

Bulletin No. 56

Law of the Sea



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



United Nations

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

Law of the Sea



Bulletin No. 56



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New York, 2005

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I. UNITED NATIONS CONVENTION ON THE LAW OF THE SEA

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 30 November 2004

| 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) |
| TOTALS | 157 (☐35) | 146 (☐55) | 79 | 118 | 59 (☐5) | 52 (☐24) |
| Afghanistan | | | | | | |
| Albania | | 23 June 2003 (a) | | 23 June 2003 (p) | | |
| 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 | ☐ | ☐19 December 2003 |
| Azerbaijan | | | | | | |
| Bahamas | ☐ | 29 July 1983 | ☐ | 28 July 1995 | | 16 January 1997(a) |
| Bahrain | ☐ | 30 May 1985 | | | | |

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; <i>Shaded row</i> 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); accession(a); succession (s); (☐- declaration) ☐27 July 2001 12 October 1993 | Signature | Ratification; formal confirmation(fc); accession(a); definitive signature(ds); participation(p); ¹ simplified procedure (sp); ² 27 July 2001 (a) 28 July 1995 (sp) | |
| Barbados | | | | | |
| Belarus | | | | | 22 September 2000(a) |
| Belgium | | | | | |
| Belize | | | | | ☐19 December 2003 |
| Benin | | | | | |
| Bhutan | | | | | |
| Bolivia | | | | | |
| Bosnia and Herzegovina | | | | | |
| Botswana | | | | | |
| Brazil | | | | | 8 March 2000 |
| Brunei Darussalam | | | | | |
| Bulgaria | | | | | |
| Burkina Faso | | | | | |
| Burundi | | | | | |
| Cambodia | | | | | |
| Cameroon | | | | | |
| Canada | | | | | |
| Cape Verde | | | | | ☐3 August 1999 |
| Central African Republic | | | | | |
| Chad | | | | | |
| Chile | | | | | |
| China | | | | | |
| Colombia | | | | | |
| Comoros | | | | | |
| Congo | | | | | |
| Cook Islands | | | | | 1 April 1999 (a) |
| Costa Rica | | | | | 18 June 2001 (a) |
| Côte d'Ivoire | | | | | |
| Croatia | | | | | |

| 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); 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) |
| Cuba | ☐ | ☐15 August 1984 | | 17 October 2002 (a) | | 25 September 2002 (a) |
| Cyprus | ☐ | 12 December 1988 | ☐ | 27 July 1995 | | |
| Czech Republic | ☐ | ☐21 June 1996 | ☐ | 21 June 1996 | | |
| Democratic People's Republic of Korea | ☐ | | | | | |
| Democratic Republic of the Congo | ☐ | 17 February 1989 | | | | |
| Denmark | ☐ | ☐16 November 2004 | ☐ | 16 November 2004 | ☐ | ☐19 December 2003 |
| 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 | ☐ | | | | | |
| European Community | ☐ | ☐1 April 1998 (fc) | ☐ | 1 April 1998(fc) | ☐ | ☐19 December 2003 |
| Fiji | ☐ | 10 December 1982 | ☐ | 28 July 1995 | ☐ | 12 December 1996 |
| Finland | ☐ | ☐21 June 1996 | ☐ | 21 June 1996 | ☐ | ☐19 December 2003 |
| France | ☐ | ☐11 April 1996 | ☐ | 11 April 1996 | ☐ | ☐19 December 2003 |
| Gabon | ☐ | 11 March 1998 | ☐ | 11 March 1998 (p) | ☐ | |
| Gambia | ☐ | 22 May 1984 | | | | |
| Georgia | ☐ | 21 March 1996 (a) | | 21 March 1996 (p) | | |
| Germany | ☐ | ☐14 October 1994 (a) | ☐ | 14 October 1994 | ☐ | ☐19 December 2003 |
| Ghana | ☐ | 7 June 1983 | | | | |
| Greece | ☐ | ☐21 July 1995 | ☐ | 21 July 1995 | ☐ | ☐19 December 2003 |
| Grenada | ☐ | 25 April 1991 | ☐ | 28 July 1995 (sp) | | |
| Guatemala | ☐ | ☐11 February 1997 | | 11 February 1997 (p) | | |
| Guinea | ☐ | 6 September 1985 | ☐ | 28 July 1995 (sp) | | |

| 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 (<input type="checkbox"/> - declaration) | Ratification; formal confirmation(fc); accession(a); accession(a); succession (s); (<input type="checkbox"/> - declaration) | Signature <input type="checkbox"/> | Ratification; formal confirmation(fc); accession(a); definitive signature(ds); participation(p); ¹ simplified procedure (sp); ² | |
| <i>Guinea-Bissau</i> | <input type="checkbox"/> | <input type="checkbox"/> 25 August 1986 | | | |
| Guyana | <input type="checkbox"/> | 16 November 1993 | | | |
| Haiti | <input type="checkbox"/> | 31 July 1996 | | 31 July 1996 (p) | |
| <i>Holy See</i> | | | | | |
| Honduras | <input type="checkbox"/> | 5 October 1993 | | 28 July 2003 (a) | |
| Hungary | <input type="checkbox"/> | <input type="checkbox"/> 5 February 2002 | | 5 February 2002 (a) | |
| Iceland | <input type="checkbox"/> | <input type="checkbox"/> 21 June 1985 | <input type="checkbox"/> | 28 July 1995 (sp) | 14 February 1997 |
| India | <input type="checkbox"/> | <input type="checkbox"/> 29 June 1995 | <input type="checkbox"/> | 29 June 1995 | <input type="checkbox"/> 19 August 2003 (a) |
| Indonesia | <input type="checkbox"/> | 3 February 1986 | <input type="checkbox"/> | 2 June 2000 | |
| Iran (Islamic Republic of) | <input type="checkbox"/> | | | | 17 April 1998(a) |
| Iraq | <input type="checkbox"/> | 30 July 1985 | | | |
| Ireland | <input type="checkbox"/> | <input type="checkbox"/> 21 June 1996 | <input type="checkbox"/> | 21 June 1996 | <input type="checkbox"/> 19 December 2003 |
| Israel | | | | | |
| Italy | <input type="checkbox"/> | <input type="checkbox"/> 13 January 1995 | <input type="checkbox"/> | 13 January 1995 | <input type="checkbox"/> 19 December 2003 |
| Jamaica | <input type="checkbox"/> | 21 March 1983 | <input type="checkbox"/> | 28 July 1995 (sp) | |
| Japan | <input type="checkbox"/> | 20 June 1996 | <input type="checkbox"/> | 20 June 1996 | |
| Jordan | | <input type="checkbox"/> 27 November 1995 (a) | | 27 November 1995 (p) | |
| Kazakhstan | | | | | |
| Kenya | <input type="checkbox"/> | 2 March 1989 | | 29 July 1994 (ds) | 13 July 2004(a) |
| Kiribati | <input type="checkbox"/> | <input type="checkbox"/> 24 February 2003 (a) | | 24 February 2003 (p) | |
| Kuwait | <input type="checkbox"/> | <input type="checkbox"/> 2 May 1986 | | 2 August 2002 (a) | |
| Kyrgyzstan | | | | | |
| Lao People's Democratic Republic | <input type="checkbox"/> | 5 June 1998 | <input type="checkbox"/> | 5 June 1998 (p) | |
| Latvia | | | | | |
| Lebanon | <input type="checkbox"/> | | | 5 January 1995 (p) | |
| Lesotho | <input type="checkbox"/> | 5 January 1995 | | | |
| Liberia | <input type="checkbox"/> | | | | |
| Libyan Arab Jamahiriya | <input type="checkbox"/> | | | | |
| Liechtenstein | <input type="checkbox"/> | | | | |

| 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); accession(a); succession (s); (☐ - declaration) | Signature | Ratification; formal confirmation(fc); accession(a); definitive signature(ds); participation(p); ¹ simplified procedure (sp); ² | |
| <i>Lithuania</i> | | ☐13 November 2003 (a) | | 13 November 2003 (a) | |
| Luxembourg | ☐ | 5 October 2000 | ☐ | 5 October 2000 | ☐19 December 2003 |
| 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) 19 March 2003 |
| Marshall Islands | | 9 August 1991 (a) | | | |
| Mauritania | ☐ | 17 July 1996 | ☐ | 17 July 1996 (p) | |
| Mauritius | ☐ | 4 November 1994 | | 4 November 1994 (p) | ☐25 March 1997(a) |
| Mexico | ☐ | 18 March 1983 | | 10 April 2003 (a) | |
| Micronesia (Federated States of) | | 29 April 1991 (a) | ☐ | 6 September 1995 | 23 May 1997 |
| Monaco | ☐ | 20 March 1996 | ☐ | 20 March 1996 (p) | 9 June 1999(a) |
| Mongolia | ☐ | 13 August 1996 | ☐ | 13 August 1996 (p) | |
| Morocco | ☐ | | ☐ | | |
| Mozambique | ☐ | 13 March 1997 | | 13 March 1997 (a) | |
| Myanmar | ☐ | 21 May 1996 | | 21 May 1996 (a) | |
| Namibia | ☐ | 18 April 1983 | ☐ | 28 July 1995 (sp) | 8 April 1998 |
| Nauru | ☐ | 23 January 1996 | | 23 January 1996 (p) | 10 January 1997(a) |
| Nepal | ☐ | 2 November 1998 | | 2 November 1998 (p) | |
| Netherlands | ☐ | 28 June 1996 | ☐ | 28 June 1996 | ☐19 December 2003 |
| New Zealand | ☐ | 19 July 1996 | ☐ | 19 July 1996 | 18 April 2001 |
| Nicaragua | ☐ | 3 May 2000 | | 3 May 2000 (p) | |
| Niger | ☐ | | | | |
| Nigeria | ☐ | 14 August 1986 | ☐ | 28 July 1995 (sp) | |
| <i>Niue</i> | ☐ | | | | |
| Norway | ☐ | 24 June 1996 | | 24 June 1996 (a) | ☐30 December 1996 |
| Oman | ☐ | 17 August 1989 | | 26 February 1997 (a) | |

| 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 (<input type="checkbox"/> - declaration) | Ratification; formal confirmation (fc); accession (a); accession (a); succession (s); (<input type="checkbox"/> - declaration) | Signature | Ratification; formal confirmation (fc); accession (a); definitive signature (ds); participation (p); ¹ simplified procedure (sp); ² | |
| <i>Pakistan</i> | <input type="checkbox"/> | <input type="checkbox"/> 26 February 1997 | <input type="checkbox"/> | <input type="checkbox"/> 26 February 1997 (p) | Ratification; accession (a) ³ (<input type="checkbox"/> - declaration) |
| Palau | <input type="checkbox"/> | <input type="checkbox"/> 30 September 1996 (a) | <input type="checkbox"/> | <input type="checkbox"/> 30 September 1996 (p) | |
| Panama | <input type="checkbox"/> | <input type="checkbox"/> 1 July 1996 | <input type="checkbox"/> | <input type="checkbox"/> 1 July 1996 (p) | |
| Papua New Guinea | <input type="checkbox"/> | <input type="checkbox"/> 14 January 1997 | <input type="checkbox"/> | <input type="checkbox"/> 14 January 1997 (p) | <input type="checkbox"/> 4 June 1999 |
| Paraguay | <input type="checkbox"/> | <input type="checkbox"/> 26 September 1986 | <input type="checkbox"/> | <input type="checkbox"/> 10 July 1995 | |
| Peru | | | | | |
| Philippines | <input type="checkbox"/> | <input type="checkbox"/> 8 May 1984 | <input type="checkbox"/> | <input type="checkbox"/> 23 July 1997 | |
| Poland | <input type="checkbox"/> | <input type="checkbox"/> 13 November 1998 | <input type="checkbox"/> | <input type="checkbox"/> 13 November 1998 | |
| Portugal | <input type="checkbox"/> | <input type="checkbox"/> 3 November 1997 | <input type="checkbox"/> | <input type="checkbox"/> 3 November 1997 | <input type="checkbox"/> 19 December 2003 |
| Qatar | <input type="checkbox"/> | <input type="checkbox"/> 9 December 2002 | <input type="checkbox"/> | <input type="checkbox"/> 9 December 2002 (p) | |
| Republic of Korea | <input type="checkbox"/> | <input type="checkbox"/> 29 January 1996 | <input type="checkbox"/> | <input type="checkbox"/> 29 January 1996 | |
| Republic of Moldova | | | | | |
| Romania | <input type="checkbox"/> | <input type="checkbox"/> 17 December 1996 | <input type="checkbox"/> | <input type="checkbox"/> 17 December 1996 (a) | |
| Russian Federation | <input type="checkbox"/> | <input type="checkbox"/> 12 March 1997 | <input type="checkbox"/> | <input type="checkbox"/> 12 March 1997 (a) | <input type="checkbox"/> 4 August 1997 |
| Rwanda | <input type="checkbox"/> | | | | |
| Saint Kitts and Nevis | <input type="checkbox"/> | <input type="checkbox"/> 7 January 1993 | | | |
| Saint Lucia | <input type="checkbox"/> | <input type="checkbox"/> 27 March 1985 | | | <input type="checkbox"/> 9 August 1996 |
| Saint Vincent and the Grenadines | <input type="checkbox"/> | <input type="checkbox"/> 1 October 1993 | | | |
| Samoa | <input type="checkbox"/> | <input type="checkbox"/> 14 August 1995 | <input type="checkbox"/> | <input type="checkbox"/> 14 August 1995 (p) | <input type="checkbox"/> 25 October 1996 |
| San Marino | | | | | |
| Sao Tome and Principe | <input type="checkbox"/> | <input type="checkbox"/> 3 November 1987 | | | |
| Saudi Arabia | <input type="checkbox"/> | <input type="checkbox"/> 24 April 1996 | | <input type="checkbox"/> 24 April 1996 (p) | |
| Senegal | <input type="checkbox"/> | <input type="checkbox"/> 25 October 1984 | <input type="checkbox"/> | <input type="checkbox"/> 25 July 1995 | <input type="checkbox"/> 30 January 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); 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>Serbia and Montenegro</i> | ⁴ | ☐12 March 2001 (s) | | 28 July 1995 (sp) ² | | |
| Seychelles | | 16 September 1991 | | 15 December 1994 | | 20 March 1998 |
| Sierra Leone | | 12 December 1994 | | 12 December 1994 (p) | | |
| Singapore | | 17 November 1994 | | 17 November 1994 (p) | | |
| Slovakia | | 8 May 1996 | | 8 May 1996 | | |
| Slovenia | | ☐16 June 1995 (s) | | 16 June 1995 | | |
| Solomon Islands | | 23 June 1997 | | 23 June 1997 (p) | | 13 February 1997(a) |
| Somalia | | 24 July 1989 | | | | |
| South Africa | | ☐23 December 1997 | | 23 December 1997 | | 14 August 2003 (a) |
| Spain | | ☐15 January 1997 | | 15 January 1997 | | ☐19 December 2003 |
| Sri Lanka | | 19 July 1994 | | 28 July 1995 (sp) | | 24 October 1996 |
| Sudan | | 23 January 1985 | | | | |
| Suriname | | 9 July 1998 | | 9 July 1998 (p) | | |
| Swaziland | | | | | | |
| Sweden | | ☐25 June 1996 | | 25 June 1996 | | ☐19 December 2003 |
| Switzerland | | | | | | |
| Syrian Arab Republic | | | | | | |
| Tajikistan | | | | | | |
| Thailand | | | | | | |
| The former Yugoslav Republic of Macedonia | | 19 August 1994 (s) | | 19 August 1994 (p) | | |
| Timor-Leste | | | | | | |
| Togo | | 16 April 1985 | | 28 July 1995 (sp) | | |
| Tonga | | 2 August 1995 (a) | | 2 August 1995 (p) | | 31 July 1996 |

⁴ The former Yugoslavia had signed and ratified the Convention on 10 December 1982 and 5 May 1986, respectively.

⁵ 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 1995 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. As of 4 February 2003, the country name changed to Serbia and Montenegro.

| 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>Trinidad and Tobago</i> | | 25 April 1986 | | 28 July 1995 (sp) | | |
| Tunisia | | ☐24 April 1985 | | 24 May 2002 | | |
| Turkey | | | | | | |
| Turkmenistan | | | | | | |
| Tuvalu | | 9 December 2002 | | 9 December 2002 (p) | | |
| Uganda | | 9 November 1990 | | 28 July 1995 (sp) | | |
| Ukraine | | ☐26 July 1999 | | 26 July 1999 | | 27 February 2003 |
| United Arab Emirates | | | | | | |
| United Kingdom | | ☐25 July 1997 (a) | | 25 July 1997 | | ☐10 December 2001 ⁶ |

⁶ On 19 December 2003, an instrument of ratification was lodged by the United Kingdom of Great Britain and Northern Ireland (on behalf of the United Kingdom of Great Britain and Northern Ireland).

It will be recalled that 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 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 declarations.

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.

"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.

| 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); accession (s); 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) |
| United Republic of Tanzania | | ☐30 September 1985 | | 25 June 1998 | | |
| United States of America | | | | | | ☐21 August 1996 |
| Uruguay | ☐ | ☐10 December 1992 | | | ☐ | ☐10 September 1999 |
| Uzbekistan | | | | | | |
| Vanuatu | | 10 August 1999 | | 10 August 1999 (p) | | |
| Venezuela, Bolivarian Republic of | | | | | | |
| Viet Nam | | | | | | |
| Yemen | ☐ | ☐25 July 1994 ☐21 July 1987 | | | | |
| Zambia | | 7 March 1983 | | 28 July 1995 (sp) | | |
| Zimbabwe | | 24 February 1993 | | 28 July 1995 (sp) | | |
| TOTALS | 157 (☐35) | 146 (☐55) | 79 | 118 | 59 (☐5) | 52 (☐24) |

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.

2. Chronological lists of ratifications of, accessions and successions to the Convention and the related Agreements, as at 30 November 2004

(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 Tomé and Príncipe (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)
143. Albania (23 June 2003)
144. Canada (7 November 2003)
145. Lithuania (12 November 2003)
146. Denmark (16 November 2004)

(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)
113. Mexico (10 April 2003)
114. Albania (23 June 2003)
115. Honduras (28 July 2003)
116. Canada (7 November 2003)
117. Lithuania (12 November 2003)
118. Denmark (16 November 2004)

(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 stock

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)⁷
32. Cyprus (25 September 2002)
33. Ukraine (27 February 2003)
34. Marshall Islands (19 March 2003)
35. South Africa (14 August 2003)
36. India (19 August 2003)
37. European Community (19 December 2003)
38. Austria (19 December 2003)
39. Belgium (19 December 2003)
40. Denmark (19 December 2003)
41. Finland (19 December 2003)
42. France (19 December 2003)
43. Germany (19 December 2003)
44. Greece (19 December 2003)
45. Ireland (19 December 2003)
46. Italy (19 December 2003)
47. Luxembourg (19 December 2003)
48. Netherlands (19 December 2003)
49. Portugal (19 December 2003)
50. Spain (19 December 2003)
51. Sweden (19 December 2003)
52. Kenya (13 July 2004)

⁷ United Kingdom of Great Britain and Northern Ireland (on behalf of the United Kingdom of Great Britain and Northern Ireland) (19 December 2003).

3. Declarations by States

Denmark

*Declaration of 16 November 2004 made upon ratification
of the Convention on the Law of the Sea of 10 December 1982 and the Agreement of 28 July 1994
relating to the Implementation of Part XI of the Convention*

The Kingdom of Denmark makes the following declaration:

It is the position of the Government of the Kingdom of Denmark that the exception from the transit passage regime provided for in article 35 (c) of the Convention applies to the specific regime in the Danish straits (the Great Belt, the Little Belt and the Danish part of the Sound), which has developed on the basis of the Copenhagen Treaty of 1857. The present legal regime of the Danish straits will therefore remain unchanged.

The Government of the Kingdom of Denmark declares pursuant to article 287 of the Convention that it chooses the International Court of Justice for the settlement of disputes concerning the interpretation or application of the Convention.

The Government of the Kingdom of Denmark declares pursuant to article 298 of the Convention that it does not accept an arbitral tribunal constituted in accordance with Annex VII for any of the categories of disputes mentioned in article 298.

The Government of the Kingdom of Denmark declares, in accordance with article 310 of the Convention, its objection to any declaration or position excluding or amending the legal scope of the provisions of the Convention. Passivity with respect to such declarations or positions shall be interpreted neither as acceptance nor rejection of such declarations or positions.

The Kingdom of Denmark recalls that, as a member of the European Community, it has transferred competence in respect of certain matters governed by the Convention. In accordance with the provisions of Annex IX of the Convention, a detailed declaration on the nature and extent of the competence transferred to the European Community was made by the European Community upon deposit of its instrument of formal confirmation. This transfer of competence does not extend to the Faroe Islands and Greenland.

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

A. National legislation

1. Federative Republic of Brazil

List of geographical coordinates of points defining the outer limit
of the Brazilian Exclusive Economic Zone⁸

| | | |
|---------------------------|---------------------------|---------------------------|
| 35:58:21.99S,50:19:23.63W | 35:36:04.07S,49:52:39.08W | 35:11:13.70S,49:28:02.00W |
| 35:57:39.32S,50:18:33.02W | 35:35:21.20S,49:51:48.47W | 35:10:24.45S,49:27:18.89W |
| 35:56:55.12S,50:17:40.53W | 35:34:36.79S,49:50:57.86W | 35:09:35.20S,49:26:37.65W |
| 35:56:12.44S,50:16:49.92W | 35:33:52.38S,49:50:09.13W | 35:08:45.93S,49:25:54.54W |
| 35:55:28.23S,50:15:59.31W | 35:33:07.96S,49:49:18.52W | 35:07:56.66S,49:25:13.30W |
| 35:54:44.01S,50:15:08.70W | 35:32:23.53S,49:48:29.78W | 35:07:07.38S,49:24:32.06W |
| 35:54:07.41S,50:14:25.59W | 35:31:39.10S,49:47:41.04W | 35:06:16.55S,49:23:50.82W |
| 35:53:24.71S,50:13:33.10W | 35:30:54.66S,49:46:52.31W | 35:05:27.25S,49:23:11.46W |
| 35:52:43.52S,50:12:40.62W | 35:30:08.68S,49:46:03.57W | 35:04:37.95S,49:22:30.22W |
| 35:52:00.80S,50:11:48.13W | 35:29:22.69S,49:45:14.83W | 35:03:47.09S,49:21:50.86W |
| 35:51:18.08S,50:10:55.65W | 35:28:38.23S,49:44:27.97W | 35:02:56.23S,49:21:11.49W |
| 35:50:35.35S,50:10:05.04W | 35:27:52.23S,49:43:41.11W | 35:02:05.35S,49:20:32.13W |
| 35:49:52.61S,50:09:12.55W | 35:27:06.22S,49:42:52.38W | 35:01:14.47S,49:19:52.77W |
| 35:49:09.87S,50:08:21.94W | 35:26:20.20S,49:42:05.51W | 35:00:23.58S,49:19:13.40W |
| 35:48:25.59S,50:07:31.33W | 35:25:32.64S,49:41:20.53W | 34:59:32.68S,49:18:35.91W |
| 35:47:42.83S,50:06:40.72W | 35:24:46.61S,49:40:33.66W | 34:58:35.60S,49:17:50.93W |
| 35:47:22.98S,50:06:18.23W | 35:24:00.57S,49:39:46.80W | 34:57:44.68S,49:17:13.44W |
| 35:46:41.74S,50:05:23.87W | 35:23:12.99S,49:39:01.82W | 34:56:52.21S,49:16:35.95W |
| 35:45:58.97S,50:04:31.38W | 35:22:25.40S,49:38:16.83W | 34:56:01.27S,49:15:58.46W |
| 35:45:17.72S,50:03:38.90W | 35:21:37.80S,49:37:31.84W | 34:55:10.33S,49:15:20.97W |
| 35:44:34.93S,50:02:46.41W | 35:20:50.20S,49:36:46.85W | 34:54:17.83S,49:14:43.48W |
| 35:43:52.14S,50:01:53.93W | 35:20:02.58S,49:36:01.87W | 34:53:25.32S,49:14:05.99W |
| 35:43:09.34S,50:01:03.32W | 35:19:14.96S,49:35:18.75W | 34:52:34.35S,49:13:30.37W |
| 35:42:26.54S,50:00:10.83W | 35:18:27.33S,49:34:33.77W | 34:51:41.82S,49:12:54.76W |
| 35:41:43.73S,49:59:20.22W | 35:17:38.16S,49:33:50.65W | 34:50:49.28S,49:12:19.14W |
| 35:40:59.38S,49:58:29.61W | 35:16:50.51S,49:33:07.54W | 34:49:56.74S,49:11:43.53W |
| 35:40:22.67S,49:57:46.50W | 35:16:02.86S,49:32:22.55W | 34:49:04.18S,49:11:07.92W |
| 35:39:39.84S,49:56:54.01W | 35:15:15.20S,49:31:39.44W | 34:48:11.62S,49:10:34.17W |
| 35:38:57.01S,49:56:03.40W | 35:14:27.53S,49:30:54.45W | 34:47:19.04S,49:10:00.43W |
| 35:38:14.17S,49:55:10.92W | 35:13:38.32S,49:30:11.34W | 34:46:24.91S,49:09:24.82W |
| 35:37:31.32S,49:54:20.30W | 35:12:50.63S,49:29:28.23W | 34:45:32.32S,49:08:51.08W |
| 35:36:48.46S,49:53:29.69W | 35:12:01.40S,49:28:45.12W | 34:44:38.17S,49:08:19.21W |

⁸ Deposited by Brazil with the Secretary-General of the United Nations, in accordance with article 75, paragraph 2, of the Convention, on 27 August 2004. The list uses the geodetic system WGS-84

| | | |
|---------------------------|---------------------------|---------------------------|
| 34:43:45.56S,49:07:45.47W | 34:06:28.69S,48:40:45.93W | 33:33:36.15S,48:03:42.81W |
| 34:43:22.35S,49:07:32.35W | 34:05:49.71S,48:39:51.57W | 33:32:53.78S,48:02:54.08W |
| 34:42:29.72S,49:06:56.74W | 34:05:09.16S,48:38:59.09W | 33:32:09.83S,48:02:03.47W |
| 34:41:37.08S,49:06:23.00W | 34:04:28.61S,48:38:04.73W | 33:31:25.87S,48:01:14.73W |
| 34:40:44.44S,49:05:47.38W | 34:03:48.05S,48:37:12.24W | 33:30:40.34S,48:00:27.87W |
| 34:39:51.79S,49:05:13.64W | 34:03:07.49S,48:36:19.76W | 33:29:56.37S,47:59:39.13W |
| 34:38:57.57S,49:04:39.90W | 34:02:25.36S,48:35:27.27W | 33:29:12.40S,47:58:50.40W |
| 34:38:04.90S,49:04:06.16W | 34:01:44.78S,48:34:34.79W | 33:28:26.84S,47:58:03.53W |
| 34:37:10.67S,49:03:34.29W | 34:01:02.64S,48:33:42.30W | 33:27:41.28S,47:57:14.80W |
| 34:36:17.98S,49:03:00.55W | 34:00:20.50S,48:32:49.82W | 33:26:57.29S,47:56:27.94W |
| 34:35:23.73S,49:02:28.69W | 33:59:38.34S,48:31:59.21W | 33:26:11.72S,47:55:41.07W |
| 34:34:29.47S,49:01:56.82W | 33:58:56.18S,48:31:06.72W | 33:25:26.14S,47:54:56.09W |
| 34:33:35.20S,49:01:24.96W | 33:58:14.02S,48:30:16.11W | 33:24:38.98S,47:54:09.22W |
| 34:32:40.91S,49:00:53.09W | 33:57:31.85S,48:29:25.50W | 33:23:53.39S,47:53:22.36W |
| 34:31:46.62S,49:00:23.10W | 33:56:48.11S,48:28:34.89W | 33:23:07.79S,47:52:37.38W |
| 34:30:52.32S,48:59:51.23W | 33:56:05.93S,48:27:44.28W | 33:22:20.61S,47:51:52.39W |
| 34:29:58.01S,48:59:21.24W | 33:55:22.18S,48:26:55.54W | 33:21:35.00S,47:51:07.40W |
| 34:29:03.69S,48:58:51.25W | 33:54:38.42S,48:26:04.93W | 33:20:47.80S,47:50:22.41W |
| 34:28:07.81S,48:58:21.26W | 33:53:54.66S,48:25:16.20W | 33:20:00.60S,47:49:37.43W |
| 34:27:13.47S,48:57:53.14W | 33:53:10.89S,48:24:27.46W | 33:19:13.39S,47:48:52.44W |
| 34:26:19.12S,48:57:23.15W | 33:52:27.11S,48:23:38.72W | 33:18:26.18S,47:48:09.33W |
| 34:25:23.20S,48:56:55.03W | 33:51:43.33S,48:22:49.99W | 33:17:38.96S,47:47:26.21W |
| 34:24:27.28S,48:56:26.91W | 33:50:57.98S,48:22:01.25W | 33:16:50.15S,47:46:41.23W |
| 34:23:32.90S,48:55:58.80W | 33:50:12.62S,48:21:12.51W | 33:16:02.92S,47:45:59.99W |
| 34:22:36.95S,48:55:30.68W | 33:49:28.82S,48:20:25.65W | 33:15:17.25S,47:45:15.00W |
| 34:21:41.00S,48:55:04.44W | 33:48:43.45S,48:19:38.79W | 33:14:30.00S,47:44:30.01W |
| 34:20:45.03S,48:54:36.32W | 33:47:58.07S,48:18:50.05W | 33:13:42.74S,47:43:45.03W |
| 34:19:49.05S,48:54:10.08W | 33:47:12.68S,48:18:03.19W | 33:12:55.48S,47:43:00.04W |
| 34:18:53.07S,48:53:43.84W | 33:46:25.72S,48:17:18.21W | 33:12:08.21S,47:42:16.93W |
| 34:17:57.07S,48:53:19.47W | 33:45:40.32S,48:16:31.34W | 33:11:20.93S,47:41:33.81W |
| 34:17:01.06S,48:52:53.23W | 33:44:54.92S,48:15:44.48W | 33:10:33.64S,47:40:48.83W |
| 34:16:05.04S,48:52:26.98W | 33:44:07.94S,48:14:59.50W | 33:09:44.77S,47:40:07.59W |
| 34:15:09.01S,48:52:02.61W | 33:43:20.95S,48:14:14.51W | 33:08:57.47S,47:39:24.48W |
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| 0:53:14.73S,26:31:02.93W | 0:12:17.86S,26:11:20.14W | 0:32:38.78N,26:01:10.94W |
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| 0:49:49.06S,26:28:57.34W | 0:08:29.52S,26:10:03.29W | 0:36:38.43N,26:00:46.57W |
| 0:48:58.12S,26:28:25.47W | 0:07:32.90S,26:09:44.54W | 0:37:38.81N,26:00:42.82W |
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⁹ Original: French. Text communicated by the Permanent Mission of Madagascar through note verbale No. 02-409/DELONU/5B/Dt de la Mer, dated 9 December 2002. Parts II and III of the Maritime Code will be published in subsequent *Law of the Sea Bulletins*.

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Act No. 99-028
revising the Maritime Code

The National Assembly adopted at its meeting on 7 December 1999, and
The President of the Republic,
Pursuant to the Constitution,
Pursuant to decision of the High Constitutional Court No. 3-11CC/D.3 of 2 February 2000,
Promulgates this Act, which reads as follows:

Article 1

The text of the Maritime Code promulgated by Act No. 66-007 of 5 July 1966 is revised in accordance with the text annexed to the present Act.

Article 2

All previous provisions contrary to this Code are and shall remain abrogated.

Article 3

This Act shall be published in the Journal Officiel of the Republic.
It shall be executed as a law of the State.
Promulgated in Antananarivo, 3 February 2000
The President of the Republic
Didier RATSIRAKA

Preamble

The current Maritime Code was promulgated in Act No. 66-007 of 5 July 1966.

It addresses various topics affecting the regulation of navigation, the environment, vessels, seafarers, transport, fisheries, maritime administration, maritime sales and marine insurance, and legal proceedings.

It has been amended since 1966 by several national instruments:

Order No. 74-010 of 7 March 1974 amending some of the provisions of Book III of the Maritime Code (JO, 16 March 1974, p. 767);

Order No. 77-063 of 30 September 1977 supplementing the provisions of article 7.5.01 of the Maritime Code (JO, 15 October 1977, p. 2704);

Order No. 77-064 of 30 September 1977 amending article 7.7.07 of the Maritime Code (JO, 15 October 1977, p. 2706);

Order No. 83-028 of 21 December 1983 abrogating the provisions of Act No. 66-007 of 5 July 1966, as amended, concerning the Maritime Code and of Act No. 77-005 of 22 December 1977, as amended, containing the General Tax Code (JO of 31 December 1983, p. 3267);

Order No. 85-013 of 16 September 1985 fixing the limits of the maritime zone (JO, 21 September 1985, p. 1917);

Order No. 92-032 of 17 July 1992 amending and supplementing some of the provisions of Book III of the Maritime Code (JO, 24 August 1992, p. 1966).

The Malagasy Code is also required to take into account the following international conventions which have entered into force since 1966:

International Convention on Tonnage Measurement of Ships of 1969, entered into force: 18 July 1982;

International Convention Relating to Intervention on the High Seas in Cases of Oil Pollution Casualties, entered into force: 6 May 1975;

Protocol of 1973 to the preceding Convention, entered into force: 30 March 1983;

International Convention on Civil Liability for Oil Pollution Damage of 1969, entered into force: 19 June 1975;

Protocol of 1969 to the preceding Convention, entered into force: 8 April 1981;

Convention relating to Civil Liability in the Field of Maritime Carriage of Nuclear Material of 1971, entered into force: 15 July 1975;

International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage of 1971, entered into force: 16 October 1978;

Convention on the Prevention of Marine Pollution by Dumping of Wastes and other Matter of 1972, entered into force: 30 August 1975;

International Convention for the Prevention of Pollution from Ships of 1973, as amended by the Protocol of 1978, entered into force: 2 October 1983;

International Convention for Safety of Life at Sea of 1974, entered into force: 25 May 1980;

Protocol of 1978 to the preceding Convention, entered into force: 1 May 1981;

Convention relating to the Carriage of Passengers and their Luggage by Sea of 1974, entered into force: 28 April 1987;

Protocol of 1974 to the preceding Convention, entered into force: 30 April 1989;

Convention on Limitation of Liability for Maritime Claims of 1976, entered into force: 1 December 1986;

International Convention on Standards of Training, Certification and Watchkeeping for Seafarers of 1978, entered into force: 28 April 1984;

International Convention on Maritime Search and rescue of 1979, entered into force: 22 June 1985;

Convention on the Law of the Sea of 1982, entered into force: 16 November 1994;

Convention, with Protocol, for the Suppression of Unlawful Acts against the Safety of Maritime Navigation of 1988, entered into force: 1 March 1992.

It is therefore deemed appropriate to revise the Code in order to bring it up to date in the light of the amendments introduced by national legislation and international convention, although Madagascar has ratified only the International Convention for Safety of Life at Sea of 1974 and the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers of 1978.

Together with this revision, some amendments need to be introduced in order to address the situation currently prevailing in the Malagasy maritime sector. It is necessary to this end:

1. To open up the maritime sector to foreign investors in order to compensate for the shortcomings of national shipping companies;
2. To liberalise maritime transport by abrogating article 4.1.02, which obliges shipowners to operate lines of public interest which are not profitable;
3. To prohibit all uninsured foreign vessels from entering Malagasy ports;
4. To require all foreign vessels to have a registered shipping or forwarding agent, who shall be personally liable for payment of all sums chargeable to the vessel;
5. To protect wrecks of historical, archaeological or cultural interest, which have been subjected to large-scale plunder in recent years;
6. To improve the social protection of seafarers, who are often victims of serious accidents or of fraud by certain foreign operators;
7. To regulate a crew's right to strike;
8. To augment State revenues by charging fees for all documents and certificates issued by the maritime authorities;
9. To increase the amounts of fines in order to bolster their deterrent effect.

The revised Maritime Code consists of the following parts:

Part I: on branches of maritime administration;

Part II: on maritime commerce;

Part III: on maritime disputes.

The following are the main changes made during the revision:

The incorporation in Book 1 of the principal provisions of the Convention on the Law of the Sea;

The liberalisation of the maritime sector by abrogation of the old article 2.2.03, which required that any vessel flying the Malagasy flag must be at least half-owned by Malagasy nationals;

The inclusion in Book 2 of a new chapter 8 on maritime wrecks of historical, archaeological or cultural interest;

The alignment in article 3.5.02 of the matrix and the value of seafarers' index points with those of workers on shore in the non-agricultural sector;

The requirement contained in article 4.1.04 that any foreign vessel entering a Malagasy port must have a local shipping or forwarding agent and be in possession of a currently valid insurance policy;

The increase by a factor of 10 of the amounts of the fines provided for in Book 7;

The amendment of the provisions of Book 8 concerning the limitation of shipowners' liability and the procedure for provisional arrest;

The exclusion of the provisions on long-voyage loans, which have fallen out of use;

The requirement that exercise of the profession of shipping or forwarding agent shall be subject to official approval and the deposit of a security.

Such is the purpose of this Act.

Part I
Branches of maritime administration

Book 1: The sea

Chapter 1
Delimitation of the territorial sea

1.1.01. Breadth of the territorial sea

The territorial sea of Madagascar extends seaward for 12 nautical miles from the baseline.

1.1.02. Internal waters

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

1.1.03. Normal baseline

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

1.1.04. Fringing reefs

Along a coast having a fringing reef, the baseline is the seaward low-water line of the reef.

1.1.05. Mouths of rivers

If a river flows directly into the sea, the baseline shall be a straight line across the mouth of the river between points on the low-water line of its banks.

1.1.06. Bays

An indentation shall be regarded as a bay if its area is as large as, or larger than, that of the semi-circle whose diameter is a line drawn across the mouth of the indentation.

If the distance between the low-water marks of the natural entrance points of a bay does not exceed 24 nautical miles, a closing line may be drawn between these two low-water marks, and the waters enclosed thereby shall be considered as internal waters.

Where the distance between the low-water marks of the natural entrance points of a bay exceeds 24 nautical miles, a straight baseline of 24 nautical miles shall be drawn within the bay in such a manner as to enclose the maximum area of water that is possible with a line of that length.

1.1.07. Ports and roadsteads

The outermost permanent harbour works which form an integral part of the harbour system are regarded as forming part of the coast.

Off-shore installations and artificial islands shall not be considered as permanent harbour works.

Roadsteads situated wholly or partly outside the outer limit of the territorial sea which are normally used for the loading, unloading and anchoring of ships, are included in the territorial sea.

1.1.08. Islands and rocks

An island is a natural area of land surrounded by water which remains uncovered at high tide. An island has a territorial sea.

Rocks which are not suitable for human habitation or for economic activities do not have a territorial sea.

1.1.09. Islands around Madagascar

The outermost points of islands under Malagasy sovereignty are joined to Madagascar by straight baselines each less than 100 nautical miles in length.

1.1.10. Low-tide elevations

A low-tide elevation is a naturally formed area of land which is surrounded by and above water at low tide but submerged at high tide.

Straight baselines may not be drawn to or from a low-tide elevation unless a lighthouse or similar installation permanently above water has been built on it or unless the entire low-tide elevation, or a part thereof, is situated at a distance from the closest island not exceeding the breadth of the territorial sea.

1.1.11. Appropriate points

A decree issued by the Council of Ministers shall establish the list of permanent points for drawing baselines in accordance with the preceding articles. A chart of an appropriate scale showing the delimitation of the territorial sea shall be attached to the list.

Chapter 2 High seas and intermediate zones

1.2.01. Contiguous zone

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

1.2.02. Exclusive economic zone

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

If there is not a distance of 400 nautical miles between the baseline of the Republic of Madagascar and the baseline of one or more neighbouring States, the delimitation shall be effected by an agreement concluded in accordance with principles of equity, taking as reference point the equidistant line between the States concerned.

1.2.03. Continental shelf

The continental shelf comprises the submerged prolongation of the land territory to the outer edge of the continental margin.

The continental margin consists of the sea-bed and the subsoil of the shelf, the slope and the rise. It does not include the deep ocean floor with its oceanic rises or the subsoil thereof.

Wherever the continental margin does not extend beyond 200 nautical miles from the baseline, its outer edge is established by a line connecting fixed points not more than 60 nautical miles from the foot of the continental slope.

Wherever the continental margin extends beyond 200 nautical miles from the baseline, the outer limit of the continental shelf is established by a line connecting fixed points at a distance of 60 miles situated 100 nautical miles from the 2,500 metre isobath.

Notwithstanding the provisions of the preceding paragraph, the outer limit of the continental shelf on a submarine ridge shall not exceed 350 nautical miles from the baseline.

The coordinates of the fixed points referred to in the foregoing paragraphs shall be established by decree.

1.2.04. High seas

All the parts of the sea not contained within internal waters, the territorial sea and the exclusive economic zone constitute the high seas.

Chapter 3 **Limits of national jurisdiction**

1.3.01. Sovereignty over the territorial sea

The sovereignty of the Malagasy State over its territory and its internal waters extends to its territorial sea. This sovereignty extends to the air space above the territorial sea and to its sea-bed and its subsoil.

Accordingly, the Malagasy State may adopt laws and regulations concerning the following matters:

Coastal surveillance;

Safety of navigation and regulation of shipping;

Protection of equipment and systems constituting aids to navigation and other equipment and installations;

Protection of cables and pipelines;

Conservation of the biological resources of the sea;

Prevention of violations of fisheries regulations;

Protection of the marine environment, in particular against pollution;

Prevention of violations of customs, tax, health and immigration regulations.

1.3.02. Rights in the exclusive economic zone

The exclusive economic zone comprises the sea-bed and its subsoil and the waters superjacent to the sea-bed. In this zone the Republic of Madagascar has:

Sovereign and exclusive rights for the purposes of exploring and exploiting, conserving and managing the natural resources, whether living or non-living, of the waters superjacent to the sea-bed and of the sea-bed and its subsoil, and with regard to other activities for the economic exploration and exploitation of the zone, such as the production of energy from the water, currents and winds;

Jurisdiction with regard to the establishment and use of artificial islands, installations and structures, marine scientific research, and the protection and preservation of the marine environment.

Nationals of other States may not engage in any exploration or exploitation of the exclusive economic zone without authorization by the Government of the Republic of Madagascar.

1.3.03. Rights over the continental shelf

The sovereignty of the State does not extend to the superjacent waters or to the air space above those waters.

The Republic of Madagascar exercises over the continental shelf sovereign rights for the purpose of exploring it and exploiting its mineral resources and other non-living resources of the sea-bed and its subsoil, together with living organisms which, at the harvestable stage, either are immobile on or under the sea-bed or are unable to move except in constant physical contact with the sea-bed or the subsoil.

The rights referred to in the preceding paragraph are exclusive. They do not depend on occupation, effective or symbolic, or on any express proclamation. They do not affect the legal status of the superjacent waters or of the air space above those waters. They do not infringe the rights of other States, in particular the freedom of navigation and the right to lay cables and pipelines.

However, the Republic of Madagascar has the exclusive right to authorize and regulate drilling and other works on its continental shelf.

1.3.04. Freedom of the high seas

The high seas are open to all States. They shall be reserved for peaceful purposes. All States may exercise on the high seas:

Freedom of navigation;

Freedom of overflight;

Freedom of fishing, subject to respect for treaty obligations concerning the management and conservation of living resources;

Freedom of scientific research;

Freedom to lay submarine cables and pipelines;

Freedom to construct artificial islands and other installations.

Scientific research equipment and the installations referred to in the last subparagraph above do not have the status of islands. They have no territorial sea of their own but have a security zone of not more than 500 metres.

1.3.05. The Area and its resources

For the purposes of this article, "Area" means the sea-bed and its subsoil beyond the limits of national jurisdiction.

"Resources" includes solid, liquid or gaseous substances such as: oil, gas, sulphur, helium, polymetallic nodules, metalliferous brine, etc.

The Area and its resources are the common heritage of mankind.

The development of the Area and all research activity in the Area shall be carried out for the benefit of mankind as a whole in accordance with the principles embodied in the Charter of the United Nations and other rules of international law.

1.3.06. The Area and objects of archaeological or historical interest

All objects of an archaeological and historical nature shall be preserved or disposed of for the benefit of mankind as a whole, particular regard being paid to the preferential right of the State or country of origin.

Chapter 4 Regulation of navigation

1.4.01. Right of innocent passage in the territorial sea

Ships of all States enjoy the right of innocent passage through the territorial sea.

Passage is innocent so long as it is not prejudicial to the good order or security of the State.

A foreign ship shall be considered to be prejudicial to the good order or security of the State if it engages in any of the following activities:

Any threat or use of force against the territorial integrity of the Malagasy State;

Any exercise or practice with weapons of any kind;

Any act aimed at collecting information to the prejudice of the defence or security of the Malagasy State;

The launching, landing or taking on board of any aircraft;

The loading or unloading of any commodity, currency or person in contravention of the customs, fiscal, immigration or sanitary regulations of the Malagasy State;

Any threat of serious pollution;

Any unauthorized fishing activities;

The carrying out of research or survey activities;

Any act aimed at interfering with any systems of communication or any other facilities or installations of the Malagasy State;

Any other activity not having a direct bearing on passage.

1.4.02. Special obligations of certain ships

Submarines and other submersible craft shall be required to proceed on the surface and to fly their flag when exercising their right of innocent passage through the territorial sea. In addition, foreign nuclear-powered ships and ships transporting radioactive substances or other intrinsically dangerous or harmful substances shall be required to carry the documents and take the precautionary measures prescribed by the international conventions relating to such ships.

1.4.03. Right of regulation in the contiguous zone

The Malagasy State may exercise in its contiguous zone the controls necessary to:

Prevent infringement of its customs, fiscal, immigration or sanitary regulations within its territory or territorial sea;

Punish infringement of the above regulations committed within its territory or territorial sea.

1.4.04. Right of hot pursuit beyond the contiguous zone

The hot pursuit of a foreign ship may be undertaken when the competent Malagasy authorities have good reason to believe that it has violated the laws and regulations in force.

Such pursuit must be commenced when the foreign ship or one of its boats is within the territorial waters, the territorial sea or the contiguous zone of the Republic of Madagascar. The pursuit may be continued outside the contiguous zone only if it has not been interrupted.

The right of hot pursuit may be exercised only by warships or military aircraft or other ships or aircraft which are clearly marked and identifiable as being on government service and are essentially authorized to that effect.

The right of hot pursuit ceases as soon as the ship pursued enters the territory of its own country or of a third State.

When a ship has been inspected or arrested outside the territorial sea in circumstances which do not justify the exercise of the right of hot pursuit, it shall be compensated for any loss or damage that may have been thereby sustained.

1.4.05. Right to board on the high seas

A warship shall have the right to inspect a merchant ship on the high seas if it has good reason to believe that the merchant ship:

Is engaging in piracy;

Is engaging in the transport of slaves;

Is being used for unauthorized broadcasting;

Has no nationality or refuses to fly its flag.

In the cases mentioned above, a warship may verify the documents authorising the flying of the flag.

If the suspicions persist after verification of these documents, a closer inspection may be conducted on board the merchant ship, with all possible consideration shown to the ship.

If the suspicions prove unfounded and provided that the inspected ship has not committed any act giving rise to suspicions, it shall be compensated for any loss or damage that may have sustained.

1.4.06. Nationality of ships

Ships have the nationality of the State whose flag they are entitled to fly.

Except in the exceptional cases expressly provided for in international treaties, ships sailing under the flag of a single State shall be subject to its exclusive jurisdiction on the high seas.

A ship sailing under the flags of several States, using them according to convenience, may not claim any of the nationalities in question and may be assimilated to a ship without nationality.

Chapter 5 Suppression of piracy

1.5.01. Definition of piracy

Piracy consists of any of the following acts:

(a) Any illegal acts of violence, detention or depredation for private ends by the crew or the passengers of a private ship or a private aircraft, and directed:

On the high seas, against another ship or aircraft, or against persons or property on board such ship or aircraft;

Against a ship, aircraft, persons or property in a place outside the jurisdiction of any State;

- (b) Any act of voluntary participation in the operation of a ship or of an aircraft with knowledge of the circumstances making it a pirate ship or aircraft;
- (c) Any act of inciting or of intentionally facilitating an act described in subparagraphs (a) or (b).

1.5.02. Definition of a pirate ship or aircraft

A ship or aircraft shall be considered a pirate ship or aircraft if it is intended by the persons in dominant control to be used for the purpose of committing one of the acts referred to in the preceding article. The same shall apply if the ship or aircraft has been used to commit any such act, so long as it remains under the control of the persons guilty of that act.

1.5.03. Piracy by a warship, government ship or government aircraft

Acts of piracy committed by a warship, government ship or government aircraft whose crew has mutinied and taken control of the ship or aircraft are assimilated to acts committed by a private ship.

1.5.04. Nationality of a pirate ship or aircraft

A ship or aircraft may retain its nationality although it has become a pirate ship or aircraft.

1.5.05. Seizure of a pirate ship or aircraft

On the high seas, or in any other place outside the jurisdiction of any State, the Malagasy State may seize a pirate ship or aircraft, or a ship taken by an act of piracy under the control of pirates, and arrest the persons and seize the property on board.

The competent courts may decide upon the penalties to be imposed, and may also determine the action to be taken with regard to the ship, aircraft or property, subject to the rights of third parties acting in good faith.

1.5.06. Ships and aircraft which are entitled to seize

A seizure on account of piracy may be carried out only by warships or military aircraft or other ships or aircraft clearly marked and identifiable as being on government service and authorized to that effect.

Chapter 6 Duties relating to the high seas

1.6.01. Duty to ensure the safety of navigation

The Malagasy State shall keep a central register showing the names and details of ships flying its flag and shall take all the measures necessary for ensuring safety at sea, in particular with regard to:

The construction and equipment of a ship and its seaworthiness;

The composition, conditions of work, training and qualifications of the crew, in the light of the applicable international instruments;

The use of signals and other means of communication, and collision prevention;

The survey of a ship before it is entered in the register and thereafter at appropriate intervals by a maritime inspector.

1.6.02. Duty to render assistance

Every master of a ship, in so far as he can do so without serious danger to the ship, the crew or the passengers, shall:

Render assistance to any person found at sea in danger of being lost;

To proceed with all possible speed to the rescue of persons in distress, if informed of their need for assistance, when such action may reasonably be expected of him;

After a collision, to render assistance to the other ship, its crew and its passengers and to inform the other ship of the name of his own ship, its port of registry and the nearest port at which it will call.

The Malagasy State, in coordination with neighbouring States within the framework of regional arrangements, shall promote the establishment and operation of a service for search and rescue at sea to ensure safety on and over the sea.

1.6.03. Prohibition of the transport of slaves

The Malagasy State shall take measures to prevent and punish the transport of slaves in its ships and the unlawful use of its flag for that purpose.

Any slave taking refuge on board a ship flying the Malagasy flag shall ipso facto be free.

1.6.04. Duty to cooperate in the suppression of illicit traffic in narcotic drugs or psychotropic substances

The Malagasy State, in coordination with other States, shall cooperate in the suppression of illicit traffic in narcotic drugs or psychotropic substances engaged in by ships contrary to international conventions.

If the Malagasy State has reasonable grounds for believing that a ship is engaged in illicit traffic in narcotic drugs or psychotropic substances, it may request the cooperation of other States to suppress such traffic.

1.6.05. Duty to cooperate in the suppression of unauthorized broadcasting

Any person engaged in unauthorized broadcasting from the high seas may be prosecuted in the competent Malagasy courts whenever such broadcasts are received in its territory and cause interference to authorized radio communications.

The Malagasy State may arrest the persons and the ship engaged in unauthorized broadcasting and seize the broadcasting equipment used.

“Unauthorized broadcasting” means the transmission of sound radio or television broadcasts from a ship or installation on the high seas intended for reception by the general public contrary to national and international regulations, but excluding the transmission of distress calls.

Chapter 7

Jurisdiction over persons on board foreign ships

1.7.01. Criminal offences committed outside the territorial sea

Except in application of the provisions on the suppression of piracy contained in article 1.5.05 and the provisions on the protection and preservation of the marine environment, or in the event of infringement of the laws and regulations on the exclusive economic zone, the Malagasy State may not take any measure on board a foreign ship passing through the territorial sea to arrest any person or to conduct any investigation in connection with any criminal offences committed before the ship entered the territorial sea, if the ship, proceeding from a foreign port, is only passing through the territorial sea without entering internal waters.

1.7.02. Criminal offences committed in the territorial sea

The Malagasy State may exercise its criminal jurisdiction on board a foreign ship only in one of the following cases:

When the consequences of the offence extend to Malagasy territory;

When the offence is likely to disturb the country's peace or good order in the territorial sea;

When the assistance of the Malagasy authorities has been requested by the ship's master or by a diplomatic official of the flag State;

When such action is necessary for suppression of illicit traffic in narcotic drugs.

1.7.03. Criminal offences committed in internal waters

The provisions of the preceding paragraph shall not impair the right of the Malagasy State to take any step provided for in its domestic law to arrest any person or to conduct any investigation on board a foreign ship passing through its territorial sea after leaving its internal waters.

In all cases the Malagasy State shall inform a diplomatic official of the ship's flag State of the steps taken.

1.7.04. Jurisdiction in civil cases

The Malagasy State may not stop or divert a foreign ship passing through its territorial sea for the purpose of exercising civil jurisdiction in relation to a person on board the ship.

This provision shall not impair the right of the Malagasy State to levy execution against or to arrest, for the purpose of any civil proceedings under its domestic law, a foreign ship lying in the territorial sea or passing through the territorial sea after leaving internal waters.

1.7.05. Jurisdiction in the event of collisions on the high seas

In the event of a collision or any other incident of maritime navigation on the high seas involving the criminal or disciplinary liability of the ship's master or of any other member of its crew, criminal or disciplinary proceedings may be instituted only before the judicial authorities either of the flag State or of the State whose nationality the person concerned possesses.

In disciplinary matters, the State which issued the master's certificate or the certificate of proficiency shall have sole jurisdiction, once the legal remedies have been exhausted, for ordering the withdrawal of these certificates, even if the holder does not have the nationality of that State.

The seizure or detention of a ship may not be ordered, even for the purposes of an investigation, by national authorities other than those of the flag State.

Chapter 8

Immunity of warships and other government ships

1.8.01. Definition of warship

"Warship" means a ship belonging to the armed forces of a State bearing the external marks distinguishing such ships of its nationality, under the command of an officer and manned by a crew which is under regular armed forces discipline.

1.8.02. Non-compliance by warships with the laws and regulations of Madagascar

If any warship does not comply with the laws and regulations of the Malagasy State concerning passage through the territorial sea and disregards any request for compliance therewith which is made to it, the Malagasy State may require it to leave the territorial sea immediately.

1.8.03. Responsibility of the flag State

The flag State shall bear international responsibility for any loss or damage to the Malagasy State resulting from the non-compliance by a warship with the laws and regulations concerning passage through the territorial sea.

1.8.04. Immunity of warships

With such exceptions as are contained in the above articles, warships shall enjoy immunity from jurisdiction.

1.8.05. Government ships operated for non-commercial purposes

Government ships operated exclusively for a non-commercial public purpose shall enjoy immunity from jurisdiction.

Chapter 9

Management and conservation of living resources

1.9.01. Marine mammals

The Malagasy State shall take steps and shall cooperate with other States to ensure the protection of marine mammals, and it shall endeavour, in particular through the appropriate international organizations, to protect and study the cetaceans.

1.9.02. Anadromous species

In its rivers in which anadromous species originate, the Malagasy State shall have a preferential interest in and bear the primary responsibility for these species, in accordance with the international conventions to which it is a party. It shall ensure their conservation by the establishment of appropriate regulatory measures for fishing in all waters landward of the outer limits of its exclusive economic zone.

With regard to fishing beyond the outer limits of its exclusive economic zone, the Malagasy State shall consult other States with a view to agreeing upon the modalities and conditions of such fishing, bearing in mind the requirements of conservation and the needs of the State of origin relating to the species in question.

1.9.03. Catadromous species

The Malagasy State shall be responsible for the management of the catadromous species which spend the greater part of their life cycle in its waters and shall ensure the free movement of migrating fish.

Where fish belonging to a catadromous species cross the exclusive economic zones of one or more other States, the management of this species shall be regulated by agreement between the Malagasy State and the other State or States concerned.

1.9.04. Stocks occurring within the exclusive economic zones of two or more coastal States

Where the same stock or stocks of related species occur within the exclusive economic zones of two or more coastal States, the Malagasy State shall seek, either directly or through appropriate subregional or regional organizations, to agree with the other States upon the measures necessary to coordinate and ensure the conservation and development of such stocks.

Chapter 10

Protection and preservation of the marine environment

1.10.01. General obligations

The Malagasy State has the sovereign right to exploit its natural resources pursuant to its environmental policies and in accordance with its duty to protect and preserve the marine environment.

1.10.02. Pollution from land-based sources

The Malagasy State shall adopt laws and regulations to prevent, reduce and control pollution of the marine environment from land-based sources, including rivers, estuaries, pipelines and outfall structures, taking into account internationally agreed rules, standards and recommended practices and procedures.

It shall also take measures to limit as far as possible the release of toxic, harmful or noxious substances, especially those which are persistent, into the marine environment.

1.10.03. Pollution from sea-bed activities

The Malagasy State shall adopt laws and regulations to prevent, reduce and control pollution of the marine environment arising directly from sea-bed activities subject to its jurisdiction or from artificial islands, installations and structures under its jurisdiction.

1.10.04. Pollution by dumping

The Malagasy State shall adopt laws and regulations to prevent, reduce and control pollution of the marine environment by dumping.

Dumping within the territorial sea and the exclusive economic zone or onto the continental shelf shall not be carried out without the express prior approval of the Malagasy State, which has the right to permit, regulate and control such dumping after due consideration of the matter with other States which by reason of their geographical situation may be adversely affected thereby.

1.10.05. Pollution from or through the atmosphere

The Malagasy State shall adopt laws and regulations to prevent, reduce and control pollution of the marine environment from or through the atmosphere, applicable to the airspace under its sovereignty and to vessels flying its flag or to aircraft of its registry, taking into account internationally agreed rules, standards and recommended practices and procedures and the safety of air navigation.

1.10.06. Pollution from vessels

The Malagasy State shall adopt laws and regulations to prevent, reduce and control pollution of the marine environment from vessels flying its flag or of its registry.

Such laws and regulations shall have at least the same effect as the rules and standards established by international conventions. The Malagasy State shall in particular:

Adopt provisions concerning the design, construction and equipment of vessels;

Issue certificates to vessels which comply with the applicable standards;

Verify the seaworthiness of vessels and refuse to authorize vessels which are not up to standard to continue their voyages until the necessary repairs have been carried out in the nearest port;

Accept certificates issued by other States as proof of a vessel's seaworthiness unless there are serious grounds to believe that the vessel's condition does not correspond in all essential respects to the statements made in the certificate;

Accord coastal States the right to take and enforce outside the territorial sea measures proportional to the actual or potential damage in order to protect their coastlines or the associated interests, including fisheries, against pollution or a threat of pollution resulting from an accident at sea or some other incident occurring on board a vessel.

1.10.07. Powers over vessels in port

When a vessel is voluntarily within a port or at an off-shore installation, the State may undertake investigations and, where the evidence so warrants, institute proceedings under its domestic law in respect of any discharge in its internal waters, territorial sea or exclusive economic zone.

The Malagasy State may institute proceedings in respect of discharges outside its exclusive economic zone if such discharges give rise or may give rise to pollution of its own internal waters, its own territorial sea or its own exclusive economic zone.

The Malagasy State shall endeavour to accede to requests for investigations from any other State in connection with discharges which may have been effected in the waters of the requesting State.

1.10.08. Powers over vessels crossing the territorial sea

When the Malagasy State has serious grounds to believe that a vessel navigating through its territorial sea has infringed during its passage therein the laws and regulations that it has adopted, it may inspect the vessel to verify the infringement and, where the evidence so warrants, may institute proceedings under its domestic law and, in particular, order the vessel to be detained.

1.10.09. Powers over vessels navigating in the exclusive economic zone

When the Malagasy State has serious grounds to believe that a vessel navigating in its exclusive economic zone has infringed the laws and regulations that it has adopted, it may request the vessel to supply information about its identity and port of registration, its latest and next port of call, and other relevant particulars necessary for determining whether an infringement has been committed.

1.10.10. Powers of investigation

A foreign vessel may not be detained for longer than is necessary for the purposes of an investigation. Any inspection of a foreign vessel shall be limited to an examination of the certificates, registers and other documents which the vessel is required to carry.

Only officially authorized personnel and warships or military aircraft or other vessels clearly marked and identifiable as being on government service and authorized to that effect may exercise powers of investigation under this chapter against foreign vessels.

When exercising its powers of investigation, the State shall not endanger a vessel's safety, in particular by conducting it to a dangerous port or anchorage.

The detention of the vessel shall be lifted immediately after completion of reasonable formalities, such as the deposit of a security or some other financial guarantee.

When the lifting of a vessel's detention is denied or made subject to conditions, the flag State shall be so informed and may request the lifting of the detention.

1.10.11. Suspension of proceedings

When proceedings have been instituted by the Malagasy State in order to impose penalties in respect of an offence committed outside its territorial sea by a foreign vessel, such proceedings shall be suspended as soon as the flag State itself institutes proceedings in respect of the same offence within the six months following the institution of the first action, unless the latter action relates to a case of serious damage or the flag State in question has repeatedly failed to fulfil its obligation.

Criminal proceedings may not be instituted against foreign vessels after the expiry of a time limit of three years from the date on which the offence was committed.

1.10.12. Institution of civil proceedings

Nothing in this chapter shall affect the institution of civil proceedings in respect of any claim for loss or damage resulting from pollution of the marine environment.

1.10.13. Penalties imposed on foreign vessels

Monetary penalties only may be imposed in respect of infringements committed by foreign vessels beyond the territorial sea.

The same penalties may be imposed in respect of offences committed within the territorial sea, except in the case of a wilful and serious act of pollution.

1.10.14. Notification of measures taken against foreign vessels

The Malagasy State shall notify the flag State of any measures taken against a vessel. However, if the offence has been committed in its territorial sea, the Malagasy State shall be bound by this obligation only in respect of measures of hot pursuit. Consular officers or diplomatic officials and, where possible, the maritime authority of the flag State shall be informed immediately of any measures of this kind.

Book 2: Vessels

Chapter 1 Definition of vessels

2.1.01. Technical characteristics

A vessel is a ship or other craft, with or without its own independent means of propulsion, intended to be used for navigating in maritime waters as defined in Book 1, chapter 1, of this Code. A vessel may navigate on, below or above the surface.

2.1.02. Administrative designation

A vessel's class is established as a result of its registration by the competent civil or military authorities.

2.1.03. Identification

A vessel, which is a property which may be mortgaged, is identified by a name, a home port, a nationality, and a tonnage.

2.1.04. Classification by use

Depending on the use to which they are assigned, vessels are classified as:

Merchant vessels;

Fishing vessels;

Non-commercial pleasure boats;

Vessels operated exclusively for a public service;

Warships.

Except where expressly stated otherwise, government vessels in the last two categories shall not be subject to the provisions of this Code.

Chapter 2 Registry

2.2.01. Scope

All vessels except warships shall be subject to the provisions of this chapter.

2.2.02. Name

Every vessel shall have a name distinguishing it from other seagoing vessels.

The name under which a vessel is registered may not be changed without the permission of the maritime administrative authority.

2.2.03. Tonnage

Tonnage or displacement expresses a vessel's internal capacity. The maritime administrative authority shall determine the rules governing tonnage and shall issue to a vessel's owner a tonnage certificate in conformity with the provisions of the international conventions in force.

2.2.04. Tonnage certificate fee

The issuance of a tonnage certificate shall be subject to payment of a fee, the amount of which, fixed by decree, shall be paid into the general State budget.

2.2.05. Home port

Vessels shall be registered to their home port. The rules and conditions for the registration of vessels shall be established by order of the maritime administrative authority.

2.2.06. External identification marks

Vessels shall carry external marks in accordance with the conditions established by order of the maritime administrative authority.

2.2.07. Certificate of registry

A certificate of registry shall be issued to every vessel. This certificate shall mention the particulars necessary for identifying the vessel and the name or names of its owners.

Any subsequent change in a vessel's legal status or structure shall be entered in the certificate in the form prescribed by article 8.2.07.

2.2.08. Registry requirements

At the time of a vessel's registration, the owner shall produce the following documents:

- (a) Deed of ownership or bareboat charter of the vessel;
- (b) Contract of construction or sale proving the ownership of the vessel and, when necessary, a contract of bareboat charter;
- (c) Certificates of the vessel's status with respect to provisional arrest and mortgages;
- (d) Set of plans of the vessel;
- (e) Longitudinal photograph of the vessel;
- (f) Tonnage certificate;
- (g) Certificate of freeboard;
- (h) Document certifying that the vessel is not entered in the register of a foreign fleet;
- (i) Insurance policies covering the owner's civil liability, especially with respect to the transport of passengers and to pollution, in accordance with the provisions of articles 4.1.03 and 4.1.04;
- (j) Licence for use of radio-communications;
- (k) Official record of fishing agreement or authorization or licence to provide tourism services, as the case may be;
- (l) Proposed crew strength;
- (m) Receipt for payment of customs duty in Madagascar.

2.2.09. Deletion from register

A vessel shall be deleted from the register of the Malagasy fleet if it is sold abroad or if it remains in an unseaworthy condition for more than a year.

Chapter 3 Malagasy registry

2.3.01. Scope

All vessels except for warships shall be subject to the provisions of this chapter.

2.3.02. Definition

Registration as a Malagasy vessel is an administrative act conferring on a vessel the right to fly the Malagasy flag and enjoy the privileges attaching thereto.

2.3.03. Possession of certificate of registry

Any Malagasy vessel which puts to sea must have its certificate of registry on board.

The maritime administrative authority may waive the certificate of registry for certain vessels having a gross tonnage of under 10 tons.

2.3.04. Requirements for Malagasy registry

In order to be registered as Malagasy, a vessel must satisfy the following conditions:

1. Ownership either by a physical person residing in the territory of Madagascar or by a company having its principal place of business in Madagascar;
2. Production of the documents stipulated in article 2.2.08;
3. Conduct of a commissioning survey by the central safety committee;
4. Manning by a Malagasy crew. However, waivers may be granted by the central service of the Merchant Marine in the event of a shortage of Malagasy officers. In compensation, the owner shall pay into the operating budget of the National School of Maritime Training a special contribution, the amount of which shall be fixed by decree.

2.3.05. Temporary Malagasy registry

Temporary Malagasy registry may be accorded to a foreign vessel in the case of a bareboat charter with an option to buy under a leasing arrangement, provided that the vessel is authorized by its State of registry to give up temporarily its flag of origin.

Temporary Malagasy registry shall be limited to a period of three years, renewable once only.

2.3.06. Provisional Malagasy registry

In order to permit a vessel purchased abroad or a newly constructed vessel to navigate under the Malagasy flag, a certificate of provisional Malagasy registry valid for six months may be issued.

Provisional Malagasy registry may be accorded to vessels belonging to foreign physical or juridical persons but proposed by a company which has concluded a Special Agreement with the Malagasy State. This Special Agreement, which shall constitute the law of the parties, shall set out their rights and obligations with respect to each other.

2.3.07. Other requirements

The other requirements for issuance of a certificate of Malagasy registry shall be established by order of the maritime administrative authority.

2.3.08. Fees

The issuance of a certificate of Malagasy registry shall be subject to payment of a fee, the amount of which, fixed by order, shall be paid into the general State budget.

Chapter 4 Types of navigation and navigation documents

2.4.01. Scope

All vessels except for warships shall be subject to the provisions of this chapter.

2.4.02. Types of navigation

Commercial navigation is subdivided into:

- Harbour navigation;
- Limited coastal navigation;
- Coastal navigation;
- Long-haul navigation.

Fishing is subdivided into:

- Inshore fishing;
- Offshore fishing;
- Deep-sea fishing;
- Ocean fishing.

The limits of these different zones shall be established by order of the Minister for the Merchant Marine.

2.4.03. Navigation documents

The navigation documents which a vessel must possess are the crew list, the certificate of seaworthiness and the clearance slip.

A crew list is renewed annually. It shall be presented for endorsement at the office of the maritime administrative authority or at a consular chancellery within 24 hours of arrival in port.

A certificate of seaworthiness is issued when, following an annual safety survey, a vessel has been found to be in a good state of seaworthiness.

A clearance slip is issued before each sailing when a vessel is able to put to sea without danger.

2.4.04. Fees

The issuance and renewal of navigation documents shall be subject to payment of fees fixed by decree which shall be paid into the general State budget.

Chapter 5 Safety, living conditions and hygiene on board

2.5.01. Scope

All vessels except for warships shall be subject to the provisions of this chapter.

2.5.02. Certificates of safety

All vessels and all floating establishments such as dredgers and hopper-barges, tanks, barges and lighters, regardless of their tonnage, which engage in maritime navigation, either by their own means of propulsion or towed by another vessel, shall be in possession of the certificates of safety stipulated by the maritime administrative authority.

2.5.03. Issuance requirements

The maritime administrative authority shall determine the requirements which vessels must satisfy with regard to safety, living conditions and hygiene on board in order to be issued with certificates of safety.

2.5.04. Issuance and renewal

The requirements for the issuance and renewal of certificates of safety shall be established by order.

2.5.05. Clearance inspections

Before leaving a Malagasy port, all vessels regardless of their flag shall undergo a clearance inspection. This inspection shall be conducted by the official designated by the maritime administrative authority.

The official may prohibit or defer, until such time as his instructions have been carried out, the departure of any vessel which, by reason of its state of maintenance, lack of stability or the stowage of its cargo, or for any other reason, seems to the official not to be able to put to sea without risk to its crew or cargo or to the marine environment.

2.5.06. Foreign vessels bound by international conventions

A foreign vessel shall be deemed to satisfy the requirements of articles 2.5.02 and 2.5.03 if its master produces official certificates issued by the Government of a country bound by the international conventions in force, in particular the conventions on the safety of life at sea, seafarers' training standards, certification and watchkeeping, and prevention and control of pollution by hydrocarbons.

These certificates shall be regarded as sufficient unless a vessel's state of seaworthiness differs substantially from the statements contained in the certificates and it is unable to put to sea without risk to its passengers or crew.

In such cases the maritime administrative authority shall take appropriate action to prevent the vessel from sailing and shall at the same time notify a consul of the vessel's country of registry in writing of the decision taken and the circumstances which warranted it.

2.5.07. Foreign vessels not bound by international conventions

A vessel flying the flag of a country which has not ratified the international conventions in force shall not enjoy favourable treatment. It shall be subject to the provisions of this Code, in particular of article 2.5.02.

2.5.08. Special rules

The maritime administrative authority may establish special rules for vessels whose characteristics, designated use or operating conditions so warrant.

2.5.09. Remuneration of experts

Expert members of a safety inspection team shall receive remuneration in an amount fixed by decree. By reason of their functions they shall not be liable for payment of the licence fee.

2.5.10. Fees

The issuance and renewal of certificates of safety and the conduct of the necessary inspections for the application of the foregoing provisions shall be subject to the payment of fees, the amounts of which shall be fixed by decree.

Chapter 6 Documents concerning real rights to a vessel

2.6.01. Endorsement by the maritime administrative authority

It shall be mandatory for all contracts of charter, construction, purchase or sale of a vessel to be endorsed by the Merchant Marine Administration.

2.6.02. Opinion of the Minister of Finance

When a contract involves an external transfer of means of payment, the opinion of the Minister of Finance shall be required.

2.6.03. Modalities of application

The modalities of the application of the provisions of this chapter shall be established by order of the maritime administrative authority.

Chapter 7 Construction and repair of vessels

2.7.01. Duty of declaration

The head of an enterprise building a vessel on its own behalf or for a client shall make an appropriate declaration to the maritime administrative authority.

Any repair modifying a vessel's structure shall also be declared.

2.7.02. Construction contracts

When a vessel is to be built for a client, the contract shall be drawn up in writing. Any changes in the contract shall be stated in writing; the contract shall otherwise be void.

2.7.03. Transfer of ownership

The builder is the owner of a vessel under construction until the transfer of ownership to the client. Unless agreed otherwise, the transfer shall be effected by the acceptance of the vessel after trials.

The parties may also agree to transfer in succession the ownership of the completed parts of the vessel. A clause concerning payment of the price in instalments on account shall not be sufficient to establish such an agreement.

2.7.04. Liability in respect of construction

A builder shall be liable for any hidden defects in a vessel, notwithstanding its unconditional acceptance by the client or any clause to the contrary.

Unless agreed otherwise, this liability shall extend only to direct harm.

2.7.05. Statute of limitations

Any liability action against a builder must be brought within one year from the date of the acceptance of the vessel.

2.7.06. Liability in respect of repairs

When a vessel is repaired in a builder's yards, he shall be bound by the terms of the contract. The builder shall be liable for any hidden defects resulting from his work, in accordance with the provisions of articles 2.7.04 and 2.7.05 above.

Chapter 8 Ownership of vessels

2.8.01. Form and content of documents

Any document establishing, transferring or extinguishing ownership or any other real right to a registered vessel shall be drawn up in writing; the document shall otherwise be void.

It shall contain particulars identifying the parties concerned and the vessel.

These particulars shall be stipulated by order of the maritime administrative authority. An excerpt of any such document may be delivered to any person who so requests.

2.8.02. Official endorsement

The documents referred to in the preceding article shall be submitted for endorsement to the maritime administrative authority during the month following their constitution.

When they entail the creation or transfer of a real right in the interest of a foreigner, they shall be subject to authorization in accordance with the provisions of article 2.6.01.

2.8.03. Publication of documents

The documents referred to in article 2.8.01 above, duly endorsed or authorized pursuant to article 2.8.02, shall be published in the central register of the fleet kept by the maritime administrative authority in Antananarivo.

They shall thereby become available against third parties.

The form of the documents required for publication in this way and the conditions for entry in the register shall be established by decree.

2.8.04. Endorsement and delivery fees

The endorsement of documents and delivery of excerpts referred to in articles 2.8.01 and 2.8.02 respectively shall be subject to payment of fees, the amounts of which shall be fixed by decree.

In the event of non-compliance with the time limit for payment, the amount to be paid shall be tripled.

Chapter 9 Joint ownership of vessels

2.9.01. Joint ownership

A vessel may be owned indivisibly by several joint owners.

In such cases, the value of the vessel is divided into equal shares or quirats, which shall be numbered up to a maximum of 24 shares.

2.9.02. Assignment of shares

A document assigning one or more shares shall specify their numbers and shall be drawn up as stipulated by the provisions of Book 2, chapter 8.

2.9.03. Rights of holders of shares

A joint owner may dispose of his share but shall remain liable for debts contracted prior to the sale in respect of the preservation or operation of the vessel.

Disposal entailing loss of a vessel's Malagasy nationality shall be permitted only with the authorization of the other joint owners.

Joint owners may not mortgage their shares in a vessel's ownership.

2.9.04. Dismissal of joint owners

If a joint owner who is a member of the vessel's crew is dismissed, he may require the other joint owners to buy back his share. In the absence of an amicable agreement, the price of such share shall be fixed by a commercial court.

2.9.05. Indivisibility of joint ownership

When a vessel's ownership has already been divided into 24 shares, each share shall be indivisible.

If several persons acquire joint ownership of such a share by inheritance or gift or in some other way, in the absence of sale by auction they shall appoint an agent to exercise the rights attached to that share. If they do not do so, the oldest joint indivisible owner shall automatically be regarded as their authorized representative.

2.9.06. Sale of vessels by auction

Sale of a vessel by auction shall be permitted only at the request of joint owners representing at least one half of the shares, unless agreed otherwise.

Book 3: Seafarers

Chapter 1

Definition of seafarers and shipowners

3.1.01. Seafarers

Any person, regardless of his or her sex, who is on board a vessel and entered in the crew list with a view to a maritime voyage shall be considered to be a seafarer.

3.1.02. Shipowners

Any individual, any company or any public service which fits out or operates a vessel shall be considered to be a shipowner.

Chapter 2

Requirements for exercise of the occupation of seafarers

3.2.01. Nationality

The status of Malagasy seafarers shall be reserved for nationals of Madagascar holding a seafarer's passport or identity book.

3.2.02. Physical aptitude

At the time of their first recruitment and annually thereafter, all seafarers must undergo a medical examination to verify their physical aptitude, at the owner's expense.

The physical aptitude requirements for employment as a seafarer and the modalities of their application and monitoring shall be established by order of the maritime administrative authority.

3.2.03. Minimum age

Children aged under 15 years may not work at sea in a professional capacity.

Waivers may be granted by the maritime administrative authority for children aged at least 14 years when their health and physical condition and the advantages which the envisaged employment may afford them in the future so warrant, subject to parental authorization.

3.2.04. Retirement age

The age of retirement is 55 years for men and 50 years for women.

3.2.05. Criminal records

A person on whom a criminal penalty, or one of certain other correctional penalties, a list of which shall be established by decree, has been imposed may not be registered as a seafarer.

3.2.06. Registration

At the time of his first recruitment, a seafarer shall be registered by the Merchant Marine Administration, which shall issue to him the passport or identity book enabling him to go to sea in a professional capacity.

The commencement and termination of a seafarer's employment shall be noted in these documents, which shall not contain any kind of assessment of the services rendered.

The issuance and renewal of these documents shall be subject to payment of a fee, the amount of which shall be fixed by decree.

3.2.07. Striking-off

A registered seafarer on whom one of the penalties mentioned in article 3.2.05 has been imposed or who has not worked as a seafarer for two consecutive years shall be struck from the register by the maritime administrative authority.

3.2.08. Modalities of application

The maritime administrative authority shall establish by decree the modalities of the application of the above provisions.

Chapter 3 Articles of agreement

3.3.01. General provisions

Articles of agreement constitute the contract between a seafarer and a shipowner with respect to a sea voyage.

This Code shall apply to such contracts concluded in respect of any service to be rendered on board a Malagasy vessel.

Where articles of agreement are concerned, the capacity to conclude a contract shall be governed by the rules of general law, subject to the application of article 3.2.03 concerning minors.

3.3.02. General articles of agreement

General articles of agreement take the place of collective agreements and as such they must be endorsed by the central office of the Merchant Marine following agreement between the shipowner and the representatives of the seagoing personnel or of seafarers' trade unions.

The general articles of agreement shall be drawn up in clear language which leaves the parties in no doubt as to their respective rights and obligations, especially with regard to the organization of work on board, modalities of payment, food, travel, medical care, etc.

3.3.03. Individual articles of agreement

Individual articles of agreement shall be constituted as a written document endorsed by the local office of the Merchant Marine. It shall contain the following particulars at least:

1. Names and addresses of the contracting parties;

2. Function for which the seafarer is recruited;
3. Duration of the contract;
4. Basic daily wage index, or share of the profits due to the seafarer in the case of payment by performance;
5. Various supplementary payments (length of service, overtime, etc.);
6. Allowances (clothing, accommodation, etc.);
7. Benefits in kind, if any;
8. Rest entitlement;
9. Paid-leave entitlement;
10. Amount of any assignment of remuneration;
11. Medical care;
12. CNAPS membership number;
13. Where applicable, mention of life-insurance policy and APA;
14. Period of notice in the case of contracts of indefinite duration;
15. Serial number of endorsement by the maritime administrative authority.

3.3.04. Terms of tenure

Tenure binds the seafarer and the shipowner in the intervals between sea voyages. This detail must be stipulated in the articles of agreement and entered in the crew list and in notices of movement.

In the absence of collective agreements, a seafarer's terms of tenure and the percentage of a crew's members to have tenure shall be established by order of the Minister for the Merchant Marine.

3.3.05. Official endorsement

The maritime administrative authority shall refuse endorsement if the general articles of agreement or an individual contract contain a clause which conflicts with the requirements of public policy stipulated by this Code.

3.3.06. Employment on foreign vessels

The employment of a Malagasy seafarer on board a foreign vessel shall require the authorization of the local office of the Merchant Marine and the involvement of a Malagasy shipping company which can guarantee the seafarer's return to Madagascar. This company shall establish the general terms with the central office of the Merchant Marine in accordance with article 3.3.02.

3.3.07. Hire of services

A contract for the hire of services concluded between a shipowner or his representative and a seafarer who is not entered in the crew list shall be governed by the provisions of the Labour Code.

Chapter 4 Organization of work

3.4.01. Working hours

The normal working hours on board vessels shall be 40 hours a week and eight hours a day. However, in the light of service exigencies of which the master shall be the sole judge, a seafarer must perform the work which he is ordered to perform. He shall work to save the vessel and its cargo for as long as is necessary. All operations of this kind shall be recorded in the ship's log.

3.4.02. Organization of work

Shipboard duties are subdivided into "duties at sea" and "duties in port".

Bridge and engine-room personnel may be divided into teams, shifts or watches. The composition of each group and their respective duties shall be clearly stated in the general articles of agreement.

The master shall determine the conditions under which seafarers who are not on duty may go ashore.

3.4.03. Work which may be required

Seafarers shall perform their duties in accordance with the general and individual articles of agreement.

Except in cases of force majeure and unless agreed otherwise, a seafarer shall not be required to perform work which should be performed by a category of personnel other than the one in which he is employed.

3.4.04. Cleaning duties

A seafarer may be required, during off-duty hours, to clean his duty station and adjacent areas and his bedding and table utensils without such work giving rise to remuneration.

3.4.05. Definition of overtime

Hours worked in excess of eight hours a day shall be regarded as overtime.

Except in cases of force majeure which put at risk the safety of the vessel, the persons on board or the cargo, the total hours of work shall not exceed 12 hours a day on merchant vessels or 14 hours a day on fishing vessels.

Watch duty may last for 24 hours. It shall give entitlement to an effective rest period of 24 hours taken either on the day before or on the day after the duty.

3.4.06. Weekly rest

An uninterrupted weekly rest period of 48 hours shall be accorded to a seafarer after five calendar days of work.

At the seafarer's request, this period may take the form of 48 hours of shore leave while the vessel is in port.

If work is performed on a weekly rest day, that day shall not be counted as a rest day, except when the work is occasioned by a fortuitous event and does not last for more than two hours.

Unremunerated weekly rest periods shall be carried forward to the end of the contract.

3.4.07. Leave entitlement

Unless the general or individual articles of agreement contain more favourable provisions, a seafarer shall be entitled to paid leave of six calendar days for each month worked on board.

A seafarer may claim his leave entitlement after eight months at sea and shall be disembarked when he has completed 10 months on board. He may not return on board until the total duration of his acquired leave entitlement at the time of disembarkation has expired.

Chapter 5 Remuneration of seafarers

3.5.01. Modes of remuneration

Seafarers shall be remunerated either by time or by performance or by a combination of the two. In all cases the remuneration shall be higher than the guaranteed inter-occupational minimum wage (SMIG) for workers on shore in the non-agricultural sector.

3.5.02. Remuneration by time

Remuneration by time shall be calculated as a basic daily wage obtained by multiplying the hourly rate by eight.

The hourly rate shall be equal to the value of the index point multiplied by the index of the seafarer's occupational category. The index point shall be the one applying to workers on shore in the non-agricultural sector.

The classification of functions on board vessels and the indices by occupational category and type of navigation shall be established by decree.

The remuneration for a given period shall be calculated in proportion to the exact number of days.

3.5.03. Temporary duties

A seafarer who is required to perform a function other than the one for which he was engaged and carrying a higher rate of remuneration than his own shall be entitled to supplementary remuneration based on the difference between his rate and the rate applicable to the function which he is temporarily performing.

3.5.04. Remuneration of overtime

Officers shall not be entitled to overtime payments.

Overtime worked by crew members shall be entered in a ledger issued with a serial number and initialled by the maritime administration. Overtime shall be rewarded by a supplement of 40 per cent. This may be replaced by a lump-sum which shall not be less than the remuneration for two hours a day on merchant vessels or three hours a day on fishing vessels.

Fishing or tonnage bonuses shall be paid over and above any overtime payments.

3.5.05. Public holidays

Seafarers who work on 1 May or 26 June shall be paid at double their normal rates.

Work performed on other public holidays shall be rewarded by a supplement of 40 per cent.

3.5.06. Leave allowance

An allowance for leave not taken shall be due regardless of the reason for a seafarer's separation.

The allowance shall amount to the number of days of leave acquired on the date of separation multiplied by the seafarer's basic daily remuneration as defined in article 3.5.02.

3.5.07. Unremunerated rest days

Since a seafarer's remuneration is paid in return for work performed, any unremunerated rest days accrued at the time of his separation shall give rise to entitlement only to payment of the daily food allowance.

3.5.08. Advances, payments on account, and assignments

Any advance granted to a seafarer before his vessel sails shall be paid in the presence of an official of the maritime administrative authority, who shall mention it in the articles of agreement.

Any payment on account made to a seafarer during a voyage shall be noted in the ship's log against the seafarer's signature.

Any assignment of remuneration must be mentioned in the articles of agreement.

3.5.09. Attachment

The wages, profits and other remuneration of seafarers shall be subject to attachment or assignment in accordance with the provisions of the Labour Code.

The following shall not be subject to attachment for any reason whatsoever:

1. A seafarer's clothing, with no exceptions;
2. Tools and other items belonging to a seafarer and used in his occupation;
3. Sums due to a seafarer in respect of medical and pharmaceutical costs or of repatriation.

3.5.10. Food and other supplies

Seafarers shall be entitled to food or an equivalent allowance for the entire duration of their registration in the crew list.

Seafarers shall be entitled to the provision of bedding and table utensils.

The modalities of application of these provisions shall be established by order of the maritime administrative authority.

3.5.11. Social benefits

Seafarers shall be entitled to social benefits in accordance with the Social Security Code.

3.5.12. Periodicity of payment of remuneration

Whatever the mode of remuneration, seafarers shall be paid at regular intervals: daily, weekly or monthly.

However, at the time of his separation, a seafarer may claim full payment of his leave allowance and his food allowance for unremunerated rest days.

3.5.13. Proof of payment

The payment of remuneration shall be recorded in a pay statement signed by the seafarer. A seafarer may be assisted by two members of the crew as witnesses if he is illiterate.

Pay statements shall be made out in duplicate: one shall be given to the seafarer and the other shall be kept by the owner under the same conditions as other accounts and shall be produced in response to all requests by the Inspector of the Merchant Marine.

3.5.14. Content of pay statements

Pay statements shall include the following particulars at least:

Owner's name or corporate name and address;

Seafarer's surname and forenames;

Serial number of the articles of agreement;

Seafarer's function and index;

Pay period in question;

Amount of wages as such;

Breakdown of the various additional payments (overtime, length of service, public holidays, etc.);

Breakdown of the various allowances (paid leave, unremunerated rest days, notice, dismissal, etc.);

Various deductions (advances, assignments, drinks bill, contributions, taxes, etc.);

Net amount to be paid;

Date of payment;

Signatures of the two parties.

3.5.15. Value of pay statements as evidence

The acceptance of a pay statement by a seafarer without challenge or reservation shall not be regarded as renunciation by him of the payment of all or part of the remuneration and ancillary allowances due to him by law or under regulations or contracts.

Failure to provide a pay statement shall constitute a presumption of non-payment of remuneration;

A receipt for settlement of any account may not be invoked against a seafarer.

3.5.16. Actions seeking payment

The right to bring an action seeking payment of remuneration and ancillary allowances shall be subject to a time limit of 12 months.

This time limit shall be set aside in the event of an express or tacit admission of fault by an owner.

Chapter 6 Sickness and injury

3.6.01. On board

If he is injured in the service of his vessel or if he falls sick during a voyage, a seafarer shall be paid his remuneration and cared for at the vessel's expense.

In the event of a seafarer's death, the owner shall bear the costs of the funeral, including the transport of the mortal remains to the place of ancestral burial.

3.6.02. On shore

During periods of paid leave and unremunerated rest, a seafarer shall be under the responsibility of his vessel on the same terms as are stipulated in article 3.6.01.

From the time when he goes ashore, a seafarer who has been injured or sick and has not yet recovered shall be subject to the general regulations governing industrial accidents and occupational diseases.

3.6.03. Accidents on shore

A seafarer who suffers an accident on shore shall be deemed to be in the service of his vessel if he had obtained from his service chief special permission to go ashore.

3.6.04. Travel accidents

A seafarer shall be deemed to be in the service of his vessel when travelling to the port of embarkation or to his home after disembarkation.

3.6.05. Termination of employment when abroad

In the event of termination of employment outside Madagascar, the owner shall provide a seafarer with medical care until his repatriation.

3.6.06. Medical service

Any owner resident in Madagascar shall establish a medical service within his enterprise or become affiliated to an inter-enterprise medical service in order to provide medical care for seafarers and their family members, i.e. their spouses and legitimate children. Sickness insurance must be taken out in Madagascar for seafarers working on board foreign vessels.

3.6.07. Insurance

Insurance covering death and permanent disability, as well as reimbursement of the cost of treatment in the event of accidents, may be negotiated between an owner and seafarers and included in the general articles of agreement.

Chapter 7 Termination of articles of agreement. Repatriation and subsistence allowance

3.7.01. Termination of articles of agreement of indefinite duration

Articles of agreement of indefinite duration shall end either one month after notice is given in writing and countersigned by the seafarer or immediately after payment of a notice of termination allowance equivalent to one month's base remuneration.

The departure of a seafarer on leave in conformity with the provisions of article 3.4.07 shall not mean that the contract has been broken. A contract shall be deemed broken only when a seafarer does not return to his vessel or refuses to return within the 30 days following the completion of his total amount of leave.

3.7.02. Termination of articles of agreement of specified duration

Articles of agreement of specified duration shall end when they reach their term. Any tacit-renewal clause shall be considered void. A seafarer whose employment is terminated before the end of his contract shall be entitled to a termination allowance equivalent to the remuneration which would have been due to him up to the end of his contract.

3.7.03. Common causes of termination of articles of agreement

A seafarer's articles of agreement may be extinguished with no requirement to pay the notice of termination allowance or the termination allowance referred to in articles 3.7.01 and 3.7.02 in the following cases:

- Death of the seafarer;
- Illness or injury, after one month's treatment at the owner's expense;
- Termination of the articles of agreement with the consent of both parties;
- Disciplinary dismissal by the maritime administrative authority under the provisions of article 3.7.04.

3.7.04. Disciplinary dismissal

An owner may request a seafarer's disciplinary dismissal if he has committed either two breaches of discipline punishable under the provisions of article 7.2.06 or one of the offences specified in Book 7, chapters 4 to 13, of this Code.

3.7.05. Termination of articles of agreement

Seafarers and owners shall be entitled to request the termination of articles of agreement on the ground of failure one of one the parties to fulfil his obligations.

Damages may be awarded over and above the notice of termination and termination allowances referred to in articles 3.7.01 and 3.7.02.

3.7.06. Repatriation and subsistence allowance

The repatriation and subsistence allowance shall cover a seafarer's travel, food and accommodation. The provision of clothing is not included but, when necessary, the master shall advance the cost of essential clothing.

3.7.07. Termination of employment in Madagascar

Regardless of the reason for termination, a seafarer whose employment is terminated in Madagascar shall be entitled to travel to the port in which he joined the vessel or to its home port.

3.7.08. Termination of employment in a foreign country

A seafarer whose employment is terminated in a foreign country shall be repatriated at the vessel's expense. Nevertheless, the costs of repatriation may be reclaimed from the seafarer when his employment is terminated in order that he may stand trial or serve a sentence.

Chapter 8 Miscellaneous provisions

3.8.01. Crew's representatives

At the beginning of each voyage or fishing season a vessel's master shall arrange for the election of a crew's representative responsible for defending the crew's rights.

The dismissal of a crew's representative shall be subject to the consent of the maritime administrative authority.

3.8.02. Commercial function of masters

Agreements between an owner and a master concerning the master's commercial function as representative of the owner may be concluded validly without any action by the maritime administrative authority.

3.8.03. Duty to complete voyages

A master engaged for a voyage shall be required to complete it, or otherwise be liable for damages to the owners and charterers.

3.8.04. Dismissal of masters

An owner may dismiss a master at any time, without prejudice to the payment of damages in cases of unjustified dismissal.

3.8.05. Waivers

Except where this Code provides for an agreement to the contrary, the parties may not waive the rules governing the terms of employment.

Chapter 9 Functions on board and composition of crews

3.9.01. Authority of masters

A vessel's crew constitutes a hierarchical company under the authority of the master, who shall be the sole judge of the conduct of the voyage and the decisions which have to be taken.

3.9.02. Professional qualifications

The functions of master or skipper, first officer, chief engineer and officer may be exercised only by seafarers holding certificates, diplomas, licences or equivalent qualifications issued by the Malagasy State.

A professional qualification may be required for the exercise of certain functions of lower rank.

3.9.03. Waiver of prerogatives attached to certificates and diplomas

Waivers may be granted by the maritime administrative authority at an owner's request.

3.9.04. Award of qualifications

The conditions for the award of certificates, diplomas and licences shall be established by order of the maritime administrative authority.

Examination fees shall be fixed by order.

3.9.05. Nationality of crews

A member of the crew of a Malagasy vessel shall be of Malagasy nationality, subject to the waiver provided for in article 2.3.04, paragraph (b), or shall possess, subject to reciprocity, the nationality of one of the States which has concluded specific agreements with the Republic of Madagascar.

3.9.06. Minimum safe crew strength

The minimum safe crew strength on board every vessel shall be established by a decision of the Service Chief of the Merchant Marine on the advice of the central safety committee. A crew shall be sufficient in number and proficiency to ensure safe navigation.

Any employment of unqualified trainees or pupils shall be over and above the minimum safe strength.

3.9.07. Modalities of application

The modalities of the application of the provisions of this chapter shall be established by order of the maritime administrative authority.

Chapter 10 **Civil status, disappearance, maritime inheritance**

3.10.01. Civil registry official

When during a sea voyage it is not possible for the civil registry official who would normally have competence to issue, within the legal time limits, a birth certificate, a death certificate, a certificate acknowledging a natural child, or a certificate of declaration of a stillborn child, such certificates shall be issued by the master or skipper or by the person performing his functions.

These certificates shall be deposited with the maritime administrative authority in the next port of call, which shall forward them to the proper authority.

3.10.02. Disappearance

If during a sea voyage a member of the crew or a passenger disappears, the master or skipper or the person performing his functions shall draw up a report on the disappearance.

If, for any reason whatsoever, it has not been possible to draw up a report, the Minister for the Merchant Marine, following an administrative investigation and without further formality, shall take a decision to declare the disappearance of the person concerned and, where necessary, the presumption of the loss of the vessel which was carrying him.

If the Minister for the Merchant Marine considers that the circumstances of the disappearance or the findings of the administrative investigation warrant a presumption of the person's death, he shall take a decision to declare the presumption of death.

A declaration of the presumption of death accompanied, where appropriate, by a copy of the report shall be forwarded to a court for the purpose of judicial declaration of the death.

3.10.03. Property of a person who has died or disappeared

Following a person's death or disappearance, regardless of the reason for his presence on board, the master or skipper or the person performing his functions shall be required to draw up an inventory of the goods, clothing, valuables, notes, cash, wills, papers or other items presumed to belong to the person and to ensure their safekeeping until they can be handed over to the nearest maritime administrative authority.

3.10.4. Modalities of application

The modalities of the application of the provisions of this chapter shall be established by decree.

Chapter 11 **Individual disputes**

3.11.01. Definition

An individual dispute is a dispute between one or more seafarers and an owner. It relates to the terms of employment and includes disputes concerning compensation for maritime industrial accidents and occupational diseases.

3.11.02. Procedure

An individual dispute shall be brought before a labour court after conciliation has been attempted by the maritime administrative authority.

3.11.03. Competent court

The competent labour court shall be chosen in accordance with the provisions of articles 13.2.06 and 13.3.03 of this Code.

3.11.04. Court assessors

The assessors and their deputies who may be called upon to hear an individual dispute as described above shall be appointed pursuant to the conditions set out in article 40 of Order No. 60-107 of 27 September 1960. They shall be chosen from lists submitted respectively by the owners' organization and the most representative seafarers' trade unions. However, in the absence of such organizations or unions, the lists shall be submitted by the maritime administrative authority.

3.11.05. Conciliation agreements

Conciliation agreements shall be executed in accordance with the provisions of article 3.12.08.

3.11.06. Failure of conciliation

If all or some of the points at issue cannot be settled by conciliation, the dispute shall be submitted to the competent court by the party which acts first but only in respect of the points which have not yielded to conciliation.

Chapter 12 Collective disputes

3.12.01. Definition

Complaints submitted collectively by several seafarers from several crews are considered to be collective disputes of the Merchant Marine and are settled as such.

3.12.02. Regional and national collective disputes

Complaints limited to one maritime district are considered to be regional collective disputes.

Complaints affecting several maritime districts are considered to be national collective disputes

3.12.03. Procedure

An attempt shall be made to settle collective disputes by conciliation; if conciliation fails, they shall be subject to the following arbitration procedure:

- Regional disputes shall be heard by the head of the maritime district for the purpose of conciliation and, in the absence of the contractual arbitration procedure described in article 3.12.04, by the regional arbitration commission for the purpose of arbitration;

- National disputes shall be heard by the Service Chief of the Merchant Marine for the purpose of conciliation and, in the absence of the contractual arbitration procedure described in article 3.12.04, by the national arbitration commission for the purpose of arbitration.

3.12.04. Arbitration procedure

When disagreement persists on all or some of the points at issue, the dispute must be submitted as soon as possible by the maritime administrative authority concerned:

- Either to a contractual arbitration procedure, if any, pursuant to a mutual agreement binding on the parties;

- Or, failing that, to the arbitration procedure described in article 3.12.05.

3.12.05. Arbitration commissions

There is a regional arbitration commission in Antananarivo and in every chief port of a maritime district. The national arbitration commission sits only in Antananarivo.

The membership and procedures of arbitration commissions shall be established by order.

The cost of secretariat services for arbitration commissions shall be borne by the budget of the Merchant Marine.

3.12.06. Powers of arbitration commissions

An arbitration commission may not rule on matters other than the ones specified in the report on the conciliation proceedings or on matters other than those which arise from events subsequent to that report and are direct consequences of the dispute in question. It shall rule on the law in disputes relating to the interpretation and application of the laws, regulations, collective agreements or enterprise agreements which are in force.

It shall rule in equity in other disputes, in particular those relating to remuneration or to conditions of work when these matters are not determined by the provisions of the laws, regulations, collective agreements or enterprise agreements which are in force, as well as in disputes concerning the negotiation or revision of the provisions of collective agreements.

It shall have the widest possible powers to obtain information about the economic situation of the owners and the situation of the seafarers involved in the dispute. It may make any inquiries of owners or of trade unions and require the parties to produce any documents or information of an economic, accounting, financial, statistical or administrative nature which it may find useful in the discharge of its task. It may have recourse to experts, in particular approved accounting experts, and in general to any qualified person who may be able to clarify matters for the commission.

3.12.07. Arbitral awards

An arbitral award shall be accompanied by a statement of grounds and shall be notified immediately to the parties and published in the Journal Officiel of the Republic.

On the expiry of a time limit of four clear days from the date of such notification and if neither party has challenged the award during that period, the award shall become enforceable under the conditions established in article 3.12.08.

Challenges shall be void unless submitted by registered letter with recorded delivery to the chairman of the arbitration commission.

3.12.08. Enforcement of conciliation agreements and arbitral awards

The enforcement of a conciliation agreement or an unchallenged arbitral award shall be mandatory. If it is silent on this point, a conciliation agreement or arbitral award shall be deemed to run from the date of the conciliation attempt.

Copies of the minutes of agreements and awards shall be deposited with the court registry and the head office of the maritime district.

3.12.09. Remedy of illegality

An arbitral award which has become enforceable may be subject to appeal on the ground of illegality or violation of the law under article 2 of Act No. 61-031 of 19 July 1961.

3.12.10. Right to strike and right of lockout

No strike or lockout shall be permitted before the conciliation and arbitration procedures established by these regulations have been exhausted or in violation of the provisions of a conciliation agreement or arbitral award which has become enforceable.

A strike or lockout undertaken in contravention of these provisions may entail:

- For owners, payment to the seafarers of their full remuneration and allowances for the days lost;
- For seafarers, loss of their entitlement to the notice of termination allowance and to damages for the breaking of a contract;
- For owners, by decision of a court of general jurisdiction handed down at the request of the Minister for the Merchant Marine, ineligibility for membership of the Chambers of Commerce for a minimum period of two years.

A strike initiated after a challenge to an arbitral award shall not entail the breaking of a contract of employment but shall deprive the strikers of their entitlement to remuneration corresponding to the number of days on which no work is performed. This provision shall apply also to supplementary allowances.

Book 4: Organization of maritime transport

Chapter 1 General organization

4.1.01. Coordination of transport

The general organization of maritime transport and in particular any coordination measures which may be imposed on Malagasy shipowning enterprises in order to promote the national economy shall be addressed, as necessary, in a decree adopted on the report of the Minister for the Merchant Marine.

4.1.02. Reserved transport

National coastal shipping, limited coastal shipping and inland shipping shall be reserved for vessels flying the Malagasy flag, subject to waivers granted by the maritime administrative authority.

The above provisions shall not however apply in cases of assistance or salvage.

4.1.03. Obligation of insurance

All vessels entering the territorial waters of Madagascar shall have insurance cover or a financial guarantee up to the limits of the liability which they may incur under the provisions of articles 8.3.05 and 11.5.17.

4.1.04. Prevention of pollution by hydrocarbons

Any oil tanker having a gross tonnage equal to or in excess of 150 tons and any vessel other than an oil tanker having a gross tonnage equal to or in excess of 300 tons navigating in the territorial sea of Madagascar shall have insurance cover or a guarantee covering the risks of pollution of the marine environment by hydrocarbons. Such vessels shall also have the following documents on board:

- An international certificate concerning prevention of pollution by hydrocarbons issued by a classification organization (IOPP certificate);
- An emergency plan to prevent pollution by hydrocarbons (SOPEP).

4.1.05. Obligations of foreign vessels

All foreign vessels having a gross tonnage in excess of 50 tons entering a Malagasy roadstead or port shall have:

- Insurance cover with a protecting and indemnity club;
- A shipping or forwarding agent subject to Malagasy law who shall be liable under the provisions of article 10.5.04 of this Code.

Chapter 2 Pilotage

4.2.02. Definition

Pilotage is the assistance afforded to masters by personnel authorized by the State to steer vessels in ports, roadsteads and other maritime waters.

4.2.01. General organization

The general organization of pilotage and the pilotage tariffs shall be established by order of the Minister for the Merchant Marine.

4.2.03. Mandatory use of a pilot

Regardless of a vessel's nationality, use of a pilot shall be mandatory in the ports named in the list established by order.

4.2.04. Payment

In ports in which use of a pilot is mandatory, pilotage shall be paid for even if it is not provided.

In other ports, pilotage shall be paid for from the time when the pilot goes out to meet the vessel.

4.2.05. Assistance to vessels in peril

Pilots shall assist vessels in peril under the conditions specified in article 5.3.09.

4.2.06. Competence and experience of pilots

All candidates for the post of pilot shall satisfy the following conditions:

- Completion of 27 months of navigation as a master, first or second class;
- Completion of three months' training in the port in which he is to work;
- Favourable opinion from the commission on assessment of seafarers' qualifications.

To this end, the person concerned shall request the necessary certification from the Merchant Marine Administration.

4.2.07. Pilots' commissions

Pilots' commissions shall be issued for a specified port. They shall be subject to the same regulations as other certification, in particular the provisions of articles 7.2.08 and 7.5.10 of this Code.

4.2.08. Role of masters

The presence of a pilot on board a vessel does not release its master from any of his duties and obligations with respect to the steering of the vessel.

4.2.09. Liability of piloted vessels

Except when fault on the part of the pilot is proved, the owner of a piloted vessel shall be liable for:

- Damage to the piloted vessel or the pilot boat;
- Harm suffered by the pilot or by the crew of the pilot boat;
- Damage caused to third parties during the piloting operation.

4.2.10. Limitation of pilot's liability

All pilots must provide a surety, which shall be deposited with the Treasury Department in an amount to be fixed by decree. A pilot may release himself from his civil liability by abandoning his deposit.

4.2.11. Exclusion of limitation of liability

The provisions of article 4.2.10 shall not apply when a pilot wilfully and with criminal intent strands a vessel which he is responsible for piloting or loses or destroys it.

4.2.12. Preferential claims on sureties

Creditors in respect of loss caused by fault of a pilot shall have a preferential claim of the first rank on a pilot's surety.

4.2.13. Statute of limitations

Actions arising in respect of pilotage must be brought within one year of the completion of the piloting operation.

Chapter 3 Towing

4.3.01. Scope

In the absence of any special agreements between the parties, their obligations and responsibilities shall be established by the provisions of this chapter when the towing contract relates:

- Either to towing within a port;

- Or to towing on the high seas;
- Or to the movement of floating establishments.

4.3.02. Direction of towing operations within a port

Towing operations within a port shall be directed by the master of the towed vessel. The master of the tug shall comply with the instructions of the vessel's master, subject to the regulations governing movements in the port.

The towed vessel shall be liable for damage of any kind caused during such operations, either by the towed vessel or by the tug, unless it is able to establish fault on the part of the tug.

4.3.03. Reversal of the presumption of liability

The parties may by an express written agreement entrust the direction of the operations to the master of the tug and reverse the presumption of liability stipulated above.

4.3.04. Towing on the high seas

Towing operations on the high seas shall be directed by the master of the tug, and the tug shall be liable for damage of any kind caused either by the towed vessel or by the tug, unless it is able to establish fault on the part of the towed vessel.

The parties may by an express written agreement reverse the presumption of liability stipulated above.

4.3.05. Third-party liability

The towing of vessels, either within a port or on the high seas, constitutes a hiring of services, and therefore the master of the subordinate vessel does not become the employee of the master who is directing the operations.

With respect to third parties who suffer damage, the owners of the towed vessel and the tug shall be jointly liable to pay compensation for such damage if it arises from fault common to both vessels or from fault shared between the two vessels.

4.3.06. Transport contracts for towing floating establishments

A contract under which a towing enterprise undertakes to move by sea within a port or harbour a piece of floating machinery or a dock or a tank, or any other object lacking its own means of propulsion shall be deemed a transport contract.

The personnel employed on board the towed object shall become employees of the towing enterprise for the duration of the towing operation, regardless of the terms of their employment or remuneration.

Between the parties, unless agreed otherwise, the obligations of the towing enterprise shall be the obligations established by the general law of transport contracts. The rules of maritime chartering shall not apply to such contracts.

With respect to third parties, the tug and the towed object shall constitute a whole, responsibility for which shall rest entirely with the towing enterprise, except in cases of force majeure, fault on the part of the victim, or fault of a third party.

4.3.07. Statute of limitations

Actions arising in respect of a towing contract must be brought within one year from the completion of the operation.

Book 5: Maritime incidents

Chapter 1 Collisions

5.1.01. Scope

In the event of a collision between seagoing vessels or between a seagoing vessel and an inland navigation vessel, the compensation due for damage to the vessels or to objects or persons on board the vessels shall be regulated by the following provisions, regardless of the waters in which the collision occurs.

5.1.02. Collisions due to *force majeure*

If a collision is accidental or due to *force majeure*, or if there is doubt as to its causes, the damage shall be made good by the parties which suffered it, regardless of whether both vessels or one of them was anchored at the time of the collision.

5.1.03. Collisions due to fault

When a collision is caused by fault of one of the vessels, the damage shall be made good by the vessel which caused it.

5.1.04. Collisions due to common fault

When fault is common to both vessels, the liability of each of them shall be proportionate to the seriousness of the fault of each of them; however, if the circumstances are such that it is impossible to establish the proportions or if the fault appears equally shared, the liability shall be borne in equal parts.

Compensation for damage caused either to vessels or to the personal effects or other property of crew members, passengers or other persons on board, shall be paid by the vessels at fault in the above-mentioned proportions, without any joint liability towards third parties.

Vessels at fault shall be jointly liable towards third parties in respect of compensation for death or injury, subject to the exercise of legal remedies by a vessel which has paid a larger share than it ought definitively to pay pursuant to the preceding paragraph of this article.

5.1.05 Collisions due to fault of pilots

The liability established in the preceding paragraphs shall apply likewise when a collision is due to fault of a pilot, even when the use of a pilot is mandatory.

5.1.06. Damage not caused by collision

The foregoing provisions shall apply to compensation for damage caused by a vessel, either by executing a manoeuvre or failing to do so, or by failing to comply with the regulations, to another vessel or to objects or persons on board another vessel, even when no collision has occurred.

5.1.07. Obligations following collisions

Following a collision, the provisions of article 5.3.11 shall apply to each of the masters of the vessels involved in the collision.

Each master shall likewise be required, where possible, to inform the crew of the other vessel of the name and home port of his vessel, as well as of the place from which he has come and the place to which he is bound.

5.1.08. Statute of limitations for various actions

Actions seeking damages must be brought within two years of the incident.

Indemnity actions arising pursuant to the third paragraph of article 5.1.04 must be brought within one year.

The time limits specified above shall not begin to run if the vessel has not been arrested in the territorial waters of Madagascar when the party claiming damages is a Malagasy national or is domiciled in the territory of the Republic of Madagascar.

5.1.09. Application to vessels operated exclusively for a public service

The foregoing provisions shall apply to vessels of the Republic of Madagascar or of a Malagasy public authority even when the vessels are operated exclusively for a public service.

Chapter 2
Average

5.2.01. Types of average

There are two categories of average: general average and particular average.

5.2.02. Residual rule

Unless the parties concerned stipulate otherwise, average shall be settled in accordance with the rules set out below.

5.2.03. Definition of particular average

All damage not classified as general average shall be deemed particular average.

Such average shall be borne by the owner of the object suffering the damage or by the person who incurred the expenditure, subject to any liability, reimbursement or indemnity claims which they may bring.

Section A. Classification as general average

5.2.04. Definition of general average

General average comprises the sacrifices made and the extraordinary expenditure incurred in an emergency for the general safety of the interests engaged in a sea voyage.

5.2.05. Decisions giving rise to general average

The decision by a master to make sacrifices or incur expenditure must have been reasonable.

A master shall enter in the ship's log, as soon as he has the means to do so, the dates, times and places of the incident, the reasons for his decision, and the measures which he ordered.

Within 24 hours of arrival in the first port at which his vessel calls, a master shall affirm the facts thus entered in the log.

5.2.06. Damage and expenditure directly related to sacrifices

Only damage, losses and expenditure which are a direct consequence of the act of general average decided upon by a master within the meaning of article 5.2.04 above shall be admissible as general average.

5.2.07. Sacrifices following fault

When the incident giving rise to sacrifice or expenditure is the consequence of fault on the part of one of the parties involved in the voyage, the grounds for a general average settlement shall not be thereby diminished, unless an action is brought against the person at fault.

5.2.08. Expenditure to prevent additional loss

Any additional expenditure voluntarily incurred to prevent further expenditure or loss which would have been classified as general average shall itself be classified as such, up to a limit of the expenditure saved or the loss prevented.

5.2.09. Burden of proof

The party requesting the classification of damage or expenditure as general average shall bear the burden of proof. In the absence of proof, the average shall be deemed particular.

Section B. Contributions to general average

5.2.10. Elements bearing general average

General average shall be borne by the vessel and the cargo; it shall be assessed as stipulated below.

5.2.11. Contributions of vessels

A vessel shall contribute in proportion to its value in the port where the voyage ends. However, the owner shall not be liable beyond the inclusive value of the vessel.

The gross freight and passenger fares, agreed as a legal entitlement or payable in any eventuality, shall contribute two thirds.

5.2.12. Contribution of cargo

Goods saved or sacrificed shall contribute in proportion to their market value in the port of discharge.

5.2.13. Losses suffered by vessels

The amount admissible as general average in respect of damage or loss suffered by a vessel shall be equal to the cost of repairs: actual cost if repairs were carried out; estimated cost if they were not carried out.

In the event of total loss, the calculation shall be based on the vessel's value before the loss, from which shall be deducted the estimated cost of the repair of any damage not classified as general average and the proceeds of the sale of the wreck, if any.

5.2.14. Losses suffered by cargo

The amount admissible as general average in respect of damage or loss suffered by cargo shall be: in the event of total or partial loss, the estimated market value of the goods in the port of discharge; in the case of damage, the difference between their actual value and their estimated market value in sound condition in the same port.

5.2.15. Goods declared at a lower value

Goods declared at a lower value than their actual value shall contribute in proportion to their actual value, but their loss or damage shall entail their classification as general average only in proportion to their declared value.

5.2.16. Goods carried on deck or without a bill of lading

Goods for which no bill of lading or master's receipt has been issued shall not be admissible as general average if they are sacrificed. They shall however contribute if they are saved.

The same shall apply to goods carried on deck, except in the case of coastal shipping between Malagasy ports, when they shall be treated as hold cargo.

5.2.17. Exemption from contribution

A vessel's stores, consignments of mail of all kinds, and the personal effects and baggage of the crew and passengers shall be exempt from contribution when they are saved; they shall share in the apportionment when they have been sacrificed in accordance with the provisions of article 5.2.04 *et seq.* above.

5.2.18. Apportionment

Apportionment shall be pro rata.

In the event of the insolvency of one of the parties liable to contribute, its share shall be apportioned among the others in proportion to their interests.

Section C. Settlement of general average

5.2.19. Nil contribution in the case of total loss

There shall be no settlement in the event of total loss of the interests engaged in the voyage.

5.2.20. Inadmissible applications for settlement

An application for settlement shall never be admissible when the general average does not exceed one per cent of the inclusive value of the vessel and its cargo.

5.2.21. Statute of limitations

Actions seeking contributions must be brought within two years of the date on which the voyage ended. If an average adjuster has been appointed, this time limit shall be increased to 10 years.

5.2.22. Failure to settle contributions

A master may refuse to deliver goods and may request their consignment to storage until payment of the contributions due from them, except when the person entitled to receive the goods deposits a sufficient surety.

5.2.23. Preferential claims on goods

A vessel's owner shall have a preferential claim in respect of general average contributions due to him on goods or their proceeds for 15 days following their delivery, provided that they have not passed into third hands.

Chapter 3 Assistance at sea

5.3.01. Scope

Assistance rendered to seagoing vessels in peril and services of the same kind rendered between seagoing vessels and inland navigation vessels shall be subject to the provisions of this chapter regardless of the waters in which the assistance is rendered.

All floating establishments shall be treated, according to the case, either as seagoing vessels or as inland navigation vessels for the purposes of the preceding paragraph.

The provisions of this chapter, except for the provisions of article 5.3.08, shall apply likewise to government vessels operated exclusively for a public service and to warships.

5.3.02. Principle of remuneration

Any act of assistance producing a useful outcome shall give rise to fair remuneration. No remuneration shall be due if the assistance rendered does not produce a useful outcome. In no case shall the sum to be paid exceed the value of the objects saved.

5.3.03. Application of the "no cure, no pay" rule

The "no cure, no pay" rule established in the preceding article shall apply if both parties remain silent.

However, the rule may be set aside by an express provision stipulating that one half of the costs incurred by the assisting vessel shall be reimbursed by the assisted vessel in the absence of a useful outcome.

5.3.04. Basis for calculation of remuneration

The amount of remuneration shall be established by agreement between the parties or, failing that, by a court, taking as the basis for the calculation:

(a) Firstly, the degree of success, the efforts and the merit of the persons who rendered the assistance, the degree of peril threatening the assisted vessel, its passengers, crew or cargo, and the salvors and their vessels, as well as the time spent, the costs and damage incurred, the risks of liability and other risks incurred by the salvors, and the value of the equipment exposed to risk by them, taking into account, where necessary, special appropriation of the assisting vessel;

(b) Secondly, the value of the objects saved, the freight and the passenger fares.

The court may reduce or strike down the remuneration if it appears that the salvors rendered the assistance necessary through their own fault or if they are guilty of theft, receipt of stolen goods or other fraudulent acts.

5.3.05. Review of excessive conditions

Any assistance agreement concluded at the time or under the threat of peril may be annulled or amended by a court at the request of one of the parties, if the court considers that the agreed conditions are not equitable.

In any event, when it is proved that the consent of one of the parties has been rendered defective owing to fraudulent intent or failure to disclose facts, or when the remuneration is in some respect out of all proportion to the service rendered, the agreement may be annulled or amended by a court at the request of the injured party.

5.3.06. Clauses assigning jurisdiction

Any clause which assigns jurisdiction to a foreign court or any arbitration clause assigning competence to a court of arbitration sitting abroad shall be void when the assisting vessel and the assisted vessel are of Malagasy nationality and the assistance is rendered in waters subject to Malagasy jurisdiction.

5.3.07. Assistance rendered by tugs to towed vessels

A tug shall be entitled to remuneration for assisting a vessel which it is towing or its cargo only when it has rendered exceptional services which cannot be regarded as falling under the towing contract.

5.3.08. Assistance between vessels in the same ownership

Remuneration shall be due even when the assistance is rendered between vessels belonging to the same owner.

5.3.09. Pilots' duty of assistance

Except in cases of *force majeure*, and notwithstanding any other official duty, a pilot shall immediately go to assist a vessel in peril, even if he has not been called upon to do so, from the moment when he becomes aware of the vessel's peril.

If the vessel is outside the area in which pilotage is mandatory, the pilot shall be entitled to remuneration under article 5.3.02.

5.3.10. Assistance rendered against the wishes of assisted vessels

Persons who have taken part in a salvage operation despite express and reasonable rejection by the assisted vessel shall not be entitled to any remuneration.

5.3.11. Duty to assist persons in peril

A master shall be required, to the extent possible without seriously imperilling his vessel, crew or passengers, to render assistance to any person, even an enemy, found in danger of losing his life.

A vessel's owner shall be liable in the event of failure to comply with the foregoing provision only if he issued an effective and direct order not to assist.

5.3.12. Duty to assist following collisions

Following a collision, each of the vessels which collided shall render assistance to the other vessel and its passengers and crew, to the extent possible without seriously imperilling itself or its own crew or passengers.

5.3.13. Saving of human life

No remuneration shall be due from persons saved.

Persons who save human life on the occasion of an accident giving rise to a salvage operation shall be entitled to a fair share of the remuneration awarded to the salvors of the vessel or its cargo or attachments.

5.3.14. Apportionment of remuneration

Remuneration shall be apportioned either among the salvors or among the owners, masters and crews of the assisting vessels.

The shares in this apportionment shall be fixed by agreement between the parties or, failing that, by a court, taking into account the provisions of article 5.3.04.

The modalities of apportionment between the State and the crew in the case of assistance rendered by a government vessel shall be established by decree.

When the assisting vessel is a foreign vessel, the apportionment among the owner, the master and the other persons serving on the vessel shall be determined in accordance with the vessel's national law.

5.3.15. Liability of persons rendering assistance

The liability of persons rendering assistance in respect of bodily or material harm directly related to an assistance or salvage operation and in respect of any other harm resulting from that operation may be subject to limitation under the provisions of Book 8, chapter 3.

5.3.16. Statute of limitations

Actions seeking payment of an assistance award must be brought within two years from the day on which the assistance operations ended.

However, this time limit shall not run when it has been impossible to arrest the assisted vessel in waters subject to Malagasy jurisdiction.

Chapter 4 Ordinary wrecks and wreckage

5.4.01. Definition

Subject to the international conventions in force, the following maritime wrecks and wreckage shall be governed by the provisions of this chapter:

1. Floating establishments and vessels which are unseaworthy and have been abandoned by their crew, which is no longer maintaining watch or surveillance, as well as their stores and cargoes;
2. Aircraft which have been abandoned and are incapable of flying;
3. Boats, machinery, tackle, anchors, chains, abandoned fishing gear, and the debris of vessels and aircraft;
4. Flotsam and jetsam.

Goods or objects voluntarily abandoned or thrown into the sea or onto the shore in order to elude the attention of the customs authorities shall not be regarded as maritime wreckage.

5.4.02. Scope

Wrecks and wreckage of ships or aircraft of foreign nationality and goods from such vessels or aircraft shall be subject to the rules contained in this chapter.

However, these rules shall not apply to maritime wrecks of an archaeological or historical nature referred to in articles 1.3.06 and 5.5.01 *et seq.*

5.4.03. Obligations of finders of wrecks

Any person who discovers a wreck shall be required, to the extent possible, to make it safe and, in particular, to place it beyond the reaches of the sea.

Such person shall declare the wreck to the maritime administrative authority within 48 hours of its discovery or of his arrival in the first port of call.

5.4.04. Obligations of the authorities

The maritime administrative authority shall take all useful steps to salvage and preserve a wreck and its cargo. It may, subject to indemnity, call upon the services of any physical or juridical person capable of participating in such operations and requisition any equipment, means of transport or stores. For these purposes, it may give orders to occupy or cross private property.

5.4.05. Obligations of owners

If the owner of a wreck is identified, he shall declare his intentions to the maritime administrative authority, electing either to abandon or to raise the wreck. In any event, he shall deposit with the Treasury Department a surety fixed by the authority to guarantee the reimbursement of the cost of raising the wreck and its cargo and the payment of any fines or damages.

If the owner does not elect either to abandon or raise the wreck within three months, or if he has not been identified within a year, the authority may conclude a contract, by preference with the finder of the wreck or, failing that, with any other enterprise, with a view to raising and possibly selling the wreck and its cargo.

5.4.06. Obligations of salvors

Salvors shall be responsible for the entire operation of raising a wreck, without compromising the safety of navigation or polluting the environment.

In no case may cargo be salvaged without salvaging the wreck of the vessel or aircraft. In the event of pollution, salvors shall be liable to the penalties stipulated in article 7.10.3 of this Code.

5.4.07. Automatic raising of wrecks without delay

The maritime administrative authority may proceed automatically to raise a wreck without delay at the expense and risk of its owner without observing the time limits fixed in the article below in the following cases:

1. When the wreck constitutes an obstacle to navigation or fishing;
2. When the wreck constitutes a threat to the environment;
3. When the recovery of the wreck is in the general interest.

5.4.08. Restitution to owners or sale

The conditions under which a wreck may be either restored to its owners or put up for sale shall be established by decree.

5.4.09. Assignment of proceeds of sales

After deduction of administrative and selling expenses, remuneration of the finder and salvor, customs duties and other charges, the proceeds of the sale of a wreck shall be deposited with the Treasury Department.

When the owner has elected to abandon the wreck or when he has not been identified within a time limit of 30 years, the sum deposited shall be transferred to the general State budget.

5.4.10. Remuneration of finders

The remuneration due to a finder from the owner of a wreck shall be determined by agreement between the parties.

In the event of disagreement, the case shall be submitted to the maritime administrative authority for arbitration.

If the authorities proposals are rejected, the dispute shall be settled by a court in the place where the wreck was found.

5.4.11. Remuneration of salvors

Salvors shall be remunerated in accordance with the terms set out in article 5.3.04.

5.4.12. Apportionment of remuneration

When there is more than one salvor, the remuneration shall be apportioned between them in accordance with the provisions of article 5.3.04.

When a vessel has assisted in a salvage operation, the remuneration shall be apportioned between its owner and its crew on the basis of two thirds to the owner and one third to the crew.

Apportionment among the members of the crew shall be in proportion to their wages.

5.4.13. Wrecks belonging to the State

However, by waiver of the foregoing provisions the maritime administrative authority, in agreement with the public authority or authorities concerned, may establish an all-inclusive amount of remuneration in respect of objects saved which belong to the State or it may prohibit their raising.

5.4.14. Surety and time limit

The remuneration of a salvor shall have a preferential claim on the salvaged wreck.

An owner claiming a wreck shall not obtain its restitution until the remuneration has been paid or a sufficient sum has been deposited as surety to guarantee payment.

Exercise of the right of a finder or salvor to remuneration shall be subject to a time limit of two years from the date of salvage.

5.4.15. Hijacking of wrecks

If a wreck is stolen or hijacked, the maritime administrative authority shall draw up a report on the offence and forward it to the Government Procurator.

The authority shall be entitled to question witnesses and to carry out house searches after obtaining a warrant in writing from a judicial authority or without delay in cases of *flagrante delicto*.

Chapter 5 Wrecks of historical, archaeological or cultural interest

5.5.01. Definition

Wrecks listed in article 5.4.01 which have been under water in the exclusive economic zone of the Republic of Madagascar for more than 30 years are considered to be maritime wrecks of historical, archaeological or cultural interest.

5.5.02. Ownership

Maritime wrecks of historical, archaeological or cultural interest are the property of the State. Their former owners shall not be entitled to any compensation.

5.5.03. Fortuitous discovery of wrecks

Any wreck found by chance shall be declared to the maritime administrative authority with details of the date of discovery, the identity and address of the finder, and nature and site of the wreck.

The wreck shall be inventoried both by the Ministry for the Merchant Marine and by the Ministry for Protection of the National Heritage.

The wreck may not be either moved or altered without the joint authorization of the two ministries mentioned above.

5.5.04. Entry in the national heritage register

After completion of other administrative formalities, a recovered wreck shall be entered in the national heritage register in accordance with the provisions of Order No. 82-029 of 6 November 1982 concerning the protection, safekeeping and preservation of the national heritage.

5.5.05. Remuneration of finders

Subject to compliance with the provisions of article 5.8.03, any person who has fortuitously discovered and/or raised a maritime wreck of historical, archaeological or cultural interest shall be remunerated in accordance with the provisions of articles 5.4.10 and 5.4.11.

5.5.06. Examination and/or raising of wrecks

Any physical or juridical person wishing to examine and/or raise a maritime wreck of historical, archaeological or cultural interest shall submit a concession application to the maritime administrative authority, which shall forward it to an ad hoc inter-ministerial committee for study.

5.5.07. Selection of concessionaires

A concession may be awarded to any physical or juridical person offering sound ethical, technical and financial guarantees.

The concession contract shall be concluded by preference with the finder of the wreck if he offers the required guarantees.

5.5.08. Concession contracts

An inter-ministerial decree shall establish:

1. A standard concession contract, to be signed by the concessionaire and the State, represented jointly by the Minister for the Merchant Marine and the Minister for Protection of the National Heritage;
2. The documents to be submitted with all concession applications.

Book 6. Maritime administration

Chapter 1

The maritime administrative authority

6.1.01. Organization

Whenever necessary, the organization of maritime administrative affairs shall be addressed in a decree adopted on the report of the Minister for the Merchant Marine.

Book 7. Disciplinary and penal regimes

Chapter 1

General provisions

7.1.01. Scope

The following persons shall be subject to the provisions of this Book:

1. All persons, regardless of their nationality, entered in the crew list of a Malagasy vessel, from the day of their administrative recruitment up to and including the day of their administrative separation;

2. All persons, regardless of their nationality, who are actually on board a Malagasy vessel, either as a pilot, or as a passenger as such, or in order to undertake the voyage, for the entire duration of their presence on board the vessel;
3. All persons, regardless of their nationality, who although not present on board have committed an offence covered by this Book.

Crew members, as well as seafarers travelling on the vessel who, following shipwreck, irregular absence or abandonment, have been taken on board for the purpose of repatriation, shall remain subject to the present provisions in the event of loss of the vessel until such time as they have been handed over either to a Malagasy authority or to a State which has concluded specific agreements with the Republic of Madagascar, or to the local authority of a foreign State.

7.1.02. Definition

For the purposes of the application of the provisions of this Book:

- “Master” means the captain or skipper or otherwise the person regularly exercising the actual command of a vessel;
- “Officers” means first officers, second officers, chief engineers, engineer officers, radio officers, pursers, doctors, officer cadets and all other persons described as officers in the crew list;
- “Skilled seamen” means boatswains, carpenters, greasers, leading stokers, chief stewards or persons considered as such, and all other persons described as skilled seamen in the crew list;
- “Crewman” means any member of the crew, regardless of his or her sex, entered in the crew list;
- “Passengers” means the passengers as such and all persons who are on board a vessel in order to make a voyage;
- “Head of maritime district” means in Madagascar the official in charge of the Merchant Marine office in a maritime district; in foreign roadsteads and ports it means a Consul of Madagascar but does include consular officers;
- “On board” means on a vessel, its boats or its means of connecting with the shore.

7.1.03. Procedure

With regard to the offences addressed by this Book, the Inspector of the Merchant Marine may submit a case to the Government Procurator only after he has himself conducted an investigation, including the examination of the persons involved and any witnesses, in accordance with the provisions of the Code of Criminal Procedure.

7.1.04. Trials in foreign countries

No proceedings may be instituted pursuant to the provisions of this Book when the person charged has been tried and a final judgement has been handed down in a foreign country in respect of the same act, provided that, if he was convicted, the person has served his sentence or had it extinguished or has received a pardon.

7.1.05. Statute of limitations

With regard to the offences addressed by this Book, the time limits for exercise of the public right of action, for enforcement of sentences and for civil actions shall be determined by the provisions of general law.

With regard to breaches of discipline, the time limits within which punishments must be ordered and carried out and criminal indemnity actions instituted shall be the ones established in respect of minor offences tried in the police courts.

The time limits specified in the foregoing paragraphs shall not begin to run until the day on which, following the commission of the breach of discipline, the vessel puts in to a Malagasy port.

Chapter 2

Breaches of discipline

7.2.01. Preventive detention

In the common interest, in any circumstances whatsoever and to whatever extent may be necessary, a master shall have the authority over all the persons on board demanded by the maintenance of order and the safety of the vessel, the persons on board and the cargo, and the proper conduct of the voyage.

To these ends he may use any effective means of coercion and require persons on board to assist him. The measures taken by the master and the circumstances which prompted them shall be recorded every day in the discipline book referred to in the following article.

Persons deprived of their liberty shall be brought on deck at least twice a day for an hour on each occasion; any circumstances preventing this shall be recorded in the discipline book.

7.2.02. Discipline book and punishments book

When a vessel is fitted out, it shall be provided with a special “discipline book”, which shall be issued with a serial number and initialled by the maritime administrative authority in the port where the vessel is fitted out.

The master or the maritime administrative authority, as appropriate, shall record in the discipline book the nature of any breaches of discipline or the facts of any criminal offences committed on board, the findings of any investigations, and details of punishments imposed and special measures ordered.

The discipline book shall be produced for endorsement at the office of the maritime administrative authority or at a consulate chancellery within 24 hours of arrival in a port.

In the case of vessels having a gross tonnage of under 10 tons, the keeping of a discipline book may be rendered optional by decision of the maritime administrative authority.

In addition, every head of a maritime district shall keep a special “punishments book”, in which shall be recorded the punishments imposed, the investigations of criminal offences conducted, and the action taken.

The head of a maritime district shall arrange for the punishment imposed and the breach of discipline giving rise to the punishment to be entered on the registration card of the person concerned.

7.2.03. Breaches of discipline

The following acts shall be deemed breaches of discipline:

1. Disobedience or refusal to obey any order relating to the working of the vessel;
2. Drunkenness on board without disorderliness and when off-duty;
3. Any professional or occupational fault likely to impair safety;
4. Manifestation of lack of respect for a superior or insulting behaviour aimed directly at an inferior, on board or on shore;
5. Engaging in quarrels or disputes without assault;
6. Negligence when on watch or on guard;
7. Lighting a fire without permission or smoking in a prohibited place;
8. Unauthorized use of one of the vessel’s boats without losing, damaging or abandoning it;
9. Irregular absence of a crewman from on board when his absence has not caused him to miss the vessel’s departure;
10. Theft or fraud whose seriousness does not warrant, in the view of the maritime administrative authority competent to impose punishment, the lodging of a criminal complaint;
11. Infringement of a vessel’s internal regulations or the navigation regulations whose seriousness does not warrant, in the view of the administrative authority competent to impose punishment, the lodging of a criminal complaint.

7.2.04. Disciplinary fines

Breaches of discipline shall be punished by a fine of 300,000 to 3,000,000 Malagasy francs for officers and passengers, and 50,000 to 500,000 Malagasy francs for skilled seamen and crewmen.

Heads of maritime districts shall have competence to hear cases of breaches of discipline.

Sums accruing from disciplinary fines shall be paid into the general State budget.

7.2.05. Preliminary investigation by masters

When a master learns of a breach of discipline, he shall immediately conduct an investigation.

He shall question the person concerned about the breach with which he is charged and hear witnesses for and against.

The findings of the investigation shall be set down in a record signed by the witnesses, which shall include details of the nature of the alleged breach, the names and statements of the witnesses, and the explanations of the person concerned; this record shall be entered in the discipline book after it has been read out to the person concerned.

7.2.06. Submission to maritime administrative authority

When a master submits to the competent authority a complaint concerning a breach of discipline, the authority shall immediately summon the person concerned, the master, and the witnesses for and against.

The authority shall question the person concerned as to the breach with which he is charged and hear the master and the witnesses.

If the explanations given do not exonerate the person, the authority shall impose on him the fine specified in article 7.2.04 and may issue a warning of possible dismissal. The punishment shall be recorded in the vessel's discipline book and in the punishments book of the maritime district together with a statement of the grounds.

The person concerned may be assisted by a lawyer of his choice.

7.2.07. Appeals against administrative decisions

Any appeal by a person who has been punished against a decision made in a disciplinary case by the head of a maritime district shall be submitted within two clear days to the Chief of the Merchant Marine Administration.

The Chief of the Merchant Marine Administration shall immediately call for the comments of the head of the maritime district, the defendant and any additional witnesses, as he may see fit; he shall then issue his decision, accompanied by a statement of the reasons for it.

7.2.08. Withdrawal of certification

In respect of breaches of discipline involving insulting conduct, fault in the performance of professional duties, or physical incapacity, the Minister for the Merchant Marine may impose on any seafarer holding a certificate or diploma or on any pilot holding a commission, either directly in the case of final sentences of afflictive or infamous punishment or in all other cases after hearing the opinion of an ad hoc commission, the temporary or permanent, partial or total, withdrawal of the rights and prerogatives attached to the seafarer's certificate or diploma or to the pilot's commission.

The composition of and the rules concerning the convening and procedures of ad hoc commissions and the means of enforcing their decisions taken shall be determined by decree.

Any seafarer holding a certificate or diploma or any pilot holding a commission who is brought before an ad hoc commission shall be thereby, and until a ruling has been made in his case, suspended from exercising the rights and prerogatives attached to his certificate or diploma or his commission.

However, pending the opinion of an ad hoc commission the Minister for the Merchant Marine may by special decision allow the person concerned to retain on a provisional basis the total or partial exercise of the rights and prerogatives to which he is entitled.

7.2.09. Prohibition of performing any shipboard function

In the event of serious fault in the performance of professional duties or in the event of physical incapacity, the Minister for the Merchant Marine may prohibit any person, either permanently or temporarily, from performing any shipboard function incompatible with his professional failings or physical incapacity.

This prohibition shall be imposed after an examination of the case, during which the person concerned shall be heard.

Chapter 3 Jurisdiction and procedure

7.3.01. Competent courts

Courts of general jurisdiction shall be competent to hear cases involving criminal offences committed on board Malagasy vessels.

Following any conviction for a criminal offence covered by this Book, a summary of the judgement or the order shall be transmitted to the head of the maritime district in which the convicted person is registered.

7.3.02. Investigations and establishment of facts

Criminal offences committed on board a vessel shall be investigated and the facts thereof established either on the application of any person concerned or automatically by:

1. The Inspector of the Merchant Marine;
2. Officers of the criminal investigation police, officers commanding vessels of the Republic of Madagascar or of a State which has concluded specific agreements with the Republic of Madagascar, gendarmes, customs officers, and other specifically authorized officials;
3. The master of the vessel on which the offence was committed.

7.3.03. Reports

Duly signed reports drawn up by the persons listed in paragraphs 1 and 2 of the preceding article shall be deemed true until proved otherwise; they need not be sworn under oath.

Reports shall be transmitted directly by their authors to the Government Procurator and to the head of the maritime district in which they are present or serving.

7.3.04. Preliminary investigations and preventive detention by a master

As soon as he learns of the commission of a criminal offence on board, a master shall conduct a preliminary investigation.

The circumstances of the offence and the statements contained in the record of a preliminary investigation shall be noted in the discipline book.

Where necessary, a master may have the person charged placed in preventive detention. Preventive detention shall be governed by the rules contained in article 7.2.01.

Time spent in preventive detention shall be counted against the length of any sentence, unless the competent court decides otherwise.

A master shall submit his complaint, together with the evidence from the preliminary investigation, to the head of the maritime district in the first port at which the vessel calls.

7.3.05. Submission of cases to consular authorities

Outside Madagascar, a master shall submit such complaints to the closest Malagasy consular authority.

If the alleged facts constitute merely a breach of discipline, the consular authority shall endorse the discipline book, which shall be presented by the master to the head of the maritime district in the first port of call.

If the alleged facts constitute a criminal offence, the consular authority shall rule in accordance with the provisions set out below.

The consular authority may order either that the defendant shall remain at liberty and in service if he is a crew member or that he shall be imprisoned on the vessel, or that he shall be put ashore and repatriated in accordance with the provisions of article 3.7.08.

In any event, the consular authority shall transmit the case file to the Minister for the Merchant Marine, in a closed envelope bearing his seal, and the file shall be forwarded to the maritime district in which the seafarer in question is registered.

7.3.06. Submission to maritime administrative authority

In Madagascar, the Inspector of the Merchant Marine, following the submission of a complaint by a master or by one of the persons listed in article 7.3.02, paragraphs 1 and 2, or acting on his own motion, shall complete the preliminary investigation carried out by the master or himself conduct a preliminary investigation, before ruling in accordance with the following provisions:

1. If the alleged facts constitute merely a breach of discipline, the Inspector of the Merchant Marine shall impose on the defendant a disciplinary fine under article 7.2.04.
2. If the alleged facts constitute a criminal offence, the Inspector of the Merchant Marine shall submit the case to the Government Prosecutor through the court having jurisdiction in the chief town of the maritime district.

7.3.07. Criminal offences committed by masters

When a criminal offence has been committed by a master or with his complicity, as soon as he learns of the offence the Inspector of the Merchant Marine shall conduct a preliminary investigation.

When a criminal offence referred to in the preceding paragraph has been committed outside Madagascar, the consular authority shall transmit the case file, in a closed envelope bearing his seal, to the Minister for the Merchant Marine, who shall submit it to the judicial authority.

In the same circumstances, and if the seriousness of the alleged facts or the safety of the vessel, its crew or its passengers appears to warrant such action, the Inspector of the Merchant Marine shall order the master to be placed in preventive detention or sent back to a Malagasy port, and he shall then take the necessary steps to provide a replacement, when possible with the agreement of the vessel's owner.

When the offence has been committed in Madagascar, the Inspector of the Merchant Marine shall submit the case to the Government Procurator through the court having jurisdiction in the chief town of the maritime district.

7.3.08. Submission of cases to the Government Prosecutor

It shall be for the Government Procurator to institute proceedings, where necessary, in respect of criminal offences committed on board Malagasy vessels.

The prosecution service may bring proceedings only in the light of the conclusions of the Inspector of the Merchant Marine or on the expiry of a time limit of eight days from the date of its request for these conclusions sent to the Inspector by registered letter.

If he so requests, the Inspector of the Merchant Marine shall be heard by the court.

7.3.09. Civil actions

An injured party shall be entitled to appear in respect of any offence as a claimant for criminal indemnification before the courts of general jurisdiction in accordance with the legislation in force. However, such party may not summon a defendant directly to appear before a criminal court but must bring the matter before an examining magistrate in accordance with the provisions of articles 183 *et seq.* of the Code of Criminal Procedure.

The competent court shall be the court either of the defendant's place of residence, or of the port in which he was put ashore, or of the place where he was apprehended, or of the vessel's port of registry.

7.3.10. Legal proceedings against members of the crew of foreign vessels

In urgent cases involving the offences covered by chapters 5 and 6 of this Book which may be charged against one or more persons belonging to the crew of a foreign vessel, the head of a maritime district may arrest the vessel, without prejudice to any measures which may be taken under general law, pending the deposit with the Treasury Department of a surety to guarantee the enforcement of any sentences; the amount of such surety shall be fixed by decree.

When a final sentence has been handed down but not enforced, the surety shall be transferred to the general State budget after deduction of costs and civil damages.

In order to ensure enforcement of such decisions, the head of a maritime district may require the port authorities not to permit the vessel in question to put to sea or may himself order practical steps to prevent the vessel's departure.

Chapter 4 **Infringement of internal regulations of vessels**

7.4.01. Delay of a vessel's departure

Any officer, skilled seaman or crewman who, by reason of improper absence from his vessel, causes the vessel's departure to be delayed shall be liable to a penalty of 10 days to six months' imprisonment and to a fine of 50,000 to 1,000,000 Malagasy francs or to either of these two penalties alone.

7.4.02. Abandonment by master without replacement

Any master who, except in cases of *force majeure*, breaks his contract and abandons his vessel before being replaced shall be liable, if the vessel was being held in a port as surety, to a term of imprisonment of 10 days to two years, or, if the vessel was in a roadstead or at sea, to a term of imprisonment of one to two years.

7.4.03. Absence of master while his vessel is manoeuvring

Any master who is not present in person on his vessel when it is entering or leaving a port, harbour or river shall be liable to a fine of 500,000 to 3,000,000 Malagasy francs.

7.4.04. Abuse of authority, insulting conduct and threats, and acts of violence directed against crewmen

Any master, officer or skilled seaman who abuses his authority or who orders or tolerates an abuse of authority vis-à-vis a crewman shall be liable to a fine of 500,000 to 3,000,000 Malagasy francs and to a term of imprisonment of 10 days to six months or to either of these two penalties alone.

Any master, officer or skilled seaman who engages in insulting conduct in the form of words, gestures or threats directed at a crewman shall be liable to the same punishment.

Any master, officer or skilled seaman who, not having one of the legitimate reasons specified in article 7.2.01, employs violence or causes violence to be employed in the exercise or in connection with the exercise of his functions shall be punished in accordance with the provisions of articles 186 and 198 of the Criminal Code.

In the cases specified in the preceding two paragraphs, the penalty may be doubled if the insulting conduct or violence is directed against an inexperienced crewman or a ship's boy.

7.4.05. Negligence in drawing up documents

A fine of 500,000 to 3,000,000 Malagasy francs shall be imposed on any master who refuses or neglects without legitimate grounds:

1. To draw up the necessary reports concerning criminal offences committed on board;
2. To draw up certificates of civil status, reports on disappearances, or wills in the cases envisaged in articles 59, 62, 86, 87, 988 and 999 of the Civil Code;
3. To ensure that his vessel's log, discipline book and other regulatory documents are properly kept in accordance with the provisions of articles 10.1.04 and 10.1.18.

7.4.06. Falsification of documents

Any master, officer, skilled seaman or crewman who fraudulently enters in a vessel's documents any altered or untrue facts shall be liable to the penalty specified in article 147 of the Criminal Code, without prejudice to the imposition of the penalties specified in article 148, paragraph 3, of that Code.

7.4.07. Abetting improper use of certificates

Any master who encourages through his consent the improper use of a certificate for the purpose of performance of a function on board his vessel shall be liable to a term of imprisonment of 10 days to six months.

Any owner acting as such master's accomplice shall be liable to the same term of imprisonment, to which may be added a fine of 500,000 to 5,000,000 Malagasy francs.

7.4.08. Interference by owners in functions of masters

Any owner who infringes the provisions of the last paragraph of article 10.1.03 shall be liable to the penalties provided for in article 7.7.03.

7.4.09. Boarding without authorization

Any person who goes on board a vessel without a ticket or without the master's or owner's authorization when he is not required to do so for operational purposes shall be liable to a fine of 50,000 to 250,000 Malagasy francs.

If the offence is repeated within a year, the fine shall be doubled, and the court may also impose a term of imprisonment of three days to one month.

7.4.10. Smuggling

Any person embarked on a vessel, apart from the master, who commits or attempts to commit with criminal intent and without the owner's knowledge an act of fraudulent misrepresentation or smuggling likely to entail criminal conviction of the owner shall be liable to a term of imprisonment of 10 days to three months.

When the guilty party is the master, the penalty shall be doubled.

7.4.11. Incorrect route and improper destruction of cargo

Any master who, with intent to defraud, diverts for his own benefit the vessel for which he is responsible or who, deliberately and with criminal intent, takes an incorrect route or destroys unnecessarily all or part of the vessel's cargo, stores or equipment shall be liable to a penalty of five to 10 years' hard labour.

7.4.12. Offences referred to in articles 10.1.15 and 10.1.19

Any master who, with intent to defraud, commits one of the offences referred to in article 10.1.15 or who sells the vessel under his command, except when it has been legally established that the vessel is unseaworthy, or who discharges cargo in contravention of article 10.1.9 shall be liable to the punishment specified in the preceding article.

7.4.13. Misappropriation of mail

Any person on board a vessel who deliberately destroys or improperly withholds a letter which has been entrusted to him for delivery to another person on board the same vessel instead of delivering the letter to the addressee, or who, under the same circumstances, opens a letter placed in his care shall be liable to a term of imprisonment of 10 days to three months or to a fine of 100,000 to 500,000 Malagasy francs.

7.4.14. Tampering with cargo

Any master, officer or crewman who tampers with goods forming part of a vessel's cargo shall be liable to a term of imprisonment of two to five years.

7.4.15. Adulteration of provisions

Any person on board a vessel who deliberately adulterates provisions, beverages or other comestibles by admixture of non-harmful substances shall be liable to a term of imprisonment of 10 days to six months.

When harmful substances are used, the term shall be two to five years.

If one or more persons fall seriously ill as a result of this offence, the penalty shall entail rigorous imprisonment.

If an unintended death results, the penalty shall entail long-term hard labour.

7.4.16. Misappropriation of equipment or stores

Any person on board a vessel who deliberately misappropriates, damages or sells an item of equipment used for the vessel's navigation, handling or safety or who sells stores put on board for service purposes shall be liable to a term of imprisonment of one month to two years.

7.4.17. Theft on board a vessel

Theft committed on board a vessel shall be punished in accordance with the provisions of the Criminal Code.

However, the aggravating circumstances specified in article 386, paragraph 1, subparagraphs 2 and 3, of the Criminal Code shall not alter the nature of the offence, which shall remain an unaggravated offence subject to the penalties established in article 401 of the Criminal Code.

The foregoing provisions shall not constitute an obstacle to the application of articles 7.2.03 and 7.2.04 of this Maritime Code.

7.4.18. Failure to repay advances

Any seafarer who has received advances of wages or shares of profits in the presence of the head of a maritime district but refuses without legitimate reason to join his vessel and is unable to repay such advances shall be liable to the penalties for abuse of trust specified in article 406 of the Criminal Code.

7.4.19. Bringing alcohol on board without authorization

Any person embarked on a vessel who is guilty of having brought alcoholic beverages on board or of having facilitated such an act without the master's express authorization shall be liable to a term of imprisonment of 10 days to one month.

When a master or owner has brought or has caused to be brought on board alcoholic beverages for consumption by the crew in quantities in excess of those permitted by the regulations, or has authorized such action, the penalty shall be doubled.

7.4.20. Drunkenness on board

Any master found in a drunken state on board his vessel and any officer, skilled seaman or crewman who is habitually drunk or found in a drunken state while on watch shall be liable to a term of imprisonment of 10 days to six months.

Any pilot who undertakes the steering of a vessel when in a drunken state shall be liable to the same penalty.

Double the penalty shall be imposed on any master who is habitually drunk, without prejudice to the disciplinary measures provided for in article 7.2.08 of this Code.

7.4.21. Insulting conduct and threats

Any officer, skilled seaman or crewman who engages in insulting conduct in the form of words, gestures or threats directed at a superior shall be liable to a term of imprisonment of 10 days to six months.

7.4.22. Assault committed against masters

Any person on board a vessel who assaults the master, without causing incapacity to work for longer than 20 days, shall be liable to term of imprisonment of one month to three years.

If such assault causes incapacity to work for longer than 20 days, the term shall be increased to a minimum of two months and a maximum of five years.

If the act of violence causes mutilation, amputation or loss of the use of a limb, blindness, loss of an eye or some other disability, the term shall be five to 10 years.

When blows or injuries were deliberately inflicted but without intention to cause death but nevertheless resulted in death, the guilty party shall be sentenced to long-term hard labour.

7.4.23. Refusal to obey

Any crewman who, following a formal warning by a vessel's master or an officer specifically designated for this purpose by the master, refuses to obey or resists an order concerning the operation of the vessel shall be liable to a term of imprisonment of 10 days to six months.

When the guilty party is an officer or a skilled seaman, the penalty specified in the preceding paragraph shall be doubled.

7.4.24. Mutiny

Persons on board a vessel who, collectively and with or without weapons, engage in violence or rise up against the master's authority and, following a formal warning, refuse to allow order to be restored shall be sentenced as follows:

- Officers and skilled seamen, to long-term hard labour;
- Other persons on board, to rigorous imprisonment.

However, persons not performing remunerated work on board shall suffer the same penalties as officers and skilled seamen if they instigated the mutiny.

In the cases described above, resistance by the master and persons remaining loyal to him shall be regarded as an act of legitimate self-defence.

7.4.25. Attacks on masters

Any person involved in a conspiracy against or an attack on a master's safety, freedom or authority shall be sentenced as follows:

- Officers and skilled seamen, to long-term hard labour;
- Other persons on board, to rigorous imprisonment.

A conspiracy exists as soon as a decision to act is agreed among two or more persons on board a vessel.

Chapter 5 Infringement of navigation regulations

7.5.01. Certificates of registry

Any owner who allows a sea voyage to proceed without having obtained a certificate of registry in accordance with the laws and regulations, or who fails to produce such certificate in response to the first request by the authorities shall be liable to a fine of 500,000 to 50,000,000 Malagasy francs in respect of vessels having a gross tonnage of between 10 and 100 tons, and to a fine of 5,000,000 to 50,000,000 Malagasy francs in respect of vessels having a gross tonnage of over 100 tons.

7.5.02. Ship's passports

Any owner who operates a vessel without a ship's passport or a crew list or who fails to produce these documents in response to the first request by the authorities shall be liable to the penalty specified in article 7.5.01.

7.5.03. Failure to deposit documents

Any master who, except when prevented from doing so by a legitimate cause, does not deposit his crew list or who, following an incident at sea, does not have his discipline book, his ship's log and his incident report endorsed at the office of a maritime district or the chancellery of a consulate, either within 24 hours of his arrival in a Malagasy port or in a foreign port where there is a consul general, consul or deputy consul of Madagascar or of a State with which the Republic of Madagascar has concluded specific agreements when the vessel is scheduled to stay more than 24 hours in the port (not counting public holidays), or immediately after his arrival if the vessel is scheduled to stay less than 24 hours in the port, shall be liable to a fine of 500,000 to 3,000,000 Malagasy francs.

7.5.04. Failure to keep crew lists correctly

Any master who takes a crew member on board or puts a crew member ashore without having these movements entered in the crew list by the maritime administrative authority shall be liable to a fine of 250,000 Malagasy francs in respect of each person irregularly taken on board or put ashore.

7.5.05. Irregular embarkation of passengers

Any owner or shipping agent who issues travel tickets to passengers in excess of the authorized number or to a passenger not covered by an insurance policy shall be liable to a fine of 500,000 Malagasy francs in respect of each passenger irregularly embarked.

Without prejudice to the disciplinary measure provided for in article 7.2.08, any master who accepts on board an excess number of passengers or passengers not covered by an insurance policy shall be liable to a fine of 500,000 to 25,000,000 Malagasy francs and to a term of imprisonment of six months to two years, or to either of these two penalties alone.

7.5.06. Stowaways

Any person who boards a vessel fraudulently with the intention of travelling on it shall be liable to a fine of 250,000 to 1,250,000 Malagasy francs and to a term of imprisonment of 10 days to six months, or to either of these two penalties alone.

If the offence is repeated, the fine shall be 500,000 to 2,500,000 francs and the prison term six months to two years.

The cost of removal of stowaways of foreign nationality from the territory shall be borne by the vessel on which the offence was committed.

7.5.07. Abetting a stowaway

Any person who, either on a vessel or on shore, facilitates the embarkation or disembarkation of a stowaway, conceals a stowaway or provides him with food without the master's knowledge shall be liable to a fine of 250,000 to 2,500,000 Malagasy francs and to a term of imprisonment of six days to six months. The maximum amount of these two penalties shall be imposed on persons who conspired together to facilitate stowing away.

If the offence is repeated, the fine shall be increased to 1,000,000 to 10,000,000 Malagasy francs and the prison term to six months to two years. The penalties shall be double the maximum in the case of persons conspiring together to facilitate stowing away.

7.5.08. Putting ashore sick or injured persons

Any master who leaves a sick or injured officer, skilled seaman or crewman ashore in a port where there is no Malagasy authority or an authority of a State which has concluded specific agreements with the Republic of Madagascar without providing him with the means of treatment and repatriation shall be liable to a fine of 2,500,000 to 25,000,000 Malagasy francs and to a term of imprisonment of 10 days to two months or to either of these two penalties alone.

The same liability shall be incurred by a master who puts a sick or injured passenger ashore before the passenger has reached his destination without notifying this step to a consular authority of the passenger's country or, failing that, to the local authority.

7.5.09. Refusal to comply with official requests

Any master who, in response to an official request by a competent authority, refuses without legitimate grounds to take charge of a file on an investigation or of items of evidence or to undertake the transport of a remand prisoner, or who does not deliver a prisoner or file entrusted to him to the maritime authority designated to receive them, shall be liable to a fine of 500,000 to 5,000,000 Malagasy francs, without prejudice, where appropriate in cases of escape or abetting escape, to the application to persons on board the vessel and to remand prisoners of the provisions of articles 237 to 243 of the Criminal Code.

The same penalty shall be imposed on any master who, without legitimate grounds, refuses to comply with an official request by the head of a maritime district for the repatriation of Malagasy nationals.

7.5.10. Improper use of certificates

Any person who undertakes on board a Malagasy vessel, without authorization by the maritime administrative authority and except in the event of *force majeure*, either the command of the vessel or any other function of shipboard officer when he does not satisfy the requirements of the maritime laws and regulations shall be liable to a term of imprisonment of one month to one year and to a fine of 1,000,000 to 15,000,000 Malagasy francs, or to either of these two penalties alone.

The same penalty shall be imposed on any person who, without holding a regular pilot's commission from the station in question, undertakes or attempts to undertake the steering of a vessel in the capacity of commissioned pilot.

Any owner who recruits an officer for a function not falling within the prerogatives of the officer's certificate or diploma shall be liable to a fine of 1,000,000 to 15,000,000 Malagasy francs.

7.5.11. Use of fraudulent means to obtain a seafarer's passport or book

Any person who concludes or attempts to conclude articles of agreement by knowingly producing false identity documents or a seafarer's passport obtained by fraudulent means shall be liable to a term of imprisonment of 10 days to six months. The sentence shall be doubled if the offence is repeated.

The same sentence shall be imposed on any person who obtains or attempts to obtain a certificate of nationality by knowingly producing false documents or by drawing up a false declaration.

7.5.12. Fraudulent loading of goods

Any person on board a vessel who, without the master's knowledge, causes goods which are not mentioned in the manifest to be loaded on board with a view to shipping them, shall be liable to a fine of 250,000 to 1,250,000 Malagasy francs and to a term of imprisonment of 10 days to six months, or to either of these two penalties alone, without prejudice to the master's right to jettison the improperly loaded goods.

7.5.13. Failure to comply with the rules concerning identification marks on vessels

Any master who does not comply with the provisions established by decree concerning identification marks on vessels or who effaces, alters, covers or masks such marks shall be liable to a fine of 250,000 to 2,500,000 Malagasy francs.

7.5.14. Refusal to comply with orders of the maritime administrative authority

Any person, including foreign nationals, on board a Malagasy or foreign vessel who, in maritime waters out to the limit of the territorial waters, fails to comply with the regulations or orders issued by the maritime administrative authority concerning either the regulation of waters and roadsteads or the regulation of maritime navigation or the safety of navigation shall be liable to a term of imprisonment of 10 days to six months and to a fine of 250,000 to 2,500,000 Malagasy francs, or to either of these two penalties alone.

The same penalties shall be imposed on any person on board a Malagasy vessel who, outside the territorial waters of Madagascar, fails to comply with orders issued in due form by a consul general, consul or deputy consul of Madagascar or of a State which has concluded specific agreements with the Republic of Madagascar, by a competent maritime authority, or by the commander of a warship of the Republic of Madagascar or of a State which has concluded specific agreements with the Republic of Madagascar.

When a person who has committed one of the offences specified in the two preceding paragraphs is on board a Malagasy or foreign vessel which is or has just been in a Malagasy port or roadstead or at a Malagasy anchorage, the vessel may be arrested pending the deposit of the anticipated amount of the fine which may be imposed on the offender or the provision of a sound security.

The conditions for the application of the present provision shall be established by decree.

When an infringement of the provisions of this article is committed in time of war, the penalty may be tripled.

7.5.15. Unlawful flight

Any master who, when at sea, fails to obey a signal of a warship of the Republic of Madagascar or of a State which has concluded specific agreements with the Republic of Madagascar and compels the warship to use force shall be liable to a term of imprisonment of six months to two years.

7.5.16. Innocent passage

Any master or crewman of a foreign vessel who does not comply with the requirements of innocent passage when in the territorial waters of Madagascar shall be liable to a fine of 50,000,000 to 1,000,000,000 Malagasy francs and to a term of imprisonment of five to 10 years; it shall be mandatory for the court to order seizure of the vessel and its cargo. The proceeds of the sale thereof shall be paid into the general State budget.

Passage shall be deemed innocent as long as it does not impair the peace, good order, security or sovereignty of the Malagasy State.

7.5.17. Acts of discrimination

Any person who commits on board a vessel an act of discrimination against another member of the crew relating to his origins, colour, sex, family circumstances, or his true or assumed membership or non-membership of an ethnic group, nation, race or religion, and who denies him the exercise of a right which he would otherwise be able to exercise shall be prosecuted under article 115 of the Criminal Code.

7.5.18. Immoral acts

Any person who commits an immoral act on board a vessel shall be liable to the penalties specified in articles 330, 331, 332, 333, 334, 334 *bis* and 335 of the Criminal Code.

7.5.19. Bringing on board narcotic drugs or psychotropic substances

Any person who brings, keeps, prepares or consumes narcotic drugs or psychotropic substances on board a vessel shall be liable to the penalties specified in Order No. 60-073 of 28 July 1960 concerning the suppression of the Indian hemp known as "chanvre".

Chapter 6

Loss of vessels, collisions, stranding and other maritime accidents

7.6.01. Scope

The provisions of this chapter shall apply to persons, including foreigners, on board a foreign vessel when the offence occurs in the territorial sea of Madagascar.

7.6.02. Deliberate destruction of vessels

Any person who deliberately runs any vessel whatsoever aground or loses or destroys it with criminal intent by any means whatsoever shall be sentenced to 10 to 20 years' hard labour.

The maximum sentence shall be imposed on an offender responsible in any capacity whatsoever for the handling of the vessel or who is steering it as pilot.

7.6.03. Failure to comply with the regulations on prevention of collisions

Any master or any person in charge of a watch who infringes the rules prescribed by the maritime regulations concerning the lights to be shown at night, the signals to be emitted in fog, the course to be steered, or the manoeuvres to be carried out when meeting another vessel shall be liable to a term of imprisonment of 10 days to three months and to a fine of 250,000 to 1,250,000 Malagasy francs, or to either of these two penalties alone.

The same penalty shall be imposed on any pilot who infringes the rules concerning the course to be steered.

7.6.04. Accidents caused by negligence of officers

When one of the infringements specified in article 7.6.03 or any other act of negligence by a master or a person in charge of a watch or by a pilot causes the vessel or another vessel to collide, run aground or run into a visible or known obstacle, or causes serious damage to a vessel or its cargo, the guilty party shall be liable to a term of imprisonment of six months to two years and to a fine of 2,000,000 to 15,000,000 Malagasy francs, or to either of these two penalties alone.

When such an infringement causes the loss of a vessel or renders it totally unseaworthy or causes the loss of cargo, or if it results in the injury or death of one or more persons, the guilty party shall be liable to a term of imprisonment of one to three years and to a fine of 5,000,000 to 30,000,000 Malagasy francs, or to either of these two penalties alone.

7.6.05. Accidents caused by negligence of subordinates

Any member of a crew other than a master, an officer in charge of a watch or a pilot who commits while on duty an inexcusable act of negligence, failure to keep a proper lookout or some other failure in his duties which causes any vessel whatsoever to collide with another vessel, to run aground or to run into a visible or known obstacle, or which causes serious damage to a vessel or its cargo, shall be liable to a term of imprisonment of six months to one year and to a fine 500,000 to 5,000,000 Malagasy francs, or to either of these two penalties alone.

When such an infringement results in the loss of a vessel or renders it absolutely unseaworthy or causes the loss of a cargo, or when it causes the death or serious injury of one or more persons, the guilty party shall be liable to a term of imprisonment of one to three years and to a fine of 1,000,000 to 10,000,000 Malagasy francs, or to either of these two penalties alone.

7.6.06. Failure to assist following collisions

Any master who, following a collision, neglects to employ all available means, to the extent possible without endangering his own vessel, crew or passengers, to save the other vessel and its crew and passengers from the peril arising from the collision shall be liable to a fine of 1,000,000 to 20,000,000 Malagasy francs and to a term of imprisonment of six months to two years, or to either of these two penalties alone.

The same penalty shall be imposed on a master who, except in cases of *force majeure*, sails away from the site of a collision before making sure that continued assistance to the other vessel or its crew and passengers is pointless or, if that vessel has foundered, before having made every possible effort to pick up shipwrecked persons from the sea. The penalty shall be doubled if one or more persons perish as a result of a failure to fulfil the obligations set out in this paragraph.

Following a collision, the master of either of the colliding vessels who, if he can do so without endangering his own vessel, does not inform the master of the other vessel of the name of his vessel and its home port and its ports of departure and destination shall be liable to a fine of 1,000,000 to 10,000,000 Malagasy francs and to a term of imprisonment of 10 days to three months, or to either of these two penalties alone.

7.6.07. Failure of pilots to assist

As well as being subject to the provisions of article 4.2.10 above, a pilot who does not render assistance to a vessel in peril shall be liable to a fine of 1,000,000 to 10,000,000 Malagasy francs and to a term of imprisonment of six months to two years, or to either of these two penalties alone.

7.6.08. Abandonment by a master of his vessel and its papers

Any master who, in a situation of peril, abandons his vessel during a voyage without warning the officers and leading crewmen shall be sentenced to imprisonment for six months to one year.

Any master who, in a situation of peril and before abandoning his vessel, fails to take steps to ensure the safety of the crew and passengers and the salvage of the vessel's papers, any consignments of mail, and the most valuable goods in the cargo shall be sentenced to imprisonment for one to two years.

The sentence specified in the preceding paragraph shall be imposed on any master who, when forced to abandon ship, is not the last to leave.

7.6.09. Failure to assist persons in peril

Any master who, when he can do so without serious peril to his vessel, crew and passengers, does not assist any person, even an enemy, in danger of perishing, shall be liable to a fine of 1,000,000 to 10,000,000 Malagasy francs and to a term of imprisonment of one to two years, or to either of these two penalties alone.

7.6.10. Incitement of crew members to commit offences

Any person who, either on shore or on board, incites a crewman or the crew of a vessel orally or in writing to commit an offence covered by this Code shall be liable to a term of imprisonment of one to five years and to a fine of 250,000 to 7,500,000 Malagasy francs, or to either of these two penalties alone.

7.6.11. Aggravating circumstances

The penalty shall be doubled when an offence covered by the articles of this chapter is committed by a person exercising command of a vessel in the irregular circumstances described in article 7.5.10.

Chapter 7 Offences affecting safety on board

7.7.01. Navigating with an out-of-date, rejected or suspended safety certificate

Any master who navigates a vessel whose safety certificate is out of date or has been rejected or suspended shall be liable to a fine of 1,000,000 to 20,000,000 Malagasy francs and to a term of imprisonment of one month to one year, or to either of these two penalties alone.

However, when a safety certificate expires during a voyage, its validity shall be deemed extended until the vessel reaches its next port of call.

7.7.02. Putting to sea without a safety certificate

Any master who infringes the provisions of article 2.5.05 shall be liable to a fine of 500,000 to 10,000,000 Malagasy francs.

7.7.03. Interference by operators or owners

The maximum penalties stipulated in articles 7.7.01 and 7.7.02 shall however be reduced to one quarter when it is proved that the master received a written or oral order from the vessel's operator or owner. In such cases, the operator or owner shall be liable to the maximum penalties under the said articles.

7.7.04. Causing unjustified official inspections

Any crew member who causes an unjustified official inspection to be carried out on board by knowingly making inaccurate allegations shall be liable to a term of imprisonment of three to six days and to a fine of 100,000 to 500,000 Malagasy francs, or to either of these two penalties alone.

7.7.05. Repeated offences

The fines and terms of imprisonment specified in this chapter may be doubled if the offence is repeated.

An offence shall be deemed repeated when, within the 12 months preceding the new offence the offender has been convicted of an offence punishable under this chapter.

7.7.06. Small vessels

The fines and terms of imprisonment referred to in the preceding article shall be reduced by half in respect of violation of the regulations concerning vessels having a gross tonnage of under 10 tons.

Chapter 8 Infringement of shipboard work regulations

7.8.01. Failure to comply with labour legislation

Any operator or owner of a vessel who fails to comply with the provisions of this Code concerning the legislation on work, catering and accommodation on board vessels or the provisions of the regulations adopted for the application of such legislation shall be liable to a fine 1,000,000 to 5,000,000 Malagasy francs for each offence.

The same penalty shall be imposed on any master who commits, alone or in agreement with the operator or owner of a vessel, any of the offences mentioned in the preceding paragraph, without prejudice to the disciplinary measures provided for in article 7.2.08.

However, the sentence imposed on a master may be reduced to one quarter of the penalty imposed on an operator or owner when it is proved that the master received a written or oral order from the operator or owner.

The penalties specified in the two preceding paragraphs may be doubled if the offence is repeated. An offence shall be deemed repeated when the offender has been convicted within the preceding 12 months of an offence punishable under this article.

7.8.02. Employment of seafarers on board a vessel without articles of agreement

Any owner who employs a seafarer on board a vessel without articles of agreement shall be liable to the penalties specified in article 7.8.01.

7.8.03. Employment on board a vessel of persons not holding a seafarer's passport or identity book

Any owner or master who employs on board a vessel any person not holding a seafarer's passport or identity book shall be liable to the penalties specified in article 7.5.04.

7.8.04. Employment on a foreign vessel without authorization

Any seafarer who takes employment on a foreign vessel without authorization shall be liable to a fine of 150,000 to 1,500,000 Malagasy francs, without prejudice to the application of the disciplinary measures provided for in article 7.2.08 of this Code.

7.8.05. Disregard of leave entitlement

Any seafarer who is employed on board a vessel for more than 10 months in succession or who takes employment on a vessel before the expiry of his statutory period of leave shall be liable to the penalties provided for in article 7.8.04.

Any owner or master who keeps a seafarer on board a vessel for more than 10 months in succession or who brings a seafarer back on board before the end of his statutory period of leave shall be liable to the penalties provided for in article 7.8.01.

Chapter 9

Offences affecting the protection of maritime signs

7.9.01. Prohibited mooring or anchoring

Any person who, except in cases of *force majeure*, moors a vessel to a lightboat, beacon or buoy not intended for such use or who drops an anchor within the swing of a lightboat or buoy shall be liable to a fine of 100,000 to 1,000,000 Malagasy francs and to a term of imprisonment of 10 days to one month, or to either of these two penalties alone.

7.9.02. Damage of maritime signs

Any master who, even in a case of *force majeure*, sinks, moves or damages a lightboat, beacon or buoy without reporting it by the fastest possible means to the competent authority, and at the latest within 24 hours in the first port of call, shall be liable to a term of imprisonment of 10 days to three months and to a fine of 500,00 to 50,000,000 Malagasy francs, or to either of these two penalties alone.

7.9.03. Deliberate destruction of maritime signs

Any person who deliberately destroys, knocks down or damages a lightboat, buoy or beacon shall be liable to a term of imprisonment of six months to three years and to a fine of 500,000 to 5,000,000 Malagasy francs, or to either of these two penalties alone, without prejudice to actions for damages.

7.9.04. Repeated offences

The terms of imprisonment specified in the three preceding articles of this chapter may be doubled if the offence is repeated within 12 months.

Chapter 10

Offences affecting maritime wrecks

7.10.1. Misappropriation of ordinary maritime wrecks

Any person who misappropriates or attempts to misappropriate or who conceals an ordinary maritime wreck in violation of article 5.4.03 shall be liable to a term of imprisonment of six months to five years and to a fine of 500,000 to 50,000,000 Malagasy francs, or to either of these two penalties alone.

The wreck shall be restored to its owner or sold in accordance with the provisions of article 2.7.08.

7.10.02. Unlawful examination of wrecks

Any person who examines a maritime wreck of historical, archaeological or cultural interest in violation of article 5.5.06 shall be liable to a fine of 10,000,000 to 50,000,000 Malagasy francs and to a term of imprisonment of six months to five years, or to either of these two penalties alone.

7.10.03. Misappropriation of maritime wrecks of historical, archaeological or cultural interest

Any person who raises or conceals a maritime wreck of historical, archaeological or cultural interest when not in possession of a concession contract shall be liable to a fine of 50,000,000 to 500,000,000 Malagasy francs and to a term of imprisonment of one to five years, or to either of these two penalties alone, without prejudice to actions for damages.

Such wrecks shall be installed in a public collection following registration in the national inventory in accordance with the provisions of Order No. 82-029 of 6 November 1982.

Chapter 11 **Offences affecting the protection and preservation of the marine environment**

7.11.01. Pollution of the marine environment by Malagasy vessels

Without prejudice to any actions for damages, a fine of 10,000,000 to 10,000,000,000 Malagasy francs and a term of imprisonment of six months to three years, or either of these two penalties alone, shall be imposed in respect of a failure by any vessel to comply with the provisions of this Code concerning the protection and preservation of the marine environment.

Notwithstanding the imposition of the penalties specified in the preceding paragraph on the master or members of the crew, if the offence was committed on the express orders of the vessel's owner or operator, the owner or operator shall be liable to penalties which may be double the penalties specified in the preceding paragraph.

7.11.02. Foreign vessels

In the territorial sea and the internal waters of Madagascar the provisions of the preceding article shall apply to foreign vessels even when they are registered in territory belonging to a State which is not a party to the international conventions on the protection and preservation of the marine environment.

7.11.03. Pollution by persons not members of the crew

Any physical or juridical person who by actions at sea or on shore impairs the protection and preservation of the marine environment shall be liable to the penalties specified in article 7.9.02.

Chapter 12 **Offences affecting the general organization of transport**

7.12.01. Infringement of articles 2.7.01 and 2.6.01

Any person who constructs or causes to be constructed, charters or sells a vessel without having obtained official authorization shall be liable to a fine of 500,000 to 50,000,000 Malagasy francs.

7.12.02. Infringement of the provisions of Book 4, chapter 1

A fine of 1,000,000 to 50,000,000 Malagasy francs shall be imposed on any operator or owner of a vessel who infringes the provisions of Book 4, chapter 1, of this Code, in the following cases in particular:

- Disregard of the provisions concerning reserved transport (art. 4.1.02);
- Lack of a valid insurance policy (art. 4.1.03);
- Foreign vessel having no shipping or forwarding agent (art. 4.1.05).

7.12.03. Sale of mortgaged vessels

In addition to the fine provided for in article 7.12.02, the voluntary sale of a mortgaged vessel to a foreigner, regardless of the place of sale, shall incur liability to the penalties specified in article 408 of the Criminal Code.

Any owner who has by fraud acquired foreign nationality for a vessel mortgaged by him or by persons to whom he is the successor in title, regardless of the fraudulent means employed, shall be liable to the penalties specified in article 408 of the Criminal Code.

Chapter 13 **Piracy**

7.13.01. Navigation without papers

Any person who is a member of the crew of an armed vessel which is navigating without being or having been furnished for the voyage with a certificate of registry, a crew list, a commission, or other documents certifying the legitimacy of the voyage shall be prosecuted and tried as a pirate.

The master and officers of such a vessel shall be sentenced to hard labour for life, and the other crewmen to long-term hard labour.

7.13.02. Commissions issued by several authorities or States

Any master of an armed vessel holding commissions from several authorities or from different States shall be prosecuted and tried as a pirate.

He shall be sentenced to hard labour for life.

7.13.03. Acts of depredation or violence committed against vessels

The following persons shall be prosecuted and tried as pirates:

- Any person who is a member of a Malagasy crew which commits by force of arms acts of depredation or violence either against Malagasy vessels or against vessels of a State with which Madagascar is not at war, or against the crews or cargoes of such vessels;
- Any person who is a member of the crew of a foreign vessel which, without carrying identification marks or holding a regular commission, commits the said acts, except in time of war, against Malagasy vessels or their crews or cargoes.

When acts of depredation or violence have been committed without causing death or injury, the sentence shall entail long-term hard labour.

When acts of depredation or violence are preceded, accompanied or followed by death or injury, the sentence shall be hard labour for life.

7.13.04. Hostile acts under a false flag

The master and officers of any vessel whatsoever who commit hostile acts under a flag other than the flag of the commissioning State shall be prosecuted and tried as pirates.

They shall be sentenced to hard labour for life.

7.13.05. Hostile acts committed by Malagasy nationals holding commissions from foreign States

Any Malagasy national who has obtained, even with the Government's authorization, a commission from a foreign State to command an armed vessel and who commits hostile acts against vessels of Madagascar or other States which have concluded specific agreements with the Republic of Madagascar or against their crews or cargoes shall be prosecuted and tried as a pirate.

He shall be sentenced to hard labour for life.

7.13.06. Fraud or violence committed against a master in order to seize control of a Malagasy vessel

Any person who is a member of the crew of a Malagasy vessel who seizes control of the vessel by committing an act of fraud or violence against its master shall be prosecuted and tried as a pirate.

He shall be sentenced to hard labour for life.

7.13.07. Delivery of a Malagasy vessel into the hands of pirates or an enemy

Any person who is a member of the crew of a Malagasy vessel who delivers it into the hands of pirates or an enemy shall be prosecuted and tried as a pirate.

He shall be sentenced to hard labour for life.

7.13.08. Captured pirate vessels

A court shall order captured pirate vessels to be sold, and the proceeds of the sale shall be paid into the general State budget.

3. Trinidad and Tobago

Act No. 23 of 1986
An Act to amend the Continental Shelf Act, Chap. 1:52
[Assented to 7th November, 1986]¹⁰

ENACTED by the Parliament of Trinidad and Tobago as follows: –

1. This Act may be cited as the Continental Shelf (Amendment) Act, 1986.
2. The Continental Shelf Act is amended –
 - (a) in section 2, by substituting a new definition of “Continental Shelf” as follows:

“ “Continental Shelf” means the sea- bed and subsoil of the submarine areas of Trinidad and Tobago that extend beyond its territorial sea throughout the natural prolongation of its land territory to the outer edge of its Continental Margin, or to a distance of two hundred nautical miles from the baselines from which the breadth of the territorial sea of Trinidad and Tobago is measured where the outer edge of the Continental Margin does not extend up to that distance;”;
 - (b) by inserting in appropriate sequence the following:

“ “Continental Margin” means the submerged prolongation of the land mass of Trinidad and Tobago consisting of the seabed and subsoil, the slope and the rise of the Continental Shelf determined in accordance with the provisions of the 1982 United Nations Convention on the Law of the Sea;”;
 - (c) by inserting a new section 2A immediately after section 2 as follows:

2A. The Minister with responsibility for External Affairs may –

 - (a) establish the outer edge of the Continental Margin wherever the margin extends beyond 200 nautical miles from the baseline from which the breadth of the territorial sea of Trinidad and Tobago is measured; and
 - (b) cause a copy of charts and relevant information including geodetic data, permanently describing the outer limits of the Continental Shelf of Trinidad and Tobago to be deposited with the Secretary-General of the United Nations.”.

Passed in the House of Representatives this 18th day of August, 1986.

R. L. GRIPFITH Acting Clerk of the House

Passed in the Senate this 28th day of October, 1986.

M. CARBINGTON Acting Clerk of the Senate

¹⁰ Transmitted by the Permanent Mission of the Republic of Trinidad and Tobago to the Secretary-General of the United Nations through note verbale No. 226 dated 6 October 2004.

4. Denmark

- (a) Royal Decree on the Entry into Force of Act on Exclusive Economic Zones for Greenland
15 October 2004¹¹

WE MARGRETHE THE SECOND, by the Grace of God Queen of Denmark, do hereby make known:

In pursuance of section 5 of Act no. 411 of 22 May 1996 on Exclusive Economic Zones, it is hereby provided:

Section 1

The Act shall apply to Greenland.

Section 2

This Royal Decree shall enter into force on 1 November 2004.

Given at Amalienborg, 15 October 2004

Under Our Royal Hand and Seal

MARGRETHE R.

/ Per Stig Møller

- (b) Royal Decree on Amendment of Royal Decree
on Delimitation of the Territorial Waters of Greenland
15 October 2004¹²

WE MARGRETHE THE SECOND, by the Grace of God Queen of Denmark, do hereby make known:

Section 1

In pursuance of Royal Decree no. 191 of 27 May 1963 on Delimitation of the Territorial Waters of Greenland as Amended by Royal Decree no. 636 of 6 September 1991, the following amendment shall be made: 1. In section 2, points 1 - 285 shall be replaced by the following points:

Base points around Greenland

| Point No. | Location | Position (degrees and minutes) |
|------------------|---|---|
| 1 | The island Uummanaq south of Kap Farvel | 59°42'.897 N 44°01'.206 W |
| 2 | Southernmost island in the archipelago Sydlige Kitsissut | 59°50'.604 N 44°59'.200 W |
| 3 | The island Naujat in the archipelago Nordlige Kitsissut | 59°58'.623 N 45°21'.708 W |
| 4 | Island south of Qeqertat | 60°34'.619 N 47°34'.645 W |
| 5 | Island by Ydre Kitsissut | 60°42'.868 N 48°24'.272 W |
| 6 | Island by Ydre Kitsissut | 60°43'.347 N 48°26'.297 W |
| 7 | Island by Ydre Kitsissut | 60°44'.900 N 48°29'.246 W |
| 8 | Island by Ydre Kitsissut | 60°45'.652 N 48°29'.772 W |
| 9 | Southwesternmost point of Sermersuut Uummannaarsuat | 61°14'.564 N 48°57'.088 W |
| 10 | Southwesternmost point of Qioqi west of Anarsivik | 61°31'.358 N 49°22'.560 W |
| 11 | Westernmost pnt. of Qajaarserfik west of Frederikshåbs Umanak | 61°44'.894 N 49°37'.090W |

¹¹ Unofficial English translation transmitted by the Permanent Mission of Denmark to the United Nations to the Division for Ocean Affairs and the Law of the Sea through communication dated 15 November 2004. Royal Decree no. 1005

¹² Unofficial English translation transmitted by the Permanent Mission of Denmark to the United Nations to the Division for Ocean Affairs and the Law of the Sea through communication dated 15 November 2004. Royal Decree no. 1004

| Point No. | Location | Position (degrees and minutes) |
|------------------|---|---|
| 12 | Westernmost point of Varde Ø west of Frederikshåb | 61 °55'.875 N 49°48'.622 W |
| 13 | Southwesternmost point of Ikermiut west of Frederikshåb Isblink | 62°23'.181 N 50°15'.731 W |
| 14 | Small island west of Tulugartalik | 62°28'.247 N 50°21'.346 W |
| 15 | Southwesternmost point of the south island in Killiit west of Ravns Storø | 62°42'.261 N 50°33'.392 W |
| 16 | Southwesternmost point of the southernmost island of Hellefiskeøer | 63°02'.007 N 50°59'.665 W |
| 17 | Southwesternmost point of the island Killiit | 63°08'.177 N 51 °09'.957 W |
| 18 | Northwesternmost point of the island Killiit | 63°08'.302 N 51°10'.075 W |
| 19 | Island south of Saneraa | 63°23'.557 N 51°22'.422 W |
| 20 | Southernmost island in the archipelago Kook Øer | 63°59'.543 N 52°10'.980 W |
| 21 | Westernmost island in the archipelago Kook Øer | 64°00'.044 N 52°11'.467 W |
| 22 | Island west of the archipelago Satsissut | 64°24'.722 N 52°20'.267 W |
| 23 | Island west of the archipelago Satsissut | 64°25'.087 N 52°20'.323 W |
| 24 | Westernmost point of Avallerpaarsuaq in Siorarliit | 65°30'.355 N 53°15'.594 W |
| 25 | Westernmost point of Qerrulik west of Simiutaq | 66°03'.583 N 53°40'.161 W |
| 26 | Westernmost point of island west of Inussulinnguaq | 66°04'.557 N 53°40'.930 W |
| 27 | The island Ikerasattuut west of Kangerluarsussuaq | 66°13'.398 N 53°47'.818 W |
| 28 | Westernmost point of the island Ikarlussuaq | 66°25'.768 N 53°55'.157 W |
| 29 | Southwesternmost point of the archipelago Qassit | 66°59'.464 N 54°07'.724 W |
| 30 | Westernmost point of the archipelago Qassit | 66°59'.572 N 54°07'.745 W |
| 31 | Westernmost point of the island Kitsissut | 67°47'.152 N 53°58'.236 W |
| 32 | Northwesternmost point of the island Kitsissut | 67°47'.208 N 53°58'.227 W |
| 33 | Westernmost point of the island Kitdliat | 68°16'.880 N 53°45'.514 W |
| 34 | Southwesternmost point of Disko by Blåfjeld | 69°22'.230 N 54°13'.791 W |
| 35 | Point south of Nordre Laksebugt of Disko | 69°36'.032 N 54°48'.111 W |
| 36 | Point by Nordre Laksebugt of Disko | 69°36'.577 N 54°49'.309 W |
| 37 | Point north of Nordre Laksebugt of Disko | 69°41'.159 N 54°57'.465 W |
| 38 | Westernmost point of Disko | 69°42'.534 N 54°58'.657 W |
| 39 | Point north of Mellemfjord by Jernpynten | 69°49'.905 N 54°55'.505 W |
| 40 | Westernmost point of Hareøen | 70°26'.506 N 55°02'.541 W |
| 41 | Southwesternmost point by Qinnivik | 71°28'.256 N 55°30'.547 W |
| 42 | Westernmost point of Svartenhuk north of Svartenhavn | 71°40'.986 N 55°51'.188 W |
| 43 | Northwesternmost point of Svartenhuk | 71°41'.324 N 55°51'.581 W |
| 44 | Dark Head on Tukungasq | 72°08'.388 N 56°02'.322 W |
| 45 | Westernmost island of Smaalandene | 72°46'.227 N 56°37'.814 W |
| 46 | Westernmost island of Kingittortallit | 73°02'.028 N 56°55'.698 W |
| 47 | Southernmost island of Eddefugleøerne | 74°01'.407 N 57°50'.193 W |
| 48 | Mid-island of Eddefugleøerne | 74°02'.257 N 57°50'.709 W |
| 49 | Westernmost point of Qulleq of Ryders Øer | 74°39'.905 N 57°57'.533 W |
| 50 | Westernmost point of Sabine Øer | 75°29'.526 N 60°13'.361 W |
| 51 | Southernmost point of Bushnan Ø | 75°57'.225 N 65°01'.378 W |
| 52 | Easternmost point of Kap York | 75°54'.597 N 66°25'.148 W |
| 53 | Westernmost point of Kap York | 75°54'.389 N 66°30'.180 W |
| 54 | Southwesternmost point of Conical Rock | 76°04'.603 N 68°42'.229 W |
| 55 | Southwesternmost point of Wolstenholme Ø | 76°24'.620 N 70°06'.844 W |
| 56 | Westernmost point of Wolstenholme Ø | 76°25'.994 N 70°12'.054 W |
| 57 | Kap Parry | 77°00'.169 N 71°20'.769 W |
| 58 | Southwesternmost point of Hakluyt Ø | 77°26'.049 N 72°44'.728 W |

| Point No. | Location | Position (degrees and minutes) |
|------------------|--|---|
| 59 | Northwesternmost point of Hakluyt Ø | 77°26'.575 N 72°45'.557 W |
| 60 | Kap Alexander | 78°10'.184 N 73°01'.618 W |
| 61 | Southernmost point of Littleton Ø | 78°22'.010 N 72°53'.991 W |
| 62 | Northernmost point of Littleton Ø | 78°22'.320 N 72°53'.309 W |
| 63 | Cairn Pynt | 78°30'.415 N 72°28'.508 W |
| 64 | Kingmissulik Pynt | 78°31'.405 N 72°25'.384 W |
| 65 | Kap Inglefield | 78°33'.004 N 72°08'.714 W |
| 66 | Kap Ingersoll | 78°37'.505 N 71°26'.782 W |
| 67 | Kap Leipner | 78°41'.919 N 70°36'.238 W |
| 68 | Kap Taney | 78°46'.404 N 70°01'.264 W |
| 69 | Point 3 nautical miles northeast of Kap Taney | 78°47'.940 N 69°51'.366 W |
| 70 | Point 3 nautical miles northeast of Kap Russell | 78°57'.398 N 69°03'.575 W |
| 71 | Point 2 nautical miles west of the northernmost point of Dallas Bugt | 79°03'.680 N 68°19'.594 W |
| 72 | Kap Jackson | 80°03'.512 N 67°01'.936 W |
| 73 | Kap Madison | 80°10'.696 N 67°26'.887 W |
| 74 | Point 1 nautical mile north of Kap Madison | 80°11'.585 N 67°27'.801 W |
| 75 | Kap Hamilton | 80°19'.674 N 67°29'.552 W |
| 76 | Kap Jefferson | 80°20'.938 N 67°28'.254 W |
| 77 | Westernmost point of Crozier Ø | 80°30'.039 N 67°17'.289 W |
| 78 | Westernmost point of Franklin Ø | 80°40'.448 N 66°58'.285 W |
| 79 | Kap Ulrich | 80°58'.503 N 64°53'.650 W |
| 80 | Kap Bryan | 81 °07'.183 N 64°03'.281 W |
| 81 | Westernmost point of Joe Ø | 81°15'.038 N 63°34'.333 W |
| 82 | Kap Porter | 81 °46'.153 N 61°52'.603 W |
| 83 | Kap Sumner | 81°54'.645 N 60°46'.049 W |
| 84 | Kap Brevoort | 81°58'.909 N 60°17'.294 W |
| 85 | Point 2 nautical miles west of Kap Stanton | 82°11'.784 N 57°30'.717 W |
| 86 | Point on the western part of Franfield Bugt | 82°14'.700 N 56°43'.989 W |
| 87 | Point 3 nautical miles west of Kap Bryant | 82°19'.133 N 55°37'.242 W |
| 88 | Kap Bryant | 82°20'.234 N 55°14'.984 W |
| 89 | Northernmost point of Beamont Ø | 82°45'.346 N 50°47'.051 W |
| 90 | Northernmost point of John Murray Ø | 82°50'.190 N 49°03'.203 W |
| 91 | Kap Benét | 82°59'.816 N 47°16'.698 W |
| 92 | Kap Payer | 83°05'.275 N 46°15'.167 W |
| 93 | Kap Ramsay | 83°10'.915 N 44°53'.891 W |
| 94 | Kap Wijkander | 83°12'.809 N 44°19'.540 W |
| 95 | Kap Daugaard-Jensen | 83°13'.948 N 43°50'.893 W |
| 96 | Kap Kane | 83°26'.584 N 39°46'.848 W |
| 97 | Point 2 nautical miles west of Kap Washington | 83°32'.224 N 38°46'.754 W |
| 98 | Kap Washington | 83°32'.689 N 38°40'.100 W |
| 99 | Point 6 nautical miles east of Kap Cannon | 83°36'.120 N 36°56'.906 W |
| 100 | Kap Christian IV | 83°37'.639 N 35°36'.231 W |
| 101 | Kap Ebbe Munck | 83°39'.503 N 33°52'.807 W |
| 102 | Kap Morris Jesup | 83°39'.607 N 33°23'.625 W |
| 103 | Oodaaq Ø | 83°40'.534 N 30°40'.097 W |
| 104 | Kap J. P. Koch | 83°33'.955 N 27°44'.597 W |
| 105 | Kap Ole Chievitz | 83°23'.686 N 25°26'.317 W |
| 106 | Kap John Flagler | 83°14'.571 N 24°30'.478 W |

| Point No. | Location | Position (degrees and minutes) |
|------------------|--|---|
| 107 | Kap Erik Bunch | 82°50'.651 N 21°26'.150 W |
| 108 | Kap Eiler Rasmussen | 82°35'.528 N 19°47'.495 W |
| 109 | Northernmost point of Prinsesse Margrethe Ø | 82°08'.767 N 17°54'.583 W |
| 110 | Kap Prins Knud | 81°44'.647 N 13°28'.392 W |
| 111 | Island by Nordostrundingen | 81 °24'.200 N 11 °34'.419 W |
| 112 | Island by Nordostrundingen | 81 °22'.126 N 11 °21'.552 W |
| 113 | Point of Nordostrundingen | 81 ° 19'.067 N 11 °30'.862 W |
| 114 | Northeasternmost point of Kilen | 81°07'.372 N 12°33'.788 W |
| 115 | Southwesternmost point of Kilen | 81°00'.382 N 13°14'.514 W |
| 116 | Easternmost point of Henrik Krøyer Holme | 80°38'.372 N 13°35'.415 W |
| 117 | Southernmost point of the east island of Henrik Krøyer Holme | 80°37'.119 N 13°44'.229 W |
| 118 | Eskimonæs | 80°25'.103 N 15°40'.835 W |
| 119 | Southernmost point of Mallemukfjeld | 80°13'.679 N 16°19'.923 W |
| 120 | Point 3 nautical miles south of Kap H.N. Andersen | 79°56'.029 N 17°20'.040 W |
| 121 | Kap Anna Bistrup | 79°41'.682 N 17°59'.562 W |
| 122 | Island east of Kap Nansen | 79°10'.276 N 17°37'.795 W |
| 123 | Northeasternmost point of Norske Øer | 79°08'.033 N 17°35'.741 W |
| 124 | Southeasternmost point of Norske Øer | 79°01'.645 N 17°37'.496 W |
| 125 | Easternmost point of Franske Øer | 78°45'.642 N 17°56'.276 W |
| 126 | Kap Montpensier | 77°51'.647 N 17°36'.128 W |
| 127 | Kap Philippe | 77°37'.188 N 17°41'.655 W |
| 128 | Thomas Thomsen Næs | 77°13'.762 N 18°13'.735 W |
| 129 | Syttenkilometerenæsset | 76°49'.156 N 18°17'.001 W |
| 130 | Kap Udkiggen | 76°43'.379 N 18°24'.877 W |
| 131 | Easternmost point of Maroussia Ø | 76°39'.545 N 18°30'.448 W |
| 132 | Kap Christian | 76°36'.575 N 18°34'.637 W |
| 133 | Point on Store Koldewey east of Berg Fjord | 76°30'.895 N 18°43'.771 W |
| 134 | Point 3 nautical miles north of Kap Alf Trolle | 75°59'.332 N 18°27'.281 W |
| 135 | Point 2 nautical miles south of Kap Børgen | 75°24'.674 N 18°00'.387 W |
| 136 | Point 2 nautical miles southeast of Kap Pansch | 75°08'.626 N 17°19'.024 W |
| 137 | Southeasternmost point of Shannon Ø | 75°00'.583 N 17°22'.397 W |
| 138 | Point 1.5 nautical miles north of Kap Philip Broke | 74°57'.218 N 17°31'.221 W |
| 139 | Southeasternmost point of Lille Pendulum | 74°36'.723 N 18°22'.524 W |
| 140 | Easternmost point of Clark Bjerg | 74°20'.566 N 19°11'.073 W |
| 141 | Kap Borlase Warren | 74°15'.964 N 19°22'.188 W |
| 142 | Easternmost point of Arundel Ø | 73°45'.819 N 20°03'.467 W |
| 143 | Point 1 nautical mile south of Kap Broer Ruys | 73°30'.509 N 20°23'.034 W |
| 144 | Point 3 nautical miles southwest of Kap Broer Ruvs | 73°28'.959 N 20°25'.091 W |
| 145 | Easternmost point of Bontekoe Ø | 73°07'.261 N 21°12'.150 W |
| 146 | Easternmost point of Franklin Ø | 72°38'.903 N 21°40'.106 W |
| 147 | Easternmost point of the island Rock by Kap Young | 72°16'.141 N 22°00'.301 W |
| 148 | Easternmost point of Murray Ø | 71°32'.365 N 21 °39'.733 W |
| 149 | Kap Topham | 71°19'.834 N 21 °37'.939 W |
| 150 | Northeasternmost point of Rathbone Ø | 70°40'.245 N 21 °23'.046 W |
| 151 | Southeasternmost point of Rathbone Ø | 70°39'.890 N 21 °23'.039 W |
| 152 | Point 1 nautical mile south of Kap Hodgson | 70°32'.280 N 21 °28'.866 W |
| 153 | Kap Lister | 70°29'.560 N 21 °32'.494 W |
| 154 | Point 1 nautical mile south of Kap Brewster | 70°07'.402 N 22°03'.933 W |

| Point No. | Location | Position (degrees and minutes) |
|------------------|---|---------------------------------------|
| 155 | Point 1 nautical mile north of Kap Russel | 69°59'.640 N 22°19'.304 W |
| 156 | Easternmost point of Turner Ø | 69°40'.886 N 23°11'.628 W |
| 157 | Southernmost point of Turner Ø | 69°38'.857 N 23°17'.695 W |
| 158 | Kap Dalton | 69°24'.666 N 24°04'.422 W |
| 159 | Kap Beaupré | 68°52'.215 N 25°43'.661 W |
| 160 | Kap Tupinier | 68°42'.003 N 26°25'.777 W |
| 161 | Kap Vedel | 68°29'.723 N 27°39'.009 W |
| 162 | Kap Nansen | 68°13'.867 N 29°25'.041 W |
| 163 | Nunap Isua | 68°07'.632 N 30°09'.187 W |
| 164 | Kap I. C. Jacobsen | 68°04'.956 N 30°30'.885 W |
| 165 | Southeasternmost point of the island Pattuulaajivit | 67°36'.167 N 32°29'.720 W |
| 166 | Easternmost point of Lille Tindholm of Nytaarsørerne | 66°55'.085 N 33°35'.857 W |
| 167 | Island east of Kap S. M. Jørgensen | 66°45'.446 N 33°47'.223 W |
| 168 | Easternmost point of the island Nanertalik north of Kap Gustav Holm | 66°35'.353 N 34°11'.671 W |
| 169 | Easternmost point of peninsula north of Wahl Fjord | 66°21'.985 N 34°41'.248 W |
| 170 | Easternmost point of peninsula south of Wahl Fjord | 66°19'.951 N 34°46'.206 W |
| 171 | Easternmost point of the island Uigertertivit | 65°44'.844 N 36°08'.680 W |
| 172 | Easternmost island in the archipelago Kitsissit Oqqorsit | 65°33'.383 N 36°39'.277 W |
| 173 | Small island southeast of Kap Dan | 65°29'.535 N 37°03'.699 W |
| 174 | Point by Aflandshage on the island Qeertartiip Saaliaqitaa | 64°59'.713 N 39°43'.533 W |
| 175 | Easternmost point of the island Umiiviitaa by Gerners Ø | 64°20'.146 N 40°12'.031 W |
| 176 | Kap Møsting | 63°41'.462 N 40°30'.671 W |
| 177 | Northeasternmost point of Qeertartivaq | 63°32'.494 N 40°38'.872 W |
| 178 | Southeasternmost point of Qeertartivaq | 63°31'.857 N 40°39'.975 W |
| 179 | Kap Skjold | 63°06'.442 N 41°11'.352 W |
| 180 | Southeasternmost point of Griffenfeld Ø | 62°52'.218 N 41 °33'.339 W |
| 181 | Easternmost point of the island Uummannaarsuk | 61 °48'.897 N 42°03'.961 W |
| 182 | Easternmost point of the island Qulleq | 61°32'.522 N 42°13'.351 W |
| 183 | Island east of Kap Discord | 60°53'.394 N 42°36'.286 W |
| 184 | Island east of Aluk Avalleq | 60°09'.448 N 42°58'.479 W |
| 185 | Island east of Oassit Avalequtaa | 60°01'.745 N 43°02'.341 W |
| 186 | Northernmost point of island off Oassit | 60°01'.239 N 43°02'.675 W |
| 187 | Southernmost point of island off Qassit | 60°00'.984 N 43°02'.895 W |
| 188 | Easternmost point of southern island east of Kap Hoppe | 59°55'.228 N 43°10'.626 W |
| 189 | Southernmost point of island south of Avallersuaa | 59°48'.545 N 43°35'.256 W |
| 190 | Southeasternmost point of island east of Kap Farvel | 59°45'.298 N 43°46'.997 W |
| 1 | The island Uummannaq south of Kap Farvel | 59°42'.897 N 44°01'.206 W |

The baseline around Greenland is defined as straight geodetic lines, except that between the following points the baseline is defined by the coast line:

42-43, 52-53, 55-56, 58-59, 64-65, 70-71, 75-76, 82-83, 84-85, 97-98, 104-105, 107-108, 110-111, 113-114, 118-119, 120-121, 123-124, 126-127, 128-129, 133-134, 136-137, 143-144, 152-153, 154-155, 156-157.

Base points around Carey Øer

| Point No. | Location | Position (degrees and minutes) |
|------------------|---------------------------------------|---|
| 191 | Southernmost point of Björlings Ø | 76°41'.989 N 72°31'.235 W |
| 192 | Southernmost point of Hollænderhatten | 76°40'.655 N 72°52'.848 W |
| 193 | Southernmost point of Fireø | 76°40'.682 N 73°02'.168 W |
| 194 | Point on Fireø | 76°40'.728 N 73°03'.871 W |
| 195 | Southwesternmost point of Fireø | 76°40'.974 N 73°05'.524 W |
| 196 | Island off Nordvestø | 76°43'.329 N 73°14'.247 W |
| 197 | Island west of Nordvestø | 76°43'.988 N 73°15'.309 W |
| 198 | Northwesternmost point of Nordvestø | 76°44'.328 N 73°15'.132 W |
| 199 | Island north of Nordvestø | 76°44'.656 N 73°14'.884 W |
| 200 | Island north of Nordvestø | 76°44'.721 N 73°14'.692 W |
| 201 | Island north of Nordvestø | 76°44'.829 N 73°14'.012 W |
| 202 | Island northeast of Nordvestø | 76°45'.126 N 73°06'.360 W |
| 203 | Northernmost point of Bordø | 76°44'.646 N 72°49'.896 W |
| 204 | Small island northeast of Bordø | 76°44'.441 N 72°46'.131 W |
| 205 | Northeasternmost point of Björlings Ø | 76°43'.002 N 72°32'.592 W |
| 206 | Point on Björlings Ø | 76°42'.890 N 72°31'.521 W |
| 207 | Point on Björlings Ø | 76°42'.747 N 72°30'.749 W |
| 208 | Point on Björlings Ø | 76°42'.463 N 72°29'.768 W |
| 209 | Point on Björlings Ø | 76°42'.334 N 72°29'.910 W |
| 191 | Southernmost point of Björlings Ø | 76°41'.989 N 72°31'.235 W |

The baseline around Carey Øer is defined as straight geodetic lines.
All coordinates are stated in the World Geodetic System 1984 (WGS84).

Section 2

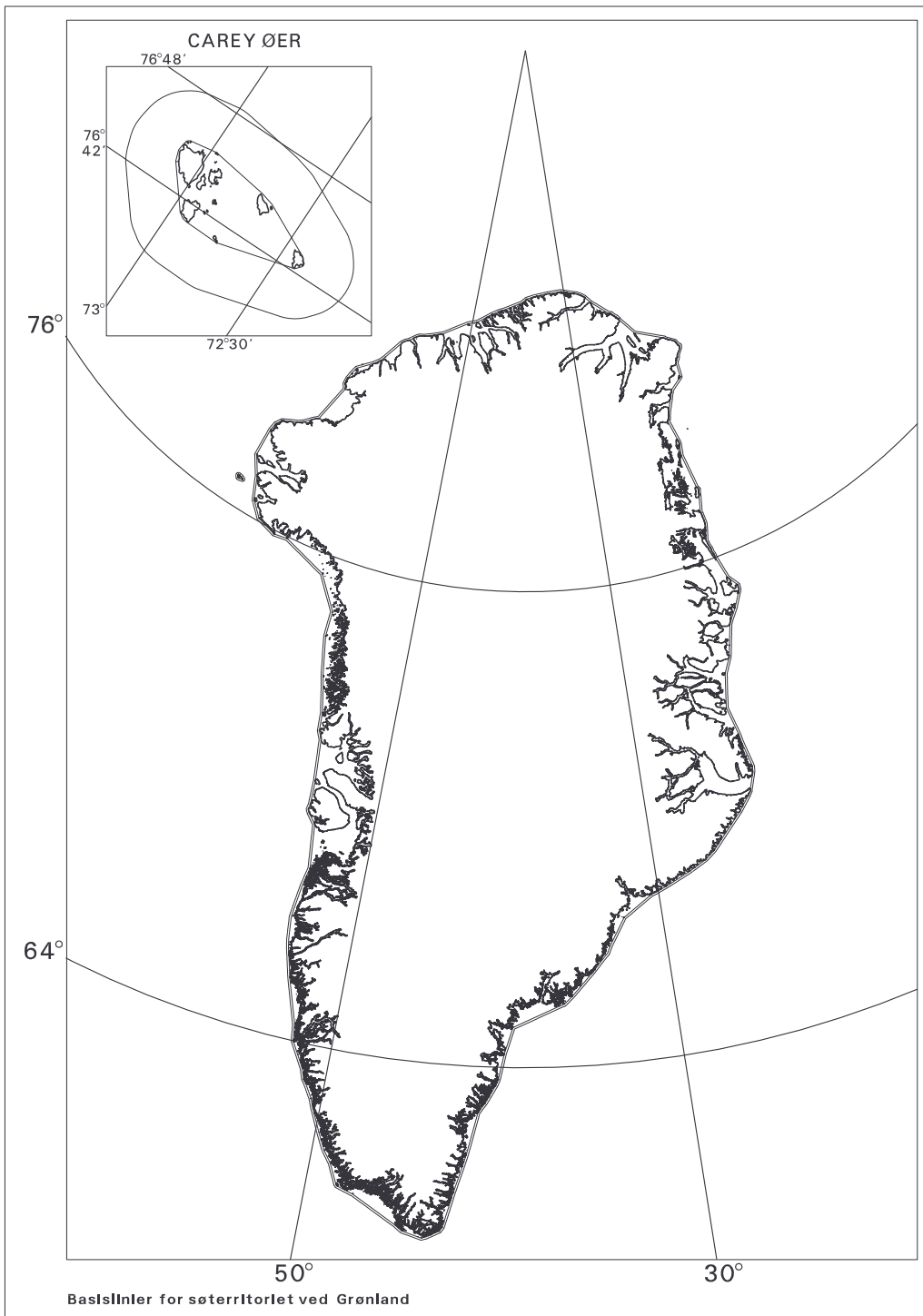
The Royal Decree shall enter into force on 1 November 2004.

Given at Amalienborg, 15 October 2004

Under Our Royal Hand and Seal

MARGRETHE R.

/ Per Stig Møller



Baselines for the territorial sea of Greenland

(c) Executive Order on the Exclusive Economic Zone of Greenland
20 October 2004¹³

In pursuance of section 2(2) of Act no. 411 of 22 May 1996 on Exclusive Economic Zones, which has been put into force for Greenland by Royal Decree no. 1005 of 15 October 2004, it is hereby provided:

1. The exclusive economic zone of Greenland shall comprise waters outside and abutting the territorial waters up to a distance of 200 nautical miles from the baselines in force from time to time. As regards the course of the baselines, reference is made to Royal Decree no. 1004 of 15 October 2004 on Amendment of Royal Decree on Delimitation of the Territorial Waters of Greenland.

(2) The delimitation of the exclusive economic zone of Greenland in relation to foreign states shall be made as stipulated in sections 2-4. The boundaries are indicated on the annexed sketch maps.

2. The delimitation of the exclusive economic zone in relation to Canada up to 75° north latitude, where the coasts of this country lie opposite the coasts of Greenland at a distance of less than 400 nautical miles, shall follow a series of geodetic lines between the following points:

| Point no. | Position (degrees, minutes) | Point no. | Position (degrees, minutes) |
|------------------|------------------------------------|------------------|------------------------------------|
| 1 | 61°00'.0 N 57°13'.1 W | 50 | 68°16'.1 N 58°34'.1 W |
| 2 | 62°00'.5 N 57°21'.1 W | 51 | 68°21'.7 N 58°39'.0 W |
| 3 | 62°02'.3 N 57°21'.8 W | 52 | 68°25'.3 N 58°42'.4 W |
| 4 | 62°03'.5 N 57°22'.2 W | 53 | 68°32'.9 N 59°01'.8 W |
| 5 | 62°11'.5 N 57°25'.4 W | 54 | 68°34'.0 N 59°04'.6 W |
| 6 | 62°47'.2 N 57°41'.0 W | 55 | 68°37'.9 N 59°14'.3 W |
| 7 | 63°22'.8 N 57°57'.4 W | 56 | 68°38'.0 N 59°14'.6 W |
| 8 | 63°28'.6 N 57°59'.7 W | 57 | 68°56'.8 N 60°02'.4 W |
| 9 | 63°35'.0 N 58°02'.0 W | 58 | 69°00'.8 N 60°09'.0 W |
| 10 | 63°37'.2 N 58°01'.2 W | 59 | 69°06'.8 N 60°18'.5 W |
| 11 | 63°44'.1 N 57°58'.8 W | 60 | 69°10'.3 N 60°23'.8 W |
| 12 | 63°50'.1 N 57°57'.2 W | 61 | 69°12'.8 N 60°27'.5 W |
| 13 | 63°52'.6 N 57°56'.6 W | 62 | 69°29'.4 N 60°51'.6 W |
| 14 | 63°57'.4 N 57°53'.5 W | 63 | 69°49'.8 N 60°58'.2 W |
| 15 | 64°04'.3 N 57°49'.1 W | 64 | 69°55'.3 N 60°59'.6 W |
| 16 | 64°12'.2 N 57°48'.2 W | 65 | 69°55'.8 N 61°00'.0 W |
| 17 | 65°06'.0 N 57°44'.1 W | 66 | 70°01'.6 N 61°04'.2 W |
| 18 | 65°08'.9 N 57°43'.9 W | 67 | 70°07'.5 N 61°08'.1 W |
| 19 | 65°11'.6 N 57°44'.4 W | 68 | 70°08'.8 N 61°08'.8 W |
| 20 | 65°14'.5 N 57°45'.1 W | 69 | 70°13'.4 N 61°10'.6 W |
| 21 | 65°18'.1 N 57°45'.8 W | 70 | 70°33'.1 N 61°17'.4 W |
| 22 | 65°23'.3 N 57°44'.9 W | 71 | 70°35'.6 N 61°20'.6 W |
| 23 | 65°34'.8 N 57°42'.3 W | 72 | 70°48'.2 N 61°37'.9 W |
| 24 | 65°37'.7 N 57°41'.9 W | 73 | 70°51'.8 N 61°42'.7 W |
| 25 | 65°50'.9 N 57°40'.7 W | 74 | 71°12'.1 N 62°09'.1 W |
| 26 | 65°51'.7 N 57°40'.6 W | 75 | 71°18'.9 N 62°17'.5 W |
| 27 | 65°57'.6 N 57°40'.1 W | 76 | 71°25'.9 N 62°25'.5 W |
| 28 | 66°03'.5 N 57°39'.6 W | 77 | 71° 29'.4 N 62°29'.3 W |
| 29 | 66°12'.9 N 57°38'.2 W | 78 | 71°31'.8 N 62°32'.0 W |

¹³ Unofficial English translation transmitted by the Permanent Mission of Denmark to the United Nations to the Division for Ocean Affairs and the Law of the Sea through communication dated 15 November 2004. Royal Decree no.1020

| Point no. | Position (degrees, minutes) | Point no. | Position (degrees, minutes) |
|-----------|-----------------------------|-----------|-----------------------------|
| 30 | 66°18'.8 N 57°37'.8 W | 79 | 71°32'.9 N 62°33'.5 W |
| 31 | 66°24'.6 N 57°37'.8 W | 80 | 71°44'.7 N 62°49'.6 W |
| 32 | 66°30'.3 N 57°38'.3 W | 81 | 71°47'.3 N 62°53'.1 W |
| 33 | 66°36'.1 N 57°39'.2 W | 82 | 71°52'.9 N 63°03'.9 W |
| 34 | 66°37'.9 N 57°39'.6 W | 83 | 72°01'.7 N 63°21'.1 W |
| 35 | 66°41'.8 N 57°40'.6 W | 84 | 72°06'.4 N 63°30'.9 W |
| 36 | 66°49'.5 N 57°43'.0 W | 85 | 72°11'.0 N 63°41'.0 W |
| 37 | 67°21'.6 N 57°52'.7 W | 86 | 72°24'.8 N 64°13'.2 W |
| 38 | 67°27'.3 N 57°54'.9 W | 87 | 72°30'.5 N 62°26'.1 W |
| 39 | 67°28'.3 N 57°55'.3 W | 88 | 72°36'.3 N 64°38'.8 W |
| 40 | 67°29'.1 N 57°56'.1 W | 89 | 72°43'.7 N 64°54'.3 W |
| 41 | 67°30'.7 N 57°57'.8 W | 90 | 72°45'.7 N 64°58'.4 W |
| 42 | 67°35'.3 N 58°02'.2 W | 91 | 72°47'.7 N 65°00'.9 W |
| 43 | 67°39'.7 N 58°06'.2 W | 92 | 72°50'.8 N 65°07'.6 W |
| 44 | 67°44'.2 N 58°09'.9 W | 93 | 73°18'.5 N 66°08'.3 W |
| 45 | 67°56'.9 N 58°19'.8 W | 94 | 73°25'.9 N 66°25'.3 W |
| 46 | 68°01'.8 N 58°23'.3 W | 95 | 73°31'.1 N 67°15'.1 W |
| 47 | 68°04'.3 N 58°25'.0 W | 96 | 73°36'.5 N 68°05'.5 W |
| 48 | 68°06'.8 N 58°26'.7 W | 97 | 73°37'.9 N 68°12'.3 W |
| 49 | 68°07'.5 N 58°27'.2 W | 98 | 73°41'.7 N 68°29'.4 W |
| 99 | 73°46'.1 N 68°48'.5 W | 107 | 74°10'.0 N 70°23'.1 W |
| 100 | 73°46'.7 N 68°51'.1 W | 108 | 74°12'.5 N 70°33'.7 W |
| 101 | 73°52'.3 N 69°11'.3 W | 109 | 74°24'.0 N 71°25'.7 W |
| 102 | 73°57'.6 N 69°31'.5 W | 110 | 74°28'.6 N 71°45'.8 W |
| 103 | 74°02'.2 N 69°50'.3 W | 111 | 74°44'.2 N 72°53'.0 W |
| 104 | 74°02'.6 N 69°52'.0 W | 112 | 74°50'.6 N 73°02'.8 W |
| 105 | 74°06'.1 N 70°06'.6 W | 113 | 75°00'.0 N 73°16'.3 W |
| 106 | 74°07'.5 N 70°12'.5 W | | |

(2) The delimitation of the exclusive economic zone in relation to Nares Stræde north of 75° north latitude, where the coasts of Canada lie opposite the coasts of Greenland at a distance of less than 400 nautical miles, in the absence of any special agreement relating thereto, shall follow two series of geodetic lines between the following points:

| Point no. | Position (degrees, minutes) | Point no. | Position (degrees, minutes) |
|--------------|-----------------------------|--------------|-----------------------------|
| Row A 113 | 75°00'.0 N 73°16'.3 W | 120 | 80°25'.0 N 68°20'.0 W |
| | | 121 | 80°45'.0 N 67°07'.0 W |
| 114 | 76°41'.4 N 75°00'.0 W | 122 | 80°49'.2 N 66°29'.0 W |
| 115 | 77°30'.0 N 74°46'.0 W | Row B 123 | 80°49'.8 N 66°26'.3 W |
| 116 | 78°25'.0 N 73°46'.0 W | 124 | 80°50'.5 N 66°16'.0 W |
| 117 | 78°48'.5 N 73°00'.0 W | 125 | 81°18'.2 N 64°11'.0 W |
| 118 | 79°39'.0 N 69°20'.0 W | 126 | 81°52'.0 N 62°10'.0 W |
| 119 | 80°00'.0 N 69°00'.0 W | 127 | 82°13'.0 N 60°00'.0 W |

The delimitation of the exclusive economic zone in Lincoln Hav, where the coasts of Greenland and Canada lie opposite each other at a distance of less than 400 nautical miles, in the absence of any special agreement relating thereto, shall follow the line which from point 127 in any direction is equidistant from the nearest points on the baselines of the coasts in question (the median line).

3. The delimitation of the exclusive economic zone in relation to Iceland, where the coasts of this country lie opposite those of Greenland at a distance of less than 400 nautical miles, shall follow a boundary made up of straight geodetic lines between the following points:

Point no. Position (degrees, minutes)

| | |
|---|-----------------------|
| A | 69°35'.0 N 13°16'.0 W |
| B | 69°21'.4 N 13°33'.6 W |
| C | 69°05'.1 N 15°21'.3 W |
| D | 69°03'.0 N 15°45'.1 W |
| E | 68°45'.8 N 17°20'.2 W |
| F | 68°24'.5 N 20°00'.0 W |
| G | 68°08'.2 N 21°45'.0 W |
| H | 67°49'.5 N 23°21'.6 W |
| I | 67°37'.8 N 24°26'.5 W |
| J | 67°22'.9 N 25°36'.0 W |
| K | 67°03'.9 N 26°33'.4 W |
| L | 66°57'.3 N 26°59'.7 W |
| M | 66°38'.4 N 27°45'.9 W |
| N | 66°12'.7 N 28°58'.7 W |
| O | 65°13'.0 N 29°51'.4 W |
| P | 63°55'.4 N 30°34'.9 W |
| Q | 63°18'.8 N 30°51'.8 W |

The points above are defined according to the World Geodetic System 1984 (WGS84).

4. The delimitation of the exclusive economic zone in relation to Norway, where the archipelago of Svalbard lies opposite Greenland at a distance of less than 400 nautical miles, in the absence of any special agreement relating thereto, shall follow the line which in any direction is equidistant from the nearest points on the baselines of the coasts in question (the median line).

(2) In the area between Greenland and Jan Mayen, the boundary shall be determined as straight geodetic lines between the following points in the order outlined below:

Point no Position (degrees, minutes, seconds)

| | |
|---|--------------|
| 1 | 74°21'46.9"N |
| 2 | 72°49'22.2"N |
| 3 | 71°52'50.8"N |
| 4 | 69°54'34.4"N |
| 5 | 69°35'00.0"N |

The points above are defined according to the World Geodetic System 1984 (WGS84).

5. The outer limit of the exclusive economic zone is marked by the National Survey and Cadastre on publicly accessible charts.

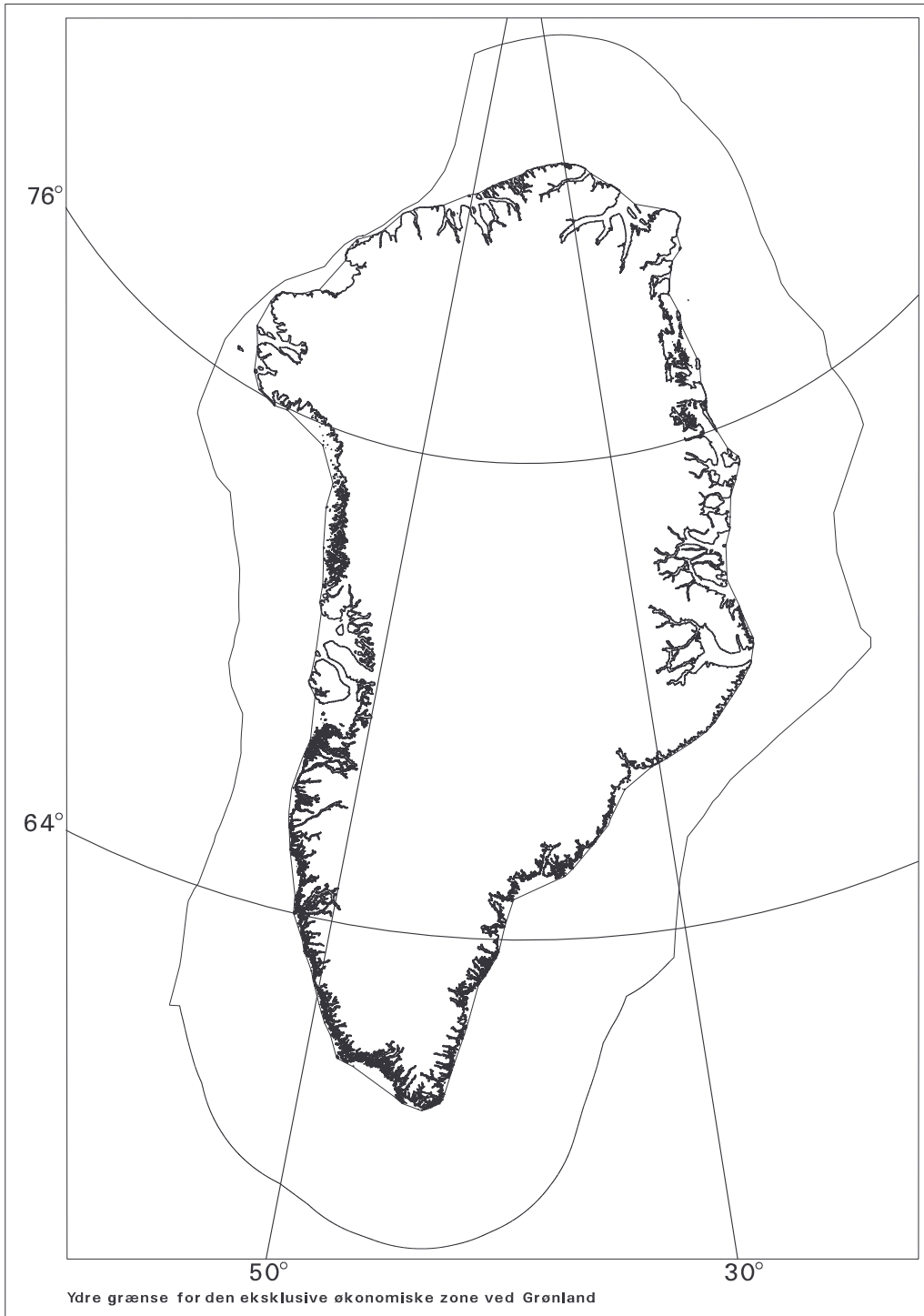
6. A list of the coordinates outlined in this Executive Order as well as the charts indicated in section 5 shall be deposited with the Secretary General of the United Nations.

7. This Executive Order shall enter into force on 1 November 2004.

(2) Executive Orders no. 629 of 22 December 1976 and no. 176 of 14 May 1980 on the Fishing Territory of Greenland as Amended shall be annulled on 1 November 2004.

Ministry of Foreign Affairs, 20 October 2004

PER STIG MØLLER



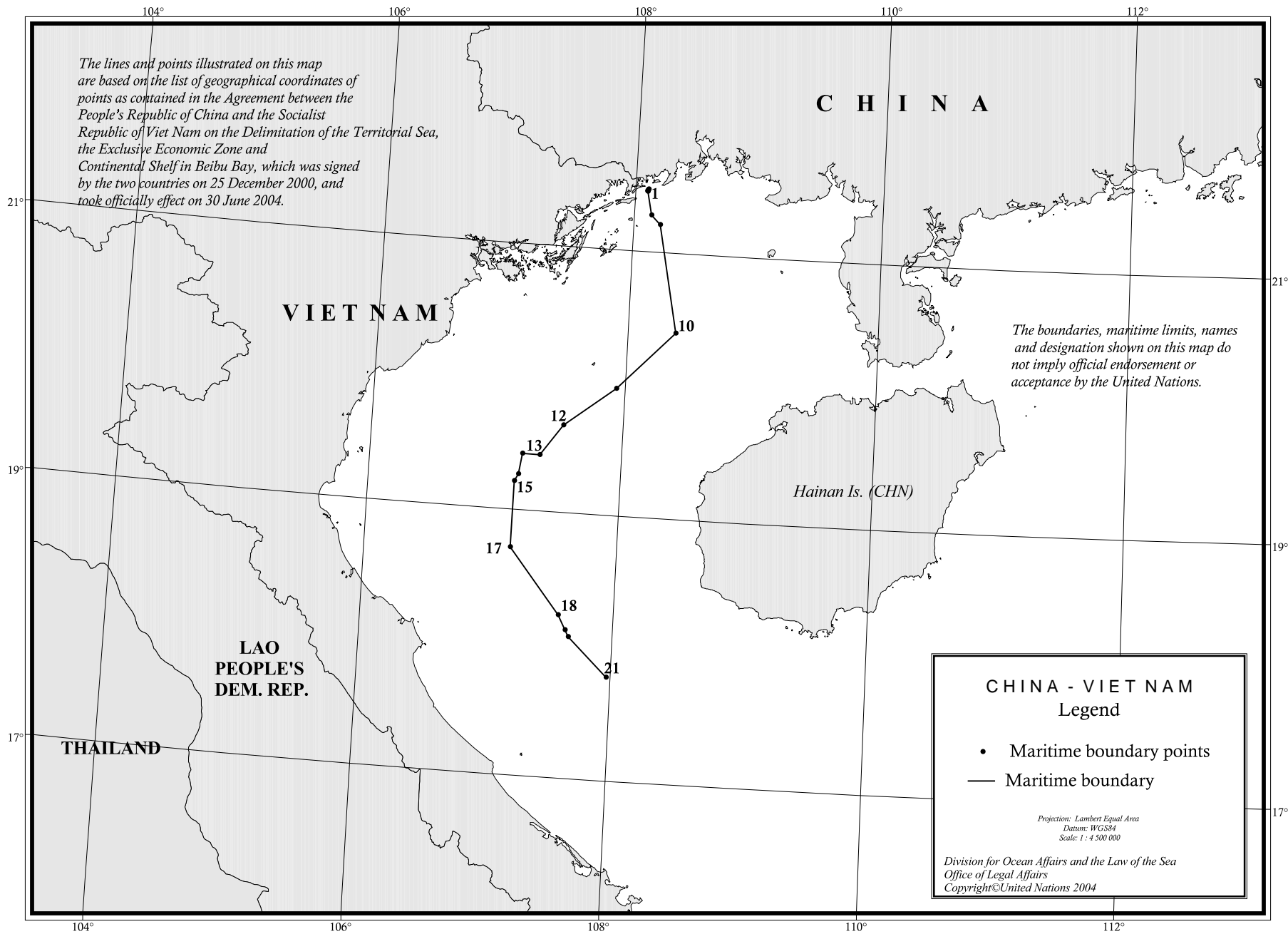
Outer limits of the exclusive economic zone of Greenland

B. Treaties

List of Geographical Coordinates of Points, as Specified in the Agreement between the People's Republic of China and the Socialist Republic of Viet Nam on the Delimitation of the Territorial Sea, the Exclusive Economic Zone and Continental Shelf in Beibu Bay/Gulf of Tonkin, which was signed by the Two Countries on 25 December 2000¹⁴

| | | |
|--------------|-----------------------------|------------------------------|
| Point No.1: | latitude 21° 28'12.5"North | Longitude 108° 06'04.3"East |
| Point No.2: | latitude 21 ° 28'01.7"North | Longitude 108 ° 06'01.6"East |
| Point No.3: | latitude 21° 27'50.1"North | Longitude 108° 05'57.7 "East |
| Point No.4: | latitude 21° 27'39.5"North | Longitude 108° 05'51.5"East |
| Point No.5: | latitude 21° 27'28.2"North | Longitude 108° 05'39.9"East |
| Point No.6: | latitude 21° 27'23.1"North | Longitude 108° 05'38.8"East |
| Point No.7: | latitude 21° 27'08.2"North | Longitude 108° 05'43.7"East |
| Point No. 8: | latitude 21° 16'32"North | Longitude 108° 08'05"East |
| Point No. 9: | latitude 21° 12'35"North | Longitude 108° 12'31 "East |
| Point No.10: | latitude 20° 24'05"North | Longitude 108° 22'45"East |
| Point No.11: | latitude 19° 57'33 "North | Longitude 107° 55'47 "East |
| Point No.12: | latitude 19° 39'33 "North | Longitude 107° 31'40 "East |
| Point No.13: | latitude 19° 25'26"North | Longitude 107° 21'00"East |
| Point No.14: | latitude 19° 25'26"North | Longitude 107° 12'43 "East |
| Point No.15: | latitude 19° 16'04"North | Longitude 107° 11'23 "East |
| Point No.16: | latitude 19° 12'55 "North | Longitude 107° 09'34"East |
| Point No.17: | latitude 18° 42'52"North | Longitude 107° 09'34"East |
| Point No.18: | latitude 18° 13'49"North | Longitude 107° 34'00"East |
| Point No.19: | latitude 18° 07'08"North | Longitude 107° 37'34"East |
| Point No.20: | latitude 18° 04'13 "North | Longitude 107° 39'09"East |
| Point No.21: | latitude 17° 47'00"North | Longitude 107° 58'00"East |

¹⁴ Deposited on 16 September 2004 and on 1 December 2004, by the People's Republic of China and the Socialist Republic of Viet Nam, respectively, with the Secretary-General of the United Nations. The list uses the geodetic system ITRF-96. The Agreement took official effect on 30 June 2004.



The lines and points illustrated on this map are based on the list of geographical coordinates of points as contained in the Agreement between the People's Republic of China and the Socialist Republic of Viet Nam on the Delimitation of the Territorial Sea, the Exclusive Economic Zone and Continental Shelf in Beibu Bay, which was signed by the two countries on 25 December 2000, and took official effect on 30 June 2004.

The boundaries, maritime limits, names and designation shown on this map do not imply official endorsement or acceptance by the United Nations.

CHINA - VIET NAM
Legend

- Maritime boundary points
- Maritime boundary

Projection: Lambert Equal Area
 Datum: WGS84
 Scale: 1 : 4 500 000

Division for Ocean Affairs and the Law of the Sea
 Office of Legal Affairs
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Map no. 163

C. Communications by States

Slovenia

Note Verbale dated 30 August 2004 Addressed to the Secretary-General

No. N-160/04

The Permanent Mission of the Republic of Slovenia to the United Nations presents its compliments to the Secretary-General of the United Nations as the depositary of the 1982 United Nations Convention on the Law of the Sea and has, with reference to Note of the Permanent Mission of the Republic of Croatia to the United Nations no. 288/04 of 8 July 2004, which was also sent to the States Parties to the Convention, the honour to provide the following explanation:

The Republic of Slovenia, a member of the United Nations and the European Union, consistently respects the principles of international law and good neighbourly relations and refutes the claims in Note of the Permanent Mission of the Republic of Croatia to the United Nations no. 288/04 of 8 July 2004 that Slovenia has aspirations over the territories of the Republic of Croatia. The Republic of Slovenia emphasizes that, following several years of negotiations on the border between the two States, the Governments of both countries endorsed the Treaty between the Republic of Slovenia and the Republic of Croatia on the Common State Border, which had also been initialed by the heads of the negotiating delegations of the two countries. (The map of the agreed course of the maritime border is attached hereto.) The Treaty, which is a record of the agreement reached between the Prime Ministers of the two countries, was also endorsed by the Committee on Foreign Policy of the National Assembly of the Republic of Slovenia. This fact negates the claim of the Republic of Croatia that the two countries have not reached any agreements concerning the border between them. Following the public presentation and simultaneous endorsement of the Treaty by the two Governments, the Republic of Croatia has unilaterally withdrawn from the reached consensual solutions.

With regard to the claims stated in Note of the Permanent Mission of the Republic of Croatia to the United Nations no. 288/04 of 8 July 2004, the Republic of Slovenia underscores that it has territorial exit to the high seas and the right to declare its own exclusive economic or ecological and fisheries protection zone. Slovenia had this right as one of the coastal republics of the Socialist Federal Republic of Yugoslavia, has had it after the dissolution of Yugoslavia and still has it at the present time. Territorial sea of the former Yugoslavia was not divided; there was only the common Yugoslav territorial sea. As a federal unit of the former Yugoslavia, Slovenia did have territorial exit to the high seas.

In accordance with the Basic Constitutional Charter on the Sovereignty and Independence of the Republic of Slovenia, adopted on 25 June 1991, Slovenia as an independent State assumed the rights and obligations relating to its territorial sea, thus retaining the existing, historically exercised, jurisdiction over the Bay of Piran and direct territorial exit to the high seas. These facts were also confirmed by the above Treaty between the Republic of Slovenia and the Republic of Croatia on the Common State Border, which was first initialed by the heads of delegations, and then also endorsed by both Governments on 20 July 2001. The maritime border has thus been defined on the basis of article 15 of the United Nations Convention on the Law of the Sea, by the application of historic title and other special circumstances and in accordance with the principle of equity. The existing right of the Republic of Slovenia to territorial exit to the high seas was also taken into account when defining this maritime border.

Slovenia is a successor to the Agreement between the Government of the Socialist Federal Republic of Yugoslavia and the Government of the Italian Republic on the Delimitation of the Continental Shelf between the Two Countries. The Italian Republic has acknowledged this fact.

The preservation of direct territorial exit to the high seas is in Slovenia's vital interest. Slovenia therefore does not recognize any unilateral measures taken by its neighbouring country that would prejudice the establishment of the border with the Republic of Croatia. For this reason and on the basis of the above positions, Slovenia voices its protest against the map attached to Note of the Permanent Mission of the Republic of Croatia no. 288/04 of 8 July 2004, and refuses to accept such a map.

The maritime border between Slovenia and Croatia has not yet been finally delimited, even though it had been defined in the Treaty on the Common State Border. The Republic of Slovenia therefore reiterates that the unilateral declaration of the ecological and fisheries protection zone by the Republic of Croatia in the Adriatic Sea is a violation of international law obligations of the Republic of Croatia, while also prejudicing the maritime border between Slovenia and Croatia. Furthermore, this zone infringes in the area in which the Republic of Slovenia exercises its sovereignty and sovereign rights. At the same time, such acting represents a unilateral interference in the subject of negotiations between the two countries, and is, as such, contrary to the obligations deriving from the principle of the peaceful settlement of international disputes.

When declaring any types of maritime zones, the countries must respect the equal rights and interests of neighbouring countries and must not infringe upon maritime areas under the sovereignty and jurisdiction of these countries. Furthermore, when delimiting any zones, the rules of international law must be respected, which instruct countries to find a consensual and just solution. In the light of the above, the Republic of Slovenia reiterates that Croatia has declared its ecological and fisheries zone unilaterally, without respecting those principles of international law that require countries to endeavour not to take any actions that might make it impossible or harder to apply a consensual solution and act in accordance with the principle of good neighbourly relations.

The Republic of Slovenia thus refutes the claims expressed in Note of the Permanent Mission of the Republic of Croatia to the United Nations no. 288/04 of 8 July 2004. The Republic of Slovenia would furthermore like to point to the statements expressed in Note of the Permanent Mission of the Italian Republic to the United Nations, no. N.1681 of 16 April 2004.

With regard to the announcement of the Republic of Croatia that the regime of the ecological and fisheries protection zone will start applying to European Union Member States after the relevant fishery agreements are concluded with the European community, the Republic of Slovenia points out that this decision is again a practice of unilateral withdrawing from jointly adopted positions and agreements. The Republic of Slovenia emphasizes that the Croatian Parliament adopted the “Decision on amending the Decision on the extension of the jurisdiction of the Republic of Croatia in the Adriatic Sea of 3 October 2003” on 3 June 2004, i.e. only a day before the meeting between State Secretaries at the Ministries of Foreign Affairs of Slovenia, Italy and Croatia, which was held in Brussels in the presence of the European Commission. The purpose of this meeting was to find a joint, consensual solution to all outstanding issues that had been provoked by the unilateral proclamation of the Croatian ecological and fisheries protection zone. The position prevailed at the meeting—at which the representatives of the European Commission, too, stressed the need to seek a joint consensual solution—that Croatia had not acted in accordance with the European spirit and practice when unilaterally proclaiming its zone, and that it had not endeavoured to find a consensual solution. The agreement was reached that Croatia would postpone the implementation of the regime of the ecological and fisheries protection zone for European Union Member States until a joint, consensual solution is found, which would take into account interests of Croatia’s neighbouring countries. Such a solution requires consensus of all countries concerned. The quoted decision therefore has a much broader significance than the announced conclusion of relevant fishing agreements. In its conclusions of 17 and 18 June 2004, the European Council noted the Croatian decision not to apply to European Union Member States any aspect of the ecological and fisheries protection zone. In this context, it welcomed the agreement reached by Italy, Slovenia and Croatia at the trilateral meeting in Brussels on 4 June 2004.

The present regime in the Adriatic Sea can thus not be changed in relation to the European Union members until a final consensual solution is found. Slovenia considers this to mean that the Republic of Croatia cannot unilaterally infringe in the area of the high seas and thus unilaterally deny rights of the Republic of Slovenia. The Republic of Slovenia would like to take this occasion to communicate that the Government of the Republic of Slovenia adopted a decision on 24 June 2004 that the Republic Slovenia understands the decision of the Parliament of the Republic of Croatia of 3 June 2004 on adding paragraph 2 to point 3 of the Decision on the extension of the jurisdiction of the Republic of Croatia in the Adriatic Sea, and the position of the Republic of Croatia expressed in the minutes of the trilateral meeting between Italy, Slovenia and Croatia held in Brussels in the presence of the European Commission, issued on 4 June 2004, as follows: high seas regime continues to apply to European Union members in the part of the Adriatic to which the decision of the Parliament on the exclusive ecological and fisheries zone refers, until an agreement is reached between Croatia and its neighbouring European Union members.

The Republic of Slovenia has the honour to communicate that it has on several occasions responded to proposals of the Republic of Croatia for the peaceful settlement of the border dispute, emphasizing in its replies that it did, in principle, not reject any of possible means of peaceful resolution of outstanding issues between the two countries; however, Slovenia expects that the achieved level of the agreements reached will be taken into account.

The Permanent Mission of the Republic of Slovenia to the United Nations would appreciate it very much if the United Nations Secretary-General as the depositary of the United Nations Convention on the Law of the Sea forwarded this note to all the States Parties to the Convention and published it in the next issue of the *Law of the Sea Bulletin*.

The Permanent Mission of the Republic of Slovenia to the United Nations avails itself of this opportunity to renew to the Secretary-General of the United Nations the assurances of its highest consideration.

New York, 30 August 2004

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