify the data items listed in sections 1 and 2.

5. The Ministry shall decide on granting the certificate of sponsorship after consultation with the Ministry of Foreign Affairs. If the conditions set forth in the preceding section are satisfied, the Ministry shall issue a certificate of sponsorship valid for 15 years. The Ministry may extend this period of validity by no more than five years, provided the Authorized Person is able to demonstrate that it has been unable to complete all work included in the activities in the Area as specified in section 1, clause (h). In the certificate of sponsorship the Ministry shall state the data items listed in section 1, clauses (a) or (b), (e), (f), (h) and (k). In the event the conditions for granting the certificate of sponsorship are not met, the Ministry shall disallow the application.

6. For an application requesting issuance of a certificate of sponsorship, the Ministry shall charge a fee in accordance with the Administrative Charges Act.

7. The Ministry shall issue a certificate of sponsorship in the Czech language and at the same time arrange for an official translation into English or French.⁸

CHAPTER III Rights and obligations of Authorized Persons

§ 11

The Authorized Person shall:

- (a) Notify the Ministry without delay of all changes and additions related to the data and documents set forth as essentials for notification of prospecting activities or the application requesting issuance of a certificate of sponsorship;
- (b) Prior to starting prospecting or activities in the Area, effect insurance against damage caused in the Area with an insurer certified under a separate legal regulation;⁹⁾
- (c) Remove the consequences of damage the Authorized Person caused by prospecting or activities in the Area; in this instance damage means death, damage to health or property, and harm to the marine environment in the Area.

§ 12

An Authorized Person for which the Authority registered a notification of prospecting or with which the Authority concluded a contract covering activities in the Area may request the Authority to give consent to the assignment to another legal entity or natural person of its rights, obligations and duties ensuing from the registration or the contract only if the Ministry issues a decision in which it gives its consent to such assignment.

⁹⁾ Act No. 363/1999 Coll., on the Insurance Industry, as amended.

§ 13
Settlement of disputes

Disputes connected with prospecting or activities in the Area shall be resolved pursuant to the provisions of articles 186 to 190 of the Convention.

§ 14
Concurrent proceedings

If the Authorized Person is subject simultaneously to proceedings undertaken by the Authority for violation of the mandatory principles, rules, regulations and procedures issued by the Authority in connection with prospecting or activities in the Area and by the Ministry for violation of the provisions hereof, the Ministry shall suspend the proceedings until it receives a valid decision of the Authority. Should the Authority decide on recourse, the Ministry shall discontinue the proceedings; otherwise the proceedings instituted by the Ministry shall continue.

CHAPTER IV
State administration

§ 15

The Ministry shall:

- (a) Keep records of notifications registered by the Authority under § 8, sections 4 and 5;
- (b) Appoint and recall members of the expert examination board established to test the expertise set forth in § 6, section 1, clauses (b) and (c), and issue rules of procedure of the board;
- (c) Decide on issuance and revoke certificates of expertise, and keep the corresponding records;
- (d) Decide on issuance and revoke certificates of sponsorship granted according to §§ 10 and 17 and keep the corresponding records; inform the Authority about the issuance or expiration of certificates of sponsorship, always stating the reasons therefor;
- (e) Give consent to assignment of rights, obligations and duties under § 12 and keep the corresponding records;
- (f) Carry out the inspection activities under § 16;
- (g) Levy fines under § 18.

§ 16
Inspection activities

1. The Ministry shall oversee compliance with the provisions hereof. With regard to Authorized Persons the Ministry shall in particular:

- (a) Examine documentation and records referring to prospecting or activities in the Area;
- (b) Inspect objects, facilities and workplaces used for prospecting or activities in the Area;
- (c) Demand the submission of documents demonstrating fulfilment of obligations hereunder.

2. Authorized Persons shall afford the inspectors access to the documents indicated in section 1, clauses (a) and (c), and access to objects, facilities and workplaces under section 1, clause (b).

3. Unless stipulated otherwise herein the inspection procedure shall be governed by a separate legal regulation.¹⁰⁾

§ 17

Revocation and expiration of certificate of sponsorship

1. The Ministry shall revoke a certificate of sponsorship in the event the Authorized Person involved:

- (a) Fails to fulfil the obligation under § 10, section 1, clause (f);
- (b) Refuses to submit to an inspection under § 16; or
- (c) According to a notification of the Authority, has caused harm to the marine environment.

2. A certificate of sponsorship shall expire:

- (a) If granted to a natural person upon demise or declaration of death;
- (b) On the date of dissolution of the legal entity involved;
- (c) Upon declaration of bankruptcy or if a petition requesting declaration of bankruptcy is dismissed for insufficient assets;
- (d) As of the expiration date of the title granted pursuant to the Convention;
- (e) Upon the expiration of its term;
- (f) Upon a request of the Authorized Person involved as of the date of its delivery to the Ministry.

§ 18

Fines

For a violation of the obligations stipulated herein the Ministry shall levy a fine of up to:

- (a) CZK 100 million on a person engaged in activities in the Area without a contract concluded with the Authority under § 9, section 1;
- (b) CZK 10 million on a person engaged in prospecting without an appointed Statutory Representative under § 7, section 1, and § 22, section 1, unless the person himself is authorized to prospect;
- (c) CZK 10 million on a person identified in § 22, section 2, that has failed to adapt its legal status to the provisions hereof within the prescribed period;
- (d) CZK 1 million on a person that has violated any of its other obligations hereunder.

§ 19

1. A fine under § 18 may be levied within three years from the date on which the Ministry becomes aware of the violation, but never later than ten years after the date on which the violation took place.

2. The seriousness, impact and duration of the illegal activity, the scope of the ensuing damage as well as the timely and effective cooperation extended by the offender in alleviating the damage shall be taken into account in determining the amount of the fine.

¹⁰⁾ Act No. 552/1991 Coll., on State Control, as amended.

Act No. 148/1998 Coll., on Protection of Confidential Information, as amended.

3. Fines levied under § 18 shall be collected and exacted by the Ministry; in exacting the fines the Ministry shall observe a separate legal regulation.¹¹⁾ Revenues from the fines shall constitute income of the state budget.

CHAPTER V
Common and transitional provisions

§ 20

Promulgated international conventions binding on the Czech Republic shall apply to relationships connected with prospecting and activities in the Area not governed by this Act. If there is no such convention the principles and rules of the general international law shall apply.

§ 21

Proceedings instituted hereunder shall be governed by the provisions of the Administrative Procedure Code, unless stipulated otherwise herein.

§ 22

1. An Authorized Person that wishes to become a member of an international consortium engaged in prospecting or activities in the Area shall first employ a person who is a holder of a certificate of expertise under this Act, unless a certificate of expertise has been granted to the Authorized Person himself.

2. A natural person or a legal entity that has become a member of an international consortium engaged in prospecting or activities in the Area prior to the effective date hereof shall adapt its legal status to the provisions of this Act within two years from its effective date.

3. If the Czech Republic is a member of an international consortium, the state administration authority with jurisdiction under a separate legal regulation shall arrange, within two years from the effective date hereof, for the person representing the Czech Republic in the consortium to be a holder of a certificate of expertise hereunder.

PART TWO
AMENDMENT TO THE ADMINISTRATIVE CHARGES ACT

§ 23

Act No. 368/1992 Coll., on the Administration of Taxes and Imposts, as amended by Act No. 10/1993 Coll., Act No. 72/1994 Coll., Act No. 85/1994 Coll., Act No. 273/1994 Coll., Act No. 36/1995 Coll., Act No. 118/1995 Coll., Act No. 160/1995 Coll., Act No. 301/1995 Coll., Act No. 151/1997 Coll., Act No. 305/1997 Coll., Act No. 149/1998 Coll., Act No. 157/1998 Coll., Act No. 167/1998 Coll., Act No. 63/1999 Coll., Act No. 166/1999 Coll., Act No. 167/1999 Coll., Act No. 223/1999 Coll., Act No. 326/1999 Coll., Act No. 352/1999 Coll., Act No. 357/1999 Coll., Act No. 360/1999 Coll., Act No. 363/1999 Coll., Act No. 46/2000 Coll., Act No. 62/2000 Coll., Act No. 117/2000 Coll., Act No. 133/2000 Coll., Act No. 151/2000 Coll., Act No. 153/2000 Coll., Act No. 154/2000 Coll. and Act No. 156/2000 Coll., is hereby amended as follows:

In item 22 of the Administrative Charges Tariff, a clause (m) is added, reading as follows:

¹¹⁾ Act No. 337/1992 Coll., on Administration of Taxes and Imposts, as amended.

- "(m) Filing an application for a certificate of sponsorship with activities in an area of the seabed and ocean floor and subsoil thereof, beyond national jurisdiction CZK 100,000.-".

PART THREE
AMENDMENT TO THE TRADE LICENSING ACT

§ 24

In § 3, section 3, of the Trade Licensing Act No. 455/1999 Coll., as amended by Act No. 231/1992 Coll., Act No. 591/1992 Coll., Act No. 273/1993 Coll., Act No. 303/1993 Coll., Act No. 38/1994 Coll., Act No. 42/1994 Coll., Act No. 136/1994 Coll., Act No. 200/1994 Coll., Act No. 237/1995 Coll., Act No. 286/1995 Coll., Act No. 94/1996 Coll., Act No. 95/1996 Coll., Act No. 147/1996 Coll., Act No. 19/1997 Coll., Act No. 49/1997 Coll., Act No. 61/19997 Coll., Act No. 79/1997 Coll., Act No. 217/1997 Coll., Act No. 280/1997 Coll., Act No. 15/1998 Coll., Act No. 83/1998 Coll., Act No. 157/1998 Coll., Act No. 167/1998 Coll., Act No. 159/1999 Coll., Act No. 356/1999 Coll., Act No. 358/1999 Coll., Act No. 360/1999 Coll., Act No. 363/1999 Coll., Act No. 27/2000 Coll., Act No. 29/2000 Coll., Act No. 121/2000 Coll., Act No. 122/2000 Coll., Act No. 123/2000 Coll., and Act No. 124/2000 Coll., the period at the end of clause "ab" is replaced by a comma and clause "ac" is appended, reading (including footnote 23j) as follows:

- "(ac) prospecting and exploration for, and exploitation of mineral resources from the seabed and ocean floor and the subsoil thereof, beyond national jurisdiction.^{23j}

^{23j} Act No. 158/2000 Coll., on Prospecting, Exploration for and Exploitation of Mineral Resources from the Seabed beyond the Limits of National Jurisdiction and Amendments to some Acts’.”

PART FOUR
EFFECTIVE DATE

§ 25

This Act shall enter into effect as of the 15th day after its publication.

Klaus

Havel

Zeman

2. Republic of Korea

Enforcement Decree of Territorial Sea and Contiguous Zone Act
Presidential Decree No. 9162, 20 September 1978¹

Amended by Presidential Decree No. 13463, 7 September 1991, by Presidential Decree No. 15133, 31 July 1996, and by Presidential Decree No. 17803, 18 December 2002

Article 1. Purpose

The purpose of this Decree is to regulate matters entrusted by the Territorial Sea and Contiguous Zone Act (hereinafter referred to as "the Act") and those necessary for its enforcement. <Amended by Presidential Decree No. 15133, 31 July 1996>

Article 2. Basepoint of straight baseline

In measuring the breadth of the territorial sea, each area of the sea where the straight line is employed as the baseline and the basepoint thereof in accordance with the provision of article 2, Paragraph 2, of the Act shall be provided for in table 1 annexed hereto.

Article 3. Breadth of the territorial sea in the Korea Strait

In accordance with the provisions of the proviso of Article 1 of the Act, the territorial sea in the sea forming the Korea Strait used for international navigation shall be the area of the sea on the landward side of the line connecting the lines as provided for in table 2 annexed hereto.

Article 4. Passage of foreign warships or other government ships

If a foreign warship or other government ship operated for non-commercial purposes intends to navigate through the territorial sea, it shall notify the following particulars to the Minister of Foreign Affairs and Trade not later than three days (excluding public holidays) prior to its passage in accordance with the latter part of article 5, paragraph 1, of the Act, except in cases where the area of the sea through which the aforementioned ship navigates forms a strait used for international navigation in which no high sea route exists:

- (1) Name, type and official number of the ship;
- (2) Purpose of the passage; and
- (3) Passage route and schedule.

Article 5. Activities of foreign ships in the territorial sea

1. If a foreign ship intends to conduct any of the activities provided for in subparagraphs (b) to (e), (k) or (m) of article 5, paragraph 2, of the Act, it shall submit an application specifying the following particulars to the Minister of Foreign Affairs and Trade and shall obtain authorization, approval or consent from the authorities concerned:

¹ Text communicated on 13 February 2003 by the Permanent Mission of the Republic of Korea to the United Nations through note MUN/118/02.

- (1) Name, type and official number of the ship;
- (2) Purpose of the activity, and
- (3) Area of the sea of the activity, passage route and schedule.

2. Any authorization, approval or consent obtained from the authorities concerned with respect to the activities provided for in subparagraphs (b) to (e) or (k) of article 5, paragraph 2, of the Act in accordance with other laws and regulations shall be regarded as authorization, approval or consent obtained under this Decree.

Article 6. Standard for control of discharge of pollutants

"The standards as provided for in the Presidential Decree" in subparagraph (i), of article 5, paragraph 2, of the Act means the standards set by article 23 of the Enforcement Decree of the Marine Pollution Prevention Act.
<Amended by Presidential Decree No. 17803, 18 December 2002>

Article 7. Temporary suspension of innocent passage

1. The temporary suspension of the innocent passage of a foreign ship in the specified areas of the territorial sea in accordance with article 5, paragraph 3, of the Act shall be effected by the Minister of National Defence, subject to deliberation in advance by the State Council and approval of the President.

2. Upon approval of the President under the provisions of paragraph 1, the Minister of National Defence shall, without delay, give publicity on the area of the sea in which the innocent passage is suspended temporarily, the duration of suspension and the reasons therefor.

ADDENDA

1. Enforcement Date. This Decree shall enter into force on 20 September 1978.
2. Omitted.

ADDENDA <Presidential Decree No. 13463, 7 September 1991>

- Article 1. Enforcement Date. This Decree shall enter into force on 9 September 1991.
Articles 2 to 5: Omitted.

ADDENDA <Presidential Decree No. 15133, 31 July 1996>

- Article 1. Enforcement Date. This Decree shall enter into force on 1 August 1996.
Article 2: Omitted.

ADDENDA <Presidential Decree No. 17803, 18 December 2002>

Article 1. This Decree shall enter into force when it is promulgated. However, the amendment in table 1 shall enter into force on 1 January 2003.

Article 2: Omitted.

Table 1
Areas of the seas where straight lines are employed as baselines and the basepoints thereof

(Geodetic system: World Geodetic System)

Areas	Basepoints	Geographical designation	Coordinates	
Yeongil Man ^a	1	Dalman Gab ^b	36° 06 ' 20 '' North Latitude 129° 26 ' 00 '' East Longitude	
	2	Homi Got ^b	36° 05 ' 29 '' North Latitude 129° 33 ' 28 '' East Longitude	
Ulsan Man	3	Hwaam Chu ^c	35° 28 ' 17 '' North Latitude 129° 24 ' 40'' East Longitude	
	4	Beomweol Gab	35° 25 ' 56 '' North Latitude 129° 22 ' 08 '' East Longitude	
South Sea	5	1.5 metre Am ^d	35° 10 ' 09'' North Latitude 129° 13 ' 03 '' East Longitude	
	6	Saeng Do ^e	35° 02 ' 13 '' North Latitude 129° 05 ' 35 '' East Longitude	
	7	Hong Do	34° 32 ' 05 '' North Latitude 128° 43 ' 59 '' East Longitude	
	8	Ganyeo Am	34° 17 ' 16'' North Latitude 127° 51 ' 18 '' East Longitude	
	9	Habaek Do	34° 01 ' 42 '' North Latitude 127° 36 ' 33'' East Longitude	
	10	Geomun Do	34° 00 ' 17 '' North Latitude 127° 19 ' 28'' East Longitude	
	11	Yeoseo Do	33° 58 ' 06 '' North Latitude 126° 55 ' 26 '' East Longitude	
	12	Jangsu Do	33° 55 ' 04 '' North Latitude 126° 38 ' 16'' East Longitude	
	13	Jeolmyeong Seo ^f	33° 52 ' 01'' North Latitude 126° 18 ' 44 '' East Longitude	
	West Sea	14	Soheugsan Do	34° 02 ' 49 '' North Latitude 125° 07 ' 22'' East Longitude
		15	Sogugheul Do (north-west of Soheugsan Do)	34° 07 ' 07 '' North Latitude 125° 04 ' 35'' East Longitude
		16	Hong Do	34° 40 ' 29'' North Latitude 125° 10 ' 22'' East Longitude
		17	Go Seo (north-west of Hong Do)	34° 43 ' 15 '' North Latitude 125° 11 ' 17'' East Longitude

	18	Hoeng Do	35° 20 ' 12 '' North Latitude 125° 59 ' 05 '' East Longitude
	19	Sangwangdeung Do	35° 39 ' 36 '' North Latitude 126° 06 ' 01 '' East Longitude
	20	Jig Do	35° 53 ' 22 '' North Latitude 126° 04 ' 01 '' East Longitude
	21	Eocheong Do	36° 07 ' 16 '' North Latitude 125° 58 ' 03 '' East Longitude
	22	Seogyegyolbi Do	36° 36 ' 47 '' North Latitude 125° 32 ' 29'' East Longitude
	23	Soryeong Do	36° 58 ' 56 '' North Latitude 125° 44 ' 58 '' East Longitude

^a “Man” means bay.

^b “Gab” and "Got" mean promontory.

^c “Chu” means lagoon.

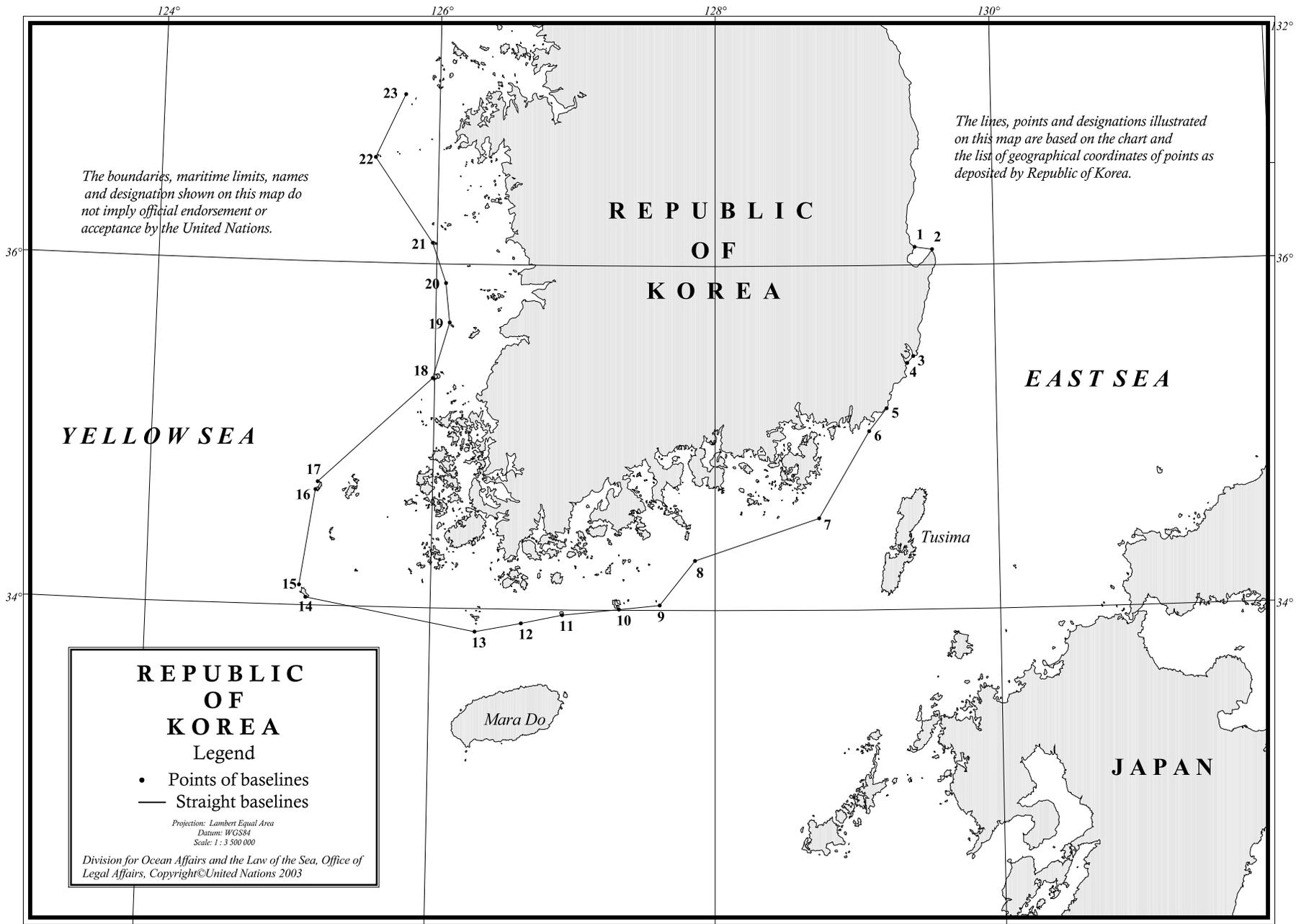
^d “Am” means rock.

^e “Do” means island.

^f “Seo” means islet.

Table 2
Outer limits of the territorial sea in the Korea Strait

1. The outer line at a distance of 3 nautical miles measured from the straight baselines joining, in order, Basepoint 5 (1.5 metre Am), basepoint 6 (Saeng Do) and basepoint 7 (Hong Do).
2. The line drawn from basepoint 5 (1.5 metre Am) at 127° intersects the above-mentioned line at a point which is 3 nautical miles from basepoint 5. From this intersection point a line drawn at 93° intersects the outer limit line of 12 nautical miles measured from the baseline.
3. The line drawn from basepoint 7 (Hong Do) at 120° intersects the line mentioned in (1) above at a point which is 3 nautical miles from basepoint 7. From this intersection point a line drawn at 172° intersects the outer limit line of 12 nautical miles measured from the baseline.



3. Madagascar

Extract from Act No. 99-028 of 3 February 2000 amending the Maritime Code¹

Volume 1. The sea

Section 1. Delimitation of the territorial sea

Article 1.1.01. Breadth of the territorial sea

The Malagasy territorial sea extends into the high seas 12 nautical miles from the baseline.

Article 1.1.02. External waters

Waters in the landward side of the baseline of the territorial sea form part of the internal waters of Madagascar.

Article 1.1.03. Normal baseline

The baseline for measuring the breadth of the territorial sea is the low-water line along the coast as marked on large-scale charts.

Article 1.1.11. Appropriate points

A decree adopted by the Council of Ministers shall establish the list of points to be used in drawing the baselines established pursuant to the foregoing articles. A chart of a scale adequate for indicating the delimitation of the territorial sea shall be annexed thereto.

Section 2. High seas and contiguous zone

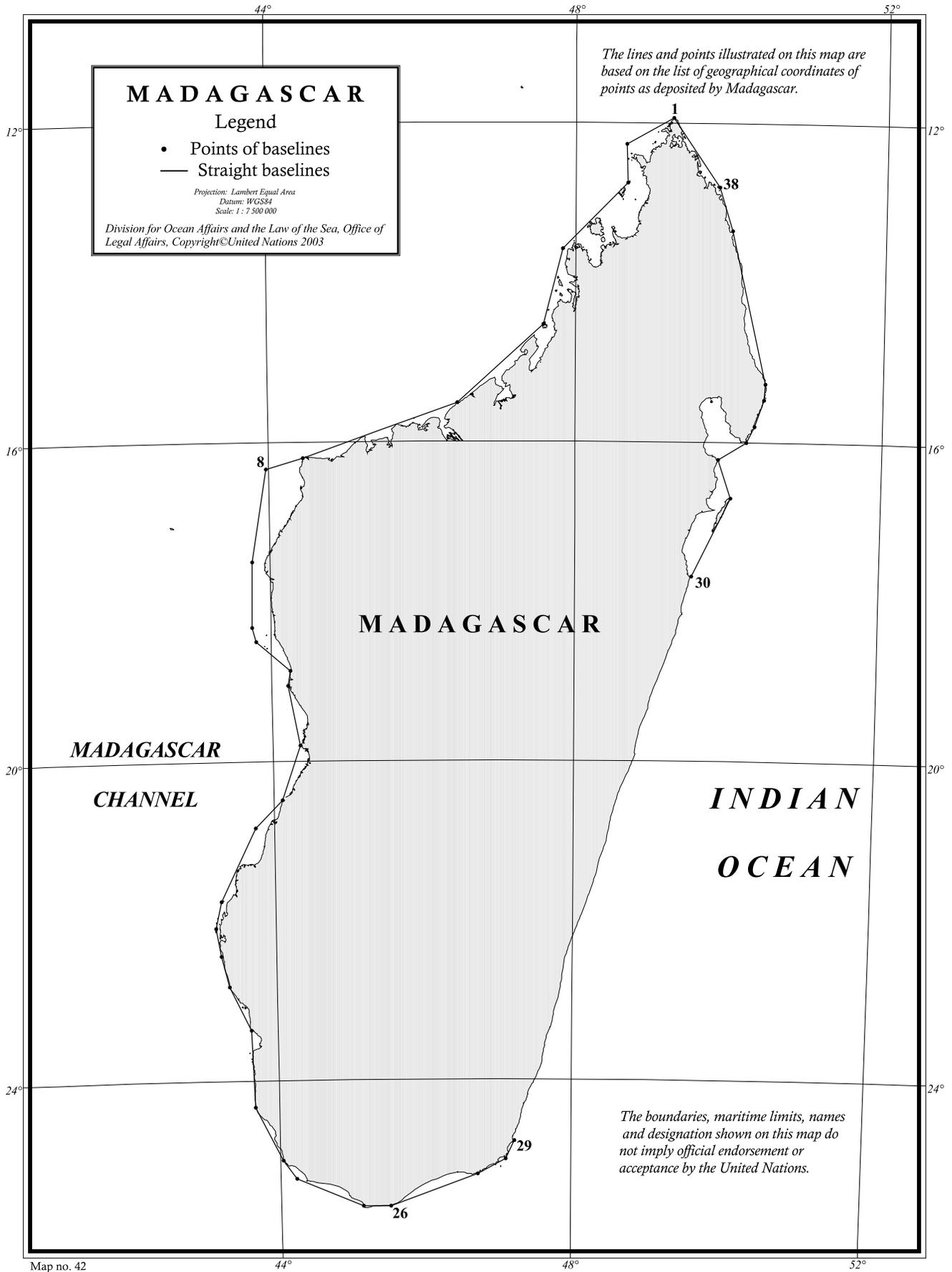
The contiguous zone is an area beyond and adjacent to the territorial sea. Its breadth is limited to 12 nautical miles.

Article 1.2.02. Exclusive economic zone

The exclusive economic zone is an area beyond and adjacent to the territorial sea. It does not extend beyond 200 nautical miles from the baseline.

Where the distance between the baseline of the Republic of Madagascar and that of one or more States bordering it is less than 400 nautical miles, the delimitation shall be made by means of an agreement concluded on the basis of equitable principles, using a line equidistant from the States in question as a reference.

¹ Translated from French. Text communicated by the Permanent Mission of Madagascar to the Division for Ocean Affairs and the Law of the Sea through a note verbale dated 9 December 2002



C. Treaties

1. Timor-Leste and Australia

(a) Exchange of Notes constituting an Agreement between the Government of Australia and the Government of the Democratic Republic of Timor-Leste concerning Arrangements for Exploration and Exploitation of Petroleum in an Area of the Timor Sea between Australia And East Timor¹
Dili, 20 May 2002

Note I

The Australian Embassy in Dili presents its compliments to the Ministry of Foreign Affairs of the Democratic Republic of East Timor and has the honour to refer to the Timor Sea Treaty between the Government of Australia and the Government of East Timor, signed at Dili on 20 May 2002 ("the Treaty").

2. From the date of independence of East Timor until the entry into force of the Treaty, this Exchange of Notes constituting an Agreement between the Government of Australia and the Government of the Democratic Republic of East Timor shall govern the exploration and exploitation of petroleum in the area, the coordinates of which are set out in annex A.
3. Such exploration and exploitation shall take place in accordance with the arrangements in place on 19 May 2002, with Australia and the Democratic Republic of East Timor being the implementing parties.
4. (a) Pending entry into force of the Treaty, East Timor may apply its law on value added tax in accordance with the Taxation Code under the Treaty in a manner consistent with the formula contained in article 4 of the Treaty;
(b) Pending entry into force of the Treaty, East Timor may apply its law on income tax in respect of taxation under that law withheld monthly in accordance with the Taxation Code in a manner consistent with the formula contained in article 4 of the Treaty;
(c) Pending entry into force of the Treaty, the revenue from the sale of the Australian share of first tranche petroleum from the Elang-Kakatua deposit that East Timor would otherwise have collected had the Treaty been in force from the date of signature will be placed in a United States dollar denominated interest-bearing escrow account held by the Joint Authority. The monies from that account (including interest) will be paid to East Timor on entry into force of the Treaty;
(d) Pending entry into force of the Treaty, income tax calculated and levied by annual assessment upon net income directly derived from petroleum production by a company which is a contractor in a production sharing contract in the area, by Australia, that East Timor would otherwise have collected had the Treaty been in force from the date of signature will be placed in a United States dollar denominated interest-bearing escrow account. The monies from that account (including interest) will be paid to East Timor on entry into force of the Treaty.
5. Upon entry into force of the Treaty, all its provisions shall apply and be taken to have applied on and from the date of independence of East Timor and adjustments shall then be made to reflect the application of the Treaty from that date.
6. This Exchange of Notes constituting an Agreement between the Government of Australia and the Government of the Democratic Republic of East Timor shall cease to be in force from the time of entry into force of the Treaty.

¹ Source: Australian Department of Foreign Affairs and Trade, Australian Treaties Database: www.info.dfat.gov.au/info/treaties.

7. Nothing contained in this Exchange of Notes and no acts taking place while this Exchange of Notes is in force shall be interpreted as prejudicing or affecting Australia's or the Democratic Republic of East Timor's position on, or rights relating to:

- (a) A seabed delimitation or their respective seabed entitlements; or
- (b) Any previous agreements relating to the area.

8. In agreeing to continue the arrangements in place on 19 May 2002, pending the entry into force of the Treaty, the Government of the Democratic Republic of East Timor does not thereby recognize the validity of the Treaty between Australia and the Republic of Indonesia on the Zone of Cooperation in an Area between the Indonesian Province of East Timor and Northern Australia (the “Timor Gap Treaty”) or the validity of the “integration” of East Timor into Indonesia.

9. The Government of Australia and the Government of the Democratic Republic of East Timor agree that the Treaty is suitable for immediate submission to their respective treaty approval processes and to work expeditiously and in good faith to satisfy their respective requirements for the entry into force of the Treaty.

The Australian Embassy in Dili avails itself of this opportunity to renew to the Ministry of Foreign Affairs of the Democratic Republic of East Timor the assurances of its highest consideration.

Dili, 20 May 2002

Note II

The Ministry of Foreign Affairs of the Democratic Republic of East Timor presents its compliments to the Australian Embassy in Dili and has the honour to refer to the Timor Sea Treaty between the Government of Australia and the Government of the Democratic Republic of East Timor, signed at Dili on 20 May 2002 (“the Treaty”) and Australia's note to the Ministry No 01 dated 20 May 2002, which reads as follows:

[See Note I]

2. The Ministry of Foreign Affairs of the Democratic Republic of East Timor has the honour to advise that the foregoing proposal is acceptable to the Government of the Democratic Republic of East Timor and to agree that the Australian note and this reply shall constitute an Agreement between the Democratic Republic of East Timor and Australia.

3. The Ministry of Foreign Affairs of the Democratic Republic of East Timor avails itself of this opportunity to renew to the Australian Embassy in Dili the assurances of its highest consideration.

Dili, 20 May 2002

- (b) Timor Sea Treaty²
Dili, 20 May 2002

The Government of Australia and the Government of East Timor,

Conscious of the importance of promoting East Timor's economic development,

Aware of the need to maintain security of investment for existing and planned petroleum activities in an area of seabed between Australia and East Timor,

² Source: Australian Department of Foreign Affairs and Trade, AUSTRALIAN TREATIES DATABASE:
<http://www.info.dfat.gov.au/info/treaties>

Recognizing the benefits that will flow to both Australia and East Timor by providing a continuing basis for petroleum activities in an area of seabed between Australia and East Timor to proceed as planned,

Emphasizing the importance of developing petroleum resources in a way that minimizes damage to the natural environment, that is economically sustainable, promotes further investment and contributes to the long-term development of Australia and East Timor,

Convinced that the development of the resources in accordance with this Treaty will provide a firm foundation for continuing and strengthening the friendly relations between Australia and East Timor,

Taking into account the United Nations Convention on the Law of the Sea done at Montego Bay on 10 December 1982, which provides in article 83 that the delimitation of the continental shelf between States with opposite or adjacent coasts shall be effected by agreement on the basis of international law in order to achieve an equitable solution,

Taking further into account, in the absence of delimitation, the further obligation for States to make every effort, in a spirit of understanding and cooperation, to enter into provisional arrangements of a practical nature which do not prejudice a final determination of the seabed delimitation,

Noting the desirability of Australia and East Timor entering into a treaty providing for the continued development of the petroleum resources in an area of seabed between Australia and East Timor,

Have agreed as follows:

Article 1. Definitions

For the purposes of this Treaty:

- (a) "Treaty" means this Treaty, including annexes A to G and any annexes subsequently agreed between Australia and East Timor;
- (b) "contractor" means a corporation or corporations which enter into a contract with the Designated Authority and which is registered as a contractor under the Petroleum Mining Code;
- (c) "criminal law" means any law in force in Australia and East Timor, whether substantive or procedural, that makes provision for or in relation to offences or for or in relation to the investigation or prosecution of offences or the punishment of offenders, including the carrying out of a penalty imposed by a court. For this purpose, "investigation" includes entry to an installation or structure in the JPDA, the exercise of powers of search and questioning and the apprehension of a suspected offender;
- (d) "Designated Authority" means the Designated Authority established in article 6 of this Treaty;
- (e) "fiscal scheme" means a royalty, a Production Sharing Contract or other scheme for determining Australia's and East Timor's share of petroleum or revenue from petroleum activities and does not include taxes referred to in article 5 (b) of this Treaty;
- (f) "initially processed" means processing of petroleum to a point where it is ready for off-take from the production facility and may include such processes as the removal of water, volatiles and other impurities;
- (g) "Joint Commission" means the Australia-East Timor Joint Commission established in article 6 of this Treaty;
- (h) "JPDA" means the Joint Petroleum Development Area established in article 3 of this Treaty;
- (i) "Ministerial Council" means the Australia-East Timor Ministerial Council established in article 6 of this Treaty;
- (j) "petroleum" means:
 - (i) any naturally occurring hydrocarbon, whether in a gaseous, liquid or solid state;

(ii) any naturally occurring mixture of hydrocarbons, whether in a gaseous, liquid or solid state; or

(iii) any naturally occurring mixture of one or more hydrocarbons, whether in a gaseous, liquid or solid state, as well as other substances produced in association with such hydrocarbons,

and includes any petroleum as defined by subparagraphs (i), (ii) or (iii) that has been returned to a natural reservoir;

(k) "petroleum activities" means all activities undertaken to produce petroleum, authorized or contemplated under a contract, permit or licence, and includes exploration, development, initial processing, production, transportation and marketing, as well as the planning and preparation for such activities;

(l) "Petroleum Mining Code" means the Code referred to in article 7 of this Treaty;

(m) "petroleum project" means petroleum activities taking place in a specified area within the JPDA;

(n) "petroleum produced" means initially processed petroleum extracted from a reservoir through petroleum activities;

(o) "Production Sharing Contract" means a contract between the Designated Authority and a limited liability corporation or entity with limited liability under which production from a specified area of the JPDA is shared between the parties to the contract;

(p) "reservoir" means an accumulation of petroleum in a geological unit limited by rock, water or other substances without pressure communication through liquid or gas to another accumulation of petroleum;

(q) "taxation code" means the code referred to in article 13 (b) of this Treaty.

Article 2. Without prejudice

(a) This Treaty gives effect to international law as reflected in the United Nations Convention on the Law of the Sea done at Montego Bay on 10 December 1982, which under article 83 requires States with opposite or adjacent coasts to make every effort to enter into provisional arrangements of a practical nature pending agreement on the final delimitation of the continental shelf between them in a manner consistent with international law. This Treaty is intended to adhere to such obligation.

(b) Nothing contained in this Treaty and no acts taking place while this Treaty is in force shall be interpreted as prejudicing or affecting Australia's or East Timor's position on or rights relating to a seabed delimitation or their respective seabed entitlements.

Article 3. Joint Petroleum Development Area

(a) The Joint Petroleum Development Area (JPDA) is established. It is the area in the Timor Sea contained within the lines described in annex A.

(b) Australia and East Timor shall jointly control, manage and facilitate the exploration, development and exploitation of the petroleum resources of the JPDA for the benefit of the peoples of Australia and East Timor.

(c) Petroleum activities conducted in the JPDA shall be carried out pursuant to a contract between the Designated Authority and a limited liability corporation or entity with limited liability specifically established for the sole purpose of the contract. This provision shall also apply to the successors or assignees of such corporations.

(d) Australia and East Timor shall make it an offence for any person to conduct petroleum activities in the JPDA otherwise than in accordance with this Treaty.

Article 4. Sharing of petroleum production

- (a) Australia and East Timor shall have title to all petroleum produced in the JPDA. Of the petroleum produced in the JPDA, ninety (90) per cent shall belong to East Timor and ten (10) per cent shall belong to Australia.
- (b) To the extent that fees referred to in article 6(b)(vi) and other income are inadequate to cover the expenditure of the Designated Authority in relation to this Treaty, that expenditure shall be borne in the same proportion as set out in paragraph (a).

Article 5. Fiscal arrangements and taxes

Fiscal arrangements and taxes shall be dealt with in the following manner:

- (a) Unless a fiscal scheme is otherwise provided for in this Treaty:
 - (i) Australia and East Timor shall make every possible effort to agree on a joint fiscal scheme for each petroleum project in the JPDA;
 - (ii) If Australia and East Timor fail to reach agreement on a joint fiscal scheme referred to in subparagraph (i), they shall jointly appoint an independent expert to recommend an appropriate joint fiscal scheme to apply to the petroleum project concerned;
 - (iii) If either Australia or East Timor does not agree to the joint fiscal scheme recommended by the independent expert, Australia and East Timor may each separately impose their own fiscal scheme on their proportion of the production of the project as calculated in accordance with the formula contained in article 4 of this Treaty;
 - (iv) If Australia and East Timor agree on a joint fiscal scheme pursuant to this article, neither Australia nor East Timor may during the life of the project vary that scheme except by mutual agreement between Australia and East Timor.
- (b) Consistent with the formula contained in article 4 of this Treaty, Australia and East Timor may, in accordance with their respective laws and the taxation code, impose taxes on their share of the revenue from petroleum activities in the JPDA and relating to activities referred to in article 13 of this Treaty.

Article 6. Regulatory bodies

- (a) A three-tiered joint administrative structure consisting of a Designated Authority, a Joint Commission and a Ministerial Council is established.
- (b) Designated Authority:
 - (i) For the first three years after this Treaty enters into force, or for a different period of time if agreed to jointly by Australia and East Timor, the Joint Commission shall designate the Designated Authority;
 - (ii) After the period specified in subparagraph (i), the Designated Authority shall be the East Timor Government Ministry responsible for petroleum activities or, if so decided by the Ministry, an East Timor statutory authority;
 - (iii) For the period specified in subparagraph (i), the Designated Authority has juridical personality and such legal capacities under the law of both Australia and East Timor as are necessary for the exercise of its powers and the performance of its functions. In particular, the Designated Authority shall have the capacity to contract, to acquire and dispose of movable and immovable property and to institute and be party to legal proceedings;
 - (iv) The Designated Authority shall be responsible to the Joint Commission and shall carry out the day-to-day regulation and management of petroleum activities;

(v) A non-exclusive listing of more detailed powers and functions of the Designated Authority is set out in annex C. The annexes to this Treaty may identify other additional detailed powers and functions of the Designated Authority. The Designated Authority also has such other powers and functions as may be conferred upon it by the Joint Commission;

(vi) The Designated Authority shall be financed from fees collected under the Petroleum Mining Code;

(vii) For the period specified in subparagraph (i), the Designated Authority shall be exempt from the following existing taxes:

(1) In East Timor, the income tax imposed under the law of East Timor;

(2) In Australia, the income tax imposed under the federal law of Australia,

as well as any identical or substantially similar taxes which are imposed after the date of signature of this Treaty in addition to, or in place of, the existing taxes;

(viii) For the period specified in subparagraph (i), personnel of the Designated Authority:

(1) Shall be exempt from taxation of salaries, allowances and other emoluments paid to them by the Designated Authority in connection with their service with the Designated Authority other than taxation under the law of Australia or East Timor in which they are deemed to be resident for taxation purposes; and

(2) Shall, at the time of first taking up the post with the Designated Authority located in either Australia or East Timor in which they are not resident, be exempt from customs duties and other such charges (except payments for services) in respect of imports of furniture and other household and personal effects in their ownership or possession or already ordered by them and intended for their personal use or for their establishment; such goods shall be imported within six months of an officer's first entry but in exceptional circumstances an extension of time shall be granted by the Government of Australia or the Government of East Timor; goods which have been acquired or imported by officers and to which exemptions under this subparagraph apply shall not be given away, sold, lent or hired out, or otherwise disposed of except under conditions agreed in advance with the Government of Australia or the Government of East Timor depending on in which country the officer is located.

(c) Joint Commission:

(i) The Joint Commission shall consist of commissioners appointed by Australia and East Timor. There shall be one more commissioner appointed by East Timor than by Australia. The Joint Commission shall establish policies and regulations relating to petroleum activities in the JPDA and shall oversee the work of the Designated Authority;

(ii) A non-exclusive listing of more detailed powers and functions of the Joint Commission is set out in annex D. The annexes to this Treaty may identify other additional detailed powers and functions of the Joint Commission;

(iii) Except as provided for in article 8(c), the commissioners of either Australia or East Timor may at any time refer a matter to the Ministerial Council for resolution;

(iv) The Joint Commission shall meet annually or as may be required. Its meetings shall be chaired by a member nominated by Australia and East Timor on an alternate basis.

(d) Ministerial Council:

(i) The Ministerial Council shall consist of an equal number of Ministers from Australia and East Timor. It shall consider any matter relating to the operation of this Treaty that is referred to it by either Australia or East Timor. It shall also consider any matter referred to in subparagraph (c) (iii);

- (ii) In the event the Ministerial Council is unable to resolve a matter, either Australia or East Timor may invoke the dispute resolution procedure set out in annex B;
 - (iii) The Ministerial Council shall meet at the request of either Australia or East Timor or at the request of the Joint Commission;
 - (iv) Unless otherwise agreed between Australia and East Timor, meetings of the Ministerial Council where at least one member representing Australia and one member representing East Timor are physically present shall be held alternately in Australia and East Timor. Its meetings shall be chaired by a representative of Australia or East Timor on an alternate basis;
 - (v) The Ministerial Council may, if it so chooses, permit members to participate in a particular meeting, or all meetings, by telephone, closed-circuit television or any other means of electronic communication, and a member who so participates is to be regarded as being present at the meeting. A meeting may be held solely by means of electronic communication.
- (e) Commissioners of the Joint Commission and personnel of the Designated Authority shall have no financial interest in any activity relating to exploration for and exploitation of petroleum resources in the JPDA.

Article 7. Petroleum Mining Code

- (a) Australia and East Timor shall negotiate an agreed Petroleum Mining Code which shall govern the exploration, development and exploitation of petroleum within the JPDA, as well as the export of petroleum from the JPDA.
- (b) In the event Australia and East Timor are unable to conclude a Petroleum Mining Code by the date of entry into force of this Treaty, the Joint Commission shall in its inaugural meeting adopt an interim code to remain in effect until a Petroleum Mining Code is adopted in accordance with paragraph (a).

Article 8. Pipelines

- (a) The construction and operation of a pipeline within the JPDA for the purposes of exporting petroleum from the JPDA shall be subject to the approval of the Joint Commission. Australia and East Timor shall consult on the terms and conditions of pipelines exporting petroleum from the JPDA to the point of landing.
- (b) A pipeline landing in East Timor shall be under the jurisdiction of East Timor. A pipeline landing in Australia shall be under the jurisdiction of Australia.
- (c) In the event a pipeline is constructed from the JPDA to the territory of either Australia or East Timor, the country where the pipeline lands may not object to or impede decisions of the Joint Commission regarding a pipeline to the other country. Notwithstanding article 6(c)(iii), the Ministerial Council may not review or change any such decisions.
- (d) Paragraph (c) shall not apply where the effect of constructing a pipeline from the JPDA to the other country would cause the supply of gas to be withheld from a limited liability corporation or limited liability entity which has obtained consent under this Treaty to obtain gas from a project in the JPDA for contracts to supply gas for a specified period of time.
- (e) Neither Australia nor East Timor may object to, nor in any way impede, a proposal to use floating gas to liquids processing and off-take in the JPDA on a commercial basis where such proposal shall produce higher revenues to Australia and East Timor from royalties and taxes earned from activities conducted within the JPDA than would be earned if gas were transported by pipeline.

(f) Paragraph (e) shall not apply where the effect of floating gas to liquids processing and off-take in the JPDA would cause the supply of gas to be withheld from a limited liability corporation or limited liability entity which has obtained consent under this Treaty to obtain gas from the JPDA for contracts to supply gas for a specified period of time.

(g) Petroleum from the JPDA and from fields which straddle the boundaries of the JPDA shall at all times have priority of carriage along any pipeline carrying petroleum from and within the JPDA.

(h) There shall be open access to pipelines for petroleum from the JPDA. The open access arrangements shall be in accordance with good international regulatory practice. If Australia has jurisdiction over the pipeline, it shall consult with East Timor over access to the pipeline. If East Timor has jurisdiction over the pipeline, it shall consult with Australia over access to the pipeline.

Article 9. Unitisation

(a) Any reservoir of petroleum that extends across the boundary of the JPDA shall be treated as a single entity for management and development purposes.

(b) Australia and East Timor shall work expeditiously and in good faith to reach agreement on the manner in which the deposit will be most effectively exploited and on the equitable sharing of the benefits arising from such exploitation.

Article 10. Marine environment

(a) Australia and East Timor shall cooperate to protect the marine environment of the JPDA so as to prevent and minimize pollution and other environmental harm from petroleum activities. Special efforts shall be made to protect marine animals including marine mammals, seabirds, fish and coral. Australia and East Timor shall consult as to the best means to protect the marine environment of the JPDA from the harmful consequences of petroleum activities.

(b) Where pollution of the marine environment occurring in the JPDA spreads beyond the JPDA, Australia and East Timor shall cooperate in taking action to prevent, mitigate and eliminate such pollution.

(c) The Designated Authority shall issue regulations to protect the marine environment in the JPDA. It shall establish a contingency plan for combating pollution from petroleum activities in the JPDA.

(d) Limited liability corporations or limited liability entities shall be liable for damage or expenses incurred as a result of pollution of the marine environment arising out of petroleum activities within the JPDA in accordance with:

- (i). Their contract, licence or permit or other form of authority issued pursuant to this Treaty; and
- (ii). The law of the jurisdiction (Australia or East Timor) in which the claim is brought.

Article 11. Employment

(a) Australia and East Timor shall:

- (i). Take appropriate measures with due regard to occupational health and safety requirements to ensure that preference is given in employment in the JPDA to nationals or permanent residents of East Timor; and
- (ii). Facilitate, as a matter of priority, training and employment opportunities for East Timorese nationals and permanent residents.

(b) Australia shall expedite and facilitate processing of applications for visas through its diplomatic mission in Dili by East Timorese nationals and permanent residents employed by limited liability corporations or limited liability entities in Australia associated with petroleum activities in the JPDA.

Article 12. Health and safety for workers

The Designated Authority shall develop, and limited liability corporations or limited liability entities shall apply, occupational health and safety standards and procedures for persons employed on structures in the JPDA that are no less effective than those standards and procedures that would apply to persons employed on similar structures in Australia and East Timor. The Designated Authority may adopt, consistent with this article, standards and procedures taking into account an existing system established under the law of either Australia or East Timor.

Article 13. Application of taxation law

- (a) For the purposes of taxation law related directly or indirectly to:
 - (i). The exploration for or the exploitation of petroleum in the JPDA; or
 - (ii). Acts, matters, circumstances and things touching, concerning arising out of or connected with such exploration and exploitation,

the JPDA shall be deemed to be, and be treated by, Australia and East Timor as part of that country.

- (b) The taxation code to provide relief from double taxation relating to petroleum activities is set out in annex G.
- (c) The taxation code contains its own dispute resolution mechanism. Article 23 of this Treaty shall not apply to disputes covered by that mechanism.

Article 14. Criminal jurisdiction

- (a) A national or permanent resident of Australia or East Timor shall be subject to the criminal law of that country in respect of acts or omissions occurring in the JPDA connected with or arising out of exploration for and exploitation of petroleum resources, provided that a permanent resident of Australia or East Timor who is a national of the other country shall be subject to the criminal law of the latter country.
- (b) Subject to paragraph (d), a national of a third State, not being a permanent resident of either Australia or East Timor, shall be subject to the criminal law of both Australia and East Timor in respect of acts or omissions occurring in the JPDA connected with or arising out of petroleum activities. Such a person shall not be subject to criminal proceedings under the law of either Australia or East Timor if he or she has already been tried and discharged or acquitted by a competent tribunal or already undergone punishment for the same act or omission under the law of the other country or where the competent authorities of one country, in accordance with its law, have decided in the public interest to refrain from prosecuting the person for that act or omission.
- (c) In cases referred to in paragraph (b), Australia and East Timor shall, as and when necessary, consult each other to determine which criminal law is to be applied, taking into account the nationality of the victim and the interests of the country most affected by the alleged offence.
- (d) The criminal law of the flag State shall apply in relation to acts or omissions on board vessels, including seismic or drill vessels in, or aircraft in flight over, the JPDA.
- (e) Australia and East Timor shall provide assistance to and cooperate with each other, including through agreements or arrangements as appropriate, for the purposes of enforcement of criminal law under this article, including the obtaining of evidence and information.
- (f) Both Australia and East Timor recognize the interest of the other country where a victim of an alleged offence is a national of that other country and shall keep that other country informed, to the extent permitted by its law, of action being taken with regard to the alleged offence.

(g) Australia and East Timor may make arrangements permitting officials of one country to assist in the enforcement of the criminal law of the other country. Where such assistance involves the detention of a person who under paragraph (a) is subject to the jurisdiction of the other country that detention may only continue until it is practicable to hand the person over to the relevant officials of that other country.

Article 15. Customs, quarantine and migration

- (a) Australia and East Timor may, subject to paragraphs (c), (e), (f) and (g), apply customs, migration and quarantine laws to persons, equipment and goods entering its territory from, or leaving its territory for, the JPDA. Australia and East Timor may adopt arrangements to facilitate such entry and departure.
- (b) Limited liability corporations or other limited liability entities shall ensure, unless otherwise authorized by Australia or East Timor, that persons, equipment and goods do not enter structures in the JPDA without first entering Australia or East Timor, and that their employees and the employees of their subcontractors are authorized by the Designated Authority to enter the JPDA.
- (c) Either country may request consultations with the other country in relation to the entry of particular persons, equipment and goods to structures in the JPDA aimed at controlling the movement of such persons, equipment or goods.
- (d) Nothing in this article prejudices the right of either Australia or East Timor to apply customs, migration and quarantine controls to persons, equipment and goods entering the JPDA without the authority of either country. Australia and East Timor may adopt arrangements to coordinate the exercise of such rights.
- (e) Goods and equipment entering the JPDA for purposes related to petroleum activities shall not be subject to customs duties.
- (f) Goods and equipment leaving or in transit through either Australia or East Timor for the purpose of entering the JPDA for purposes related to petroleum activities shall not be subject to customs duties.
- (g) Goods and equipment leaving the JPDA for the purpose of being permanently transferred to a part of either Australia or East Timor may be subject to customs duties of that country.

Article 16. Hydrographic and seismic surveys

- (a) Australia and East Timor shall have the right to carry out hydrographic surveys to facilitate petroleum activities in the JPDA. Australia and East Timor shall cooperate on:
- (i). The conduct of such surveys, including the provision of necessary onshore facilities; and
 - (ii). Exchanging hydrographic information relevant to petroleum activities in the JPDA.
- (b) For the purposes of this Treaty, Australia and East Timor shall cooperate in facilitating the conduct of seismic surveys in the JPDA, including in the provision of necessary onshore facilities.

Article 17. Petroleum industry vessel - safety, operating standards and crewing

Except as otherwise provided in this Treaty, vessels of the nationality of Australia or East Timor engaged in petroleum activities in the JPDA shall be subject to the law of their nationality in relation to safety and operating standards and crewing regulations. Vessels with the nationality of other countries shall apply the law of Australia or East Timor depending on whose ports they operate in, in relation to safety and operating standards, and crewing regulations. Such vessels that enter the JPDA and do not operate out of either Australia or East Timor under the law of both Australia or East Timor shall be subject to the relevant international safety and operating standards.

Article 18. Surveillance

- (a) For the purposes of this Treaty, Australia and East Timor shall have the right to carry out surveillance activities in the JPDA.
- (b) Australia and East Timor shall cooperate on and coordinate any surveillance activities carried out in accordance with paragraph (a).
- (c) Australia and East Timor shall exchange information derived from any surveillance activities carried out in accordance with paragraph (a).

Article 19. Security measures

- (a) Australia and East Timor shall exchange information on likely threats to, or security incidents relating to, exploration for and exploitation of petroleum resources in the JPDA.
- (b) Australia and East Timor shall make arrangements for responding to security incidents in the JPDA.

Article 20. Search and rescue

Australia and East Timor shall, at the request of the Designated Authority and consistent with this Treaty, cooperate on and assist with search and rescue operations in the JPDA taking into account generally accepted international rules, regulations and procedures established through competent international organizations.

Article 21. Air traffic services

Australia and East Timor shall, in consultation with the Designated Authority or at its request, and consistent with this Treaty, cooperate in relation to the operation of air services, the provision of air traffic services and air accident investigations, within the JPDA, in accordance with national laws applicable to flights to and within the JPDA, recognizing established international rules, regulations and procedures where these have been adopted by Australia and East Timor.

Article 22. Duration of the Treaty

This Treaty shall be in force until there is a permanent seabed delimitation between Australia and East Timor or for thirty years from the date of its entry into force, whichever is sooner. This Treaty may be renewed by agreement between Australia and East Timor. Petroleum activities of limited liability corporations or other limited liability entities entered into under the terms of the Treaty shall continue even if the Treaty is no longer in force under conditions equivalent to those in place under the Treaty.

Article 23. Settlement of disputes

- (a) With the exception of disputes falling within the scope of the taxation code referred to in article 13(b) of this Treaty and which shall be settled in accordance with that code, any dispute concerning the interpretation or application of this Treaty shall, as far as possible, be settled by consultation or negotiation.
- (b) Any dispute which is not settled in the manner set out in paragraph (a) and any unresolved matter relating to the operation of this Treaty under article 6(d)(ii) shall, at the request of either Australia or East Timor, be submitted to an arbitral tribunal in accordance with the procedure set out in annex B.

Article 24. Amendment

This Treaty may be amended at any time by written agreement between Australia and East Timor.

Article 25. Entry into force

- (a) This Treaty shall enter into force upon the day on which Australia and East Timor have notified each other in writing that their respective requirements for entry into force of this Treaty have been complied with.
- (b) Upon entry into force, the Treaty will be taken to have effect and all of its provisions will apply and be taken to have applied on and from the date of signature.

IN WITNESS WHEREOF the undersigned, being duly authorized thereto by their respective Governments, have signed this Treaty.

DONE at Dili, on this twentieth day of May, Two thousand and two, in two originals in the English language.

For the Government of Australia: John Howard (Prime Minister)

For the Government of East Timor: Mari Alkatiri (Prime Minister)

Annex A under article 3 of this Treaty
Designation and description of the JPDA

NOTE

Where for the purposes of the Treaty it is necessary to determine the position on the surface of the Earth of a point, line or area, that position shall be determined by reference to the Australian Geodetic Datum, that is to say, by reference to a spheroid having its centre at the centre of the Earth and a major (equatorial) radius of 6 378 160 metres and a flattening of 1/298.25 and by reference to the position of the Johnston Geodetic Station in the Northern Territory of Australia. That station shall be taken to be situated at Latitude 25°56'54.5515" South and at Longitude 133°12'30.0771" East and to have a ground level of 571.2 metres above the spheroid referred to above.

THE AREA

The area bounded by the line:

- (a) commencing at the point of Latitude 9° 22' 53" South, Longitude 127° 48' 42" East;
- (b) running thence south-westerly along the geodesic to the point of Latitude 10° 06' 40" South, Longitude 126° 00' 25" East;
- (c) thence south-westerly along the geodesic to the point of Latitude 10° 28' 00" South, Longitude 126° 00' 00" East;
- (d) thence south-easterly along the geodesic to the point of Latitude 11° 20' 08" South, Longitude 126° 31' 54" East;
- (e) thence north-easterly along the geodesic to the point of Latitude 11° 19' 46" South, Longitude 126° 47' 04" East;
- (f) thence north-easterly along the geodesic to the point of Latitude 11° 17' 36" South, Longitude 126° 57' 07" East;
- (g) thence north-easterly along the geodesic to the point of Latitude 11° 17' 30" South, Longitude 126° 58' 13" East;
- (h) thence north-easterly along the geodesic to the point of Latitude 11° 14' 24" South, Longitude 127° 31' 33" East;
- (i) thence north-easterly along the geodesic to the point of Latitude 10° 55' 26" South, Longitude 127° 47' 04" East;

- (j) thence north-easterly along the geodesic to the point of Latitude 10° 53' 42" South, Longitude 127° 48' 45" East;
- (k) thence north-easterly along the geodesic to the point of Latitude 10° 43' 43" South, Longitude 127° 59' 16" East;
- (l) thence north-easterly along the geodesic to the point of Latitude 10° 29' 17" South, Longitude 128° 12' 24" East;
- (m) thence north-westerly along the geodesic to the point of Latitude 9° 29' 57" South, Longitude 127° 58' 47" East;
- (n) thence north-westerly along the geodesic to the point of Latitude 9° 28' 00" South, Longitude 127° 56' 00" East;
and
- (o) thence north-westerly along the geodesic to the point of commencement.

Annex B under article 23 of this Treaty
Dispute resolution procedure

- (a) An arbitral tribunal to which a dispute is submitted pursuant to article 23 (b) shall consist of three persons appointed as follows:
 - (i) Australia and East Timor shall each appoint one arbitrator;
 - (ii) The arbitrators appointed by Australia and East Timor shall, within sixty (60) days of the appointment of the second of them, by agreement, select a third arbitrator who shall be a citizen, or permanent resident of a third country which has diplomatic relations with both Australia and East Timor;
 - (iii) Australia and East Timor shall, within sixty (60) days of the selection of the third arbitrator, approve the selection of that arbitrator who shall act as Chairman of the Tribunal.
- (b) Arbitration proceedings shall be instituted upon notice being given through the diplomatic channel by the country instituting such proceedings to the other country. Such notice contain a statement setting forth in summary form the grounds of the claim, the nature of the relief sought and the name of the arbitrator appointed by the country instituting such proceedings. Within sixty (60) days after the giving of such notice the respondent country shall notify the country instituting proceedings of the name of the arbitrator appointed by the respondent country.
- (c) If, within the time limits provided for in subparagraphs (a) (ii) and (iii) and paragraph (b) of this annex, the required appointment has not been made or the required approval has not been given, Australia or East Timor may request the President of the International Court of Justice to make the necessary appointment. If the President is a citizen or permanent resident of Australia or East Timor or is otherwise unable to act, the Vice-President shall be invited to make the appointment. If the Vice-President is a citizen, or permanent resident of Australia or East Timor or is otherwise unable to act, the Member of the International Court of Justice next in seniority who is not a citizen or permanent resident of Australia or East Timor shall be invited to make the appointment.
- (d) In case any arbitrator appointed as provided for in this annex shall resign or become unable to act, a successor arbitrator shall be appointed in the same manner as prescribed for the appointment of the original arbitrator and the successor shall have all the powers and duties of the original arbitrator.
- (e) The Arbitral Tribunal shall convene at such time and place as shall be fixed by the Chairman of the tribunal. Thereafter, the Arbitral Tribunal shall determine where and when it shall sit.
- (f) The Arbitral Tribunal shall decide all questions relating to its competence and shall, subject to any agreement between Australia and East Timor, determine its own procedure.
- (g) Before the Arbitral Tribunal makes a decision, it may at any stage of the proceedings propose to Australia and East Timor that the dispute be settled amicably. The Arbitral Tribunal shall reach its award by majority vote taking into account the provisions of this Treaty and relevant international law.

- (h) Australia and East Timor shall each bear the costs of its appointed arbitrator and its own costs in preparing and presenting cases. The cost of the Chairman of the Tribunal and the expenses associated with the conduct of the arbitration shall be borne in equal parts by Australia and East Timor.
- (i) The Arbitral Tribunal shall afford to Australia and East Timor a fair hearing. It may render an award on the default of either Australia or East Timor. In any case, the Arbitral Tribunal shall render its award within six (6) months from the date it is convened by the Chairman of the Tribunal. Any award shall be rendered in writing and shall state its legal basis. A signed counterpart of the award shall be transmitted to Australia and East Timor.
- (j) An award shall be final and binding on Australia and East Timor.

Annex C under article 6(b)(v) of this Treaty
Powers and functions of the Designated Authority

The powers and functions of the Designated Authority shall include:

- (a) Day-to-day management and regulation of petroleum activities in accordance with this Treaty and any instruments made or entered into under this Treaty, including directions given by the Joint Commission;
- (b) Preparation of annual estimates of income and expenditure of the Designated Authority for submission to the Joint Commission. Any expenditure shall only be made in accordance with estimates approved by the Joint Commission or otherwise in accordance with regulations and procedures approved by the Joint Commission;
- (c) Preparation of annual reports for submission to the Joint Commission;
- (d) Requesting assistance from the appropriate Australian and East Timor authorities consistent with this Treaty:
 - (i) For search and rescue operations in the JPDA;
 - (ii) In the event of a terrorist threat to the vessels and structures engaged in petroleum operations in the JPDA; and
 - (iii) For air traffic services in the JPDA;
- (e) Requesting assistance with pollution prevention measures, equipment and procedures from the appropriate Australian and East Timor authorities or other bodies or persons;
- (f) Establishment of safety zones and restricted zones, consistent with international law, to ensure the safety of navigation and petroleum operations;
- (g) Controlling movements into, within and out of the JPDA of vessels, aircraft, structures and other equipment employed in exploration for and exploitation of petroleum resources in a manner consistent with international law; and, subject to article 15, authorizing the entry of employees of contractors and their subcontractors and other persons into the JPDA;
- (h) Issuing regulations and giving directions under this Treaty on all matters related to the supervision and control of petroleum activities, including on health, safety, environmental protection and assessments and work practices, pursuant to the Petroleum Mining Code; and
- (i) Such other powers and functions as may be identified in other annexes to this Treaty or as may be conferred on it by the Joint Commission.

Annex D under article 6(c)(ii) of this Treaty
Powers and functions of the Joint Commission

1. The powers and functions of the Joint Commission shall include:

- (a) Giving directions to the Designated Authority on the discharge of its powers and functions;
- (b) Conferring additional powers and functions on the Designated Authority;
- (c) Adopting an interim Petroleum Mining Code pursuant to article 7(b) of the Treaty, if necessary;
- (d) Approving financial estimates of income and expenditure of the Designated Authority;
- (e) Approving rules, regulations and procedures for the effective functioning of the Designated Authority;
- (f) Designating the Designated Authority for the period referred to in article 6(b)(i);
- (g) At the request of a member of the Joint Commission, inspecting and auditing the Designated Authority's books and accounts or arranging for such an audit and inspection;
- (h) Approving the result of inspections and audits of contractors' books and accounts conducted by the Joint Commission;
- (i) Considering and adopting the annual report of the Designated Authority;
- (j) Of its own volition or on recommendation by the Designated Authority, in a manner not inconsistent with the objectives of this Treaty, amending the Petroleum Mining Code to facilitate petroleum activities in the JPDA.

2. The Joint Commission shall exercise its powers and functions for the benefit of the peoples of Australia and East Timor having regard to good oilfield, processing, transport and environmental practice.

Annex E under article 9(b) of this Treaty
Unitization of Greater Sunrise

- (a) Australia and East Timor agree to unitize the Sunrise and Troubadour deposits (collectively known as “Greater Sunrise”) on the basis that 20.1 per cent of Greater Sunrise lies within the JPDA. Production from Greater Sunrise shall be distributed on the basis that 20.1 per cent is attributed to the JPDA and 79.9 per cent is attributed to Australia.
- (b) Either Australia or East Timor may request a review of the production-sharing formula. Following such a review, the production-sharing formula may be altered by agreement between Australia and East Timor.
- (c) The unitization agreement referred to in paragraph (a) shall be without prejudice to a permanent delimitation of the seabed between Australia and East Timor.
- (d) In the event of a permanent delimitation of the seabed, Australia and East Timor shall reconsider the terms of the unitization agreement referred to in paragraph (a). Any new agreement shall preserve the terms of any production-sharing contract, licence or permit which is based on the agreement in paragraph (a).

Annex F under article 5(a) of this Treaty
Fiscal scheme for certain petroleum deposits

Contracts shall be offered to those corporations holding, immediately before entry into force of the Treaty, contracts numbered 91-12, 91-13, 95-19 and 96-20 in the same terms as those contracts modified to take into account the administrative structure under this Treaty, or as otherwise agreed by Australia and East Timor.

Annex G under article 13 (b) of this Treaty
Taxation Code for the avoidance of double taxation and the prevention of fiscal evasion
in respect of activities connected with the Joint Petroleum Development Area

Article 1
General definitions

1. In this Taxation Code, unless the context otherwise requires:
 - (a) The term "Australian tax" means tax imposed by Australia, other than any penalty or interest, being tax to which this Taxation Code applies;
 - (b) The term "company" means any body corporate or any entity which is treated as a company or body corporate for tax purposes;
 - (c) The term "competent authority" means, in the case of Australia, the Commissioner of Taxation or an authorized representative of the Commissioner and, in the case of East Timor, the Minister for Finance or an authorized representative of the Minister;
 - (d) The term "East Timor tax" means tax imposed by East Timor, other than any penalty or interest, being tax to which this Taxation Code applies;
 - (e) The term "framework percentage" means, in the case of Australia, ten (10) per cent and, in the case of East Timor, ninety (90) per cent;
 - (f) The term "law of a Contracting State" means the law from time to time in force in that Contracting State relating to the taxes to which this Taxation Code applies;
 - (g) The term "person" includes an individual, a company and any other body of persons;
 - (h) The term "reduction percentage" means, in the case of Australia, ninety (90) per cent and, in the case of East Timor, ten (10) per cent;
 - (i) The terms "tax" or "taxation" mean Australian tax or East Timor tax, as the context requires; and
 - (j) The term "year" means, in Australia, any year of income and, in East Timor, any tax year.
2. In the application of this Taxation Code at any time by a Contracting State, any term not defined in this Taxation Code or elsewhere in the Treaty shall, unless the context otherwise requires, have the meaning which it has at that time under the law of that Contracting State for the purposes of the taxes to which this Taxation Code applies, any meaning under the applicable tax law of that State prevailing over a meaning given to the term under other law of that State.

Article 2
Personal scope

The provisions of this Taxation Code shall apply to persons who are residents of one or both of the Contracting States as well as in respect of persons who are not residents of either of the Contracting States, but only for taxation purposes related directly or indirectly to:

- (a) The exploration for or the exploitation of petroleum in the JPDA; or
- (b) Acts, matters, circumstances and things touching, concerning, arising out of or connected with any such exploration or exploitation.

Article 3
Resident

1. For the purposes of this Taxation Code, resident of a Contracting State means:

- (a) In the case of Australia, a person who is liable to tax in Australia by reason of being a resident of Australia under the tax law of Australia; and
- (b) In the case of East Timor, a person who is liable to tax in East Timor by reason of being a resident of East Timor under the tax law of East Timor,

but does not include any person who is liable to tax in that Contracting State in respect only of income from sources in that Contracting State.

2. Where by reason of the provisions of paragraph 1 of this article, an individual is a resident of both Contracting States, then the status of the person shall be determined as follows:

- (a) The person shall be deemed to be a resident solely of the Contracting State in which a permanent home is available to the person;
- (b) If a permanent home is available to the person in both Contracting States, or in neither of them, the person shall be deemed to be a resident solely of the Contracting State in which the person has an habitual abode;
- (c) If the person has an habitual abode in both Contracting States, or if the person does not have an habitual abode in either of them, the person shall be deemed to be a resident solely of the Contracting State with which the person's personal and economic relations are the closer. For the purposes of this subparagraph, an individual's nationality or citizenship of one of the Contracting States shall be a factor in determining the degree of the individual's personal and economic relations with that Contracting State;
- (d) If it cannot be determined with which Contracting State the person's personal and economic relations are the closer, the competent authorities of the Contracting States shall consult with a view to settling the question by mutual agreement.

3. Where by reason of the provisions of paragraph 1 of this article, a person other than an individual is a resident of both Contracting States, then it shall be deemed to be a resident solely of the Contracting State in which its place of effective management is situated.

Article 4
Taxes covered

1. The existing taxes to which this Taxation Code shall apply are:

- (a) In Australia:
 - (i) The income tax, but excluding the petroleum resource rent tax;
 - (ii) The fringe benefits tax;
 - (iii) The goods and services tax; and
 - (iv) The superannuation guarantee charge, imposed under the federal law of Australia;
- (b) In East Timor:
 - (i) The income tax, including either the tax on profits after income tax or the additional profits tax, as applicable to a specified petroleum project or part of a project;

- (ii) The value added tax and sales tax on luxury goods ("value added tax"); and
- (iii) The sales tax,
imposed under the law of East Timor.

2. The provisions of this Taxation Code shall also apply to any identical or substantially similar taxes which are imposed after the date of signature of this Treaty in addition to, or in place of, the existing taxes. The competent authorities of the Contracting States shall notify each other of any relevant changes which have been made in their respective taxation law as soon as possible after such changes.

3. A Contracting State shall not impose a tax not covered by the provisions of the Taxation Code in respect of or applicable to:

- (a) The exploration for or exploitation of petroleum in the JPDA; or
- (b) Any petroleum exploration or exploitation related activity carried on in the JPDA,

unless the other Contracting State consents to the imposition of that tax.

4. Nothing in paragraph 3 of this article shall be taken to prevent a Contracting State from imposing, in accordance with its law, penalty or interest charges relating to the taxes covered by this Taxation Code.

Article 5 Business profits

1. For the purposes of the taxation law of each Contracting State, the business profits or losses of a person, other than an individual, derived from, or incurred in, the JPDA in a year shall be reduced by the reduction percentage.

2. (a) Business profits or losses derived from the JPDA in a year by an individual who is a resident of a Contracting State may be taxed in both Contracting States as reduced by the reduction percentage.

(b) Notwithstanding paragraph 2(a), the Contracting State of which the individual is a resident may tax those profits or recognize those losses without such reduction. In such a case, that Contracting State shall provide a tax offset against the tax payable on those profits by the individual in that State for the tax paid in the other Contracting State.

3. Business profits derived from the JPDA in a year by an individual who is not a resident of either Contracting State may be taxed in both Contracting States but subject to a rebate entitlement against the tax payable in each Contracting State of the reduction percentage of the gross tax payable on those profits in that Contracting State.

4. Business losses incurred in the JPDA in a year by an individual who is not a resident of either Contracting State that are eligible under the law of a Contracting State to be carried forward for deduction against future income shall, for the purposes of that law, be reduced by the reduction percentage.

5. Where losses are brought forward from prior years as a deduction, those losses may not also be taken into account when calculating the business profits or business losses for the year in which they are brought forward as a deduction.

6. Where profits include items of income which are dealt with separately in other articles of this Taxation Code or where losses are dealt with separately in other articles of this Taxation Code, then the provisions of those articles shall not be affected by the provisions of this article.

7. In establishing whether business profits are derived from the JPDA for the purposes of this article, regard is to be had to internationally accepted principles on the source of business profits, particularly taking into consideration the extent to which activities in the JPDA, or assets located in the JPDA, rather than elsewhere, contributed to those business profits. In applying such internationally accepted principles special regard shall be had to the location of:

- (a) Any activities or functions contributing to the business profits;
- (b) Any assets relevant to the derivation of the business profits; and
- (c) Any business and financial risks assumed by an entity and which relate to the business profits.

8. For the purposes of paragraph 7, particular account should be had to the terms of any relevant unitization agreement to the extent to which they do not conflict with the internationally accepted principles referred to in that paragraph.

9. In determining whether business losses are incurred in the JPDA, regard is to be had to internationally accepted principles as to where business losses are incurred, with a view to an approach consistent with paragraphs 7 and 8 of this article.

10. Where particular business profits are derived wholly or principally from the JPDA, or particular business losses are incurred wholly or principally in the JPDA, then such profits or losses shall be treated as fully derived from or fully incurred in, as the case may be, the JPDA. In other cases, the relevant proportion should be attributed to the JPDA. In the application of this paragraph the Contracting States shall seek a consistent approach, including as between the treatment of profits and losses, and should consult if necessary to this end.

11. For the purposes of this Taxation Code, the East Timor additional profits tax shall be regarded as a tax on business profits.

Article 6

Shipping and air transport

1. Profits from all shipping and air transport, where the transport of the relevant goods or persons commences at a place in the JPDA to any other place, whether inside or outside the JPDA, shall in their entirety be regarded as business profits derived from the JPDA.
2. Profits from all shipping and air transport internal to the JPDA shall in their entirety be regarded as business profits derived from the JPDA.
3. Profits from all shipping and air transport, where the transport of the relevant goods or persons commences outside the JPDA and ends in the JPDA, shall not be regarded as derived from the JPDA.

Article 7

Petroleum valuation

The value of petroleum shall for all purposes under the taxation law of both Contracting States be the value as determined in accordance with internationally accepted arm's-length principles having due regard to functions performed, assets used and risks assumed.

Article 8

Dividends

1. Dividends paid or credited by a company which is a resident of a Contracting State wholly or mainly out of profits, income or gains derived from sources in the JPDA, and which are beneficially owned by a resident of the other Contracting State, may be taxed in that other Contracting State. However, such dividends may also be taxed in the first-mentioned Contracting State and according to the law of that State, but the tax so charged shall not exceed fifteen (15) per cent of the gross amount of the dividends.

2. Dividends paid or credited by a company which is a resident of a Contracting State wholly or mainly out of profits, income or gains derived from sources in the JPDA, and which are beneficially owned by a resident of that Contracting State, shall be taxable only in that State.
3. Dividends paid or credited by a company which is a resident of a Contracting State wholly or mainly out of profits, income or gains derived from sources in the JPDA, and which are beneficially owned by a person who is not a resident of either Contracting State, may be taxed in both Contracting States but the taxable amount of any such dividends shall be an amount equivalent to the framework percentage of the amount that would be the taxable amount but for this paragraph.
4. The term "dividends" as used in this article means income from shares or other rights participating in profits and not relating to debt claims, as well as other income which is subjected to the same taxation treatment as income from shares by the law of the Contracting State of which the company making the distribution is a resident.
5. Notwithstanding any other provisions of this Taxation Code, where a company which is a resident of a Contracting State derives profits, income or gains from the JPDA, such profits, income or gains may be subject in the other Contracting State to a tax on profits after income tax in accordance with its law, but such tax shall not exceed fifteen (15) per cent of the gross amount of such profits, income or gains after deducting from those profits, income or gains the income tax imposed on them in that other State. Such tax shall be imposed upon the amount equivalent to the framework percentage of the amount that would be taxed but for this paragraph.
6. For the purposes of this article, "derived from" has the same meaning as expressed in article 5.

Article 9
Interest

1. Interest paid or credited by a contractor, being interest to which a resident of a Contracting State is beneficially entitled, may be taxed in that Contracting State.
2. Such interest may also be taxed in the other Contracting State, but the tax so charged shall not exceed ten (10) per cent of the gross amount of the interest.
3. Interest paid or credited by a contractor, being interest to which a person who is not a resident of either Contracting State is beneficially entitled, may be taxed in both Contracting States, but the taxable amount of any such interest shall be an amount equivalent to the framework percentage of the amount that would be the taxable amount but for this paragraph.
4. The term "interest" in this Taxation Code includes interest from bonds or debentures, whether or not secured by mortgage and whether or not carrying a right to participate in profits, interest from any form of indebtedness and all other income assimilated to income from money lent by law, relating to tax, of the Contracting State in which the income arises.

Article 10
Royalties

1. Royalties paid or credited by a contractor, being royalties to which a resident of a Contracting State is beneficially entitled, may be taxed in that Contracting State.
2. Such royalties may also be taxed in the other Contracting State, but the tax so charged shall not exceed ten (10) per cent of the gross amount of the royalties.

3. Royalties paid or credited by a contractor, being royalties to which a person who is not a resident of either Contracting State is beneficially entitled, may be taxed in both Contracting States, but the taxable amount of any such royalties shall be an amount equivalent to the framework percentage of the amount that would be the taxable amount but for this paragraph.
4. The term "royalties" in this article means payments or credits, whether periodical or not, and however described or computed, to the extent to which they are made as consideration for:
 - (a) The use of, or the right to use, any copyright, patent, design or model, plan, secret formula or process, trademark or other like property or right;
 - (b) The use of, or the right to use, any industrial, commercial or scientific equipment;
 - (c) The supply of scientific, technical, industrial or commercial knowledge or information;
 - (d) The supply of any assistance that is ancillary and subsidiary to, and is furnished as a means of enabling the application or enjoyment of, any such property or right as is mentioned in subparagraph (a), any such equipment as is mentioned in subparagraph (b) or any such knowledge or information as is mentioned in subparagraph (c); or
 - (e) Total or partial forbearance in respect of the use or supply of any property or right referred to in this paragraph.

Article 11

Alienation of property

1. Where a gain or loss of a capital nature accrues to or is incurred by a person, other than an individual who is a resident of a Contracting State, from the alienation of property situated in the JPDA or of shares or comparable interests in a company, the assets of which consist (directly or indirectly, including for example through a chain of companies) wholly or principally of property situated in the JPDA, the amount of gain or loss shall, for the purposes of the law of a Contracting State, be an amount equivalent to the framework percentage of the amount that would be the gain or loss but for this paragraph.
2. When a gain or loss of a capital nature accrues to or is incurred by an individual who is a resident of a Contracting State from the alienation of property situated in the JPDA or of shares or comparable interests in a company the assets of which consist (directly or indirectly, including for example through a chain of companies) wholly or mainly of property situated in the JPDA, the amount of the gain or loss may, for the purposes of the law of a Contracting State, be an amount equivalent to the reduction percentage of the amount that would be the gain or loss but for this paragraph.
3. Notwithstanding paragraph 2, the Contracting State of which the individual is a resident may tax that gain or recognize that loss of a capital nature without such reduction. In such a case, that Contracting State shall provide a tax offset against the tax payable on that gain by the individual in that other Contracting State.

Article 12

Independent personal services

1. Income derived by an individual who is a resident of a Contracting State in respect of professional services, or other independent activities of a similar character, performed in the JPDA may be taxed in both Contracting States as reduced by the reduction percentage.
2. Notwithstanding paragraph 1, the Contracting State of which the individual is a resident may tax such income without such reduction. In such a case, that Contracting State shall provide a tax offset against the tax payable on that income by the individual in that State for the tax paid in the other Contracting State.

3. Income derived by an individual who is not a resident of either Contracting State in respect of professional services, or other independent activities of a similar character, performed in the JPDA may be taxed in both Contracting States but subject to a rebate entitlement against the tax payable in each Contracting State of the reduction percentage of the gross tax payable in that Contracting State on income referred to in this paragraph.

Article 13
Dependent personal services

1. Salaries, wages and other similar remuneration derived by an individual who is a resident of a Contracting State in respect of employment exercised in the JPDA may be taxed in both Contracting States as reduced by the reduction percentage.
2. Notwithstanding paragraph 1, the Contracting State in which the individual is a resident may tax such remuneration without such reduction. In such a case, that State shall provide a tax offset against the tax payable on such remuneration by the individual in that Contracting State for the tax paid in the other Contracting State.
3. Remuneration derived by an individual who is not a resident of either Contracting State in respect of employment exercised in the JPDA may be taxed in both Contracting States but subject to a rebate entitlement against the tax payable in each Contracting State of the reduction percentage of the gross tax payable in that Contracting State on the income referred to in this paragraph.

Article 14
Other income

1. Items of income of a resident of a Contracting State other than an individual, derived from sources in the JPDA and not dealt with in the foregoing articles of this Taxation Code, shall be reduced by the reduction percentage.
2. Items of income of a resident individual of a Contracting State derived from sources in the JPDA and not dealt with in the foregoing articles of this Taxation Code may be taxed in both Contracting States as reduced by the reduction percentage.
3. Notwithstanding paragraph 2, the Contracting State in which the individual is a resident may tax such items of income without such reduction. In such a case, that State shall provide a tax offset against the tax payable on those items of income by the individual in that State for the tax paid in the other Contracting State.
4. Items of income of a person who is not a resident of either Contracting State derived from sources in the JPDA and not dealt with in the foregoing articles of this Taxation Code may be taxed in both Contracting States but subject to a rebate entitlement against the tax payable in each Contracting State of the reduction percentage of the gross tax payable in that Contracting State on the income referred to in this paragraph.
5. For the purposes of this article, "derived from" has the same meaning as expressed in article 5.

Article 15
Fringe benefits

For the purposes of the taxation law of Australia, the amount of Australian fringe benefits tax payable in relation to fringe benefits provided to employees in a year, in respect of employment exercised in the JPDA, shall be:

- (a) In the case of such employees who are residents of Australia, the fringe benefits tax may be applied without reduction;
- (b) In respect of employees who are residents of East Timor, the fringe benefits tax shall not be applied; and

(c) In respect of employees who are not residents of either Contracting State, the amount payable shall be reduced by the reduction percentage.

Article 16
Superannuation guarantee charge

The superannuation guarantee charge imposed by Australia in respect of employment exercised in the JPDA in a year may be applied only insofar as it relates to employees who are residents of Australia, in which case it may be applied without reduction.

Article 17
Miscellaneous

In any case where income, profits or gains are not derived from the JPDA as that term is used in article 5, for the purposes of this Code, neither Contracting State shall tax those income, profits or gains on a basis, in effect, of their source in the JPDA.

Article 18
Indirect taxes

Goods introduced into the JPDA, whether or not from a Contracting State, and services provided to a person in the JPDA may, at or following introduction, be taxed in both Contracting States in accordance with applicable Australian goods and services tax law or the East Timor value added tax or sales tax law as the case may be, but the taxable amount in relation to such goods and services shall be an amount equivalent to the framework percentage of the amount that would be the taxable amount but for this paragraph.

Article 19
Avoidance of double taxation

1. In the case of Australia, subject to the provisions of the law of Australia from time to time in force which relate to the allowance of a credit against Australian tax of tax paid in a country outside Australia (which shall not affect the general principle of this article), East Timor tax paid under the law of East Timor and in accordance with this Taxation Code, whether directly or by deduction, in respect of income derived by a person who is a resident of Australia, of the following types:

- (a) Dividends paid wholly or mainly out of profits, income or gains as referred to in paragraph 1 of article 8;
- (b) Interest paid by a contractor as referred to in paragraph 2 of article 9;
- (c) Royalties paid by a contractor as referred to in paragraph 2 of article 10; or
- (d) Profits, income or gains after income tax as referred to in paragraph 5 of Article 8,

shall be allowed as a credit against Australian tax payable in respect of that income.

2. In the case of East Timor, subject to the provisions of the law of East Timor from time to time in force which relate to the allowance of a credit against East Timor tax of tax paid in a country outside East Timor (which shall not affect the general principle of this article), Australian tax paid under the law of Australia and in accordance with this Taxation Code, whether directly or by deduction, in respect of income derived by a person who is a resident of East Timor, of the following types:

- (a) Dividends paid wholly or mainly out of profits, income or gains as referred to in paragraph 1 of article 8;
- (b) Interest paid by a contractor as referred to in paragraph 2 of article 9;

(c) Royalties paid by a contractor as referred to in paragraph 2 of article 10; or

(d) Profits, income or gains after income tax as referred to in paragraph 5 of article 8,

shall be allowed as a credit against East Timor tax payable in respect of that income.

3. The dividends, interest or royalties taxed by a Contracting State in accordance with the provisions of this Taxation Code and referred to in this article shall, for the purposes of determining a foreign tax credit entitlement under the law of the other Contracting State, be deemed to be income derived from sources in the first-mentioned Contracting State.

Article 20

Mutual agreement procedure

1. Where a person considers that the actions of the competent authority of one or both of the Contracting States result or will result for the person in taxation not in accordance with the provisions of this Taxation Code, the person may, irrespective of the remedies provided by the domestic law of the Contracting States, present a case to the competent authority of the Contracting State of which the person is a resident, or to either competent authority in the case of persons who are not residents of either Contracting State. The case must be presented within thirty-six (36) months from the first notification of the action resulting in taxation not in accordance with the provisions of the Taxation Code.

2. The competent authority shall endeavour, if the claim appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation which is not in accordance with the provisions of this Taxation Code. Any agreement reached shall be implemented notwithstanding any time limits in the domestic law of the Contracting States.

3. In considering whether the actions of a Contracting State are or are not in accordance with the provisions of this Taxation Code for the purposes of this article, particular regard is to be had to the objects and purposes of this Taxation Code, including especially that of the avoidance of double taxation.

4. The competent authorities of the Contracting States shall jointly endeavour to resolve any difficulties or doubts arising as to the interpretation or application of this Taxation Code. The competent authorities of the Contracting States may meet from time to time or otherwise communicate for the purposes of discussing the operation and application of this Taxation Code. They may also consult together in relation to juridical or economic double taxation in cases not specifically provided for in this Taxation Code.

5. For the purposes of paragraph 3 of article XXII (Consultation) of the General Agreement on Trade in Services, the Contracting States agree that, notwithstanding that paragraph, any dispute between them as to whether a measure falls within the scope of this Taxation Code may be brought before the Council for Trade in Services, as provided by that paragraph, only with the consent of both Contracting States. Any doubt as to the interpretation of this paragraph shall be resolved under paragraph 4 of this article or, failing agreement under that procedure, pursuant to any other procedure agreed to by both Contracting States.

Article 21
Exchange of information

1. The competent authorities of the Contracting States shall exchange such information as is necessary for carrying out the provisions of this Taxation Code or of the domestic law of the Contracting States concerning taxes covered by this Taxation Code, insofar as the taxation thereunder is not contrary to this Taxation Code, in particular for the prevention of avoidance or evasion of such taxes. Any information received by the competent authority of a Contracting State shall be treated as secret in the same manner as information obtained under the domestic law of that Contracting State and shall be disclosed only to persons or authorities (including courts and administrative bodies) involved in the assessment or collection of, the enforcement or prosecution in respect of, or the determination of appeals in relation to, the taxes covered by this Taxation Code and shall be used only for such purposes. Such persons or authorities may disclose the information in public courts or tribunal proceedings or in judicial or tribunal decisions relating to taxes covered by this Taxation Code.

2. In no case shall the provisions of paragraph 1 of this article be construed so as to impose on the competent authority of a Contracting State the obligation:

- (a) To carry out administrative measures at variance with the law or the administrative practice of that or of the other Contracting State;
- (b) To supply information which is not obtainable under the law or in the normal course of the administration of that or of the other Contracting State; or
- (c) To supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or to supply information the disclosure of which would be contrary to public policy.

Article 22
Interaction with other taxation arrangements

Nothing in this Taxation Code is intended to limit the operation of a taxation arrangement concluded by either Contracting State with a third country or territory unless so provided for in such treaty.

Article 23
Transitional provisions

1. Business losses incurred in the JPDA by a person in a year previous to the year in which this Taxation Code enters into force and business losses apportionable in accordance with paragraph 2 to that part of the year prior to the date that this Taxation Code enters into domestic law effect may, for the purposes of the taxation law of a Contracting State and in accordance with the provisions of that law, be carried forward for deduction against income which is subject to the provisions of this Taxation Code, in accordance with the provisions of this Taxation Code.

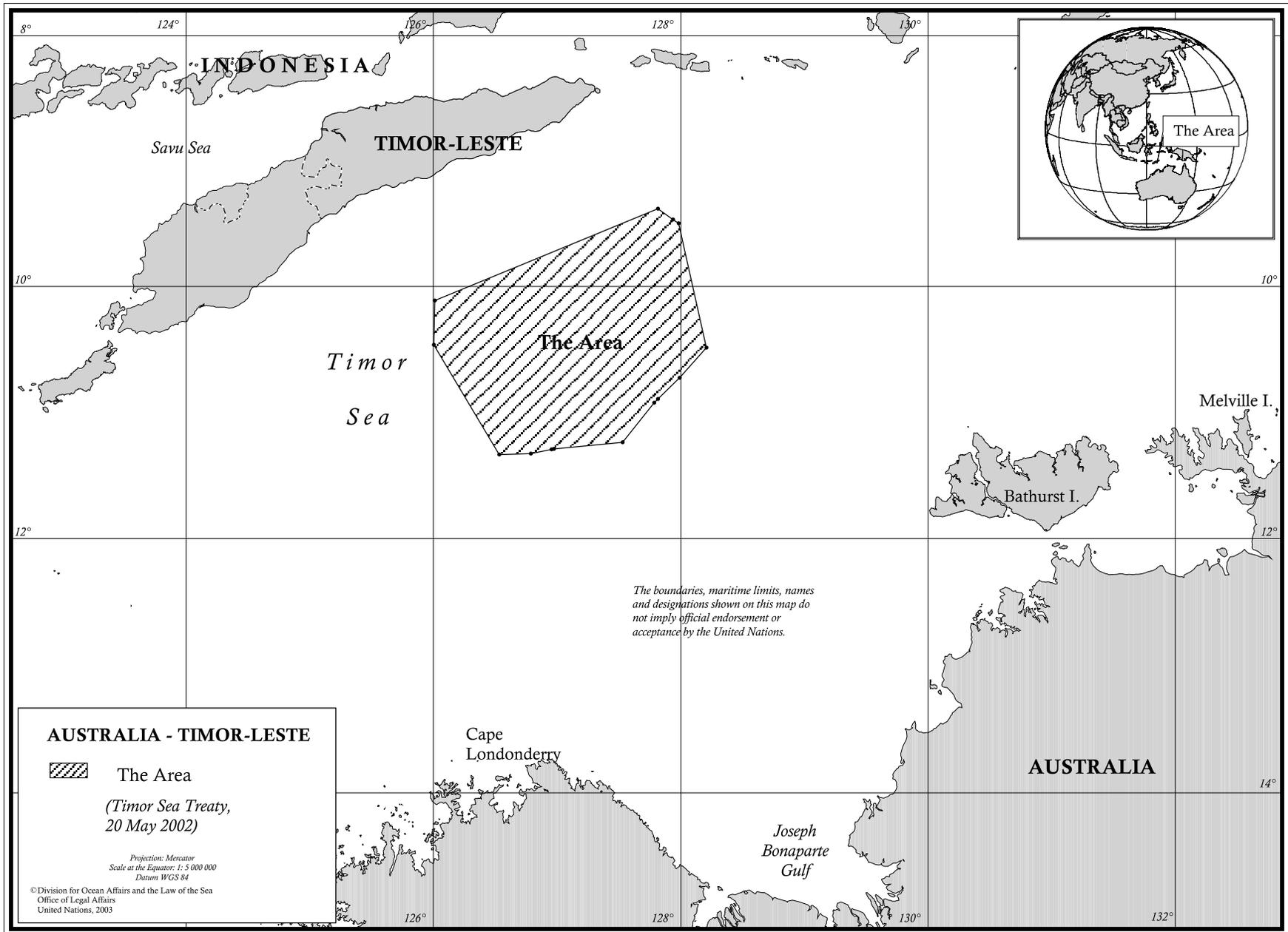
2. In the year in which this Taxation Code enters into force the Contracting States shall only apply the framework percentage or reduction percentage to that proportion of income, losses and other items addressed by this Taxation Code which corresponds to that portion of the period from the date of entry into domestic law effect to the end of the year.

Article 24
Review mechanism

At the request of either of the Contracting States, the Contracting States shall review the terms and operations of this Taxation Code with a view to amending the Taxation Code, if considered necessary.

Article 25
Entry into force

This Taxation Code shall enter into force at the same time as the Treaty to which it forms part.



(c) Memorandum of Understanding between the Government of the Democratic Republic of East Timor and the Government of Australia concerning an International Unitization Agreement for the Greater Sunrise field³
Dili, 20 May 2002

1. The Government of Australia and the Government of the Democratic Republic of East Timor, reinforcing their wish to cooperate in the development of the petroleum resources of the Timor Sea in accordance with the Timor Sea Treaty ("the Treaty"), will work expeditiously and in good faith to conclude an international unitization agreement ("the Agreement") for certain petroleum deposits in the Timor Sea known as Greater Sunrise by 31 December 2002.
2. The conclusion of the Agreement is without prejudice to the early entry into force of the Treaty, and is without prejudice to the agreement recorded in paragraph 9 of the 20 May 2002 Exchange of Notes between the Government of Australia and the Government of the Democratic Republic of East Timor which states that the Treaty is suitable for immediate submission to their respective treaty approval processes and that the parties will work expeditiously and in good faith to satisfy their respective requirements for the entry into force of the Treaty.
3. This Memorandum of Understanding will enter into effect upon signature.

Signed at Dili on the twentieth day of May 2002

For the Government of Australia: John Howard (Prime Minister)

For the Government of the Democratic Republic of East Timor: Mari Alkatiri (Prime Minister)

(d) Agreement between the Government of Australia and the Government of the Democratic Republic of Timor-Leste relating to the Unitization of the Sunrise and Troubadour fields⁴
Department of Foreign Affairs and Trade, Canberra
(Dili, 6 March 2003)

The Government of Australia and the Government of the Democratic Republic of Timor-Leste,

Considering that the exploration in the Timor Sea between Australia and Timor-Leste has proved the existence of petroleum deposits which extend across the eastern boundary of the Joint Petroleum Development Area; those deposits being known as the Sunrise and Troubadour deposits (collectively known as Greater Sunrise);

Noting that Australia and Timor-Leste have, at the date of this Agreement, made maritime claims, and not yet delimited their maritime boundaries, including in an area of the Timor Sea where Greater Sunrise lies;

Desiring, before production commences, to make provisions for the integrated exploitation of Greater Sunrise;

Acknowledging that Australia and Timor-Leste agreed under annex E of the Timor Sea Treaty to unitize Greater Sunrise on the basis that 20.1 per cent of Greater Sunrise lies within the JPDA and that production from Greater Sunrise shall be distributed on the basis that 20.1 per cent is attributed to the JPDA and 79.9 per cent is attributed to Australia;

³ Source: *Australian Treaty Series*.

⁴ Source: *Australian Treaty Series*. Agreement not yet in force.

Recalling further the Memorandum of Understanding between the Government of Australia and the Government of the Democratic Republic of Timor-Leste of 20 May 2002 in which they agreed to work expeditiously and in good faith to conclude a unitization agreement for Greater Sunrise;

Have agreed as follows:

Article 1
Definitions

For the purposes of this Agreement, unless the context otherwise requires:

- (a) “Apportionment Ratio” means the ratio as set out in article 7 of this Agreement or such other ratio as applies from time to time as a result of any redetermination under article 8;
- (b) “Commercial Sale”, in relation to Petroleum, means a transfer of title between parties, whether or not at arm’s length;
- (c) “Development Plan” means a description of the proposed petroleum reservoirs development and management programme that includes details of the sub-surface evaluation and production facilities, the production profile for the expected life of the project, the estimated capital and non-capital expenditure covering the feasibility, fabrication, installation and pre-production stages of the project, and an evaluation of the commerciality of the development of Petroleum from the Unit Reservoirs;
- (d) “Export Pipeline” means any pipeline by which petroleum is discharged from the Unit Area;
- (e) “Joint Commission” means the Joint Commission of the Joint Petroleum Development Area established under article 6 of the Timor Sea Treaty;
- (f) “Joint Petroleum Development Area” (“JPDA”) means the area referred to in article 3 of the Timor Sea Treaty;
- (g) “Joint Venturers’ Agreement” means any agreement between all Sunrise Joint Venturers relating to the exploitation of the Unit Reservoirs including a unitization agreement, a unit operating agreement and any other agreement relating to the exploitation of those reservoirs;
- (h) “Marketable Petroleum Commodity” means any of the following products produced from petroleum:
 - (i) Stabilized crude oil;
 - (ii) Sales gas;
 - (iii) Condensate;
 - (iv) Liquefied petroleum gas;
 - (v) Ethane;
 - (vi) Any other product declared by the Regulatory Authorities to be a marketable petroleum commodity;A marketable petroleum commodity cannot be a product produced from another product of a kind referred to in subparagraphs (i) to (vi) inclusive.
- (i) “MPC Point” means that point where each Marketable Petroleum Commodity is produced, and may vary between Marketable Petroleum Commodities;
- (j) “Petroleum” means:
 - (i) Any naturally occurring hydrocarbon, whether in a gaseous, liquid or solid state;
 - (ii) Any naturally occurring mixture of hydrocarbons, whether in a gaseous, liquid or solid state; or

(iii) Any naturally occurring mixture of one or more hydrocarbons, whether in a gaseous, liquid or solid state, as well as other substances produced in association with such hydrocarbons;

including any Petroleum as defined in subparagraph (i), (ii) or (iii) that has been returned to a natural reservoir;

(k) “Regulatory Authorities” means the competent authority for administering petroleum activities in that part of the Joint Petroleum Development Area within the Unit Area and the competent Australian authority for administering petroleum activities in that part of the Unit Area outside the Joint Petroleum Development Area;

(l) “Sunrise Commission” has the meaning given in article 9 of this Agreement;

(m) “Sunrise Joint Venturers” means all those individuals or bodies corporate holding for the time being a licence or contract in respect of an area within the Unit Area under which exploration or exploitation of Petroleum may be carried out;

(n) “Unit Area” means the area described in annex I;

(o) “Unit Installation” means any structure or device installed or to be installed above, on, or under the seabed of the Unit Area for the purpose of extracting Petroleum from the Unit Reservoirs in accordance with the Development Plan. Unit Installations exclude any structure or device after the Valuation Point;

(p) “Unit Operator” has the meaning given in article 6 of this Agreement;

(q) “Unit Petroleum” means all Petroleum contained in or produced from the Unit Reservoirs, up to the Valuation Point;

(r) “Unit Property” means all Unit Installations in the Unit Area;

(s) “Unit Reservoirs” has the meaning given in annex I;

(t) “Valuation Point” means the point of the first commercial sale of Petroleum produced from the Unit Reservoirs, which shall occur no later than the earlier of:

(i) The point where the Petroleum enters an Export Pipeline, and

(ii) The MPC point for the Petroleum.

Article 2

Without prejudice

1. Nothing contained in this Agreement, no acts taking place while this Agreement is in force or as a consequence of this Agreement and no law operating in the Unit Area by virtue of this Agreement:

(a) Shall be interpreted as prejudicing or affecting the position of either Australia or Timor-Leste with regard to their respective maritime boundaries or rights or claims thereto; and

(b) May be relied on as a basis for asserting, supporting, denying or limiting the position of either Australia or Timor-Leste with regard to their respective maritime boundaries or rights or claims thereto.

2. This article applies notwithstanding any other provision of this Agreement, including, in particular, article 4 of this Agreement.

Article 3

Exploitation of the Unit Reservoirs

1. The exploitation of the Unit Reservoirs shall be undertaken in an integrated manner in accordance with the terms of this Agreement.

2. Australia and Timor-Leste shall ensure that the obligations of the Regulatory Authorities contained in this Agreement, with respect to ensuring compliance by the Sunrise Joint Venturers with the terms of this Agreement, shall be fully observed.

Article 4
Application of laws

For the purposes of this Agreement but not otherwise and unless otherwise provided in this Agreement:

- (a) The Timor Sea Treaty shall be deemed to apply to petroleum activities within the JPDA and petroleum activities attributed to the JPDA pursuant to the Apportionment Ratio;
- (b) Australian legislation shall be deemed to apply to petroleum activities attributed to Australia pursuant to the Apportionment Ratio.

Article 5
Agreements

1. Australia and Timor-Leste shall require Sunrise Joint Venturers, as comprised at the date on which this Agreement enters into force, to conclude Joint Venturers' Agreements to regulate the exploitation of the Unit Reservoirs in accordance with this Agreement.

2. Any Joint Venturers' Agreement shall incorporate provisions to ensure that, in the event of a conflict between that Joint Venturers' Agreement and this Agreement, the terms of this Agreement shall prevail. Any Joint Venturers' Agreement requires the prior approval of the Regulatory Authorities.

3. Any Joint Venturers' Agreement shall incorporate provisions to ensure that, except insofar as the contrary is expressly stated in that Agreement,

- (a) Any agreed proposal to amend, modify or otherwise change the Joint Venturers' Agreement, and
- (b) Any agreed proposal to waive or depart from any provision of the Joint Venturers' Agreement

shall require the approval of the Regulatory Authorities before any such proposal may be implemented. The Regulatory Authorities shall acknowledge receipt of notice of any such proposal and shall specify the date of receipt. Approval shall be deemed to have been given unless the Unit Operator has been notified to the contrary by either Regulatory Authority not later than 45 days after the later of the specified dates.

Article 6
Unit Operator

A single Sunrise Joint Venturer shall be appointed by agreement between the Sunrise Joint Venturers as their agent for the purposes of exploiting the Unit Reservoirs in accordance with this Agreement ("the Unit Operator"). The appointment of and any change of the Unit Operator shall be subject to prior approval of the Regulatory Authorities.

Article 7
Apportionment of Unit Petroleum

Production of Petroleum from the Unit Reservoirs shall be apportioned between the JPDA and Australia according to the Apportionment Ratio 20.1:79.9, with 20.1 per cent apportioned to the JPDA and 79.9 per cent apportioned to Australia.

Article 8
Reapportionment of Unit Petroleum

1. Technical redetermination of the Apportionment Ratio from the Unit Reservoirs may take place in accordance with the following:

- (a) Either Australia or Timor-Leste may request the Unit Operator to undertake a redetermination of the Apportionment Ratio;
- (b) Australia and Timor-Leste shall have regard to the desirability of minimizing the number of reviews of the Apportionment Ratio;
- (c) Any redetermination of the Apportionment Ratio shall not occur within five (5) years of any prior redetermination, except that a redetermination may occur within twelve (12) months of the commencement of production from the Unit Reservoirs;
- (d) The Unit Operator shall use only commercially available software in a redetermination of the Apportionment Ratio. Only data that is available to both Governments as at the date the redetermination is requested shall be utilized by the Unit Operator and all data and analyses pursuant to the Unit Operator's proposal for the redetermined Apportionment Ratio shall be provided to both Governments with the proposal. The Unit Operator shall use all reasonable endeavours to complete the redetermination within 120 days;
- (e) Any change to the Apportionment Ratio arising from a redetermination requested under subparagraph (a) has effect when it is agreed by the Regulatory Authorities or, if referred to an expert for determination, when the expert makes a final decision;
- (f) Any change to the Apportionment Ratio shall be retrospective and past receipts and expenditures shall be adjusted.

2. Notwithstanding paragraph 1, either Australia or Timor-Leste may request a review of the Apportionment Ratio. Following such a review, the Apportionment Ratio may be altered by agreement between Australia and Timor-Leste.

Article 9
Administration of the Unit Area

- 1. For the purposes of this Agreement but not otherwise and unless otherwise provided in this Agreement, the Regulatory Authorities that will regulate petroleum activities in the Unit Area or in relation to Unit Petroleum shall be those Regulatory Authorities established through application of laws as provided in article 4.
- 2. A Sunrise Commission ("the Commission") shall be established for the purpose of facilitating the implementation of this Agreement and shall consult on issues relating to exploration and exploitation of petroleum in the Unit Area.
- 3. The Commission shall facilitate coordination between the Regulatory Authorities to promote the development of the petroleum reservoir as a single entity.
- 4. The Commission may review, and make recommendations to the Regulatory Authorities with regard to, a Development Plan.
- 5. The Commission shall consider matters referred to it by the Regulatory Authorities, facilitate inspection of measuring systems and coordinate the provision of information by contractors to the Regulatory Authorities.
- 6. The Commission may monitor the application of the laws referred to in annex II and may make recommendations to the Regulatory Authorities concerning the application of such laws.

7. Regulatory Authorities may refer disputes to the Commission in the first instance for resolution by consultation and negotiation. In the event that the dispute cannot be resolved by the Commission, disputes shall be settled in accordance with article 26.

8. The Sunrise Commission shall consist of three members. Two shall be nominated by Australia and one shall be nominated by Timor-Leste.

Article 10

Apportionment of receipts and expenditures

All receipts and expenditures up to the Valuation Point shall be apportioned in accordance with the Apportionment Ratio.

Article 11

Taxation applying in relation to Unit Property

For the purposes of company taxation, resource taxation, cost recovery and production-sharing in relation to Unit Property,

(a) Receipts and expenditures for that part of production attributed to the JPDA in accordance with the Apportionment Ratio shall be taxed in accordance with arrangements specified in the Timor Sea Treaty and elsewhere in this Agreement;

(b) Receipts and expenditures for that part of production attributed to Australia in accordance with the Apportionment Ratio shall be taxed in accordance with Australia's domestic taxation arrangements.

Article 12

Development Plan

1. Production of petroleum shall not commence until a Development Plan for the effective exploitation of the Unit Reservoirs, which has been submitted by the Unit Operator and contains a programme and plans agreed in accordance with Joint Venturers' Agreements, has been approved by the Regulatory Authorities. The Unit Operator shall submit copies of the Development Plan to the Regulatory Authorities for approval.

2. The Commission may review, and make recommendations to the Regulatory Authorities with regard to, a Development Plan.

3. The Regulatory Authorities shall approve the Development Plan where:

(a) The project is commercially viable;

(b) The contractor or licensee possesses the competence and resources needed to exploit the reservoir to the best commercial advantage;

(c) The contractor or licensee is seeking to exploit the reservoir to the best commercial advantage consistent with good oilfield practice;

(d) The contractor or licensee could reasonably be expected to carry out the exploitation of the reservoir during the specified period;

(e) The contractor or licensee has entered into contracts for the sale of gas from the project which are consistent with arm's length transactions.

4. The Regulatory Authorities shall specify their reasons for not approving a Development Plan including identification of the criteria in paragraph 2 that the contractor or licensee has failed to meet.

5. The Regulatory Authorities shall ensure that the exploitation of the Unit Area shall be in accordance with the Development Plan.
6. The Unit Operator may at any time submit, and if at any time the Regulatory Authorities so decide may be required to submit, proposals to bring up to date or otherwise amend the Development Plan. All amendments or additions to the Development Plan require the prior approval of the Regulatory Authorities.
7. Where the Unit Operator has been notified by either Regulatory Authority that the Development Plan or an amendment to the Development Plan has not been approved, the Regulatory Authorities shall consult with each other and with the Unit Operator with a view to reaching agreement.
8. The Regulatory Authorities shall require the Sunrise Joint Venturers not to change the status or function of any Unit Installation in the Unit Area in any way except in accordance with an amendment to the Development Plan in accordance with paragraph 2.
9. Where a Sunrise Joint Venturer has entered into contracts for the sale of gas from the project that are part of an approved Development Plan, no action may be taken by the Regulatory Authorities to withhold the supply of that gas.

Article 13 Abandonment

1. The abandonment of any or all parts of Unit Property shall be undertaken in accordance with laws that have entered into force as at the date of this Agreement and as amended from time to time as applied by the Regulatory Authorities.
2. At least two years before the abandonment of any part of Unit Property is undertaken, including the preliminary removal of any large item of machinery or the decommissioning of any installation or pipeline, the Unit Operator shall be required to submit a revised Development Plan, in accordance with the provisions of article 12, which contains a plan for the cessation of production from Unit Property.
3. The Sunrise Joint Venturers shall enter into an agreement to share the costs of discharging the abandonment obligations referred to in paragraph 1 above for Unit Property.
4. The costs of abandonment of any or all parts of Unit Property shall be apportioned in accordance with the Apportionment Ratio.

Article 14 Structures located in the Unit Area

1. The Regulatory Authorities shall require the Unit Operator to inform them of the exact position of every structure located in the Unit Area.
2. For the purposes of exploiting the Unit Reservoirs and subject to article 22 and to the requirements of safety, neither Government shall hinder the free movement of personnel and materials between structures located in the Unit Area and landing facilities on those structures shall be freely available to vessels and aircraft of Australia and Timor-Leste.

Article 15 Point of sale for Unit Petroleum attributed to the JPDA

1. Title to Unit Petroleum attributed to the JPDA shall pass from Australia and Timor-Leste to the contractor acting in the JPDA at the Valuation Point.

2. This shall be the taxing point and point of valuation of Petroleum for cost recovery and production-sharing purposes, for that part of Unit Petroleum apportioned to the JPDA in accordance with the Apportionment Ratio.

Article 16

Valuation of Unit Petroleum for cost recovery and production-sharing purposes

1. Where Australia and Timor-Leste agree that a licensee or contractor has entered into contracts for the sale of Unit Petroleum which are consistent with arm's length transactions as outlined in annex III, then for that part of Unit Petroleum apportioned to the JPDA in accordance with the Apportionment Ratio, the transacted price will be accepted as the Petroleum valuation for cost recovery and production-sharing purposes.
2. Where Australia and Timor-Leste do not agree that a licensee or contractor has entered into contracts for the sale of Unit Petroleum which are consistent with arm's length transactions, then for that part of Unit Petroleum apportioned to the JPDA in accordance with the Apportionment Ratio, Australia and Timor-Leste shall determine the Petroleum valuation for cost recovery and production-sharing purposes in accordance with internationally accepted arm's length principles having due regard to functions performed, assets used and risks assumed, as outlined in annex III.⁷

Article 17

Use of Unit Property for non-Sunrise operations

1. Australia and Timor-Leste recognize that, subject to paragraphs 2 and 3 below, the exploitation of Petroleum other than Petroleum from the Unit Reservoirs is a legitimate use of Unit Property.
2. Either Regulatory Authority shall, on receipt of a request from the Unit Operator for such use of any part of Unit Property, consult with the other Regulatory Authority with regard to that request. After such consultation, and having consulted the Sunrise Joint Venturers, the relevant Regulatory Authority will allow such use of any part of Unit Property provided that such use does not adversely affect the effective exploitation of the Unit Area and the transmission of Unit Petroleum in accordance with this Agreement and the Development Plan.
3. In the event that the consultations under paragraph 2 above indicate that any supplementary agreement to this Agreement is necessary to give effect to paragraph 2, Australia and Timor-Leste shall negotiate in order to conclude such agreement after having sought the views of the Sunrise Joint Venturers. In order to facilitate such negotiations, Australia and Timor-Leste shall, subject to article 25, exchange any relevant information.
4. Notwithstanding paragraphs 1 to 3 above, neither Australia nor Timor-Leste shall permit a use of the subject of this article until relevant tax authorities of Australia and Timor-Leste have reached agreement regarding the taxation of such use.

Article 18

Employment and training

Australia and Timor-Leste shall take appropriate measures with due regard to occupational health and safety requirements, efficient operations and good oilfield practice to ensure that preference is given in employment and training in the Unit Area to nationals or permanent residents of Australia and Timor-Leste.

Article 19

Safety

1. Legislation as set out in annex II as amended from time to time shall apply for the purposes of safety in the Unit Area.

2. The Regulatory Authorities shall administer the legislation in the Unit Area.

Article 20
Occupational health and safety

1. Legislation as set out in Annex II as amended from time to time shall apply for the purposes of occupational health and safety in the Unit Area.
2. The Regulatory Authorities shall administer the legislation in the Unit Area.

Article 21
Environmental protection

1. Legislation as set out in Annex II as amended from time to time shall apply for the purposes of protection of the environment in the Unit Area.
2. The Regulatory Authorities shall administer the legislation in the Unit Area.

Article 22
Customs

1. Australia and Timor-Leste shall consult at the request of either of them in relation to the entry of particular goods and equipment to structures in the Unit Area aimed at controlling the movement of such persons, equipment and goods. Australia and Timor-Leste may adopt arrangements to facilitate such movement of persons, equipment and goods.
2. Australia and Timor-Leste may, subject to paragraphs 3, 4 and 5, apply customs law to equipment and goods entering their respective territory from, or leaving that territory for, the Unit Area.
3. Goods and equipment entering the Unit Area for purposes related to petroleum activities shall not be subject to customs duties.
4. Goods and equipment leaving or in transit through either Australia or Timor-Leste for the purpose of entering the Unit Area for purposes related to petroleum activities shall not be subject to customs duties.
5. Goods and equipment leaving the Unit Area for the purpose of being permanently transferred to either Australia or Timor-Leste may be subject to customs duties of that country.

Article 23
Security arrangements

Australia and Timor-Leste shall make arrangements for responding to security incidents in the Unit Area and for exchanging information on likely threats to security.

Article 24
Measuring systems

1. Before production of Petroleum is scheduled to commence under the Development Plan, the Regulatory Authorities shall require the Unit Operator to submit to them for approval proposals for the design, installation and operation of systems for measuring accurately the quantities of gas and liquids comprising, or deemed by subsequent calculation to comprise, Unit Petroleum, which are used in the operation of the field, re-injected, flared, vented or exported from Unit Property.

2. The Regulatory Authorities shall facilitate:

- (a) Access to any equipment for Unit Petroleum measurement; and
- (b) The production of information, including design and operational details of all systems, relevant to the measurement of Unit Petroleum,

to enable inspectors to satisfy themselves that the fundamental interests of Australia and Timor-Leste in regard to measurement of Unit Petroleum are met.

Article 25
Provision of information

1. There shall be a free flow of information between Australia and Timor-Leste concerning the exploration and exploitation of petroleum in the Unit Reservoirs. Confidential information supplied by either Australia or Timor-Leste to the other shall not be further disclosed without the consent of the supplying Government.

2. The Regulatory Authorities shall require the Unit Operator to provide them with:

- (a) Monthly reports recording details of the progress of the construction or decommissioning of Unit Property and project expenditure and contractual commitments entered into;
- (b) Monthly reports of quantities of gas and liquids comprising, or deemed by subsequent calculation to comprise, Unit Petroleum which are used in the operation of the field, re-injected, flared, vented or exported from Unit Property; and
- (c) Annual reports setting out:
 - (i) Projected annual production profiles for the life of the field (and referring to the basis for those production profiles);
 - (ii) The most recent geological, geophysical and engineering information relating to the field, including, without limitation, any information that may be relevant to a redetermination of the Apportionment Ratio; and
 - (iii) Estimates of costs relating to the exploitation of the Unit Reservoirs.

Article 26
Settlement of disputes

1. Any disputes about the interpretation or application of this Agreement shall be, as far as possible, settled by consultation or negotiation.

2. Subject to paragraph 3, if a dispute cannot be resolved in the manner specified in paragraph 1 or by any other agreed procedure, the dispute shall be submitted, at the request of either Government, to an arbitral tribunal set out in annex IV.

3. If a dispute arises concerning a proposal for a redetermined Apportionment Ratio pursuant to article 8(1) or concerning the measurement, pursuant to article 24, of quantities of gas and liquids, an expert shall be appointed by Australia and Timor-Leste to determine the matter in question. The two Governments shall, within 60 days of notification by either of them of such a dispute, try to reach agreement on the appointment of such an expert. If within this period no agreement has been reached, the procedures specified in annex V shall be followed. The expert appointed shall act in accordance with the terms of annex V. The expert's decision shall be final and binding on both Governments and on the Sunrise Joint Venturers, save in the event of fraud or manifest error.

Article 27

Entry into force, amendment and duration

1. This Agreement shall enter into force upon the day on which Australia and Timor-Leste have notified each other in writing that their respective requirements for entry into force of this Agreement have been complied with.
2. This Agreement may be amended or terminated at any time by written agreement between Australia and Timor-Leste.
3. In the event of permanent delimitation of the seabed, Australia and Timor-Leste shall reconsider the terms of this Agreement. Any new agreement shall ensure that petroleum activities entered into under the terms of this Agreement shall continue under terms equivalent to those in place under this Agreement.

IN WITNESS WHEREOF the undersigned, being duly authorized thereunto by their respective Governments, have signed this Agreement.

DONE at Dili, on this sixth day of March, two thousand and three in two originals in the English language.

For the Government of Australia

For the Government of the Democratic Republic of Timor-Leste

Alexander Downer Ana Pessoa

Minister for Foreign Affairs Minister of State for the Presidency of the Council of Ministers

Annex I

Delineation of Unit Area and Unit Reservoirs

The Unit Area is the area (depicted for illustrative purposes only on the map at Attachment 1) bounded by a line commencing at 9° 50' 00" S, 127° 55' 00" E and running:

(a) successively along the rhumb line to each of the following points in the sequence in which they appear below:

9° 50' 00" S, 128° 20' 00" E

9° 40' 00" S, 128° 20' 00" E

9° 40' 00" S, 128° 25' 00" E

9° 30' 00" S, 128° 25' 00" E

9° 30' 00" S, 128° 20' 00" E

9° 25' 00" S, 128° 20' 00" E

9° 25' 00" S, 128° 00' 00" E

9° 30' 00" S, 127° 53' 20" E

9° 30' 00" S, 127° 52' 30" E

9° 35' 00" S, 127° 52' 30" E

9° 35' 00" S, 127° 50' 00" E

9° 37' 30" S, 127° 50' 00" E

9° 37' 30" S, 127° 45' 00" E

9° 45' 00" S, 127° 45' 00" E

9° 45' 00" S, 127° 50' 00" E

9° 47' 30" S, 127° 50' 00" E

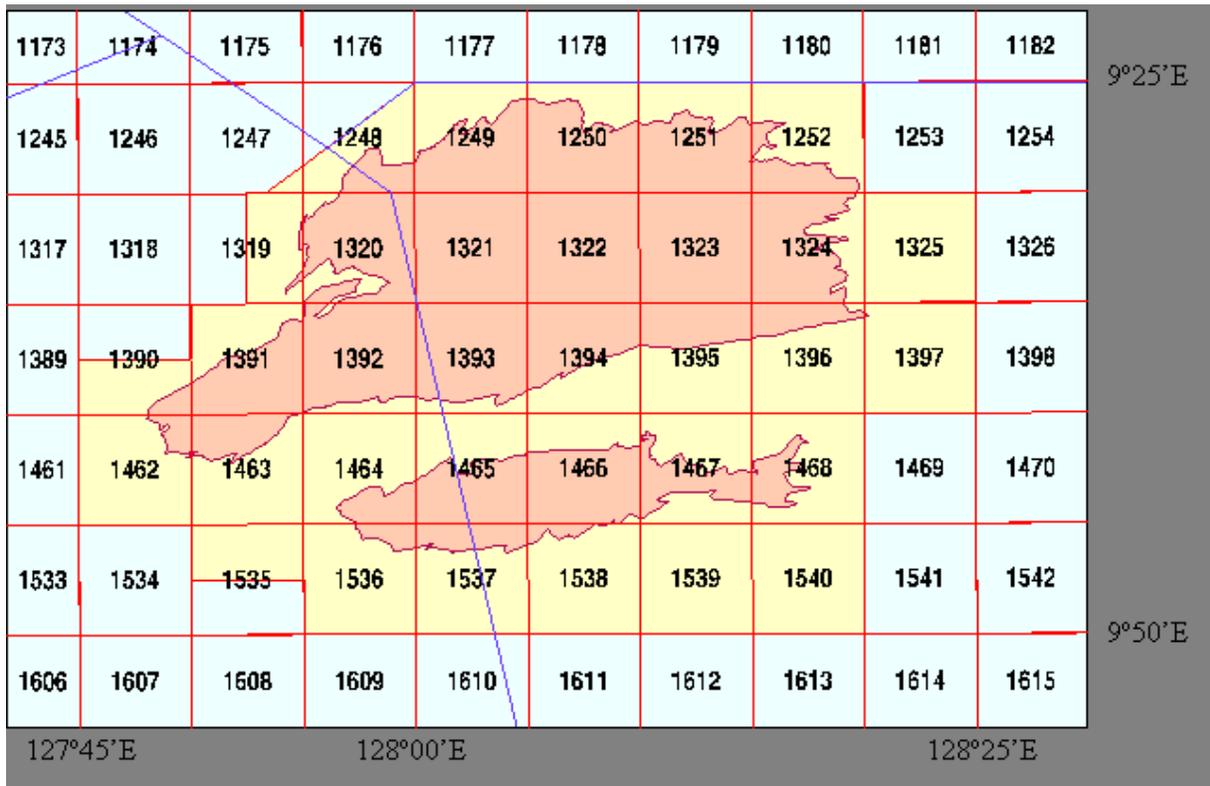
9° 47' 30" S, 127° 55' 00" E;

(b) thence along the rhumb line to the point of commencement.

The Unit Reservoirs (illustratively depicted by the darker-shaded area in attachment 1) are that part of the rock formation known as the Plover Formation (Upper and Lower) that underlies the Unit Area and contains the Sunrise and Troubadour deposits of Petroleum, together with any extension of those deposits that is in direct hydrocarbon fluid communication with either deposit. For purposes of illustration, in the case of the Sunset-1 well this formation is shown by that portion of the Gamma Ray, Neutron/Density, Resistivity and Sonic Logs between the depths of 2128m and 2390m (TVDSS) in attachment 2.-

Where for the purposes of this annex it is necessary to determine the position on the surface of the Earth of a point, line or area, that position shall be determined by reference to the Australian Geodetic Datum, that is to say, by reference to a spheroid having its centre at the centre of the Earth and a major (equatorial) radius of 6 378 160 metres and a flattening of 1/298.25 and by reference to the position of the Johnston Geodetic Station in the Northern Territory of Australia. That station shall be taken to be situated at Latitude 25° 56' 54.5515" South and at Longitude 133° 12' 30.0771" East and to have a ground level of 571.2 metres above the spheroid referred to above.

Attachment 1
Map showing outline of the Unit Area and outline of the Unit Reservoirs



Annex II

Legislation applicable in the Unit Area as referred to in Articles 19, 20 and 21

Article 19 - Safety

Petroleum (Submerged Lands) (Management of Safety on Offshore Facilities) Regulations

Limitation of Liability for Maritime Claims Act 1989

Navigation Act 1912

Radiocommunications Act 1992

Seafarers Rehabilitation and Compensation Act 1992

Article 20 - Health

Petroleum (Submerged Lands) (Occupational Health and Safety) Regulations

Occupational Health and Safety (Maritime Industry) Act 1993

Navigation Act 1912

Seafarers Rehabilitation and Compensation Act 1992

Article 21 - Environmental Protection

Petroleum (Submerged Lands) (Management of Environment) Regulations 1999

Protection of the Sea (Civil Liability) Act 1981

Protection of the Sea (Oil Pollution Compensation Fund) Act 1993

Protection of the Sea (Imposition of Contributions to Oil Pollution Compensation Fund - Customs) Act 1993

Protection of the Sea (Imposition of Contributions to Oil Pollution Compensation Fund - Excise) Act 1993

Protection of the Sea (Imposition of Contributions to Oil Pollution Compensation Fund - General) Act 1993

Protection of the Sea (Powers of Intervention) Act 1981

Protection of the Sea (Prevention of Pollution from Ships) Act 1983

Protection of the Sea (Shipping Levy) Act 1981

Annex III

Petroleum valuation principles

1. This annex sets out the principles to be applied in determining the value of petroleum in non-arm's-length transactions under article 16, for the purposes of cost recovery and production-sharing of that part of Unit Petroleum apportioned to the Joint Petroleum Development Area in accordance with the Apportionment Ratio.

2. An arm's-length transaction is one where the parties to the transaction are dealing at arm's length with each other in relation to the transaction. Whether the parties are dealing at arm's length is determined not only by the relationship between the parties but also by the nature of the dealings between those parties, even if they are otherwise independent of each other.

3. In determining whether an arm's-length transaction has taken place, the Regulatory Authorities shall, among other things, have due regard to the functions performed, assets used and risks assumed. In assessing the allocation of risk, and the associated return to those risks, regard shall be had to the outcomes expected of parties acting at arm's length.

4. Where there is no arm's-length sale, the petroleum shall be valued with reference to a comparable uncontrolled price (CUP) at the Valuation Point.

5. If no CUP exists, petroleum shall be valued by the application of the pricing methodology set out in paragraph 6. In this methodology:

Calculation Period means the period beginning with the year five years before production of petroleum from Greater Sunrise is scheduled under the Development Plan to commence ($t = 0$), and ending with the year when production is scheduled under the Development Plan to cease ($t = T$);

Downstream Facilities means any petroleum processing facilities after the Valuation Point and before the earlier of the first point of arm's-length sale and the first available CUP.

6. The petroleum valuation (PV) shall be:

(a) Calculated at (and all estimates required therefor shall be calculated as at) the date of commencement of production; and

(b) Calculated in United States dollars per unit of undifferentiated hydrocarbons with respect to the following formula:

$$NCF_t = VDP_t - ECC_t - OC_t - CDC_t - PV_t \times QH_t$$

by substituting and solving for PV the equation

$$\sum_{t=0}^T \frac{NCF_t}{(1+r)^t} = 0$$

where:

$r = 14\%$ for floating gas-to-liquids technology and 10.5% for an export pipeline;

NCF is net cash flow before tax;

VDP is the total market value of the downstream product, at the first point of arm's-length sale, or the first available CUP, in that year;

ECC is expenditures made for items which normally have a useful life of more than one (1) year incurred by the owners of the Downstream Facilities in the year for which NCF is being calculated (including, but not limited to, feasibility and engineering costs and other costs incurred for the purposes of designing and constructing the Downstream Facilities (and in the first year, those costs incurred prior to the start of the Calculation Period)), but only to the extent such are incurred in respect of the Downstream Facilities before the date of commencement of production;

OC is an amount equal to the operating costs (including taxes other than taxes on income, profit or gain and further including expenditures to maintain, repair and replace equipment necessary for the operation of the Downstream Facilities) incurred by the owners of the Downstream Facilities in that year, but only to the extent such are incurred on and from the date of commencement of production in respect of the Downstream Facilities, but does not include:

(a) Any cost or provision against the eventual costs of decommissioning the Downstream Facilities;

(b) Depreciation of capital costs; and

(c) The cost of natural gas used in the production process;

CDC in the last year of production is the estimated costs of decommissioning the Downstream Facilities, and otherwise is zero;

QH is the quantity of undifferentiated hydrocarbons that, in that year, passed the Valuation Point.

7. Where that part of the undifferentiated hydrocarbon stream which is processed as condensate or LPG is processed under a fixed processing fee arrangement, with those revenues being passed upstream, then the following adjustments shall be taken into account in the calculation in paragraph 6:

(a) VDP shall exclude the value of the condensate or LPG but include the amount of tolling fees paid in that year in respect of the processing services supplied to a Sunrise Joint Venturer in respect of production of that condensate or LPG; and

(b) QH shall exclude the quantity of undifferentiated hydrocarbons which results in production of that condensate or LPG for which tolling fees were paid.

8. All costs and estimates of costs used for the purposes of the calculation in paragraph 6, including any tolling fees charged under paragraph 7, shall be not more than those which would be directly and necessarily incurred by a reasonable and prudent operator in an arm's-length transaction.

9. Where the average realized price for downstream product over the previous two years differs by more than 10 per cent from the average price over that period as included in the calculations under paragraph 6, then either Australia or Timor-Leste may initiate a review of these calculations by the Regulatory Authorities, in accordance with the following:

(a) Any review shall occur not within two years of any prior review, and the first review shall not occur earlier than five years following the commencement of production from Greater Sunrise;

(b) The calculations under paragraph 6 shall be re-undertaken from the beginning of the Calculation Period, taking into account actual realized downstream product prices to date, and any new estimates of downstream product prices;

(c) Where a new petroleum valuation is determined under this review process, this new valuation shall apply prospectively from the date of recalculation.

Annex IV

Dispute resolution procedure

(a) An arbitral tribunal to which a dispute is submitted pursuant to article 26 (2) shall consist of three persons appointed as follows:

(i) Australia and Timor-Leste shall each appoint one arbitrator;

(ii) the arbitrators appointed by Australia and Timor-Leste shall, within sixty (60) days of the appointment of the second of them, by agreement, select a third arbitrator who shall be a citizen, or permanent resident of a third country which has diplomatic relations with both Australia and Timor-Leste;

(iii) Australia and Timor-Leste shall, within sixty (60) days of the selection of the third arbitrator, approve the selection of that arbitrator who shall act as Chairman of the Tribunal.

(b) Arbitration proceedings shall be instituted upon notice being given through the diplomatic channel by the country instituting such proceedings to the other country. Such notice shall contain a statement setting forth in summary form the grounds of the claim, the nature of the relief sought, and the name of the arbitrator appointed by the country instituting such proceedings. Within sixty (60) days after the giving of such notice the respondent country shall notify the country instituting proceedings of the name of the arbitrator appointed by the respondent country.

- (c) If, within the time limits provided for in subparagraphs (a) (ii) and (iii) and paragraph (b) of this annex, the required appointment has not been made or the required approval has not been given, Australia or Timor-Leste may request the President of the International Court of Justice to make the necessary appointment. If the President is a citizen or permanent resident of Australia or Timor-Leste or is otherwise unable to act, the Vice-President shall be invited to make the appointment. If the Vice-President is a citizen or permanent resident of Australia or Timor-Leste or is otherwise unable to act, the Member of the International Court of Justice next in seniority who is not a citizen or permanent resident of Australia or Timor-Leste shall be invited to make the appointment.
- (d) In case any arbitrator appointed as provided for in this annex shall resign or become unable to act, a successor arbitrator shall be appointed in the same manner as prescribed for the appointment of the original arbitrator and the successor shall have all the powers and duties of the original arbitrator.
- (e) The arbitral tribunal shall convene at such time and place as shall be fixed by the Chairman of the tribunal. Thereafter, the arbitral tribunal shall determine where and when it shall sit.
- (f) The arbitral tribunal shall decide all questions relating to its competence and shall, subject to any agreement between Australia and Timor-Leste, determine its own procedure.
- (g) Before the arbitral tribunal makes a decision, it may at any stage of the proceedings propose to Australia and Timor-Leste that the dispute be settled amicably. The arbitral tribunal shall reach its award by majority vote taking into account the provisions of this Agreement and relevant international law.
- (h) Australia and Timor-Leste shall each bear the costs of its appointed arbitrator and its own costs in preparing and presenting cases. The cost of the Chairman of the tribunal and the expenses associated with the conduct of the arbitration shall be borne in equal parts by Australia and Timor-Leste.
- (i) The arbitral tribunal shall afford to Australia and Timor-Leste a fair hearing. It may render an award on the default of either Australia or Timor-Leste. In any case, the arbitral tribunal shall render its award within six months from the date it is convened by the Chairman of the Tribunal. Any award shall be rendered in writing and shall state its legal basis. A signed counterpart of the award shall be transmitted to Australia and Timor-Leste.
- (j) An award shall be final and binding on Australia and Timor-Leste.

Annex V
Expert determination procedure

1. If no agreement is reached on the appointment of an expert within the period specified in article 26, each Government shall forthwith exchange with the other a list of not more than three independent experts, putting them in order of preference. In each list, the first shall have three points, the second two points and the third one point. The expert having the greatest number of points from the two lists shall be appointed.
2. If two or more of the experts named on the lists exchanged by the Governments share the greatest number of points, the Governments shall, within 30 days of exchange, by agreement or, failing that, by lot, select which of the experts shall be appointed to decide the matter in question.
3. If the expert to be appointed is unable or unwilling to act, or fails, in the opinion of both Governments, to act within a reasonable period of time to decide the matter in question, then the expert with the greatest number of points among the experts remaining shall be the expert to decide the matter in question. If two or more such experts share the greatest number of points, both Governments shall, by unanimous agreement or by lot, select which expert shall be appointed as the expert to decide the matter in question.
4. If a Government fails to respond to any request or notice within the time specified under this annex, the Government shall be deemed to have waived its rights in respect of the subject of the request or notice but nevertheless shall be bound by the actions of the other Government in selecting an expert and by the decision of the expert.

5. The task of the expert is to reach an independent determination of whatever matters are in question. Where the matter in dispute is in relation to technical redetermination of the apportionment ratio pursuant to article 8, the expert's decision must be made in accordance with any technical procedures and calculation formula pertaining to redetermination as set out in the relevant Joint Venturers' Agreement.
6. The expert may engage independent contractors to undertake work which is necessary to enable the expert to reach a decision, provided that any contractor nominated by the expert for that purpose is approved by the Governments and gives an undertaking that neither it nor any of its personnel has a conflict of interest which would prevent it from undertaking the work.
7. The fees and costs of the expert shall be paid initially by the Government which first:
 - (a) Initiated the redetermination of the apportionment ratio; or
 - (b) Disagreed with the measurement, pursuant to article 24, of quantities of gas and liquids,and shall be recoverable from the Unit Operator. The latter shall be required to use its best efforts to reimburse the initial payer within 12 months of the payment of those fees and costs.
8. Except as set out in this Agreement, the expert shall establish its own procedures. The expert shall only meet with a Government jointly with the other Government. All communications between the Governments and the expert outside those meetings shall be conducted in writing and a person making any such communication shall at the same time send a copy of it to the other Government.
9. The expert shall use only commercially available software in a redetermination of the apportionment ratio. Only data that was available to both Governments as at the date that the redetermination was requested shall be utilized by the expert and all data and analyses relevant to the expert's preliminary and final decisions for the redetermined apportionment ratio shall be provided to both Governments with those decisions.
10. Forthwith upon the appointment of the expert, the Unit Operator shall supply the expert with its data and analyses. Within 30 days of that appointment, each Government will make an initial submission and provide a copy to the other Government. Within 20 days of receiving a copy of that submission, the Government concerned may make a supplementary submission (again providing a copy to the other Government).
11. The expert shall issue a preliminary decision within a period of 90 days, or such other period as the Governments may decide, commencing from the date the expert was appointed. The preliminary decision shall be accompanied by such supporting documentation as is necessary for the Governments to make a reasoned assessment of that decision. Each Government has the right, within 90 days of receipt of the expert's preliminary decision, to seek clarification of that decision and the supporting documentation, to request the expert to review its preliminary decision and to make submissions to the expert for its consideration. If such a request is made, the other Government shall, within a period of 15 days after receipt of a copy of those submissions, have the right to make further submissions. The expert shall issue its final decision on the matter in question no later than 140 days from the date of issue of the preliminary decision. The expert's final decision shall be in writing and the expert shall give detailed reasons for that decision.
12. The Sunrise Joint Venturers shall cooperate fully in supplying information required by the expert and otherwise in facilitating the expert to reach its decision.
13. The Governments shall require the expert and any independent contractor engaged by the expert to give an undertaking to safeguard the confidentiality of any information supplied to the expert.

