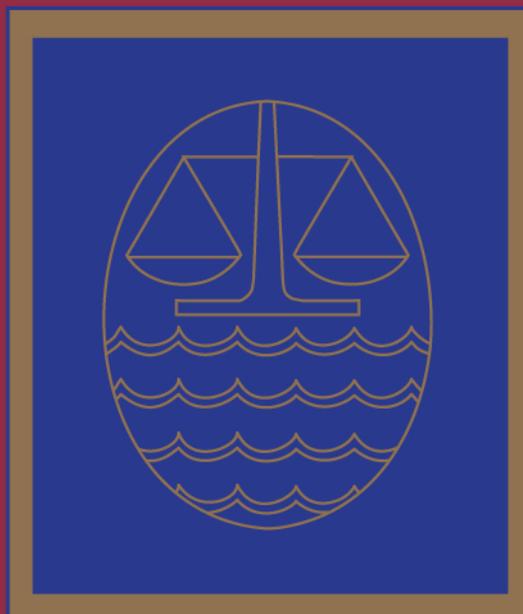


Bulletin No. 79

***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. 79



United Nations
New York, 2013

NOTE

The designations employed and the presentation of the material in this publication do not imply the expression of any opinion whatsoever on the part of the Secretariat of the United Nations concerning the legal status of any country, territory, city or area or of its authorities, or concerning the delimitation of its frontiers or boundaries.

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

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DUE ACKNOWLEDGEMENT SHOULD BE GIVEN.

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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 Stocks¹

1. *Table recapitulating the status of the Convention and of the related Agreements, as at 31 July 2012*

This consolidated table, prepared by the Division for Ocean Affairs and the Law of the Sea, Office of the Legal Affairs, provides unofficial, quick reference information related to the participation in UNCLOS and the two implementing Agreements. For official information on the status of these treaties, please refer to the publication entitled “*Multilateral Treaties deposited with the Secretary-General*” (<http://untreaty.un.org/>). The symbol “□” indicates that a declaration or statement was made at the time of signature; at the time of ratification/accession or anytime thereafter or declarations confirmed upon succession. A double icon (□□) indicates that two declarations were made by the State. The abbreviation (fc) indicates a formal confirmation; (a) an accession; (s) a succession; (ds) a definitive signature; (p) the consent to be bound; (sp) a simplified procedure. Names of States in *italics* indicate non-members of the United Nations; shaded rows indicate landlocked States.

State or entity	UNCLOS (Entry into force: 16/11/1994)			Agreement on Part XI (Entry into force: 28/07/1996)		UN Fish Stocks Agreement (Entry into force: 11/12/2001)		
	Signature dd/mm/yy	Ratification/ accession; dd/mm/yy	Declaration	Signature dd/mm/yy	Ratification/ accession; dd/mm/yy	Signature dd/mm/yy	Ratification/ accession; dd/mm/yy	Declaration
TOTALS	157	162	72	79	141	59	78	33
Afghanistan	18/03/83							
Albania		23/06/03(a)			23/06/03(p)			
Algeria	10/12/82 □	11/06/96	□	29/07/94	11/06/96(p)			
Andorra								
Angola	10/12/82 □	05/12/90	□		07/09/10(a)			
Antigua and Barbuda	07/02/83	02/02/89						
Argentina	05/10/84 □	01/12/95	□	29/07/94	01/12/95	04/12/95		
Armenia		09/12/02(a)			09/12/02(a)			
Australia	10/12/82	05/10/94	□	29/07/94	05/10/94	04/12/95	23/12/99	
Austria	10/12/82	14/07/95	□	29/07/94	14/07/95	27/06/96	19/12/03	□
Azerbaijan								
Bahamas	10/12/82	29/07/83		29/07/94	28/07/95(sp)		16/01/97(a)	

¹ Source: Chapter XXI.6 of the publication entitled “*Multilateral Treaties Deposited with the Secretary-General*” at <http://treaties.un.org/>. Note by the Editor: No changes in the status of the Convention and the Related Agreements have occurred since 31 March 2012 (*Bulletin 78*)

State or entity	UNCLOS (Entry into force: 16/11/1994)			Agreement on Part XI (Entry into force: 28/07/1996)			UN Fish Stocks Agreement (Entry into force: 11/12/2001)		
	Signature dd/mm/yy	Ratification/ accession; dd/mm/yy	Declaration	Signature dd/mm/yy	Ratification/ accession; dd/mm/yy	Declaration	Signature dd/mm/yy	Ratification/ accession; dd/mm/yy	Declaration
Bahrain	10/12/82	30/05/85							
Bangladesh	10/12/82	27/07/01	<input type="checkbox"/>		27/07/01(a)		04/12/95		
Barbados	10/12/82	12/10/93	<input type="checkbox"/>	15/11/94	28/07/95(sp)			22/09/00(e)	
Belarus	10/12/82	30/08/06	<input type="checkbox"/>		30/08/06(a)				
Belgium	05/12/84	13/11/98	<input type="checkbox"/>	29/07/94	13/11/98(p)		03/10/96	19/12/03	<input type="checkbox"/>
Belize	10/12/82	13/08/83			21/10/94(ds)		04/12/95	14/07/05	
Benin	30/08/83	16/10/97			16/10/97(p)				
Bhutan	10/12/82								
Bolivia (Plurinational State of)	27/11/84	28/04/95			28/04/95(p)				
Bosnia and Herzegovina		12/01/94(s)							
Botswana	05/12/84	02/05/90			31/01/05(a)				
Brazil	10/12/82	22/12/88	<input type="checkbox"/>	29/07/94	25/10/07		04/12/95	08/03/00	
Brunei Darussalam	05/12/84	05/11/96			05/11/96(p)				
Bulgaria	10/12/82	15/05/96			15/05/96(a)			13/12/06(a)	<input type="checkbox"/>
Burkina Faso	10/12/82	25/01/05		30/11/94	25/01/05(p)		15/10/96		
Burundi	10/12/82								
Cambodia	01/07/83								
Cameroon	10/12/82	19/11/85		24/05/95	28/08/02				
Canada	10/12/82	07/11/03	<input type="checkbox"/>	29/07/94	07/11/03		04/12/95	03/08/99	<input type="checkbox"/>
Cape Verde	10/12/82	10/08/87	<input type="checkbox"/>	29/07/94	23/04/08				
Central African Republic	04/12/84								
Chad	10/12/82	14/08/09			14/08/09(p)				
Chile	10/12/82	25/08/97	<input type="checkbox"/>		25/08/97(a)				
China	10/12/82	07/06/96	<input type="checkbox"/>	29/07/94	07/06/96(p)		06/11/96		
Colombia	10/12/82								
Comoros	06/12/84	21/06/94							
Congo	10/12/82	09/07/08			09/07/08(p)				
Cook Islands	10/12/82	15/02/95			15/02/95(a)			01/04/99(a)	
Costa Rica	10/12/82	21/09/92			20/09/01(a)			18/06/01(a)	
Côte d'Ivoire	10/12/82	26/03/84		25/11/94	28/07/95(sp)		24/01/96		
Croatia		05/04/95(s)	<input type="checkbox"/>		05/04/95(p)				
Cuba	10/12/82	15/08/84	<input type="checkbox"/>		17/10/02(a)				

State or entity	UNCLOS (Entry into force: 16/11/1994)			Agreement on Part XI (Entry into force: 28/07/1996)			UN Fish Stocks Agreement (Entry into force: 11/12/2001)		
	Signature dd/mm/yy	Ratification/ accession; dd/mm/yy	Declaration	Signature dd/mm/yy	Ratification/ accession; dd/mm/yy	Declaration	Signature dd/mm/yy	Ratification/ accession; dd/mm/yy	Declaration
Cyprus	10/12/82	12/12/88		01/11/94	27/07/95			25/09/02(a)	
Czech Republic	22/02/93	21/06/96		16/11/94	21/06/96			19/03/07(a)	
Democratic People's Republic of Korea	10/12/82								
Democratic Republic of the Congo	22/08/83	17/02/89							
Denmark	10/12/82	16/11/04		29/07/94	16/11/04		27/06/96	19/12/03	
Djibouti	10/12/82	08/10/91							
Dominica	28/03/83	24/10/91							
Dominican Republic	10/12/82	10/07/09			10/07/09(p)				
Ecuador									
Egypt	10/12/82	26/08/83		22/03/95			05/12/95		
El Salvador	05/12/84								
Equatorial Guinea	30/01/84	21/07/97			21/07/97(p)				
Eritrea									
Estonia		26/08/05(a)			26/08/05(a)			07/08/06(a)	
Ethiopia	10/12/82								
European Union	07/12/84	01/04/98(fc)		29/07/94	01/04/98(fc)		27/06/96	19/12/03	
Fiji	10/12/82	10/12/82		29/07/94	28/07/95		04/12/95	12/12/96	
Finland	10/12/82	21/06/96		29/07/94	21/06/96		27/06/96	19/12/03	
France	10/12/82	11/04/96		29/07/94	11/04/96		04/12/96	19/12/03	
Gabon	10/12/82	11/03/98		04/04/95	11/03/98(p)		07/10/96		
Gambia	10/12/82	22/05/84							
Georgia		21/03/96(a)			21/03/96(p)				
Germany		14/10/94(a)		29/07/94	14/10/94		28/08/96	19/12/03	
Ghana	10/12/82	7/06/83							
Greece	10/12/82	21/07/95		29/07/94	21/07/95		27/06/96	19/12/03	
Grenada	10/12/82	25/04/91		14/11/94	28/07/95(sp)				
Guatemala	08/07/83	11/02/97			11/02/97(p)				
Guinea	04/10/84	06/09/85		26/08/94	28/07/95(sp)		04/12/95	16/09/05(a)	
Guinea-Bissau	10/12/82	25/08/86							
Guyana	10/12/82	16/11/93			25/09/08(a)				
Haiti	10/12/82	31/07/96			31/07/96(p)				

State or entity	UNCLOS (Entry into force: 16/11/1994)			Agreement on Part XI (Entry into force: 28/07/1996)			UN Fish Stocks Agreement (Entry into force: 11/12/2001)		
	Signature dd/mm/yy	Ratification/ accession; dd/mm/yy	Declaration	Signature dd/mm/yy	Ratification/ accession; dd/mm/yy	Declaration	Signature dd/mm/yy	Ratification/ accession; dd/mm/yy	Declaration
Holy See									
Honduras	10/12/82	05/10/93			28/07/03(a)				
Hungary	10/12/82	05/02/02			05/02/02(a)		16/05/08(a)		
Iceland	10/12/82	21/06/85		29/07/94	28/07/95(sp)		04/12/95		
India	10/12/82	29/06/95		29/07/94	29/06/95		19/08/03(a)		
Indonesia	10/12/82	03/02/86		29/07/94	02/06/00		04/12/95		
Iran (Islamic Republic of)	10/12/82						17/04/98(a)		
Iraq	10/12/82	30/07/85							
Ireland	10/12/82	21/06/96		29/07/94	21/06/96		27/06/96		
Israel							04/12/95		
Italy	07/12/84	13/01/95		29/07/94	13/01/95		27/06/96		
Jamaica	10/12/82	21/03/83		29/07/94	28/07/95(sp)		04/12/95		
Japan	07/02/83	20/06/96		29/07/94	20/06/96		19/11/96		
Jordan		27/11/95(a)			27/11/95(p)				
Kazakhstan									
Kenya	10/12/82	02/03/89			29/07/94(ds)		13/07/04(a)		
Kiribati		24/02/03(a)			24/02/03(p)		15/09/05(a)		
Kuwait	10/12/82	02/05/86			02/08/02(a)				
Kyrgyzstan									
Laos People's Democratic Republic	10/12/82	05/06/98		27/10/94	05/06/98(p)				
Latvia		23/12/04(a)			23/12/04(a)		05/02/07(a)		
Lebanon	07/12/84	05/01/95			05/01/95(p)				
Lesotho	10/12/82	31/05/07			31/05/07(p)				
Liberia	10/12/82	25/09/08			25/09/08(p)		16/09/05(a)		
Libya	03/12/84								
Liechtenstein	30/11/84								
Lithuania		12/11/03(a)			12/11/03(a)		01/03/07(a)		
Luxembourg	05/12/84	05/10/00		29/07/94	05/10/00		27/06/96		
Madagascar	25/02/83	22/08/01			22/08/01(p)				
Malawi	07/12/84	28/09/10			28/09/10(p)				
Malaysia	10/12/82	14/10/96		02/08/94	14/10/96(p)				

State or entity	UNCLOS (Entry into force: 16/11/1994)		Agreement on Part XI (Entry into force: 28/07/1996)		UN Fish Stocks Agreement (Entry into force: 11/12/2001)	
	Signature dd/mm/yy	Ratification/ accession; dd/mm/yy	Signature dd/mm/yy	Ratification/ accession; dd/mm/yy	Signature dd/mm/yy	Ratification/ accession; dd/mm/yy
Maldives	10/12/82	07/09/00	10/10/94	07/09/00(p)	08/10/96	30/12/98
Mali	19/10/83	16/07/85				
Malta	10/12/82	20/05/93	29/07/94	26/06/96		11/11/01(a)
Marshall Islands		09/08/91(a)			04/12/95	19/03/03
Mauritania	10/12/82	17/07/96	02/08/94	17/07/96(p)	21/12/95	
Mauritius	10/12/82	04/11/94		04/11/94(p)		25/03/97(a)
Mexico	10/12/82	18/03/83		10/04/03(a)		
Micronesia (Federated States of)		29/04/91(a)	10/08/94	06/09/95	04/12/95	23/05/97
Monaco	10/12/82	20/03/96	30/11/94	20/03/96(p)		09/06/99(a)
Mongolia	10/12/82	13/08/96	17/08/94	13/08/96(p)		
Montenegro		23/10/06(d)		23/10/06(d)		
Morocco	10/12/82	31/05/07	19/10/94	31/05/07	04/12/95	
Mozambique	10/12/82	13/03/97		13/03/97(a)		10/12/08(a)
Myanmar	10/12/82	21/05/96		21/05/96(a)		
Namibia	10/12/82	18/04/83	29/07/94	28/07/95(sp)	19/04/96	08/04/98
Nauru	10/12/82	23/01/96		23/01/96(p)		10/01/97(a)
Nepal	10/12/82	02/11/98		02/11/98(p)		
Netherlands	10/12/82	28/06/96	29/07/94	28/06/96	28/06/96	19/12/03
New Zealand	10/12/82	19/07/96	29/07/94	19/07/96	04/12/95	18/04/01
Nicaragua	09/12/84	03/05/00		03/05/00(p)		
Niger	10/12/82					
Nigeria	10/12/82	14/08/86	25/10/94	28/07/95(sp)		02/11/09(a)
Niue	05/12/84	11/10/06		11/10/06(p)	04/12/95	11/10/06
Norway	10/12/82	24/06/96		24/06/96(a)	04/12/95	30/12/96
Oman	01/07/83	17/08/89		26/02/97(a)		14/05/08(a)
Pakistan	10/12/82	26/02/97	10/08/94	26/02/97(p)	15/02/96	
Palau		30/09/96(a)		30/09/96(p)		26/03/08(a)
Panama	10/12/82	01/07/96		01/07/96(p)		16/12/08(a)
Papua New Guinea	10/12/82	14/01/97		14/01/97(p)	04/12/95	04/06/99
Paraguay	10/12/82	26/09/86	29/07/94	10/07/95		
Peru						
Philippines	10/12/82	08/05/84	15/11/94	23/07/97	30/08/96	

State or entity	UNCLOS (Entry into force: 16/11/1994)			Agreement on Part XI (Entry into force: 28/07/1996)			UN Fish Stocks Agreement (Entry into force: 11/12/2001)		
	Signature dd/mm/yy	Ratification/ accession; dd/mm/yy	Declaration	Signature dd/mm/yy	Ratification/ accession; dd/mm/yy	Declaration	Signature dd/mm/yy	Ratification/ accession; dd/mm/yy	Declaration
Poland	10/12/82	13/11/98		29/07/94	13/11/98(p)			14/03/06(a)	
Portugal	10/12/82	03/11/97		29/07/94	03/11/97		27/06/96	19/12/03	
Qatar	27/11/84	09/12/02			09/12/02(p)				
Republic of Korea	14/03/83	29/01/96		07/11/94	29/01/96		26/11/96	01/02/08	
Republic of Moldova		06/02/07(a)			06/02/07(p)				
Romania	10/12/82	17/12/96			17/12/96(a)			16/07/07(a)	
Russian Federation	10/12/82	12/03/97			12/03/97(a)		04/12/95	04/08/97	
Rwanda	10/12/82								
Saint Kitts and Nevis	07/12/84	07/01/93							
Saint Lucia	10/12/82	27/03/85					12/12/95	09/08/96	
Saint Vincent and the Grenadines	10/12/82	01/10/93						29/10/10(a)	
Samoa	28/09/84	14/08/95		07/07/95	14/08/95(p)		04/12/95	25/10/96	
San Marino									
Seo Tome and Principe	13/07/83	03/11/87							
Saudi Arabia	07/12/84	24/04/96			24/04/96(p)				
Senegal	10/12/82	25/10/84		09/08/94	25/07/95		04/12/95	30/01/97	
Serbia	²	12/03/01(s)		12/05/95	28/07/95(sp) ²				
Seychelles	10/12/82	16/09/91		29/07/94	15/12/94		04/12/96	20/03/98	
Sierra Leone	10/12/82	12/12/94			12/12/94(p)				
Singapore	10/12/82	17/11/94			17/11/94(p)				
Slovakia	28/05/93	08/05/96		14/11/94	08/05/96			06/11/08(a)	
Slovenia		16/06/95(s)		19/01/95	16/06/95			15/06/06(a)	
Solomon Islands	10/12/82	23/06/97			23/06/97(p)			13/02/97(a)	
Somalia	10/12/82	24/07/89							
South Africa	05/12/84	23/12/97		03/10/94	23/12/97			14/08/03(a)	
Spain	04/12/84	15/01/97		29/07/94	15/01/97		03/12/96	19/12/03	
Sri Lanka	10/12/82	19/07/94		29/07/94	28/07/95(sp)		09/10/96	24/10/96	

² For further details, see Chapter XXI.6 of the publication entitled "Multilateral Treaties deposited with the Secretary-General"

State or entity	UNCLOS (Entry into force: 16/11/1994)		Agreement on Part XI (Entry into force: 28/07/1996)		UN Fish Stocks Agreement (Entry into force: 11/12/2001)	
	Signature dd/mm/yy	Ratification/ accession; dd/mm/yy	Signature dd/mm/yy	Ratification/ accession; dd/mm/yy	Signature dd/mm/yy	Ratification/ accession; dd/mm/yy
Sudan	10/12/82	23/01/85	29/07/94			
South Sudan						
Suriname	10/12/82	09/07/98		09/07/98(p)		
Swaziland	18/01/84		12/10/94			
Sweden	10/12/82	25/06/96	29/07/94	25/06/96	27/06/96	19/12/03
Switzerland	17/10/84	01/05/09	26/10/94	01/05/09		
Syrian Arab Republic						
Tajikistan						
Thailand	10/12/82	15/05/11		15/05/11(e)		
The former Yugoslav Republic of Macedonia		19/08/94 (s)		19/08/94(p)		
Timor-Leste						
Togo	10/12/82	16/04/85	03/08/94	28/07/95(sp)		
Tonga		02/08/95(a)		2/08/95(p)	04/12/95	31/07/96
Trinidad and Tobago	10/12/82	25/04/86	10/10/94	28/07/95(sp)		13/09/06(a)
Tunisia	10/12/82	24/04/85	15/05/95	24/05/02		
Turkey						
Turkmenistan						
Tuvalu	10/12/82	09/12/02		09/12/02(p)		02/02/09(a)
Uganda	10/12/82	09/11/90	09/08/94	28/07/95(sp)	10/10/96	
Ukraine	10/12/82	26/07/99	28/02/95	26/07/99	04/12/95	27/02/03
United Arab Emirates	10/12/82					
United Kingdom of Great Britain and Northern Ireland		25/07/97(a)	29/07/94	25/07/97	04/12/95	10/12/01 19/12/03 ³
United Republic of Tanzania	10/12/82	30/09/85	07/10/94	25/06/98		
United States of America			29/07/94		04/12/95	21/08/96
Uruguay	10/12/82	10/12/92	29/07/94	07/08/07	16/01/96	10/09/99

³ For further details, see Chapter XXI.7 of the publication entitled "Multilateral Treaties deposited with the Secretary-General"

State or entity	UNCLOS (Entry into force: 16/11/1994)			Agreement on Part XI (Entry into force: 28/07/1996)		UN Fish Stocks Agreement (Entry into force: 11/12/2001)		
	Signature dd/mm/yy	Ratification/ accession; dd/mm/yy	Declaration	Signature dd/mm/yy	Ratification/ accession; dd/mm/yy	Signature dd/mm/yy	Ratification/ accession; dd/mm/yy	Declaration
Uzbekistan								
Vanuatu	10/12/82	10/08/99		29/07/94	10/08/99(p)	23/07/96		
Venezuela (Bolivarian Republic of)								
Viet Nam	10/12/82	25/07/94	☐		27/04/06(a)			
Yemen	10/12/82	21/07/87	☐					
Zambia	10/12/82	07/03/83		13/10/94	28/07/95(sp)			
Zimbabwe	10/12/82	24/02/93		28/10/94	28/07/95(sp)			
TOTALS	157 (☐34)	162	72	79	141	59(5)	78	33

2. *Chronological lists of ratifications of, accessions and successions to the Convention and the related Agreements, as at 31 July 2012*

(a) The Convention

- | | |
|---|--|
| 1. Fiji (10 December 1982) | 46. Micronesia (Federated States of) (29 April 1991) |
| 2. Zambia (7 March 1983) | 47. Marshall Islands (9 August 1991) |
| 3. Mexico (18 March 1983) | 48. Seychelles (16 September 1991) |
| 4. Jamaica (21 March 1983) | 49. Djibouti (8 October 1991) |
| 5. Namibia (18 April 1983) | 50. Dominica (24 October 1991) |
| 6. Ghana (7 June 1983) | 51. Costa Rica (21 September 1992) |
| 7. Bahamas (29 July 1983) | 52. Uruguay (10 December 1992) |
| 8. Belize (13 August 1983) | 53. Saint Kitts and Nevis (7 January 1993) |
| 9. Egypt (26 August 1983) | 54. Zimbabwe (24 February 1993) |
| 10. Côte d'Ivoire (26 March 1984) | 55. Malta (20 May 1993) |
| 11. Philippines (8 May 1984) | 56. Saint Vincent and the Grenadines (1 October 1993) |
| 12. Gambia (22 May 1984) | 57. Honduras (5 October 1993) |
| 13. Cuba (15 August 1984) | 58. Barbados (12 October 1993) |
| 14. Senegal (25 October 1984) | 59. Guyana (16 November 1993) |
| 15. Sudan (23 January 1985) | 60. Bosnia and Herzegovina (12 January 1994) |
| 16. Saint Lucia (27 March 1985) | 61. Comoros (21 June 1994) |
| 17. Togo (16 April 1985) | 62. Sri Lanka (19 July 1994) |
| 18. Tunisia (24 April 1985) | 63. Viet Nam (25 July 1994) |
| 19. Bahrain (30 May 1985) | 64. The former Yugoslav Republic of Macedonia (19 August 1994) |
| 20. Iceland (21 June 1985) | 65. Australia (5 October 1994) |
| 21. Mali (16 July 1985) | 66. Germany (14 October 1994) |
| 22. Iraq (30 July 1985) | 67. Mauritius (4 November 1994) |
| 23. Guinea (6 September 1985) | 68. Singapore (17 November 1994) |
| 24. United Republic of Tanzania (30 September 1985) | 69. Sierra Leone (12 December 1994) |
| 25. Cameroon (19 November 1985) | 70. Lebanon (5 January 1995) |
| 26. Indonesia (3 February 1986) | 71. Italy (13 January 1995) |
| 27. Trinidad and Tobago (25 April 1986) | 72. Cook Islands (15 February 1995) |
| 28. Kuwait (2 May 1986) | 73. Croatia (5 April 1995) |
| 29. Nigeria (14 August 1986) | 74. Bolivia (Plurinational State of) (28 April 1995) |
| 30. Guinea-Bissau (25 August 1986) | 75. Slovenia (16 June 1995) |
| 31. Paraguay (26 September 1986) | 76. India (29 June 1995) |
| 32. Yemen (21 July 1987) | 77. Austria (14 July 1995) |
| 33. Cape Verde (10 August 1987) | 78. Greece (21 July 1995) |
| 34. São Tomé and Príncipe (3 November 1987) | 79. Tonga (2 August 1995) |
| 35. Cyprus (12 December 1988) | 80. Samoa (14 August 1995) |
| 36. Brazil (22 December 1988) | 81. Jordan (27 November 1995) |
| 37. Antigua and Barbuda (2 February 1989) | 82. Argentina (1 December 1995) |
| 38. Democratic Republic of the Congo (17 February 1989) | 83. Nauru (23 January 1996) |
| 39. Kenya (2 March 1989) | 84. Republic of Korea (29 January 1996) |
| 40. Somalia (24 July 1989) | 85. Monaco (20 March 1996) |
| 41. Oman (17 August 1989) | 86. Georgia (21 March 1996) |
| 42. Botswana (2 May 1990) | 87. France (11 April 1996) |
| 43. Uganda (9 November 1990) | 88. Saudi Arabia (24 April 1996) |
| 44. Angola (5 December 1990) | 89. Slovakia (8 May 1996) |
| 45. Grenada (25 April 1991) | |

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 Union (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 (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)
147. Latvia (23 December 2004)
148. Burkina Faso (25 January 2005)
149. Estonia (26 August 2005)
150. Belarus (30 August 2006)
151. Niue (11 October 2006)
152. Montenegro (23 October 2006)
153. Republic of Moldova (6 February 2007)
154. Lesotho (31 May 2007)
155. Morocco (31 May 2007)
156. Congo (9 July 2008)
157. Liberia (25 September 2008)
158. Switzerland (1 May 2009)
159. Dominican Republic (10 July 2009)
160. Chad (14 August 2009)
161. Malawi (28 September 2010)
162. Thailand (15 May 2011)

(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 (Plurinational State of) (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. Serbia (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 Union (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)
119. Latvia (23 December 2004)
120. Botswana (31 January 2005)
121. Burkina Faso (25 January 2005)
122. Estonia (26 August 2005)
123. Viet Nam (27 April 2006)
124. Belarus (30 August 2006)
125. Niue (11 October 2006)
126. Montenegro (23 October 2006)
127. Republic of Moldova (6 February 2007)
128. Lesotho (31 May 2007)
129. Morocco (31 May 2007)
130. Uruguay (7 August 2007)
131. Brazil (25 October 2007)
132. Cape Verde (23 April 2008)
133. Congo (9 July 2008)
134. Liberia (25 September 2008)
135. Guyana (25 September 2008)
136. Switzerland (1 May 2009)
137. Dominican Republic (10 July 2009)
138. Chad (14 August 2009)
139. Angola (7 September 2010)
140. Malawi (28 September 2010)
141. Thailand (15 May 2011)

(c) Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks

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 of Great Britain and Northern Ireland (10 December 2001), (19 December 2003)
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 Union (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)
53. Belize (14 July 2005)
54. Kiribati (15 September 2005)
55. Guinea (16 September 2005)
56. Liberia (16 September 2005)
57. Poland (14 March 2006)
58. Slovenia (15 June 2006)
59. Estonia (7 August 2006)
60. Japan (7 August 2006)
61. Trinidad and Tobago (13 September 2006)
62. Niue (11 October 2006)
63. Bulgaria (13 December 2006)
64. Latvia (5 February 2007)
65. Lithuania (1 March 2007)
66. Czech Republic (19 March 2007)
67. Romania (16 July 2007)
68. Republic of Korea (1 February 2008)
69. Palau (26 March 2008)
70. Oman (14 May 2008)
71. Hungary (16 May 2008)
72. Slovakia (6 November 2008)
73. Mozambique (10 December 2008)
74. Panama (16 December 2008)
75. Tuvalu (2 February 2009)
76. Indonesia (28 September 2009)
77. Nigeria (2 November 2009)
78. Saint Vincent and the Grenadines (29 October 2010)

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

A. National Legislation

1. Greece

Law No. 2289/1995 "On Prospecting, Exploration and Exploitation of Hydrocarbons
and Other Provisions", as amended by Law No. 4001/2011¹

Article 2, paragraph 1, reads as follows:

"1. The right to prospect, explore and exploit hydrocarbons found on land, in lakes and submarine areas over which the Hellenic Republic exercises sovereignty or sovereign rights in accordance with the provisions of the 1982 UN Convention on the Law of the Sea, approved by Law No. 2321/1995, appertains exclusively to the State and shall be exercised only for the public interest [...]

"Submarine areas" means the seabed and the subsoil of the internal waters, the territorial sea, the continental shelf and the exclusive economic zone (once declared), to a distance of 200 nautical miles from the baselines from which the breadth of the territorial sea is measured.

In the absence of a delimitation agreement with neighbouring States, whose coasts are opposite or adjacent to the coasts of the Hellenic Republic, the outer limit of the continental shelf and of the exclusive economic zone (once declared) is the median line, every point of which is equidistant from the nearest points on the baselines (both continental and insular) from which the breadth of the territorial sea is measured."

¹ Transmitted through note verbale dated 8 May 2012 from the Permanent Mission of Greece to the United Nations requesting the Secretary-General to assist in giving due publicity in accordance with article 21, paragraph 3 of the United Nations Convention on the Law of the Sea.

Law No. 4001/2011 on the operation of electricity and natural gas energy markets, the exploration, production and transport networks of hydrocarbons and other provisions" (Official Gazette A' 179/22.8.2011).

2. Saudi ArabiaThe Statute of Maritime Delimitation of the Kingdom of Saudi Arabia of 13 December 2012²

Abdullah Bin AbdulAziz Al-Saud
King of the Kingdom of Saudi Arabia

TRANSLATION OF ROYAL DECREE NUMBER 6 DATED 18/1/1433H

We, Abdullah Bin AbdulAziz Al-Saud, King of the Kingdom of Saudi Arabia, in accordance with article seventy of the basic law of governance, issued by Royal Decree number A/90 and dated 27/8/1412H, the corresponding 01/03/1992G.

And in accordance with article 20 of the regulation of the Council of Ministers issued by Royal Decree number A/13, dated 3/3/1414H, the corresponding 16/09/1993G.

And in accordance with article 18 of the regulations of the Shura'a Council, issued by Royal Decree number A/91, dated 27/8/1412H, the corresponding 01/03/1992G.

And reviewing the decision of the Shura'a Council number 30/30, dated 12/6/1432H, the corresponding 15/05/2011G.

And after reviewing the decision of the Council of Ministers, number (12) dated 17/1/1433H, the corresponding 12/12/2011G. We decree the following:

First: Approval of the rules of Maritime delimitation of the Kingdom of Saudi Arabia, according to the attached formula;

Second: This decree shall be put into effect by HRH, the Deputy Prime Minister, the Ministers, and the directors of concerned independent agencies, each according to his mandate.

Signed
Abdullah bin AbdulAziz

² Original: Arabic.

Transmitted by letter dated 2 July 2012 by the Permanent Mission of the Kingdom of Saudi Arabia to the United Nations addressed to the Secretariat of the United Nations.

Statute of Maritime Delimitation of the Kingdom of Saudi Arabia

Article One: Words and Terms: Wherever they are used, in this document, are explained in the following:

1. The Kingdom: The Kingdom of Saudi Arabia
2. Nautical Mile: 1852 Meters
3. Coasts: the Coasts of the Kingdom overlooking the Red Sea, The Gulf of Aqaba and the Arab Gulf.
4. The Convention: United Nations Convention on the Law of the Sea of 1982
5. The Baselines: The maritime baseline of the Kingdom is delineated in accordance with the Convention in the Red Sea, Gulf of Aqaba and the Arab Gulf.
6. EEZ: Exclusive Economic Zone

Internal Waters

Article Two: The internal waters of the Kingdom are those on the landward side of the baseline of the territorial sea.

Article Three: the laws and regulations of the Kingdom, regulates the movement of ships in its internal waters.

Territorial Sea

Article Four: The jurisdiction of the Kingdom extends beyond its land territory, its internal waters and territorial sea, the air space over the territorial sea as well as to its seabed and subsoil. The Kingdom exercises sovereignty in accordance with the provisions of the Convention and other rules of international law.

Article Five:

1. The Territorial sea of the Kingdom extends 12 nautical miles, measured from the baselines.
2. The outer limit of the territorial sea is the line every point of which is at a distance from the nearest point of the baseline equal to the breadth of the territorial sea.

Article Six: Taking into consideration the laws and regulations of the Kingdom, ships of all states enjoy the right of innocent passage through the territorial sea of the Kingdom.

Article Seven: Passage is innocent so long as it is not prejudicial to peace, good order, or security of the Kingdom. Such passage shall take place in the territorial sea in conformity with the provisions of this statute, the convention and other rules of international law.

Article Eight: The laws and regulations of the Kingdom define innocent passage through its territorial sea in accordance with the Convention and any other rules of international law regarding the following:

1. Designating and regulating the sea lanes;
2. Protection of navigational aids and facilities and other structures;
3. Protection of cables and pipelines;
4. Safeguarding sea life;
5. The prevention of infringement of the fisheries of the Kingdom;
6. The preservation of the environment of the Kingdom and the prevention, reduction and control of the pollution thereof;
7. Marine scientific research and hydrographic surveys; and
8. The prevention of infringement of the customs, fiscal, immigration or sanitary laws and the regulations of the kingdom.

Article Nine:

1. All submarine and other underwater vehicles are required to navigate on the surface and to show their flag in the territorial sea of the Kingdom;
2. All ships and submarines which are nuclear-powered and the ships carrying nuclear materials, dangerous or noxious substances, shall obtain a permit from the concerned authorities in the Kingdom before entering or passing through the territorial sea of the Kingdom;

3. All ships and submarines which exercise their right of innocent passage in the territorial sea of the Kingdom shall adhere to laws and regulations of the Kingdom and conform to all international regulations to avoid collision with other ships.

Article Ten: The flag state of a military ship or a submarine or any other government ship being operated for non-commercial purpose, bears the responsibility of any damage born by the Kingdom as a result of not adhering to the regulations of the Kingdom or the provisions of the Convention or any other rules of international law.

Contiguous Zone

Article Eleven:

1. The Kingdom shall have an area adjacent to its territorial waters which extends for 12 nautical miles from the outer limit of its territorial sea;
2. The Kingdom shall exercise necessary control and monitoring for the following purposes:
 - a. Prevention of infringement of the regulations in the Kingdom related to security, environmental, navigation, customs, taxes, immigration or sanitary laws and regulations within its territory of territorial sea;
 - b. Punish any infringement of the above laws and regulations committed within the territory of the Kingdom or its territorial sea.

Exclusive Economic Zone (EEZ)

Article Twelve: The Kingdom has an exclusive economic zone located beyond and adjacent to the territorial sea, and extends to the maritime borders with the neighboring states or opposite it.

Article Thirteen: The Kingdom has the following rights in the EEZ:

1. Exclusive sovereign rights for the purpose of exploring natural resources, whether living or non-living, of the waters superjacent to the seabed and its subsoil, conserve such resources and manage it, 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.
2. Exclusive sovereignty over the following:
 - a. The protection and preservation of the marine environment;
 - b. Marine scientific research;
 - c. The establishment and use of artificial islands, installations and structures, and limit the safety zone, including the sovereign right to issue laws and regulations regarding the customs, taxes, and sanitary and the laws of security, safety, immigration, and others.
3. All other rights in accordance with the Convention, and other rules in international law.

Article Fourteen:

1. To exercise its sovereign rights of exploring, exploiting, conserving and managing natural resources in the EEZ; the Kingdom may take measures to inspect, search, detain and sue the ships, as the need may arise, to ensure compliance with the laws and regulations of the Kingdom in the EEZ.
2. The detained ship may not be released before posting a guarantee.
3. The Kingdom informs the flag state in case of detaining a ship and all other punishments imposed after that.

Article Fifteen: Fishing in the EEZ is restricted to nationals of the Kingdom. Concerned authorities in the Kingdom may, in accordance with conditions and restrictions, license non-nationals to fish in accordance with the laws and regulations imposed by the Kingdom to preserve living resources.

Article Sixteen: All other states shall observe the rights of the Kingdom in the EEZ and adhere to its laws and regulations, the provisions of this convention and any other rules of international law.

The Continental Shelf

Article Seventeen: The Continental Shelf of the Kingdom comprises the seabed and subsoil of the submarine areas that extend beyond its territorial sea throughout the natural prolongation of its land territory.

Article Eighteen:

1. The Kingdom exercises its sovereign rights over the Continental Shelf for the purpose of exploring it and exploiting its natural resources.
2. The natural resources, referred to in paragraph 1, consists of the mineral and other non-living resources of the seabed and subsoil together with living organisms belonging to sedentary species, that is to say, organisms which, at the harvestable stage, either are immobile on or under the seabed or are unable to move except in constant physical contact with the seabed or the subsoil.

Article Nineteen: The Kingdom has the exclusive right to authorize and regular drilling on the Continental Shelf for all purposes. It can exploit the subsoil by digging tunnels no matter how deep the water above the seabed is at that location.

Article Twenty:

1. The sovereign rights of the Kingdom on the Continental Shelf are exclusive, and is not affected by *De Facto*, *De Jour* or an explicit declaration by the Kingdom nor does it depend on a formal declaration.
2. No one can exercise the rights referred to in paragraph (1) of this article without a written permission form from the concerned authorities in the Kingdom.

Article Twenty-One: The freedom of navigation, fly-over, the laying of submarine cables, and pipelines are guaranteed to other states in the EEZ and the continental shelf in the Kingdom in accordance with the provisions of the Convention, the rules of international law, and the rules and regulations of the Kingdom.

General Provisions

Article Twenty-Two: The application of this statute does not invalidate previous treaties concluded between the Kingdom, and neighboring and opposite states that relate to the maritime borders or the exploitation of natural resources in the Red Sea, the Gulf of Aqaba, and the Arab Gulf.

Article Twenty-Three: This statute shall be published in the official gazette and shall enter into force from the date of its publication.

B. Bilateral Treaties

1. *Agreement between the Commonwealth of the Bahamas and the Republic of Cuba for the Delimiting Line between their Maritime Zones signed on 3 October 2011¹*

The Commonwealth of The Bahamas and The Republic of Cuba, hereinafter referred to as “The Parties”.

REAFFIRMING the close and traditional bonds of friendship, mutual respect and understanding between the two Caribbean States;

CONSIDERING the right of the Parties to establish their Territorial Seas, Contiguous Zones, Exclusive Economic Zones and Continental Shelves, in accordance with international law and particularly with the United Nations Convention on the Law of the Sea, adopted in Montego Bay in 1982, to which Cuba and The Bahamas are States Parties;

CONSIDERING the right of The Bahamas, as an archipelagic state, to declare archipelagic baselines enclosing archipelagic waters, in a manner consistent with the United Nations Convention on the Law of the Sea;

CONSIDERING the right of the Republic of Cuba to declare the baselines delimiting its waters, pursuant to the United Nations Convention on the Law of the Sea;

TAKING INTO ACCOUNT the principles of International Law respecting the delimitation of maritime zones and relevant provisions of the United Nations Convention on the Law of the Sea;

ACKNOWLEDGING that cooperation between neighbouring states is beneficial to the rational and optimal exploitation and management of living and non-living marine resources;

DESIROUS of establishing the limits of the Territorial Sea, Exclusive Economic Zone and Continental Shelf between the Parties.

HAVE AGREED as follows:

ARTICLE I

- (a) The delimitation line which delimits the maritime zones between the Parties shall be defined by geodetic lines joining the coordinates specified in Schedule No. I to this Agreement.
- (b) The delimitation line defined in paragraph (a) constitutes the maritime boundary and delimits the sovereignty or jurisdiction of the Parties, as applicable, between their territorial seas, contiguous zones, exclusive economic zones and continental shelves declared presently or as may be declared at any time in the future.
- (c) The delimitation line defined in paragraph (a) is shown, for illustrative purposes only, on the diagram attached to this agreement as Schedule No. II.
- (d) The geodetic reference system used is the World Geodetic System 1984 (WGS 84). The following charts have also been consulted:

¹ Registered with the Secretariat of the United Nations by Bahamas on 22 May 2012. Registration No. I-49590. Entry into force: 9 March 2012.

Transmitted through note verbales dated 22 May 2012 from the Permanent Mission of the Commonwealth of the Bahamas to the United Nations and the Permanent Mission of Cuba to the United Nations addressed to the Secretary-General of the United Nations.

Charts Used by The Bahamas		
No.	Title	Publisher/Edition
11461	Straits of Florida, Southern Portion	National Imagery and Mapping Agency, 1996
27060	Cayo Lavela to Cayo Verde	Defense Mapping Agency, (DMA)1996
27040	Cayo Verde to Cabo Lucrecia	DMA, 1995.
26240	Crooked Island Passage to Punta De Maisi	DMA, 1995
26260	Passage Between Acklins Island, Haiti and Caicos Islands	DMA, 1988
27005	Key West to San Juan	DMA 1996

Charts Used by Cuba		
No.	Title	Publisher/Edition
11201	Cuba	Hydrographic and Geodetic Service of the Republic of Cuba (SHGC)/2002 .
11402	Central Part of Cuba	SHGC/2001
11403	Eastern Part of Cuba	SHGC/2004
11427	Cayo Bahia de Cadiz to Cayo Fragoso	SHGC/2001
11431	Bahia de Manati to Punta Lucrecia	SHGC/1998
4001	Isla de Cuba to Bermuda Islands	Cuban Institute of Hydrography (ICH) 1991
4101	Straits of Florida	ICH/1991
4102	Jacksonville Port to Little Bahama Bank	ICH/1991
4103	Northern Part of the Bahama Islands	ICH/1991
4104	Central Part of the Bahama Islands	ICH/1991
4105	Southern Part of the Bahama Islands	ICH/1991
11428	Cayo Fragoso to Cayo Caiman Grande de Santa María	ICH/2001
11429	Cayo Caimán Grande de Santa María to Cayo Verde	SHGC/2001
11430	Cayo Verde to Bahía de Manatí	SHGC/2005
11432	Bahía de Vita to Cayo Moa	SHGC/2004
11433	Cayo Moa to Punta de Maisi	SHGC/1998

ARTICLE II

This Agreement shall be binding upon both Parties, without prejudice to the eventual positions that either may freely adopt in any conferences on the Law of the Sea, in any international fora or in the conclusion of Agreements with other States regarding delimitation of maritime boundaries.

ARTICLE III

The Parties agree that neither shall make any claims nor exercise any sovereignty, sovereign rights or jurisdiction over the waters, the sea-bed and sub-soil which are found in the territorial sea, exclusive economic zone or continental shelf of the other Party, as they have been delimited in this Agreement.

ARTICLE IV

The Parties agree to cooperate, subject to agreements which may be elaborated subsequently, in the following areas:

- (a) navigational safety and safety of life at sea, including search and rescue;
- (b) hydrographic surveys;
- (c) marine scientific research;
- (d) preservation and protection of the marine environment;
- (e) dealing with illegal acts affecting the safety of navigation, illegal trafficking in narcotic drugs and psychotropic substances and the smuggling of migrant by sea;
- (f) conservation and management of living resources which occur within the EEZ of both parties, as provided for in the United Nations Convention on the Law of the Sea;
- (g) management and exploitation of common hydrocarbon reserves which extend across the maritime boundary defined in this Agreement; and
- (h) such other areas of common interest as the Parties may agree.

ARTICLE V

This Agreement shall enter into force on the date of the last notification exchanged between the Parties, through the Diplomatic Channel informing of their fulfilment of internal procedures for its Ratification.

IN WITNESS WHEREOF, the undersigned, having been duly authorized by their respective Governments, have signed this Agreement.

Done at Nassau on this 3rd day of October, 2011 in duplicate in English and Spanish, each text being equally authentic.

For the Commonwealth of The Bahamas

For the Republic of Cuba

Sign

Sign

Hon. Theodore Brent Symonette
MP, Deputy Prime Minister and
Minister of Foreign Affairs

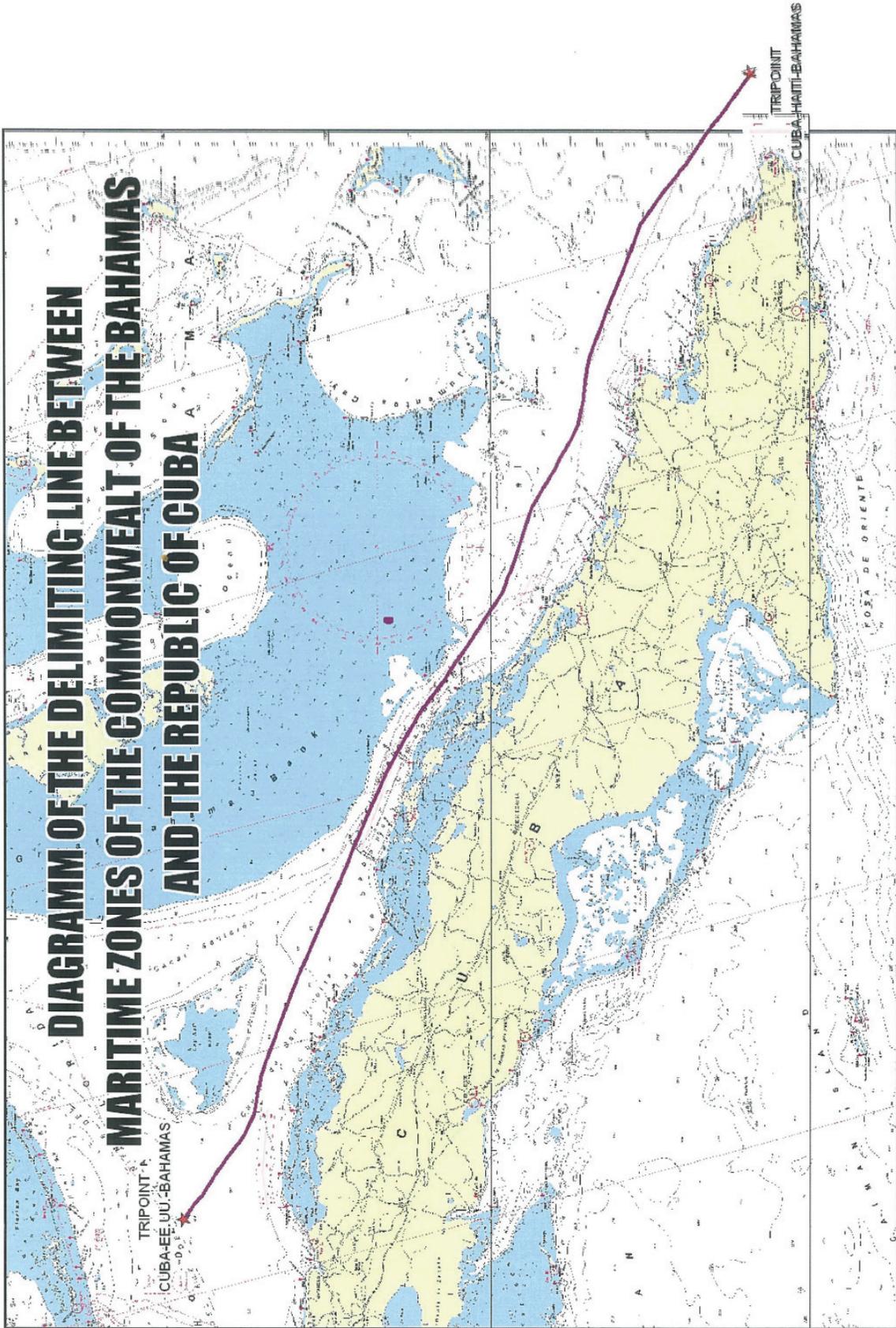
H.E. José Luis Ponce Caraballo,
Ambassador Extraordinary and
Plenipotentiary of the Republic of
Cuba to the Commonwealth of The Bahamas

Schedule No. 1 of the Agreement between the Commonwealth of the Bahamas and the Republic of Cuba for the delimiting line between their maritime zones

Coordinates of the Maritime Boundary between The Republic of Cuba and The Commonwealth of The Bahamas

Median Line Point	Latitude	Longitude
1	20° 22' 24.8" N	73° 34' 56.5" W
2	20° 22' 33.4" N	73° 35' 33.5" W
3	20° 24' 23.4" N	73° 38' 25.0" W
4	20° 32' 11.6" N	73° 49' 54.1" W
5	20° 34' 24.1" N	73° 52' 59.2" W
6	20° 38' 19.2" N	73° 58' 00.1" W
7	20° 41' 31.2" N	74° 03' 13.4" W
8	20° 46' 13.3" N	74° 10' 39.5" W
9	20° 54' 22.4" N	74° 21' 38.0" W
10	21° 03' 32.7" N	74° 35' 04.3" W
11	21° 08' 52.4" N	74° 49' 56.9" W
12	21° 15' 59.8" N	75° 09' 15.1" W
13	21° 22' 40.1" N	75° 27' 34.7" W
14	21° 23' 38.4" N	75° 32' 19.7" W
15	21° 24' 19.8" N	75° 36' 36.9" W
16	21° 24' 56.0" N	75° 42' 01.8" W
17	21° 25' 20.9" N	75° 45' 33.3" W
18	21° 27' 05.5" N	75° 55' 16.3" W
19	21° 30' 14.5" N	76° 02' 23.0" W
20	21° 34' 09.4" N	76° 09' 36.0" W
21	21° 35' 58.4" N	76° 13' 21.1" W
22	21° 38' 18.0" N	76° 17' 24.1" W
23	21° 44' 34.4" N	76° 28' 39.2" W
24	21° 49' 41.7" N	76° 45' 20.1" W
25	21° 52' 23.6" N	76° 53' 40.2" W
26	21° 53' 34.7" N	76° 56' 35.3" W
27	21° 54' 43.8" N	76° 59' 58.3" W
28	21° 55' 48.2" N	77° 03' 10.7" W
29	22° 02' 33.2" N	77° 13' 49.1" W
30	22° 07' 59.3" N	77° 22' 23.0" W

31	22° 15' 30.3" N	77° 34' 17.7" W
32	22° 16' 27.6" N	77° 35' 54.0" W
33	22° 17' 30.3" N	77° 37' 46.8" W
34	22° 24' 07.3" N	77° 46' 39.0" W
35	22° 25' 11.9" N	77° 48' 06.1" W
36	22° 25' 56.2" N	77° 49' 13.9" W
37	22° 26' 11.6" N	77° 49' 44.6" W
38	22° 35' 46.0" N	78° 06' 55.6" W
39	22° 38' 33.3" N	78° 12' 47.7" W
40	22° 45' 13.2" N	78° 28' 57.4" W
41	22° 51' 58.3" N	78° 46' 03.7" W
42	22° 53' 31.4" N	78° 49' 59.4" W
43	23° 08' 21.4" N	79° 26' 35.3" W
44	23° 09' 33.7" N	79° 29' 35.0" W
45	23° 12' 46.2" N	79° 37' 34.3" W
46	23° 14' 59.3" N	79° 43' 45.1" W
47	23° 17' 31.2" N	79° 50' 53.1" W
48	23° 24' 21.8" N	80° 10' 16.1" W
49	23° 25' 26.3" N	80° 13' 19.9" W
50	23° 26' 02.8" N	80° 15' 24.1" W
51	23° 26' 30.3" N	80° 17' 30.8" W
52	23° 26' 51.0" N	80° 19' 39.2" W
53	23° 26' 51.3" N	80° 19' 42.1" W
54	23° 28' 15.3" N	80° 28' 15.7" W
55	23° 28' 40.2" N	80° 29' 57.9" W
56	23° 29' 05.8" N	80° 31' 26.1" W
57	23° 29' 50.4" N	80° 33' 31.8" W
58	23° 31' 13.9" N	80° 36' 38.6" W
59	23° 32' 18.5" N	80° 38' 42.1" W
60	23° 33' 31.5" N	80° 40' 44.7" W
61	23° 34' 11.2" N	80° 41' 45.6" W
62	23° 35' 40.7" N	80° 43' 53.3" W
63	23° 40' 39.3" N	80° 50' 57.9" W
64	23° 42' 44.9" N	80° 54' 06.5" W
65	23° 45' 07.0" N	80° 58' 07.2" W
66	23° 48' 05.8" N	81° 02' 45.3" W
67	23° 51' 31.4" N	81° 07' 26.2" W
68	23° 53' 20.4" N	81° 09' 43.3" W
69	23° 55' 30.0" N	81° 12' 55.0" W



2. Treaties between Republic of Mauritius and the Republic of Seychelles regarding the Mascarene Plateau signed by the Government of the Republic of Mauritius and the Government of the Republic of Seychelles at Clarisse House, Vacoas in Mauritius on 13 March 2012²

Dear Secretary-General,

We, President of the Republic of Seychelles and Prime Minister of the Republic of Mauritius, present our compliments to you and have the honour to inform you that:

- (a) **Pursuant to** the adoption by the Commission on the Limits of the Continental Shelf on 30 March 2011 of the "Recommendations of the Commission on the Limits of the Continental Shelf in regard to the joint submission made by Mauritius and Seychelles concerning the Mascarene Plateau region on 1 December 2008" (CLCS/70);
- (b) **Having Acknowledged** the existence of an overlapping area between the continental shelf extending beyond the Exclusive Economic Zone boundary of our respective countries in the said Mascarene Plateau region; and
- (c) **In Accordance** with the provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 to which both the Republic of Mauritius and the Republic of Seychelles are parties, and in particular its Article 83 which provides for the delimitation of the Continental Shelf between States with opposite or adjacent coasts to be effected by agreement on the basis of international law in order to achieve an equitable solution,

the Government of the Republic of Seychelles and the Government of the Republic of Mauritius have signed the "Treaty concerning the Joint Exercise of Sovereign Rights over the Continental Shelf in the Mascarene Plateau Region" and the "Treaty concerning the Joint Management of the Continental Shelf in the Mascarene Plateau Region" at Clarisse House, Vacoas in Mauritius on 13 March 2012; and have each completed the domestic legal procedures for the entry into force of the said Treaties. The Treaties have entered into force today, 18 June 2012.

In view thereof, we have the further honour to deposit with the United Nations in accordance with Article 102 of its Charter and Article 84 paragraph 2 of the United Nations Convention on the Law of the Sea, a certified copy of the aforementioned Treaties.

A copy of this Joint Letter is being addressed to the Secretary-General of the International Seabed Authority for official record purposes.

Please accept, dear Secretary-General, the assurances of our highest consideration.

Done in Victoria, Seychelles in the English language in duplicate on this eighteenth day of June two thousand and twelve.

For the Government of the
Republic of Mauritius

For the Government of the
Republic of Seychelles

Sign

Sign

Dr. The Hon Navinchandra Ramgoolam, GCSK, FRCP
Prime Minister

H.E. Mr. James Alix Miche
President

² Joint letter transmitted through note verbale dated 9 July 2012 from the Permanent Mission of the Republic of Mauritius to the United Nations, requesting the Secretary-General to assist in giving due publicity in accordance with article 84, paragraph 2 of the United Nations Convention on the Law of the Sea.

- (a) Treaty concerning the Joint Exercise of Sovereign Rights Over the Continental Shelf in the Mascarene Plateau Region between the Government of the Republic of Mauritius and the Government of the Republic of Seychelles (“the Contracting Parties”)³

RECALLING that both countries being coastal States co-operated on the basis of the *Treaty between the Government of the Republic of Seychelles and the Government of the Republic of Mauritius on the Framework for a Joint Submission to the United Nations Commission on the Limits of the Continental Shelf* dated 18 September 2008, as subsequently amended, to lodge on 1 December 2008 the Joint Submission to the United Nations Commission on the Limits of the Continental Shelf ('the Commission') concerning the Mascarene Plateau region ("Joint Submission") under Article 76, paragraph 8 of the United Nations Convention on the Law of the Sea done at Montego Bay on 10 December 1982 (“the Convention”);

RECALLING ALSO that on 30 March 2011, the Commission adopted recommendations confirming the entitlement of the Contracting Parties to the area of continental shelf submitted by them in the Joint Submission, as contained in the Commission document entitled *Recommendations of the Commission on the Limits of the Continental Shelf in regards to the Joint Submission made by Mauritius and Seychelles in respect of the Mascarene Plateau Region on 1 December 2008*;

NOTING that Article 76 of the Convention provides that the limits of the continental shelf established by coastal States on the basis of the recommendations of the Commission shall be final and binding;

NOTING ALSO that Article 83 of the Convention provides that the delimitation of the continental shelf between States with opposite coasts shall be effected by agreement on the basis of international law in order to achieve an equitable solution and, in the absence of delimitation, that States shall make every effort in a spirit of understanding and co-operation to enter into provisional arrangements of a practical nature which do not prejudice a final delimitation of the continental shelf;

HAVE AGREED as follows:

Article 1: Joint Exercise of Sovereign Rights over the Continental Shelf

The Contracting Parties shall exercise sovereign rights jointly for the purpose of exploring the continental shelf and exploiting its natural resources in the area described in Article 2 ('the Joint Zone').

Article 2: Delineation of the Joint Zone

The Joint Zone is defined by the following points, the coordinates of latitude and longitude [referred to the World Geodetic System (WGS84)] of which are set out at Annex 1 to this Treaty, and as illustrated in the map at Annex 2 of this Treaty:

Commencing at point ECS1 on Seychelles Exclusive Economic Zone Boundary, the boundary line runs through points ECS2 to ECS44, thence to point ECS45, thence to point ECS46, thence through points ECS47 to ECS105, thence to point ECS106, thence through points ECS107 to ECS123, thence through points ECS124 to ECS186, thence to point ECS187, thence to point ECS188, thence through points ECS189 to ECS220, thence to point ECS221, thence through points ECS222 to ECS269, thence through points ECS270 to ECS275, thence to point ECS276, thence through points ECS277 to ECS296, thence through points ECS297 to ECS321, thence through points ECS322 to ECS362, thence to point ECS363, thence through points ECS364 to ECS395, thence to point ECS396, thence through points ECS397 to ECS453 on Mauritius Exclusive Economic Zone boundary, thence along Mauritius Exclusive Economic Zone boundary to point 34, thence through points 35 to 41, thence through points 42 to 47, thence through point 48 to MS1 on the intersection of the Seychelles and Mauritius Exclusive Economic Zone boundaries, thence along the Seychelles Exclusive Economic Zone boundary through points EZ1 to EZ5, thence along the Seychelles Exclusive Economic Zone boundary to the starting point at ECS1 on Seychelles Exclusive Economic Zone boundary.

The boundary line between the above listed points is a geodesic.

³ Registered with the Secretariat of the United Nations by Mauritius and Seychelles 11 July 2012. Registration No. I-49782. Entry into force: 18 June 2012.

Article 3: Treaty without Prejudice

Nothing contained in this Treaty, and no act taking place whilst this Treaty is in force, shall be interpreted as prejudicing or affecting the legal position or rights of the Contracting Parties concerning any future delimitation of the continental shelf between them in the Mascarene Plateau Region.

Article 4: Entry into Force

- (a) Each Contracting Party shall notify the other, by means of exchange of diplomatic notes, the completion of the procedures required by its law for the bringing into force of this Treaty. The Treaty shall enter into force on the date of receipt of the later notification.
- (b) Upon entry into force, the Treaty shall be taken to have effect, and all of its provisions shall be taken to have applied, from the date of signature.

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

DONE at Clarisse House, Vacoas, Mauritius in duplicate on this 13th day of March Two Thousand and Twelve in the English language.

For the Government of the Republic of Mauritius

Sign

Dr. the Hon Navinchandra Ramgoolam, GCSK, FRCP
Prime Minister

For the Government of the Republic of Seychelles

Sign

H.E. Mr. James Alix Miche
President

ANNEX 1

**Geographical coordinates (DATUM WGS 84) delineating
the Seychelles-Mauritius Joint Zone**

Coordinates ID	Latitude (decimal deg)	Longitude (decimal deg)
ECS 1	-4.90806007	59.27680588
ECS 2	-4.90956497	59.28105164
ECS 3	-4.91540956	59.29670334
ECS 4	-4.92151403	59.31225586
ECS 5	-4.92787600	59.32770157
ECS 6	-4.93449545	59.34303665
ECS 7	-4.94137001	59.35826111
ECS 8	-4.94849682	59.37337112
ECS 9	-4.95587683	59.38836288
ECS 10	-4.96350431	59.40323257
ECS 11	-4.97137928	59.41796875
ECS 12	-4.97949934	59.43257141
ECS 13	-4.98786354	59.44704437
ECS 14	-4.99646616	59.46137238
ECS 15	-5.00530624	59.47555161
ECS 16	-5.01438284	59.48958588
ECS 17	-5.02369118	59.50346756
ECS 18	-5.03323078	59.51719284
ECS 19	-5.04299784	59.53075790
ECS 20	-5.05298948	59.54415894
ECS 21	-5.06320477	59.55739212
ECS 22	-5.07363844	59.57045746
ECS 23	-5.08429050	59.58334732
ECS 24	-5.09515572	59.59605789
ECS 25	-5.10623217	59.60858536
ECS 26	-5.11751652	59.62093353
ECS 27	-5.12900496	59.63308716
ECS 28	-5.14069462	59.64505005
ECS 29	-5.15258312	59.65681839
ECS 30	-5.16466522	59.66838837
ECS 31	-5.17693901	59.67975616
ECS 32	-5.18940115	59.69091797
ECS 33	-5.20204639	59.70186615
ECS 34	-5.21487331	59.71261215
ECS 35	-5.22787952	59.72314072
ECS 36	-5.24105835	59.73344803
ECS 37	-5.25440645	59.74353409

Coordinates ID	Latitude (decimal deg)	Longitude (decimal deg)
ECS 38	-5.26792240	59.75340271
ECS 39	-5.28160143	59.76304626
ECS 40	-5.29543781	59.77246094
ECS 41	-5.30942869	59.78164291
ECS 42	-5.32357216	59.79058838
ECS 43	-5.33786345	59.79930496
ECS 44	-5.35229826	59.80777740
ECS 45	-6.04989910	60.20489120
ECS 46	-6.33353949	61.16790390
ECS 47	-6.33209372	61.17536163
ECS 48	-6.32918072	61.19184875
ECS 49	-6.32654333	61.20837402
ECS 50	-6.32418060	61.22494888
ECS 51	-6.32209444	61.24155807
ECS 52	-6.32028484	61.25819778
ECS 53	-6.31875229	61.27486801
ECS 54	-6.31749725	61.29155731
ECS 55	-6.31652117	61.30826569
ECS 56	-6.31582165	61.32498932
ECS 57	-6.31540155	61.34172058
ECS 58	-6.31525993	61.35845566
ECS 59	-6.31539631	61.37519073
ECS 60	-6.31581163	61.39192200
ECS 61	-6.31650543	61.40864563
ECS 62	-6.31747723	61.42535400
ECS 63	-6.31872654	61.44204330
ECS 64	-6.32025385	61.45871353
ECS 65	-6.32205820	61.47535324
ECS 66	-6.32413960	61.49196243
ECS 67	-6.32649660	61.50853348
ECS 68	-6.32912970	61.52506638
ECS 69	-6.33203697	61.54154968
ECS 70	-6.33521795	61.55797958
ECS 71	-6.33867264	61.57435989
ECS 72	-6.34240007	61.59067917
ECS 73	-6.34639788	61.60693741
ECS 74	-6.35066462	61.62312317
ECS 75	-6.35520077	61.63923264
ECS 76	-6.36000395	61.65526581
ECS 77	-6.36507416	61.67122269
ECS 78	-6.37040901	61.68709183
ECS 79	-6.37600660	61.70286560

Coordinates ID	Latitude (decimal deg)	Longitude (decimal deg)
ECS 80	-6.38186646	61.71854782
ECS 81	-6.38798571	61.73412704
ECS 82	-6.39436436	61.74960709
ECS 83	-6.40099859	61.76497269
ECS 84	-6.40788794	61.78023148
ECS 85	-6.41503096	61.79537201
ECS 86	-6.42242527	61.81039810
ECS 87	-6.43006754	61.82529068
ECS 88	-6.43795681	61.84006119
ECS 89	-6.44609165	61.85469437
ECS 90	-6.45446777	61.86919403
ECS 91	-6.46308422	61.88354874
ECS 92	-6.47193909	61.89775848
ECS 93	-6.48102808	61.91181564
ECS 94	-6.49035025	61.92572784
ECS 95	-6.49990320	61.93947983
ECS 96	-6.50968266	61.95307159
ECS 97	-6.51968861	61.96650314
ECS 98	-6.52991676	61.97976303
ECS 99	-6.54036427	61.99285126
ECS 100	-6.55102587	62.00576401
ECS 101	-6.56190205	62.01849747
ECS 102	-6.57298803	62.03104782
ECS 103	-6.58428144	62.04341125
ECS 104	-6.59578037	62.05558777
ECS 105	-6.60747910	62.06757355
ECS 106	-6.64228535	62.14421082
ECS 107	-6.64349413	62.14431381
ECS 108	-6.66018200	62.14571762
ECS 109	-6.67687464	62.14706802
ECS 110	-6.69357014	62.14837265
ECS 111	-6.71026993	62.14962769
ECS 112	-6.72697210	62.15083694
ECS 113	-6.74367857	62.15199661
ECS 114	-6.76038790	62.15311050
ECS 115	-6.77710056	62.15417862
ECS 116	-6.79381609	62.15519714
ECS 117	-6.81053400	62.15616989
ECS 118	-6.82725477	62.15709305
ECS 119	-6.84397793	62.15797043
ECS 120	-6.86070395	62.15879440
ECS 121	-6.87743282	62.15957642

Coordinates ID	Latitude (decimal deg)	Longitude (decimal deg)
ECS 122	-6.89416313	62.16030884
ECS 123	-6.90895700	62.16091537
ECS 124	-6.91269541	62.17265320
ECS 125	-6.91794109	62.18856430
ECS 126	-6.92334414	62.20442963
ECS 127	-6.92890596	62.22024155
ECS 128	-6.93462420	62.23598862
ECS 129	-6.94049788	62.25168228
ECS 130	-6.94652843	62.26731491
ECS 131	-6.95271444	62.28289032
ECS 132	-6.95905590	62.29840469
ECS 133	-6.96554995	62.31385040
ECS 134	-6.97219896	62.32923508
ECS 135	-6.97900009	62.34455109
ECS 136	-6.98595285	62.35979462
ECS 137	-6.99305725	62.37496948
ECS 138	-7.00031376	62.39007950
ECS 139	-7.00771809	62.40510941
ECS 140	-7.01527262	62.42007065
ECS 141	-7.02297592	62.43495178
ECS 142	-7.03082609	62.44975662
ECS 143	-7.03882408	62.46448517
ECS 144	-7.04696798	62.47912598
ECS 145	-7.05525827	62.49369049
ECS 146	-7.06369352	62.50817871
ECS 147	-7.07227278	62.52257156
ECS 148	-7.08099365	62.53688812
ECS 149	-7.08985615	62.55110931
ECS 150	-7.09886122	62.56524277
ECS 151	-7.10800505	62.57928848
ECS 152	-7.11728811	62.59323883
ECS 153	-7.12671137	62.60710144
ECS 154	-7.13627148	62.62086487
ECS 155	-7.14596748	62.63453293
ECS 156	-7.15579844	62.64810181
ECS 157	-7.16576481	62.66157913
ECS 158	-7.17586517	62.67495346
ECS 159	-7.18609715	62.68822861
ECS 160	-7.19646263	62.70139694
ECS 161	-7.20695877	62.71446228
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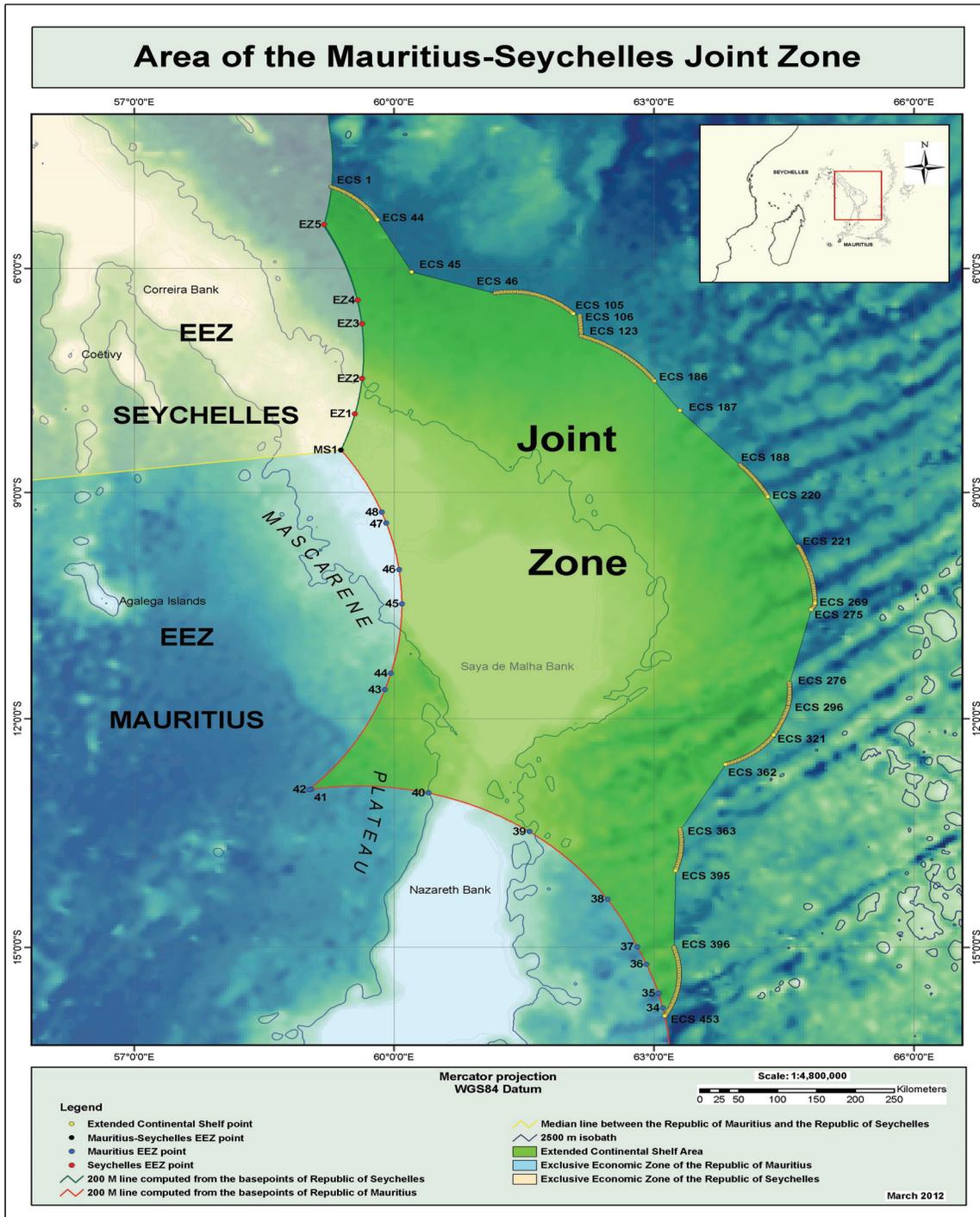
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Annex 2



Map showing the coordinates of the fixed points delineating the Mauritius-Seychelles Joint Zone.

b. Treaty Concerning the Joint Management of the Continental Shelf in the Mascarene Plateau Region between the Government of the Republic of Mauritius and the Government of the Republic of Seychelles (“the Contracting Parties”)⁴

SEEKING to promote the sustainable and long-term economic and social development of their respective small island countries for the benefit of present and future generations;

COMMITTED to maintaining, renewing and further strengthening the mutual respect, goodwill, friendship and co-operation between their two countries;

ACKNOWLEDGING the existence of an overlapping area of continental shelf extending beyond the Exclusive Economic Zone boundaries established by their two countries under the *Treaty between the Government of the Republic of Mauritius and the Government of the Republic of Seychelles on the Delimitation of the Exclusive Economic Zone between the two States* dated 29 July 2008;

RECALLING that both countries co-operated on the basis of the *Treaty between the Government of the Republic of Seychelles and the Government of the Republic of Mauritius on the Framework for a Joint Submission to the United Nations Commission on the Limits of the Continental Shelf* dated 18 September 2008, as subsequently amended, to lodge on 1 December 2008 the Joint Submission to the United Nations Commission on the Limits of the Continental Shelf (‘the Commission’) concerning the Mascarene Plateau region (“Joint Submission”) under Article 76, paragraph 8 of the United Nations Convention on the Law of the Sea done at Montego Bay on 10 December 1982 (“the Convention”);

RECALLING ALSO on 30 March 2011, the Commission adopted recommendations confirming the entitlement of their two countries to the area of continental shelf as contained in the Commission document entitled *Recommendations of the Commission on the Limits of the Continental Shelf in regard to the Joint Submission made by Mauritius and Seychelles in respect of the Mascarene Plateau Region on 1 December 2008*;

CONSCIOUS that the Convention provides in Article 83 that the delimitation of the continental shelf between States with opposite coasts shall be effected by agreement on the basis of international law in order to achieve an equitable solution and, in the absence of delimitation, that States shall make every effort in a spirit of understanding and co-operation to enter into provisional arrangements of a practical nature which do not prejudice a final determination of the extended continental shelf delimitation;

RECOGNISING the importance of providing an equitable and co-operative legal basis for the exercise by their two countries of their sovereign rights and jurisdiction over the continental shelf in the Mascarene Plateau Region in accordance with international law;

REAFFIRMING the *Treaty Concerning the Joint Exercise of Sovereign Rights over the Continental Shelf in the Mascarene Plateau Region* of 13 March 2012, under which the Contracting Parties established the outer limits of the continental shelf in the Mascarene Plateau Region and agreed to exercise sovereign rights jointly for the purpose of exploring the continental shelf and exploiting its natural resources;

MINDFUL of the importance of jointly managing the natural resources of the continental shelf in the Mascarene Plateau Region in a manner that is sustainable and consistent with the precautionary principle and the protection of the marine environment and the biological diversity of the continental shelf;

DESIRING to enter into an international agreement to provide an effective and equitable framework to govern the joint management of the continental shelf in the Mascarene Plateau Region;

HAVE AGREED as follows:

⁴ Registered with the Secretariat of the United Nations by Mauritius and Seychelles 11 July 2012. Registration No. I-49783. Entry into force: 18 June 2012.

PART 1: PRELIMINARY

Article 1: Definitions

For the purposes of this Treaty:

- (c) "Authority" means the Designated Authority established in Article 4 of this Treaty;
- (d) "bioprospecting" means the examination of biological resources for features including but not limited to chemical compounds, genes and their products and physical properties that may be of value for commercial development;
- (e) "Commission" means the Joint Commission established under Article 4 of this Treaty;
- (f) "continental shelf" has the meaning contained in Article 76 of the Convention;
- (g) "contractor" means a corporation, company or other legal entity or entities with limited liability that enter into a contract with the Designated Authority and which are duly regulated;
- (h) "Convention" means the United Nations Convention on the Law of the Sea done at Montego Bay on 10 December 1982;
- (i) "criminal law" means any law in force in the territory of either of the Contracting Parties, whether substantive or procedural, that makes provision for, or in relation to offences, or for or In relation to the investigation or prosecution of offences or the punishment of offenders, including the carrying out of a penalty imposed by a court. For this purpose, "investigation" includes entry to an installation or structure in the JMA, the exercise of powers of search and questioning and the apprehension of a suspected offender;
- (j) "Council" means the Ministerial Council established in Article 4 of this Treaty;
- (k) "initially processed" means processing of petroleum to a point where it is ready for off-take from the production facility and may include such processes as the removal of water, volatiles and other impurities;
- (l) "JMA" means the Joint Management Area established in Article 3 of this Treaty;
- (m) "minerals" means any naturally occurring element, compound or substance, amorphous or crystalline (including liquid crystalline compounds), formed through geological or biogeochemical processes and any naturally occurring mixture of substances, including in the form of coal, clay, evaporates, gravel, limestone, oil-shale, sand, shale, rock, and polymetallic nodules;
- (n) "natural resources" means the mineral, petroleum and other non-living resources of the seabed and subsoil of the continental shelf together with living organisms belonging to sedentary species that are at the harvestable stage either immobile on or under the seabed or are unable to move except in constant physical contact with the seabed or subsoil;
- (o) "natural resource activities" means all activities authorised or contemplated under a contract, permit or licence that are undertaken to explore and exploit natural resources in the JMA including but not limited to development, initial processing, harvesting, production, transportation and marketing, as well as the planning and preparation for such activities;
- (p) "natural resource codes" means codes referred to in Article 8 of this Treaty;
- (q) "natural resources project" means any natural resource activity taking place with the approval of the Designated Authority in a specified area of the JMA;
- (r) "petroleum" means any naturally occurring hydrocarbon, whether in a gaseous, liquid, or solid state and any naturally occurring mixture of hydrocarbons, whether in a gaseous, liquid or solid state, together with other substances produced in association with such hydrocarbons, and includes any petroleum that has been returned to a reservoir;
- (s) "petroleum produced" means initially processed petroleum extracted from a reservoir through petroleum activities;
- (t) "reservoir" means an accumulation of petroleum in a geological unit limited by rock, water or other substances without pressure communication through liquid or gas to another accumulation of petroleum;

- (u) "Taxation Code" means the Code referred to in Article 6 of this Treaty;
- (v) "Treaty" means this Treaty, including Annexes A-D and any Annex that may subsequently be agreed by the Contracting Parties to form a part of this Treaty.

Article 2: Treaty without Prejudice

- (a) This Treaty gives effect to international law as reflected in the Convention which under Article 83 requires States with opposite or adjacent coasts to make every effort to enter into provisional arrangements of a practical nature pending agreement on the final delimitation of the continental shelf between them in a manner consistent with international law. This Treaty is intended to adhere to such obligation.
- (b) Nothing contained in this Treaty, and no act taking place while this Treaty is in force, shall be interpreted as prejudicing or affecting the legal position or rights of the Contracting Parties concerning their respective continental shelf entitlements or the delimitation of the continental shelf.

PART 2: THE JOINT MANAGEMENT AREA

Article 3: Joint Management Area

- (a) The Joint Management Area (JMA) is established in respect of the Joint Zone described in Article 2 of the Treaty Concerning the Joint Exercise of Sovereign Rights over the Continental Shelf in the Mascarene Plateau Region, done on 13 March 2012 and as depicted in the map at Annex A.
- (b) The Contracting Parties shall jointly control, manage and facilitate the exploration of the continental shelf within the JMA and the conservation, development and exploitation of its natural resources.
- (c) Natural resource activities in the JMA shall be carried out under the direction of the Designated Authority, by such means as it may determine in accordance with this Treaty, including where appropriate through the issue of licences or pursuant to contracts between the Authority and a contractor. This provision shall also apply to the successors or assignees of such contractors.
- (d) The Contracting Parties shall each make it an offence under their respective national laws for any person to conduct resource activities in the JMA otherwise than in accordance with this Treaty.

PART 3: INSTITUTIONAL AND REGULATORY ARRANGEMENTS

Article 4: Regulatory Bodies

- (a) A three-tiered joint administrative structure consisting of a Ministerial Council, a Joint Commission and a Designated Authority, is established.
- (b) Ministerial Council:
 - i. A Ministerial Council for the JMA is hereby established. The Ministerial Council shall consist of an equal number of Ministers designated by the Contracting Parties.
 - ii. The Ministerial Council shall consider any matter relating to the operation of this Treaty that is referred to it by either of the Contracting Parties. It shall also consider any matter referred to under sub-paragraph (c) (iii).
 - iii. The Ministerial Council shall meet at the request of either Contracting Party or at the request of the Commission.
 - iv. All decisions of the Ministerial Council shall be adopted by consensus. In the event the Council is unable to resolve a matter, either of the Contracting Parties may invoke the dispute resolution procedure provided under Article 21.
 - v. No decision of the Ministerial Council shall be valid unless it is recorded in writing and signed by at least one member from each Contracting Party.
 - vi. The Ministerial Council shall establish its own procedures, including those in relation to taking decisions out of session and for conducting meetings by means of telephonic and electronic communication.

(c) Joint Commission:

- i. The Joint Commission shall consist of an equal number of commissioners appointed by the Contracting Parties. The Joint Commission shall establish policies and regulations relating to petroleum and other natural resource activities in the JMA and shall oversee the work of the Authority.
- ii. A non-exhaustive list of more detailed powers and functions of the Joint Commission is set out in Annex C. This list may be amended from time to time as necessary.
- iii. The Joint Commission may at any time refer a matter to the Ministerial Council for resolution.
- iv. The Joint Commission shall meet at least once a year in the Contracting Parties on an alternate basis, or otherwise as agreed, and each meeting shall be co-chaired.
- v. Decisions of the Joint Commission shall be made by consensus.

(d) Designated Authority:

- i. The Joint Commission shall establish the Designated Authority (“Authority”).
- ii. The Authority shall have juridical personality and such legal capacities under the law of the Contracting Parties as are necessary for the exercise of its powers and the performance of its functions. It shall have the capacity to contract, to acquire and dispose of movable and immovable property and to institute and be party to legal proceedings.
- iii. The Authority shall be responsible to the Joint Commission and shall carry on the day-to-day regulation and management of natural resource activities in the JMA.
- iv. A non-exhaustive list of more detailed powers and functions of the Authority is contained in Annex D. The Annexes to this Treaty may identify other additional powers and functions of the Authority. The Authority also has such other powers and functions as may be conferred upon it by the Commission.
- v. The Authority shall be financed on an equal basis by the Contracting Parties, including eventually through the remittance of fees collected under natural resource codes.
- vi. The Authority shall be exempt from:
 - (1) income tax or business tax, as the case may be; and
 - (2) customs duties, excise tax, Value Added Tax (VAT), levy and other similar taxes on imports for official use, imposed under the law in force in the territory of each of the Contracting Parties, as well as any identical or substantially similar taxes that are imposed after the date of signature of this Treaty in addition to, or in place of, the existing taxes.
- vii. Personnel of the Authority:
 - (1) shall be subject to taxation in the Contracting Party of which they are a national and in accordance with the tax law of that Contracting Party in respect of salaries, allowances and other payments made to them by the Authority in connection with their employment with the Authority. For the purposes of this paragraph the term "national" includes a resident of either Contracting Party as defined in the income tax law of that Contracting Party; and
 - (2) shall, at the time of the first taking up the post with the Authority located in either of the Contracting Parties in which they are not resident, be exempt from customs duties, excise tax, VAT, levy and other similar taxes and other such charges (except payments for services) in respect of imports of furniture and other household and personal effects including one motor vehicle in their ownership or possession or already ordered by them and intended for their personal use or for their establishment, subject to terms and conditions established by the Joint Commission. Such goods shall be imported within six months of an officer's first entry but in exceptional circumstances an extension of time shall be granted by the Contracting Parties respectively. Goods that have been acquired or imported by officers and to which exemptions under this sub-paragraph apply shall not be given away, sold, lent or hired out, or otherwise disposed of except under conditions agreed in advance depending on in which country the officer is located.

- (e) No member of the Ministerial Council, Joint Commission and personnel of the Authority shall have any financial or personal interest in any natural resource project in the JMA.

Article 5: Sharing of Revenue

- (a) The Contracting Parties shall share revenue received in respect of natural resource activities carried out in the JMA equally, whereby fifty (50) *per cent* of revenue received shall be remitted to Mauritius and fifty (50) *per cent* of revenue received shall be remitted to Seychelles.
- (b) To the extent that fees referred to in Article 4(d)(v) and other income are inadequate to cover the expenditure of the Authority in relation to this Treaty, that expenditure shall be borne by each of the Contracting Parties in the same proportion as set out in paragraph (a).
- (c) Paragraph (a) shall not apply to the equitable sharing of the benefits arising from unitisation under Article 10 unless mutually agreed by the Contracting Parties.

Article 6: Taxation Code

- (a) The Contracting Parties shall agree upon a Taxation Code applicable to income derived from natural resource activities in the JMA.
- (b) Neither Contracting Party may during the life of a natural resource project vary any of the provisions of the Taxation Code applicable to it except by mutual agreement.

Article 7: Application of Domestic Law

For the purposes of the application of the domestic laws of each Contracting Party related directly or indirectly to:

- i. the exploration of the continental shelf within the JMA and the development and exploitation of natural resources in the JMA; and
- ii. acts, matters, circumstances and things touching, concerning, arising out of or connected with, natural resource activities in the JMA, the JMA shall be deemed to be and treated by each Contracting Party as forming part of its respective territory.

Article 8: Natural Resource Codes

- (a) The Contracting Parties may agree upon natural resource codes concerning the exploration of the continental shelf within the JMA and the development, exploitation, harvesting, conservation and export of natural resources from the JMA.
- (b) The Commission shall, where necessary, adopt interim arrangements to be applied pending the adoption of natural resource codes in accordance with paragraph (a).

PART 4: PIPELINES AND UNITISATION

Article 9: Pipelines

- (a) The construction and operation of a pipeline within the JMA for the purposes of exporting petroleum from the JMA shall be subject to the approval of the Commission.
- (b) The Contracting Parties shall consult each other on the terms and conditions for laying of pipelines exporting petroleum from the JMA to the point of landing.
- (c) A pipeline landing in the territory of a Contracting Party shall be under the jurisdiction of the country of landing.
- (d) In the event a pipeline is constructed from the JMA to the territory of either of the Contracting Parties, the country where the pipeline lands may not object to or impede decisions of the Commission regarding that pipeline except where the construction of a pipeline would have an adverse economic or physical impact upon an existing natural resource project in the JMA.
- (e) Petroleum from the JMA and from fields which straddle the boundaries of the JMA shall at all times have priority of carriage along any pipeline carrying petroleum from and within the JMA.

- (f) There shall be open access to pipelines for petroleum from the JMA. The open access arrangements shall be in accordance with good international regulatory practice. If one Contracting Party has jurisdiction over the pipeline, it shall consult with the other Contracting Party over access to the pipeline.

Article 10: Unitisation

- (a) Any reservoir of petroleum or unitary mineral deposit that extends across or straddles the boundary of the JMA into the Exclusive Economic Zone of either or both Contracting Parties shall be treated as a single entity for exploration, development and management purposes.
- (b) The Contracting Parties shall work expeditiously and in good faith to reach agreement on the manner in which the petroleum field or mineral deposit referred to in paragraph (a) will be most effectively managed and developed and on the equitable sharing of revenue arising from such development.

Article 11: Surveys

Each of the Contracting Parties has the right to conduct surveys including hydrographic, geological, geophysical and seismic surveys to facilitate natural resource activities in the JMA. In the exercise of such right, the Contracting Parties shall:

- i. notify the Authority of any proposed survey;
- ii. cooperate on the conduct of such surveys, including the provision of necessary on-shore facilities; and
- iii. exchange information relevant to natural resource activities in the JMA.

PART 5: PROTECTION OF THE ENVIRONMENT, BIODIVERSITY AND BIOPROSPECTING

Article 12: Protection of the Seabed Marine Environment

- (a) The Contracting Parties shall co-operate to protect natural resources in the JMA so as to secure seabed biodiversity and prevent pollution and other risks of harm to the environment arising from, or connected with, natural resource activities in the JMA.
- (b) The Contracting Parties shall apply the precautionary principle in co-operating to conserve and protect the environment and biodiversity of the seabed in the JMA. This shall include measures concerning fishing activity in the waters superjacent to the seabed in the JMA where such activity is having a direct impact upon, or poses a significant risk to, the natural resources of the seabed and subsoil in the JMA.
- (c) The Contracting Parties shall co-operate to protect seabed marine habitats and associated ecological communities of the seabed in the JMA. This shall include the identification of environmental benchmarks and the identification of seabed marine protected areas, having regard to the following:
- i. geographical distribution of seabed marine species and biological communities;
 - ii. the structure of these communities;
 - iii. their relationship with the physical and the chemical environment;
 - iv. the natural ecological and genetic variability; and
 - v. the nature and the effect of the anthropogenic influences including fishing and natural resource activities on these ecosystem components.
- (d) Where pollution of the marine environment occurring in the JMA spreads beyond the JMA, the Contracting Parties shall co-operate in taking prompt and effective action to prevent, mitigate and eliminate such pollution in accordance with international best practices, standards and procedures.
- (e) The Authority shall issue regulations to protect the living natural resources and seabed environment in the JMA. It shall establish a contingency plan for combating pollution from natural resource activities in the JMA.
- (f) Contractors shall be liable for damage or expenses incurred as a result of pollution of the marine environment arising out of natural resource activities within the JMA in accordance with:
- i. their contract, licence or permit or other form of authority issued pursuant to this Treaty; and,

- ii. the law of the jurisdiction of the Contracting Party in which the claim is brought.

Article 13: Biological Surveys and Bioprospecting

- (a) Each of the Contracting Parties has the right to carry out biological surveys for the purposes of Article 12 of this Treaty and to engage in bioprospecting to identify and examine living natural resources that may be of value for commercial development in the JMA or of conservation significance.
- (b) The Contracting Parties shall:
 - i. notify the Authority of any proposed survey;
 - ii. co-operate in the conduct of such biological surveys and bioprospecting, including the provision of necessary on-shore facilities; and
 - iii. exchange information relevant to biological surveys and bioprospecting in the JMA.

PART 6: EMPLOYMENT, HEALTH AND SAFETY AND APPLICATION OF DOMESTIC LAWS

Article 14: Employment

The Contracting Parties shall take appropriate measures to ensure that preference is given in employment in the JMA to nationals of both Contracting Parties and to facilitate, as a matter of priority, training and employment opportunities for those nationals.

Article 15: Health and Safety for Workers

- (a) The Authority shall develop, and contractors shall apply where required, occupational health and safety standards and procedures for persons employed on installations and structures in the JMA in accordance with internationally accepted standards and best practices.
- (b) Similar occupational health, safety standards and procedures shall apply to all workers engaged in natural resource activities in the JMA.

Article 16: Criminal Jurisdiction

- (a) The Contracting Parties shall examine different options for addressing offences committed in the JMA. Pending the completion of such exercise, the provisions of this Article shall apply with respect to offences committed in the JMA.
- (b) A national or resident of a Contracting Party shall be subject to the criminal law of the country of nationality or residence in respect of acts or omissions occurring in the JMA connected with or arising out of natural resource activities.
- (c) Notwithstanding paragraph (e), a national of a third state, not being a resident of either Contracting Party, shall be subject to the criminal law of either Contracting Party in respect of acts or omissions occurring in the JMA connected with or arising out of natural resource activities. Such person shall not be subject to criminal proceedings under the law of either Contracting Party if he or she has already been tried and discharged or acquitted by a competent tribunal or already undergone punishment for the same act or omission under the law of the other country or where the competent authorities of one country, in accordance with its law, have decided in the public interest to refrain from prosecuting the person for that act or omission.
- (d) In cases referred to in paragraph (c), the Contracting Parties shall, as and when necessary, consult each other to determine which criminal law is to be applied, taking into account the nationality of the victim and the interests of the country most affected by the alleged offence.
- (e) The criminal law of the flag state shall apply in relation to acts or omissions on board vessels operating in the waters superjacent to the JMA.
- (f) The Contracting Parties shall provide assistance to and co-operate with each other, including through agreements or arrangements as appropriate, for the purposes of enforcement of criminal law under this Article, including the obtaining of evidence and information.

- (g) The Contracting Parties each recognise the interest of the other country where a victim of an alleged offence is a national of that other country and shall keep that other country informed, to the extent permitted by its law, of action being taken with regard to the alleged offence.
- (h) The Contracting Parties may make arrangements permitting officials of one country to assist in the enforcement of the criminal law of the other country. Where such assistance involves the detention of a person who under paragraph (b) is subject to the jurisdiction of the other country, that detention may only continue until it is practicable to hand the person over to the relevant officials of that other country.

Article 17: Customs, Migration and Quarantine

- (a) The Contracting Parties may, subject to paragraphs (c), (e), (f) and (g), apply customs, migration and quarantine laws in accordance with internationally accepted standards and best practices to persons, equipment and goods entering its territory from, or leaving its territory for, the JMA. The Contracting Parties may adopt arrangements to facilitate such entry and departure.
- (b) Contractors shall ensure, unless otherwise authorised by the Contracting Parties, that persons, equipment and goods do not enter structures in the JMA without first entering the Contracting Parties, and that their employees and the employees of their subcontractors are authorised by the Authority to enter the JMA.
- (c) Either Contracting Party may request consultations with the other Contracting Party in relation to the entry of particular persons, equipment and goods to structures in the JMA aimed at controlling the movement of such persons, equipment and goods.
- (d) Nothing in this Article prejudices the right of either Contracting Party to apply customs, migration and quarantine controls to persons, equipment and goods entering the JMA without the authority of either Contracting Party. The Contracting Parties may adopt arrangements to co-ordinate the exercise of such rights.
- (e) Goods and equipment entering the JMA for purposes related to natural resource activities shall not be subject to customs duties, excise tax, VAT, levy and other similar taxes.
- (f) Goods and equipment leaving or in transit through the territory of the Contracting Parties for the purpose of entering the JMA for purposes related to natural resource activities shall not be subject to customs duties, excise tax, VAT, levy and other similar taxes.
- (g) Goods and equipment leaving the JMA for the purpose of being permanently transferred to a part of the territory of the Contracting Parties may be subject to customs duties, excise tax, VAT, levy and other similar taxes of that Contracting Party.

Article 18: Safety, Operating Standards and Crewing of Resource Industry Vessels

- (a) Except as otherwise provided in this Treaty, vessels of the nationality of a Contracting Party engaged in natural resource activities in the JMA shall be subject to the law of their nationality in relation to safety and operating standards and crewing regulations.
- (b) Vessels flying the flag of States other than the Contracting Parties and which are engaged in natural resource activities in the JMA shall be subject to the relevant international safety and operating standards and crewing regulations.

PART 7: SURVEILLANCE, SECURITY AND RESCUE

Article 19: Surveillance and Security Measures

- (a) For the purposes of this Treaty, the Contracting Parties shall have the right to carry out surveillance activities in the JMA in relation to natural resource activities.
- (b) The Contracting Parties shall co-operate on and co-ordinate any surveillance activities carried out in accordance with paragraph (a) and shall exchange information on likely threats to, or security incidents relating to, natural resource activities in the JMA.
- (c) The Contracting Parties shall make arrangements for responding promptly and effectively to security incidents in the JMA.

Article 20: Search and Rescue

The Contracting Parties shall, at the request of the Authority and consistent with this Treaty, co-operate and assist in the conduct of search and rescue operations in the JMA, taking into account generally accepted international rules, regulations and procedures established through competent international organisations.

PART 8: SETTLEMENT OF DISPUTES, DURATION AND ENTRY INTO FORCE

Article 21: Settlement of Disputes

- (a) With the exception of disputes falling within the scope of the Taxation Code referred to in Article 6 of this Treaty and which shall be settled in accordance with that Code as agreed by the Contracting Parties, any dispute concerning the interpretation or application of this Treaty shall, as far as possible, be settled amicably through mutual consultation.
- (b) Any dispute which is not settled in the manner set out in paragraph (a) and any unresolved matter relating to the operation of this Treaty under Article 4(b)(ii) shall, at the request of either of the Contracting Parties, be submitted to an Arbitral Tribunal established in accordance with the procedure set out in Annex B.

Article 22: Amendment

This Treaty may be amended at any time by written agreement between the Contracting Parties.

Article 23: Duration of the Treaty

- (a) This Treaty shall remain in force until a permanent delimitation of the continental shelf is agreed between the Contracting Parties or for thirty (30) years from the date of its entry into force, whichever is sooner.
- (b) This Treaty may be renewed by agreement between the Contracting Parties.
- (c) Natural resource projects commenced under this Treaty shall continue, notwithstanding that this Treaty is no longer in force, under conditions that are consistent with those that are provided for under this Treaty.

Article 24: Entry into Force

- (a) Each of the Contracting Parties shall notify the other, by means of exchange of diplomatic notes, the completion of the procedures required by its law for the bringing into force of this Treaty. The Treaty shall enter into force on the date of receipt of the later notification.
- (b) Upon entry into force, the Treaty shall be taken to have effect, and all of its provisions shall be taken to have applied, from the date of signature.

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

DONE at Clarisse House, Vacoas, Mauritius in duplicate on this 13th day of March Two Thousand and Twelve in the English language.

For the Government of the Republic of Mauritius

Sign

Dr. the Hon Navinchandra Ramgoolam, GCSK, FRCP
Prime Minister

For the Government of the Republic of Seychelles

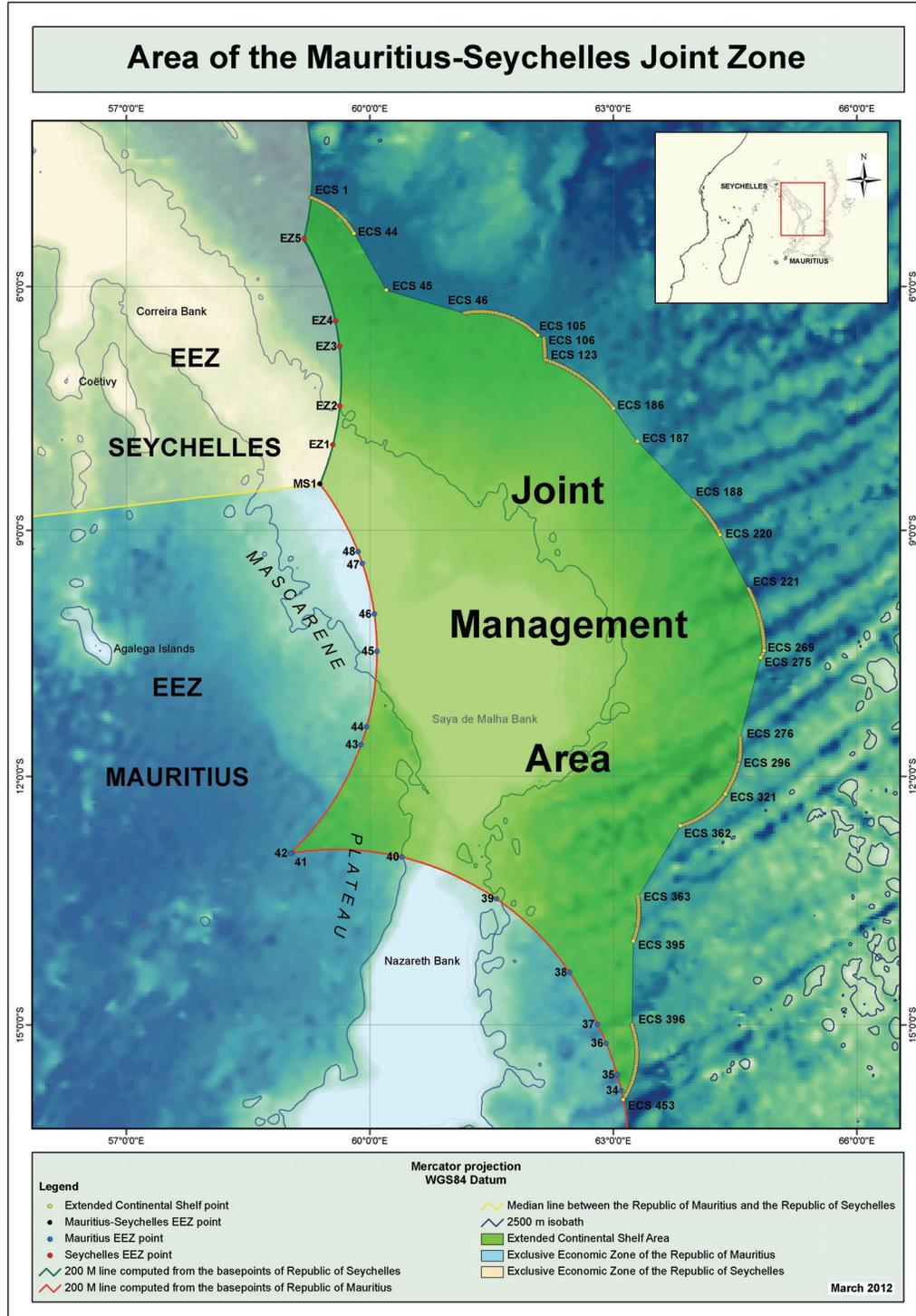
Sign

H.E. Mr. James Alix Miche
President

Annex A under Article 3 of this Treaty

Designation and Description of the JMA

The JMA referred to in Article 3 comprises the area of continental shelf set out in Article 2 of the Treaty Concerning the Joint Exercise of Sovereign Rights over the Continental Shelf in the Mascarene Plateau Region, done on 13 March 2012, as depicted in the map below:–



Joint Management Area (JMA) over the Continental Shelf in the Mascarene Plateau

Annex B under Article 21 of this Treaty

Dispute Resolution Procedure

- (a) An Arbitral Tribunal (“Tribunal”) to which a dispute is submitted pursuant to Article 21 (b) shall consist of three persons appointed as follows:
 - i. the Contracting Parties shall each appoint one arbitrator;
 - ii. the arbitrators appointed by the Contracting Parties shall, within sixty (60) days of the appointment of the second of them, by agreement, select a third arbitrator who shall be a citizen, or permanent resident of a third country which has diplomatic relations with both the Contracting Parties; and
 - iii. the Contracting Parties shall, within sixty (60) days of the selection of the third arbitrator, approve the selection of that arbitrator who shall act as Chairman of the Tribunal.
- (b) Arbitration proceedings shall be instituted upon notice being given through the diplomatic channel by the Contracting Party instituting such proceedings to the other Contracting Party. Such notice shall contain:
 - i. a statement setting forth in summary form the grounds of the claim;
 - ii. the nature of the relief sought; and,
 - iii. the name of the arbitrator appointed by the Contracting Party instituting such proceedings. Within sixty (60) days after the giving of such notice, the respondent Contracting Party shall notify the Contracting Party instituting proceedings of the name of the arbitrator appointed by the respondent Contracting Party.
- (c) If, within the time limits provided for in sub-paragraphs (a) (ii) and (iii) and paragraph (b) of this Annex, the required appointment has not been made or the required approval has not been given, the Contracting Parties may request the President of the International Tribunal of the Law of the Sea (“ITLOS”) to make the necessary appointment. If the President is a citizen or permanent resident of the Contracting Parties or is otherwise unable to act, the Vice-President shall be invited to make the appointment. If the Vice-President is a citizen or permanent resident of the Contracting Parties or is otherwise unable to act, the Member of the ITLOS next in seniority who is not a citizen or permanent resident of the Contracting Parties shall be invited to make the appointment.
- (d) In case any arbitrator appointed as provided for in this Annex resigns or becomes unable to act, another arbitrator shall be appointed in the same manner as prescribed for the appointment of the original arbitrator and the new arbitrator shall have all the powers and duties of the original arbitrator.
- (e) The Tribunal shall convene at such time and place as shall be fixed by the Chairman of the Tribunal. Thereafter, the Tribunal shall determine where and when it shall sit.
- (f) The Tribunal shall decide all questions relating to its competence and shall, subject to any agreement between the Contracting Parties, determine its own procedures.
- (g) Before the Tribunal makes a decision, it may at any stage of the proceedings propose to the Contracting Parties that the dispute be settled amicably. The Arbitral Tribunal shall reach its award by majority vote, taking into account the provisions of this Treaty and relevant international law.
- (h) Each Contracting Party shall bear the costs incurred in relation to its appointed arbitrator and its own costs in preparing and presenting cases. The cost incurred in relation to the Chairman of the Tribunal and the expenses associated with the conduct of the arbitration shall be borne in equal parts by the Contracting Parties.
- (i) The Tribunal shall afford to the Contracting Parties a fair hearing. It may render an award on the default of either of the Contracting Parties. In any case, the Arbitral Tribunal shall render its award within six (6) months from the date it is convened by the Chairman of the Tribunal. Any award shall be rendered in writing and shall state its legal basis. A signed counterpart of the award shall be transmitted to the Contracting Parties.
- (j) An award of the Tribunal shall be final and binding on the Contracting Parties.

Annex C under Article 4(c)(ii) of this Treaty

Powers and Functions of the Joint Commission

1. The powers and functions of the Joint Commission shall include:
 - (a) establishing the Authority;
 - (b) giving directions to the Authority on the exercise of its powers and performance of its functions;
 - (c) conferring additional powers and functions to the Authority;
 - (d) adopting taxation and natural resource codes applicable to the JMA including amendments and interim arrangements as necessary;
 - (e) approving financial estimates of income and expenditure of the Authority;
 - (f) approving rules, regulations and procedures for the effective functioning of the Authority;
 - (g) calling for the auditing of the Authority's books and accounts;
 - (h) considering and adopting the annual report of the Authority.

Annex D under Article 4(d)(iv) of this Treaty

Powers and Functions of the Authority

The powers and functions of the Authority shall include:

- (a) day-to-day management and regulation of natural resource activities in accordance with this Treaty and any instruments made or entered into under this Treaty, including directions given by the Joint Commission;
- (b) preparation of annual estimates of income and expenditure of the Authority for submission to the Joint Commission. Any expenditure shall only be made in accordance with estimates approved by the Joint Commission or otherwise in accordance with regulations and procedures approved by the Joint Commission;
- (c) preparation of annual reports for submission to the Joint Commission;
- (d) requesting assistance from the appropriate authorities consistent with this Treaty:
 - i. for search and rescue operations in the JMA;
 - ii. in the event of piracy or terrorist threats to vessels and structures engaged in natural resource petroleum operations in the JMA;
- (e) requesting assistance with pollution prevention measures, equipment and procedures from the appropriate authorities or other bodies or persons;
- (f) establishment of safety zones and restricted zones, consistent with international law, to ensure the safety of navigation connected with natural resource activities;
- (g) controlling movements into, within and out of the JMA of vessels, aircraft, structures and other equipment engaged in natural resource activities in a manner consistent with international law; and, subject to Article 15, authorising the entry of employees and contractors and their subcontractors and other persons into the JMA;
- (h) applying regulations and giving directions as approved by the Commission under this Treaty, on all matters related to the supervision and control of natural resource activities including on health, safety, environmental protection and assessments and work practices, pursuant to natural resource codes;
- (i) acting as a repository of all data and information pertaining to the JMA;
- (j) conducting inspections and audits concerning natural resource activities in the JMA; And
- (k) such other powers and functions as may be identified by the Contracting Parties or as may be conferred on it by the Joint Commission.

3. *Agreements between the Socialist Republic of Viet Nam and the People's Republic of China*⁵

a. Agreement on the Basic Principles Guiding the Settlement of Maritime Issues between the Socialist Republic of Viet Nam and the People's Republic of China signed on 11 October 2011⁶

The delegation of the Government of the Socialist Republic of Viet Nam and the delegation of the Government of the People's Republic of China agreed that the satisfactory settlement of maritime issues between Viet Nam and China goes in line with the basic interests and shared aspiration of the people of the two countries and is conducive to regional peace, stability, co-operation and development. The two sides agreed, on the basis of the common understanding that Vietnamese and Chinese Leaders reached on maritime issues and "The 1993 Agreement on the Basic Principles for the Settlement of Border and Territorial Matters between the Socialist Republic of Viet Nam and the People's Republic of China", to solve maritime issues under the following principles:

1. Taking the overall relationship of the two countries as the most important element and proceeding from on the strategic and panoramic view and guiding by the spirit of "Friendly neighbourliness, comprehensive co-operation, long-term stability and future-oriented relations" and "good neighbours, good friends, good comrades and good partners", persistently pursue friendly consultations to settle in satisfactory manner maritime issues, thus making the East Sea a zone of peace, friendship and co-operation, contributing to the development of the Viet Nam-China comprehensive strategic cooperative partnership, as well as to regional peace and stability.

2. On the basis of full respect for legal evidences, taking into account other factors such as history, as well as each other's reasonable concerns, and with a constructive attitude, the two sides would make efforts to expand common understanding, narrow differences and continuously promote negotiations. Based on the legal regime and principles recognized by international law, including the 1982 UN Convention on the Law of the Sea, the two sides shall make efforts to seek mutually acceptable fundamental and lasting solutions to maritime disputes.

3. In the negotiations on maritime issues, the two sides will strictly abide the agreements and common understanding reached by their high-level leaders and adhere to the principles and spirit of the "Declaration on the Conduct of Parties in the South China Sea" (DOC).

For maritime disputes between Viet Nam and China, the two sides shall settle them through friendly negotiations and consultations. If the disputes involve other countries, the consultations shall include all other parties concerned.

4. In the process of seeking fundamental and lasting solutions to maritime issues, on the basis of mutual respect, equality and mutual benefits, the two sides shall actively discuss provisional and temporary measures without affecting each side's positions and policies, including the active consideration and discussion on co-operation for joint development based on the principles mentioned in Article 2 of this Agreement.

5. To address maritime issues incrementally, taking the easier matters first. To steadfastly speed up the negotiations on demarcation of the mouth of Tonkin Gulf and actively discuss co-operation for joint development in this area. To actively promote cooperation in less sensitive like marine environment protection, scientific research, search and rescue, and prevention and mitigation of natural disasters. To make efforts to enhance mutual trust to facilitate the settlement of more difficult matters.

6. The two Sides shall conduct periodical meetings between the Heads of Governmental delegations for border negotiations twice a year on a rotational basis and hold irregular meetings if necessary. The two sides agreed to establish a hotline between the Governmental delegations to exchange views and address maritime issues in an appropriate and timely manner.

⁵ The Socialist Republic of Viet Nam and the People's Republic of China, hereinafter referred to as "the two Sides".

⁶ Registered with the Secretariat of the United Nations by Viet Nam on 18 June 2012. Registration No. I-49625. Entry into force: 11 October 2011.

This Agreement is done in Beijing, on the 11th day of October 2011, in duplicate, each in Vietnamese and Chinese, both texts being equally authentic.

HEAD OF THE GOVERNMENTAL
DELEGATION OF THE SOCIALIST
REPUBLIC OF VIET NAM

(Signed)

HO XUAN SON

HEAD OF THE GOVERNMENTAL
DELEGATION OF THE PEOPLE'S
REPUBLIC OF CHINA

(Signed)

ZANG ZHIJUN

- b. Agreement on the Basic Principles to Settle Border and Territorial Issues between the Socialist Republic of Viet Nam and the People's Republic of China signed on 19 October 1993⁷

In accordance with the agreement reached by the two countries' high-level leaders noted in the "Joint Communiqués" between Viet Nam and China dated November 10, 1991 and December 04, 1992, the Delegations of the Governments of the Socialist Republic of Viet Nam and the People's Republic of China have agreed on the following principles for the settlement of border and territorial issues:

I. BASIC PRINCIPLES

1. Settle border and territorial issues between the two countries by peaceful means through negotiations with a view to building the Viet Nam - China border into one of peace, friendship and helping develop friendly relations and neighbourliness between the two countries on the basis of the five principles of respect for each other's territory, and sovereignty, non-aggression, non-interference into each other's internal affairs, equality, mutual benefit and peaceful coexistence.
2. The two Sides agreed to accelerate the process of negotiations for an early settlement of border and territorial issues both on land and at sea. In the process of incremental settlement of this issue and on the basis of the prevailing situation, the two Sides agreed to focus, in the immediate, on settling issues over the land border and the Tonkin/Beibu Gulf while continuing to negotiate on related issues at sea to arrive at a fundamental and long-term solution. During negotiations for the settlement of the issues, the two Sides will not take actions that might further complicate the disputes, neither use nor threat to use force.
3. The two Sides will settle border and territorial issues on the basis of recognized international norms and principles of international law.

II. LAND BORDER ISSUES

1. The two Sides agree to compare and re-identify the entire land borderline between Viet Nam and China on the basis of the Convention on the Delimitation of the Border between China and Tonkin signed on 26 June 1887 and the Additional Convention to this Convention signed on 20 June 1895 between China and France and the attached documents and maps on planning and installation of border markers confirmed by or enshrined in the above-mentioned Conventions as well as the border pillars installed as prescribed.

To facilitate the work relating to the comparison of the borderline and positions of the border markers, China would provide Viet Nam with the topographical map of the border area with the ratio of 1/50,000, which serves as the basis for the two sides to draw the borderline under its stand and exchange it at an early date.

2. In the process of comparing and identifying the course of the borderline and the positions of border markers, if the two Sides could not reach agreement on some borderline sections and positions of the national border markers after a number of comparisons and identifications, they would conduct on-site surveys, taking into account all circumstances in the area, on the basis of mutual understanding and mutual compromise, and negotiate in a friendly manner for a reasonable and fair solution.
3. Following the comparison made by the two sides for re-identification of the borderline, the areas administered by either side would be, in principle, returned to the other side unconditionally should it lies beyond the borderline. In some particular areas, with a view to facilitating border management, the two Sides may make appropriate adjustments through friendly negotiations on the bases of mutual understanding and compromise, fairness and rationality.
4. The two Sides agreed to settle the borderline section that runs along a river or stream, taking into account all circumstances, taking reference to international practices and on the basis of friendly negotiations.

⁷ Registered with the Secretariat of the United Nations by Viet Nam on 18 June 2012. Registration No. I-49626. Entry into force: 19 October 1993.

5. In the process of settling the land border issues between Viet Nam and China, the two Sides were committed to strictly observe the “Temporary Agreement on the Settlement of the Border Area Affairs between the Socialist Republic of Viet Nam and the People’s Republic of China” signed on November 7, 1991.
6. The two Sides agreed to establish a Joint Working Group on Land Border under the two Governmental Delegations to compare and re-identity the borderline. Upon the completion of the disputed land areas, the two Sides would jointly draft the Viet Nam - China Border Treaty. Upon the official signing by the Plenipotentiaries of the two countries and entry into effect of the Treaty, the two Sides would establish a Joint Committee on Border Survey with an equal number of members from each side, and on the basis of the provisions of the Viet Nam - China Border Treaty, the two Sides would jointly conduct surveys and install new border markers, drafting a Border Protocol, conducting detailed mapping in accordance with the Border Treaty to submit to the two Governments’ Plenipotentiaries for signature.

III. ON THE ISSUE OF DELIMITATION OF THE TONKIN GULF

1. The two Sides agreed to apply the international laws of the sea and refer to international practices for the negotiations of the Tonkin Gulf delimitation.
2. With a view to achieving agreement in the delimitation of the Tonkin Gulf, the two Sides would follow the principle of fairness and take into account all relevant circumstances in the Tonkin Gulf for a fair solution.
3. The two Sides agreed that, upon the conclusion of the principles of delimitation of the Tonkin Gulf, they would soon establish a joint working group on the delimitation of the Tonkin Gulf under the two Governmental Delegations to discuss the scope, contents, legal bases, relevant circumstances and delimitation methods to define the borderline between the two countries in the Tonkin Gulf and drafts the Agreement on the Delimitation of the Tonkin Gulf for submission to the Plenipotentiaries of the two countries for signature.

This Agreement was made in Ha Noi on the 19th of October 1993 in duplicate, each in Vietnamese and Chinese, both of which are equally authentic.

HEAD OF THE GOVERNMENTAL
DELEGATION OF THE SOCIALIST
REPUBLIC OF VIET NAM

(Signed)

VU KHOAN

HEAD OF THE GOVERNMENTAL
DELEGATION OF THE PEOPLE'S
REPUBLIC OF CHINA

(Signed)

TANG JIAXUAN

III. COMMUNICATIONS BY STATES

1. Guyana

Letter dated 4 April 2012 from the Minister for Foreign Affairs addressed to the Secretary-General of the United Nations in reference to the communication by the Bolivarian Republic of Venezuela¹

April 4, 2012

...

Excellency,

I have the honour to refer to the correspondence of March 9, 2012 addressed to you by His Excellency Nicolas Maduro Moros, Foreign Minister of the Bolivarian Republic of Venezuela, a copy of which is posted on the webpage of the Division for Ocean Affairs and the Law of the Sea of the United Nations, in order to correct certain fundamental inaccuracies and misleading information contained in that correspondence.

In his communication, the Foreign Minister of the Bolivarian Republic of Venezuela stated that "...the territory west of the Essequibo river...is the subject of a territorial sovereignty dispute under the Geneva Agreement..." In the view of Venezuela, this is a matter to be addressed under the Good Offices Process of the United Nations Secretary General. Both positions are incorrect. The fact is there is a legally binding Arbitral Award that has established the boundary between Guyana and Venezuela. What exists between Guyana and the Bolivarian Republic of Venezuela is, as stated in Article 1 of the Geneva Agreement of February 17, 1966, a "controversy...which has arisen from the Venezuelan contention that the Arbitral Award of 1899 about the frontier between British Guiana and Venezuela is null and void." The Arbitral Award of 1899 that was handed down on October 3, 1899 pursuant to the provisions of the Treaty of Washington of February 2, 1897, definitively established the land boundary between Guyana and Venezuela. Venezuela accepted that Award and the boundary thus established as full, perfect and final for over sixty years and acted in accordance with its decision for those years.

It was not until the 1960s that Venezuela sought to question the validity of the Award by seeking to impugn the integrity of some of the Arbitrators. The Government of Guyana has noted that while Venezuela, in its letter, sought to invoke customary international law in defence of its purported "rights" to a continental shelf "corresponding to the Atlantic region", its Government has decided to disregard customary international law and indeed the international jurisprudence in relation to settled land boundaries. The International Court of Justice (ICJ), whenever it has had to address matters similar to the case being developed by the Bolivarian Republic of Venezuela, has maintained the legal principle that "once agreed, the boundary stands, for any other approach would vitiate the fundamental principle of the stability of boundaries."

The ICJ's jurisprudence is applicable to the declarations of Venezuela and is even more instructively stated in the case between Libya and Chad as is stated in the ICJ Reports, 1994 para 6, page 37:

"The establishment of this boundary is a fact which, from the outset, has had a legal life of its own, independent of the fate of the 1955 Treaty....A boundary established by Treaty thus achieves a permanence which the treaty itself does not necessarily enjoy. The Treaty can cease to be in force without in any way affecting the continuance of the boundary"

There is therefore no doubt that in spite of the statements by the Bolivarian Republic of Venezuela to the contrary, the territory of the Essequibo, and the maritime spaces appurtenant to it, are only under the jurisdiction of one State, the Republic of Guyana. This is based not only on the Arbitral Award of 1899, but also international law, including customary international law.

The simple fact is that there is no "territorial dispute" between the Republic of Guyana and the Bolivarian Republic of Venezuela. That has been the position adopted since the early 1960s and it is what informed the language used in

¹ Transmitted by letter dated 5 April 2012 from the Permanent Mission of the Republic of Guyana to the United Nations addressed to the Secretary-General of the United Nations.

the Geneva Agreement of 1966 where the word “controversy” (about the Venezuelan contention that the Award is null and void) is used and not “dispute”. To be clear, as stated in the Geneva Agreement, the controversy is not about territory, but about the unilateral claim that the Award of 1899 is null and void. The jurisprudence dictates that even if the claim of invalidity is upheld, that does not change the permanence of the boundary established by that Award.

It is therefore quite clear that Guyana’s statement, in the Executive Summary of its Submission to the Commission on the Limits of the Continental Shelf (CLCS), that there are no disputes relevant to its submission of data and information, is accurate, supported by the definitive nature of the Arbitral Award of 1899 and customary international law - including the relevant case law.

A key element of the United Nations Convention on the Law of the Sea (the Convention) is “predictability”. States are able to predict what their rights, entitlements and obligations are once they meet established criteria for the exercise of jurisdiction. That includes title over the territory that generates jurisdiction. This essential facet of the value of that Convention must be considered eroded, if a State’s ability to invoke its rights under the Convention’s provisions can be denied by objections that are not based on legal principles, or worse are based on disregarding the tenets of international law, including the sanctity of established boundaries.

While the Bolivarian Republic of Venezuela maintains in its correspondence that “sovereignty” over the Essequibo is the matter which the Good Offices of the Secretary General of the United Nations is addressing, the Government of the Republic of Guyana wishes to state that that is a statement not supported by the Geneva Agreement from which the Good Offices Process gains its mandate. The mandate of the Good Offices Process is derived from Article I of that Agreement which I have quoted, in part, above and Article IV (2). That mandate is quite clear: to search for a solution to the controversy which “has arisen from the Venezuelan contention that the Arbitral Award of 1899 about the frontier between British Guiana and Venezuela is null and void” and a means by which a solution can be achieved. The mandate is therefore quite circumscribed. It is for that reason that Guyana maintains that it is inappropriate to address the matter of Venezuela’s contentions about Guyana’s Submission within that Process which would in effect be a discussion about sovereign rights which the Geneva Agreement does not empower the Good Offices Process to do.

The Bolivarian Republic of Venezuela has stated that the Government of the Republic of Guyana did not seek to enter into consultations with it about Guyana’s Submission, on September 6, 2011, to the Commission on the Limits of the Continental Shelf. I wish to clarify that under cover of a Note Verbale dated May 13, 2009, Guyana provided to Venezuela a copy of the Preliminary Information and Data which was submitted to the Secretary General of the United Nations in accordance with the decisions adopted at the Eleventh Meeting of States Parties (SPLOS/72). That Note Verbale constituted the Executive Summary of Guyana’s full Submission to the CLCS on September 6, 2011, except for some data acquired after May 2009. Venezuela therefore had data and information, formally provided by the Government of the Republic of Guyana, some two years prior to the Submission made to the CLCS. There was no reaction from the Government of the Bolivarian Republic of Venezuela until after Guyana’s Submission to the CLCS in September 2011, the Executive Summary of which was also directly provided by the Government of the Republic of Guyana to the Government of the Bolivarian Republic of Venezuela on September 7, 2011.

At a meeting in Port of Spain on September 30, 2011, Guyana did explain its position to the delegation led by Venezuela’s Foreign Minister. Guyana emphasized at that meeting that its Submission expressly declared that it was made without prejudice to maritime delimitations with neighbouring States and that Article 76(10) of the Convention states that Submissions must be so considered. Guyana also acknowledged that Venezuela had the right to make its reservations about Guyana’s Submission known to the United Nations in the same scope and manner in which that State had registered its reservations in relation to another Submission by a State in the Subregion.

The Government of Guyana is advised that the mandates of the CLCS are provided by the provisions of Article 76 of, and Annex II to the Convention. It is of significance that while the CLCS had adopted its own internal Rules of Procedure, it is clear that those Rules do not prevail over nor oppose the Convention. In fact, the Rules must be and are consistent with the provisions of the Convention. The Convention establishes that the provisions of Article 76 are without prejudice to the question of delimitation of the continental shelf between States with opposite or adjacent coasts. Guyana has made it abundantly clear that its Submission is made under this fundamental principle of international law, with respect to neighbouring States.

Guyana has taken careful note of the fact that the Bolivarian Republic of Venezuela has not explicitly invoked Annex I of the CLCS's Rules of Procedure. The CLCS is therefore being invited by the Bolivarian Republic of Venezuela to:

- determine whether the statement “the rules governing the work of the Commission” refers to either the Convention or an official document of the Commission. and
- make an error in law by considering the 1899 Award, which is in force and remained unchallenged for over six decades, as null and void (based on a State's unilateral declaration) and thus create the false interpretation that a land or maritime dispute exists.

Guyana respectfully submits that it is critically important that whatever decision is made by the Commission in this regard, it must be made not only in accordance with the Convention, but must also be consistent with international law.

Guyana agrees that it is a truism that “land dominates the sea”. All claims to maritime spaces under national jurisdiction derive under international law from sovereignty over land territory by a State. However, the claim by Venezuela “that the coast whose projection is used by the Republic of Guyana in its attempt to extend the limits forms part of the disputed territory” is a falsehood. While it is a fact that the territory being referred to by the Bolivarian Republic of Venezuela is not disputed because of the 1899 Award, the Falseness of the claim is made pellucid by several self-evident facts:

First, entitlement to determine the outer limit of the continental shelf beyond 200 nautical miles under the Convention, and the Scientific and Technical Guidelines of the CLCS, stems from the ability of a State to demonstrate that the foot of the continental slope plus 60 nautical miles and/or the 1% sediment thickness line, both determined from the foot of the continental slope, extend beyond 200 nautical miles from the baselines from which the breadth of the territorial sea is measured. For as long as there is any portion of the coastline of a State facing the region of the submission, the length of such coastline is irrelevant to the entitlement gained by any State to extend its continental shelf beyond 200 nautical miles.

Second, the statement made above is substantiated by precisely the extant submissions in the region where the Submission of Guyana is made. The Submissions made by Barbados, Guyana, Trinidad and Tobago and Suriname actually overlap regardless of the precise amount and variable length of the coastlines supposing each of the entitlements.

Third, an overlap of maritime claims, or more specifically, an overlap of continental shelves created by different States, is not equivalent to the existence of a dispute. An overlap of maritime claims simply means that the parties have work ahead in the determination of their maritime or continental shelf boundaries. Guyana has always recognised the entitlement of Venezuela to a continental shelf and recently agreed to engage in bilateral negotiations to determine international maritime boundaries.

Fourth, the Government of Guyana finds the conduct of Venezuela vis-à-vis its Submission to be inconsistent since Guyana has been singled out notwithstanding the fact that the Submissions made by other States have been made from different directions overlapping the same region beyond 200 nautical miles where Guyana made its Submission. Only in one other case has the Government of Venezuela expressed its reservations but filed no objections to the consideration of any other Submission in the region.

If the Venezuelan proposition were to succeed the implications for the future of the Commission would be grave. It amounts to the proposition that any challenge to a territorial boundary, sanctified by treaty and acknowledged by international law, however flimsy or spurious that challenge may be, could be misrepresented as a ‘dispute’ within the meaning of Article 76 of the Convention and thereby undermine the authority and jurisdiction of the Commission over a vast area of the world. It would endanger the very purposes for which the Commission was established under the Convention, and ironically at the instance of a country that has itself refused to be a signatory to the Convention.

Guyana made its Submission:

- to fulfill its obligations pursuant to paragraph 8 of Article 76 of, and Article 4 of Annex II to the United Nations Convention on the Law of the Sea;

- in accordance with the methodology contained in paragraphs 1 to 7 of Article 76 of the Convention, and the Scientific and Technical Guidelines of the CLCS; and
- without prejudice to questions relating to the delimitation of international boundaries of the continental shelf among States in accordance with international law and paragraph 10 of Article 76.

The preparation of Guyana's Submission to the CLCS was done utilising very large economic and human resource investments over a period of more than five years to comply with obligations set out under the Convention. The Government of Guyana expects, in light of the explanations and clarifications provided above, that the Commission would ignore the objection made by the Bolivarian Republic of Venezuela in its communication dated March 9, 2012, since it has no foundation under the Convention, international law or the official documents of the CLCS.

I wish to request Secretary General, that this communication be given due publicity to Member States and to the Commission on the Limits of the Continental Shelf.

Sign
Carolyn Rodrigues-Birkett

2. Angola

Letter dated 7 June 2012 from the Minister of External Relations addressed to the Secretary-General of the United Nations in respect of the Submission made by the Government of the Republic of Gabon²

Excellency,

In my capacity as Minister of External Relations and on behalf of the Government of the Republic of Angola, I would like to acknowledge that the Government of Angola took note of the Executive Summary of the Republic of Gabon's Submission, titled "Presentation by the Republic of Gabon for the extension of its continental shelf beyond 200 nautical miles", which was filed with the Commission on the Limits of the Continental Shelf on April 10, 2012, pursuant to Article 76 of the United Nations Convention on the Law of the Sea.

The Government of Angola has duly noted the above mentioned document, submitted in order to establish the outer limits of the continental shelf of the Republic of Gabon beyond 200 nautical miles and after careful analysis, would like to make the following general comments:

1. The declaration of absence of disputes set forth in the Executive Summary of the Republic of Gabon's Submission to the Commission on the Limits of the Continental Shelf should apply only to continental borders. When understood as meaning "offshore", it appears that part of the limits of the continental shelf presented has no continuity towards the continent, nor does it have an Exclusive Economic Zone under the jurisdiction of Gabon.
2. The non-continuity of the continental shelf presented-in addition to the presence of an Exclusive Economic Zone under the jurisdiction of another government, is not admissible from the point of view of the Convention on the Law of the Sea and that of the Republic of Angola.
3. In this conformity, the Government of Angola hereby express disagreement related to Submission of the Republic of Gabon concerning the extension of its continental shelf, as it does not have "offshore" territorial continuity from the continental border points and disregards international treaties that are in force between Angola and neighboring States.

Excellency,

The Government of the Republic of Angola requests that you kindly convey its position to the Commission on the Limits of the Continental Shelf and distribute this Note in accordance with the internal procedures of the United Nations.

...

Luanda, June 7, 2012

² Transmitted by note verbale dated 11 June 2012 from the Permanent Mission of the Republic of Angola to the United Nations addressed to the Secretariat of the United Nations.

3. Mexico

Note verbale dated 14 May 2012 addressed to the Secretariat of the United Nations concerning the deposit by France of the list of geographical coordinates of points of Clipperton Island³

ONU01908

The Permanent Mission of Mexico to the United Nations [...] has the honour to refer to Law of the Sea Bulletin No. 74, published by the Division, in which the Secretary-General informed Member States that France had deposited the list of coordinates of Clipperton Island.

In that regard, after holding internal consultations on the case with the relevant Mexican authorities, the Government of Mexico declares that it retains all rights in the zone that may accrue to it under international law.

[...]

New York, 14 May 2012

³ Original: Spanish.

Publication requested through note verbale no. ONU02326, dated 11 June 2012, from the Permanent Mission of Mexico to the United Nations addressed to the Secretariat of the United Nations.

4. Cyprus

Annex to the letter dated 15 June 2012 from the Permanent Representative of Cyprus to the United Nations addressed to the Secretary-General of the United Nations regarding the granting of exploration licences to the Turkish Petroleum Corporation⁴

On 27 April 2012, the Government of the Republic of Turkey published in its Official Gazette (Issue: 28276), Decisions 2012/2802, 2012/2973 and 2012/2968, on the basis of which the Turkish Council of Ministers grants hydrocarbon exploration licences to the Turkish Petroleum Corporation (TPAO) in sea areas of the Eastern Mediterranean, some of which fall either partly or wholly within the exclusive economic zone (EEZ) and continental shelf of the Republic of Cyprus.

More specifically, Decision 2012/2802 concerns the issuance of a licence in “block 5011”, which partly lies (more than 40 per cent) within the EEZ and continental shelf of the Republic of Cyprus; Decision 2012/2973 concerns the issuance of a licence in “block 5029”, which partly lies (more than 60 per cent) within the EEZ and continental shelf of the Republic of Cyprus; and Decision 2012/2968 concerns the issuance of a licence in “block 5027”, which lies in its entirety (100 per cent) within the EEZ and continental shelf of the Republic of Cyprus and “block 5028”, which partly lies (more than 90 per cent) within the EEZ and continental shelf of the Republic of Cyprus.

Concerning the above-mentioned acts of the Government of the Republic of Turkey, the Government of the Republic of Cyprus wishes to make the following observations and state its position.

- It is recalled that in 2004, the Republic of Cyprus proclaimed by Law No. 64 (I) 2004, which was submitted to the United Nations, its EEZ, the outer limit of which does not extend beyond the 200 nautical miles from the baselines, as established by the Republic of Cyprus in 1993 and formally submitted to the United Nations in compliance with the deposit obligations pursuant to the United Nations Convention on the Law of the Sea (UNCLOS), from which the breadth of its territorial sea is measured. In accordance with the said Law, in those parts of the maritime boundaries of Cyprus where no delimitation agreements have been signed, including with the Republic of Turkey, the Republic of Cyprus considers, in principle, as the outer limit of its EEZ/continental shelf, the median-line, which is measured from the baselines from which the breadth of their respective territorial seas is measured.
- Articles 74 (1) and 83 (1) of the United Nations Convention on the Law of the Sea provide, respectively, that the delimitation of the exclusive economic zone and the continental shelf between States with opposite or adjacent coasts should be effected by agreement on the basis of international law, as referred to in Article 38 of the Statute of the International Court of Justice, in order to achieve an equitable solution. Accordingly, the Republic of Cyprus has so far concluded Agreements on the delimitation of its EEZ with the Arab Republic of Egypt (in force), the Lebanese Republic (ratification pending) and the State of Israel (in force), on the basis of the median-line principle. It is noted that the Republic of Cyprus has deposited to the Division for Ocean Affairs and the Law of the Sea of the United Nations the lists of geographical coordinates of points that define the exact limits of the EEZ within the context of its delimitation Agreements which are in force.
- Based on the proclamation of the EEZ and the relevant delimitation agreements signed with three of its neighbouring countries, the Republic of Cyprus exercises exclusive sovereign rights and jurisdiction in relation to areas beyond and adjacent to its territorial sea for the purposes set out in article 56 of the United Nations Convention on the Law of the Sea (which also reflects customary international law). In addition, the Republic of Cyprus has, as a matter of international law, inherent and exclusive sovereign rights over the continental shelf covering the same area, which it exercises in conformity with article 77 of the United Nations Convention on the Law of the Sea. In particular,

⁴ General Assembly document A/66/851, annex.

in relation to hydrocarbon resources, the Republic of Cyprus has exclusive sovereign rights, inter alia, for the purpose of exploration and exploitation in its proclaimed EEZ and over its continental shelf.

- Turkey has neither proclaimed an EEZ nor has it concluded any agreements delimitating its EEZ or continental shelf in the Eastern Mediterranean. In particular, Turkey has not even pursued an agreement on the delimitation of its maritime boundaries with Cyprus. To the contrary, Turkey performs unilateral actions in respect of sea areas that are patently beyond any reasonable geographical limits of its own continental shelf and potential EEZ and clearly falling within the EEZ and continental shelf of the Republic of Cyprus.

Consequently, the granting of hydrocarbon exploration licences by the Government of the Republic of Turkey to the TPAO in the said sea areas, which is the concrete expression of unreasonable claims by Turkey with respect to its maritime boundaries with the Republic of Cyprus, constitutes a violation of international law and a purported exercise of rights vested in the Republic of Cyprus.

The said actions by Turkey are in absolute defiance of the sovereign rights and jurisdiction of the Republic of Cyprus in its EEZ and over its continental shelf, as these are enshrined in the United Nations Convention on the Law of the Sea, the relevant customary international law, and Cypriot domestic law. Hence, the granting of hydrocarbon exploration licences by Turkey to the TPAO in the said sea areas is without legal effect and does not prejudice these rights in any way.

IV. OTHER INFORMATION RELEVANT TO THE LAW OF THE SEA

Relevant Documents of the Security Council of the United Nations*Letter dated 23 March 2012 from the Secretary-General to the President of the Security Council¹*

By paragraph 11 of Security Council resolution 2015 (2011) of 24 October 2011, I was requested to compile and circulate information received from Member States on measures they have taken to criminalize piracy under their domestic law and to prosecute and support the prosecution of individuals suspected of piracy off the coast of Somalia and the imprisonment of convicted pirates.

I have the honour to submit to you the attached information, which has been received from 42 Member States (see annex).

I should be grateful if you would bring the present letter and its annex to the attention of the members of the Security Council.

(Signed) BAN Ki-moon

ANNEX

Compilation of information received from Member States on measures they have taken to criminalize piracy under their domestic law and to support the prosecution of individuals suspected of piracy off the coast of Somalia and imprisonment of convicted pirates

Summary

The present compilation has been prepared pursuant to paragraph 11 of Security Council resolution 2015 (2011) of 24 October 2011, by which the Council requested the Secretary-General to circulate information received from Member States on the measures they have taken to criminalize piracy under their domestic law and to prosecute and support the prosecution of individuals suspected of piracy off the coast of Somalia and imprisonment of convicted pirates. At the time of publication of the present document, information had been received from the following 42 Member States: Australia, Austria, the Bahamas, Bangladesh, Brazil, Bulgaria, Chile, China, the Czech Republic, Denmark, Djibouti, Estonia, Finland, France, Georgia, Germany, Greece, Ireland, Italy, Jamaica, Kazakhstan, Kuwait, Latvia, Lebanon, Liechtenstein, Lithuania, Malta, Mauritius, the Netherlands, Norway, Oman, Panama, Qatar, the Republic of Korea, the Republic of Moldova, the Russian Federation, Singapore, Slovakia, Slovenia, Spain, Turkey and the United Arab Emirates.

The information received from Member States has been reproduced as received. Texts of international instruments published in the United Nations Treaty Series have been substituted with relevant references.

¹ Security Council document S/2012/177.

Australia

Australia's domestic legal framework: piracy and enforcement powers

The Crimes Act 1914 (Cth) implements the piracy provisions of the United Nations Convention on the Law of the Sea. Section 52 of the Act prohibits acts of piracy. Section 51 of the Act defines piracy as “an act of violence, detention or depredation committed for private ends by the crew or passengers of a private ship or aircraft” and directed against:

- another ship or aircraft or against persons or property on board another ship or aircraft (when committed on the high seas or in the coastal sea of Australia); or
- a ship, aircraft, persons or property (when committed in a place beyond the jurisdiction of any State).

The “high seas” are defined as “seas that are beyond the territorial sea of Australia and of any foreign country” (section 51). This definition extends the application of the piracy offence to the exclusive economic zone of foreign States in a manner consistent with the United Nations Convention on the Law of the Sea. Under section 54 of the Act, a member of the Australian Defence Force or the Australian Federal Police (AFP) may seize a pirate-controlled ship or aircraft, or a thing on board such a ship or aircraft. Such seizure may be effected in Australia; on the high seas, or in a place beyond the jurisdiction of any country.

The Crimes (Ships and Fixed Platforms) Act 1992 (Cth) also establishes a range of offences, which implement those in the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation. For example, the Act establishes the offences of seizing a ship (section 8) and performing an act of violence on a ship (section 9).

Activities undertaken by Australia to support the prosecution of individuals suspected of piracy off the coast of Somalia and their imprisonment

Australia strongly supports continued international efforts to detain and prosecute pirates off the coast of Somalia. In this respect, Australia supports a regional approach, with prosecutions occurring in the domestic judicial systems of regional countries and, where possible, incarceration in those countries.

Australia recognizes regional countries may require assistance in developing their capacity to prosecute and incarcerate suspected pirates. Australia has supported initiatives by the United Nations Office on Drugs and Crime counter-piracy programme through funding, training and personnel programmes, building prisons and developing the law and justice system in Somalia. In 2012, the Australian Agency for International Development (AusAID) will fund the deployment of an AFP officer to the counter-piracy programme. This builds on deployment of AFP officers in 2011 and 2009/10. In 2011, AusAID provided \$749,780 to the counter-piracy programme to assist in building the criminal justice capacity of regional States (primarily Kenya, Seychelles, Tanzania and Maldives) to respond to the problem of piracy, and to improve the corrections regime in Somalia. This built on a 2009/10 contribution of \$500,000 to the Programme. More specifically, the funding for 2011 was to be used to: support the building of a prison in Kenya and recruit a corrections officer; provide logistical support, courtroom security enhancements, legal aid and judicial training for the courts and prosecutors in Kenya and Seychelles; mentor and train police officers; refurbish prison infrastructure to achieve minimum standards for health and safety; and enable the dissemination of piracy trial results in Somalia as a deterrent.

More widely, Australia participates in Working Group 2 of the Contact Group on Piracy off the Coast of Somalia, which has made significant progress in developing common understandings of the legal issues surrounding Indian Ocean piracy, particularly in relation to the detention and prosecution of pirates.

Austria

Most crimes relating to maritime piracy can be subsumed to crimes enumerated in the Austrian Criminal Code (e.g. murder, deprivation of liberty, physical injury or traffic in human beings).

These crimes are punishable in Austria, if they are also punishable by the law applicable at the place of crime (double incrimination rule) and if the perpetrator is either an Austrian or is caught on Austrian territory and cannot be extradited for a reason other than the nature or feature of his act. For crimes committed on the high seas the double incrimination rule does not apply; incrimination under Austrian law is sufficient (section 65 of the Criminal Code). However, each prosecution of that kind, presupposing the transfer of a non-Austrian perpetrator to Austria, depends on the approval of the competent Austrian authorities.

Provided that Austrian interests were violated or that the perpetrator cannot be extradited, Austrian criminal laws are applicable for special crimes (e.g. kidnapping or slave traffic) regardless of the law applicable at the place of crime. Furthermore, Austrian criminal laws are applicable if an international treaty contains the obligation to prosecute (section 64 of the Criminal Code).

Crimes committed on board an Austrian vessel can be prosecuted wherever the vessel is located (section 63 of the Criminal Code).

Furthermore, the Austrian Maritime Law contains two paragraphs on maritime piracy: section 45 penalizes the threat or use of violence against persons to take possession of a ship, its cargo, or persons on board. The equipment or operation of a ship, including service on such ship, for the purpose of maritime piracy is punishable under section 46. However, the scope of application of the Austrian Maritime Law is confined to Austrian ships.

Bahamas

At present, the domestic law for the criminalization of piracy in the Bahamas is codified in section 404 of the Penal Code, Chapter 84 in the Statute Law of the Bahamas. Section 404 provides that:

“Whoever is guilty, or of any crime connected with or relating or akin to piracy, shall be liable to be tried and punished according to the law of England for the time being in force.”

Therefore, domestic law offers no further clarification other than a reliance on the English Law for the criminalization of piracy in the Bahamas. On the same note, the Act does not provide a definition for piracy in our domestic laws. However, international law in the United Nations Convention on the Law of the Sea of 10 December 1982 sets out the legal framework in articles 100, 101 and 105. Possibly, article 101 lends a constructive definition of piracy for our purposes:

- “(a) any illegal acts of violence or detention, or any act of depredation, committed for private ends by the crew or the passengers of a private ship or a private aircraft, and directed:
 - (i) on the high seas, against another ship or aircraft, or against persons or property on board such ship or aircraft;
 - (ii) 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 facts making it a pirate ship or aircraft;
- (c) any act of inciting or of intentionally facilitating an act described in subparagraph (a) or (b).”

It is worth noting that the United Nations imposes a duty on all States to cooperate in the repression of piracy.

Accordingly, article 100 provides that

“All States shall cooperate to the fullest possible extent in the repression of piracy on the high seas or in any other place outside the jurisdiction of any State.”

In essence, this means that every State has the jurisdiction to seize a vessel suspected of piracy, a vessel taken by pirates or under the control of pirates and arrest the persons and seize the property on board. In this vein, article 105 adds that the judicial system of the arresting State has the jurisdiction to determine the form of punishment and the necessary action concerning the seized ships, aircraft or property, subject to the rights of third parties acting in good faith.

Notwithstanding the prevalence of the notorious epidemic of piracy in the Gulf of Aden, Member States are not at liberty to attack or kill Somalian pirates, since the high seas are reserved for “peaceful purposes”. Instead, the pirates must be apprehended, except in cases of self defence.

To date, the Law Reform and Revision Commission has no instruction from Parliament to review section 404 of the Penal Code, Chapter 84, relating to the criminalization of piracy as contained in our domestic law. In short, there has been no amendment or repeal of our Penal Code, Chapter 84, specifically to section 404 as it relates to the offence of piracy.

In conclusion, the domestic law has made provision for the criminalization of piracy, notwithstanding an apparent reliance on the Laws of England. Undoubtedly, the domestic law of England is consistent with applicable international law, including human rights law. For in England, the crime of piracy is defined in the *Merchant Shipping and Maritime Security Act 1997 (in section 26 and Schedule 5)*, which sets out articles 101 to 103 of the United Nations Convention on the Law of the Sea (1982). In England, the penalty for the offence of piracy was the death penalty, but that has since been abolished, the penalty is now life imprisonment.

Bangladesh

Giving due consideration to the Security Council resolution, Bangladesh is deeply concerned about piracy, particularly piracy conducted off the coast of Somalia. The Government of Bangladesh is taking necessary initiatives to amend and update the national code of criminal procedure to prosecute acts of piracy and armed robbery against individuals who incite, plan, organize, facilitate or finance piracy. Once it is finalized, Bangladesh would be able to prosecute individuals suspected of piracy off the coast of Somalia. Bangladesh is also very actively engaged and cooperating with different regional bodies, including the *Regional Co-operation Agreement on Combating Piracy and Armed Robbery against Ships in Asia (ReCAAP)*, and the *South Asia and Africa Regional Port Stability Cooperative (SAARPSCO)*, demonstrating its strong commitment in combating piracy.

Brazil

Brazil vehemently condemns acts of piracy wherever they may occur. Our domestic legislation features the necessary elements to prosecute suspects of crimes classified as relating to acts of piracy. The Brazilian Penal Code criminalizes, under its article 157, armed robbery in all national jurisdiction, both at sea and on land.

Brazil has also incorporated into its domestic legislation the United Nations Convention on the Law of the Sea, which establishes that all States have the obligation of cooperating in the repression of piracy and may exercise universal jurisdiction over crimes related to acts of piracy committed on the high seas.

Bulgaria²

No specific provisions on maritime piracy currently exist in domestic legislation.

With a view to implementing the commitments made under Security Council resolutions on ensuring the security of international maritime traffic, the Ministry of Justice of the Republic of Bulgaria has established a working group to conduct a comprehensive review of domestic legislation, in particular the Penal Code (chapter XI, section II, on crimes involving transport and communications), in order to formulate specific provisions criminalizing maritime piracy for inclusion in the Penal Code currently being drafted.

Chile³

The offence of piracy is established in article 434 of the Criminal Code, which provides that, “Anyone who commits acts of piracy shall be punished with rigorous imprisonment in the minimum degree to rigorous imprisonment for life”. The penalty involves deprivation of liberty for a period ranging from five years and one day up to a life sentence.

Furthermore, article 6 of the Chilean Organic Code on Courts provides a list of offences that may be subject to the jurisdiction of Chilean courts, even in cases when the offence is committed outside of Chilean territory. Piracy is included among the offences cited in subparagraph 7 of the article, without distinction as to whether the act is committed by a national or a foreigner.

In addition, the appropriate measures are being taken to incorporate Security Council resolution 2020 (2011) of 22 November 2011 into domestic law.

China⁴

Information on legislative and practical measures by China to combat piracy

A. Provisions of Chinese law categorizing piracy as an offence

Article 101 of the United Nations Convention on the Law of the Sea provides a definition of piracy, according to which:

Piracy consists of any of the following acts:

- (a) any illegal acts of violence or detention, or any act of depredation, committed for private ends by the crew or the passengers of a private ship or a private aircraft, and directed:
 - (i) on the high seas, against another ship or aircraft, or against persons or property on board such ship or aircraft;
 - (ii) 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 facts making it a pirate ship or aircraft;
- (c) any act of inciting or of intentionally facilitating an act described in subparagraph (a) or (b).

² Original: French.

³ Original: Spanish.

⁴ Original: Chinese.

China's Criminal Code does not include the offence of piracy, but the various acts of piracy specified in the Convention may, in accordance with their specific circumstances, incur criminal liability under relevant provisions of the Criminal Code:

- (a) Acts of violence, detention or depredation committed against vessels or aircraft may, in accordance with the provisions of the Criminal Code, constitute offences of the hijacking of aircraft (article 121), the hijacking of vessels (article 122), the destruction of means of transport (article 116), or robbery (article 263), etc.;
- (b) Acts of violence, detention or depredation committed against persons or property on board vessels or aircraft may, in accordance with the provisions of the Criminal Code, constitute offences of malicious injury (article 234), wilful homicide (article 232), kidnapping (article 239), unlawful detention (article 238), robbery (article 263), forcible seizure (article 267), etc.;
- (c) Any act of voluntary participation in the operation of a ship or of an aircraft with knowledge of facts making it a pirate ship or aircraft or of inciting or intentionally facilitating an act of piracy may, in accordance with the Criminal Code, be dealt with as complicity in the commission of the offence constituted by the specific act in question (articles 25, 26, 27 and 29); acts inciting piracy may also constitute the offence of passing on criminal methods (article 295).

B. Provisions of Chinese law on the prosecution of suspected pirates

Where the offences constituting piracy are concerned, China is able to exercise its jurisdiction in accordance with the following legal provisions:

- (a) Article 6 of the Criminal Code stipulates that:

Anyone who commits an offence within the territory of the People's Republic of China, except as otherwise specifically provided by law, shall be subject to the application of this Code. The Code shall also be applicable to anyone who commits an offence on board a vessel or aircraft of the People's Republic of China. If a criminal act or its consequences occur within the territory of the People's Republic of China, the offence shall be deemed to have been committed within the territory of the People's Republic of China.

- (b) Article 7 of the Criminal Code stipulates that:

Citizens of the People's Republic of China who commit offences defined by this Code outside the territory of the People's Republic shall be subject to the application of this Code; if, however, the maximum penalty prescribed by the Code is three years' imprisonment, the requirement to conduct a criminal investigation may be waived. State functionaries and military personnel of the People's Republic of China who commit offences defined by this Code outside the territory of the People's Republic shall be subject to the application of the Code.

- (c) Article 8 of the Criminal Code stipulates that:

Foreigners who commit offences outside the territory of the People's Republic of China against the State of the People's Republic or against its citizens shall be subject to the application of this Code, if the minimum penalty prescribed by the Code is three years' imprisonment; no penalty shall be applied, however, for an offence that is not punishable under the law of the place where it was committed.

- (d) Article 9 of the Criminal Code stipulates that:

This Code shall apply to offences defined in the international treaties concluded by the People's Republic of China or to which it has acceded and offences over which, within the scope of the obligations defined in these treaties, the People's Republic of China exercises criminal jurisdiction.

C. Action taken by China to support the prosecution of suspected pirates captured in Somalia

In February 2009, following an exchange of notes between the Government of the People's Republic of China and the Somali Transitional Federal Government, China duly handed over to Somalia suspected pirates captured in Somali waters and arrangements were concluded between the two countries on their prosecution under Somali law.

In December 2009, the Government of the People's Republic of China and the Government of the Republic of Kenya signed a memorandum of understanding on the transfer of suspected pirates captured in Somali waters.

Czech Republic

Criminalization of piracy under Czech law — Criminal Code N. 40/2009 Coll.

Section 290

Gaining control over an aircraft, civilian vessels and fixed platform

- (1) Whoever on board of an aircraft, civilian vessel, or a fixed platform on a continental shelf with the intention to gain or exercise control over the aircraft, civilian vessel, or fixed platform
 - (a) uses violence against other persons or a threat of imminent violence,
 - (b) threatens another person with death, bodily harm, or causing extensive damage, or
 - (c) exploits vulnerability of another person, shall be sentenced to imprisonment for eight to fifteen years or to confiscation of property.
- (2) An offender shall be sentenced to imprisonment for twelve to twenty years or to an exceptional sentence of imprisonment, eventually in parallel to this sentence also to confiscation of property, if he/she
 - (a) causes grievous bodily harm to at least two persons or death by the act referred to in paragraph (1),
 - (b) commits such an act during a state of national emergency or state of war.
- (3) Preparation is criminal.

Denmark

Denmark has taken several initiatives to criminalize piracy under domestic law and to prosecute and support the prosecution of individuals suspected of piracy and imprisonment of convicted pirates.

1. Denmark has the following national legislation:

Under section 183 A (rev. 1992) of the Danish Criminal Code, it is a punishable offence under section 260 to take control of or interfere with the manoeuvring of a ship by unlawful means. The maximum sentence is life imprisonment. Section 183 A has the following wording:

“**183 A.** A person who takes control of an aircraft, a ship or any other means of public passenger or cargo transport or interferes with its manoeuvring, by using unlawful coercion as described in section 260 of this Act, shall be liable to punishment for any term extending to imprisonment for life.

- (2) The same penalty shall apply to a person who takes control of an offshore plant by using unlawful coercion as described in section 260 of this Act.”

Section 260 regarding unlawful coercion as mentioned in section 183 A has the following wording:

“**260.** A person who forces another to do, suffer or omit something:

- (1) by violence or by threats of violence, substantial damage to property, deprivation of liberty, false accusations of a punishable act or dishonourable conduct or revelation of matters relating to the other's private affairs;
- (2) by threats of reporting or revealing a punishable act or making a true accusation of dishonourable conduct, in a situation where such coercion is not deemed to be duly justified by the circumstance to which the threat relates; commits the offence of unlawful coercion and shall be liable to a fine or imprisonment for any term not exceeding two years.

[...]

The Danish Criminal Code further contains provisions on attempt and complicity. Attempt is covered by section 21, which reads as follows:

“**21.** Acts that are aimed to promote or accomplish an offence shall, when the offence is not completed, be punished as an attempt.

(2) The penalty prescribed for the offence may be reduced in the case of attempt, particularly where the attempt bears evidence of little strength of or persistence in the criminal intention.

(3) Unless otherwise provided, an attempt shall only be punished when the offence carries a penalty that exceeds imprisonment for four months.”

Complicity is covered by section 23, which reads as follows:

“**23.** The penalty provisions laid down for an offence shall apply to all persons who have aided, abetted, counselled or procured the commission of the offence. The penalty may be reduced in the case of a person who has only intended to lend assistance of minor importance or strengthen a determined intent and in case the crime has not been completed or an intended contribution has failed.

(2) The penalty may moreover be reduced in the case of a person who has contributed to the breach of a duty in a special relationship in which he himself had no part.

(3) Unless otherwise provided, the penalty for aiding and abetting offences that do not carry sentences more severe than simple detention may be rescinded where the accomplice only intended to lend assistance of minor importance or strengthen a determined intent or where his complicity was due to negligence.”

Denmark exercises jurisdiction under the principle of territoriality as well as the principles of active and passive personality. Jurisdiction may be exercised for acts of piracy committed outside the territory of the Danish State under section 8 B if the perpetrator is a Danish citizen, a Danish resident or present in Denmark. Section 8 B reads as follows:

“**8B.** An act committed outside the territory of the Danish state is subject to Danish criminal jurisdiction, where the act is covered by section 183 A of this Act where the act has been committed by a person:

(1) who is a Danish national or has his abode or residence in Denmark; or

(2) who is present in Denmark at the time when the charge is raised.

(2) The prosecution of acts covered by subsection (1) above may also include violations of sections 237 and 244-248 of this Act, when they are committed in conjunction with violation of section 183 A of this Act.”

2. The Ministry of Justice, in cooperation with representatives from Danish Defence, the National Police and the public prosecutor’s office, has formulated guidelines for Danish naval vessels on how to handle cases that may result in prosecution of pirates in Denmark. These guidelines contain specific directions on collection of evidence and communication between authorities in order to ensure a suitable execution of a potential criminal case about piracy.

3. As regards the prosecution of individuals suspected of piracy, the Public Prosecutor for Serious International Crime mentioned that, on 31 December 2010, it was reported for investigation that a small vessel with six persons, a large amount of petrol, possibly weapons and no fishing gear had sailed close to a Danish registered containership of considerable size in the Gulf of Aden. The six persons were apprehended by a Danish naval vessel and in absentia taken into custody by the City Court of Copenhagen for attempted piracy. The Eastern Court of Appeal and the Supreme Court upheld the decision. Investigations were discontinued due to lacking prospect of conviction, as no specific attack had been launched against the Danish ship.

4. In autumn 2010, a task force on criminal prosecution was established, consisting of representatives of the Danish Ministry of Justice, the Ministry of Foreign Affairs and the Ministry of

Defence. The task force meets on an ad hoc basis to consider specific cases on criminal prosecution of suspected pirates held in custody of the Danish naval military forces off the coast of Somalia.

5. Denmark is continuously working to make bilateral agreements with countries in the region on transfers of Somali pirate suspects for prosecution in Somalia. The transfer agreement between Denmark and Kenya expired in September 2010. Kenya has, however, stated its continued preparedness to receive pirates for prosecution on an ad hoc basis. To date, in addition, Denmark has entered into a transfer agreement with Seychelles.

6. In June 2011, Denmark handed over 24 suspected pirates to Kenya for prosecution. The suspected pirates were detained by the Danish naval vessel *Esbern Snare* following its seizing of an Iranian mother ship off the coast of Somalia and the freeing of 16 Iranian hostages on board the ship. In connection with the forthcoming court case, the Danish Government is assisting the Kenyan authorities with practical preparations for the trial and by ensuring the presence of Danish military officers, who have been summoned to give testimony at the court hearing in Kenya.

7. The Government of Denmark has recently approved a new regional stabilization programme for the Horn of Africa in the amount of DKK 215 million for the period from 2011 to 2014, to be funded through the Danish Peace and Stabilisation Fund, of which a part will be dedicated to countering piracy, through capacity-building and imprisonment of convicted pirates. The fund is administered through a whole-of-government framework, which deepens integration between efforts in diplomacy, defence and development and emphasizes the priority of the Danish Government to enhance sustainable and comprehensive stabilization efforts based on local ownership and capacity-building. The Danish programme will support justice and security sector reform in Somalia, inter alia, through training of judicial capacity and police and security sector reform, as well as expanding existing prison capacity. These activities, which will be funded through the United Nations Development Programme and the United Nations Office on Drugs and Crime, are essential in preventing and countering piracy, by ensuring the prosecution of suspected pirates, as well as the broader stabilization of Somalia.

Denmark also hosted the twentieth meeting of the International Contact Group on Somalia, which was held on 29 and 30 September 2011, focusing on the Mogadishu road map on ending the political transition and outlining the priority tasks to be accomplished in the coming year, including outreach and reconciliation, security and the finalization and adoption of the Constitution.

8. Since the beginning of 2009, Denmark has chaired 9 meetings of the Working Group on Legal Issues (Working Group 2) of the Contact Group on Piracy off the Coast of Somalia. Working Group 2 has provided specific, practical and legally sound guidance to the Contact Group on Piracy off the Coast of Somalia, States and organizations on all legal aspects of counter-piracy. At its triannual meetings, the participants exchange information on ongoing judicial activities, including specific court cases, as well as on relevant capacity-building activities in the region.

Working Group 2 has undertaken a thorough analysis and discussion on how to ensure the effective prosecution of suspected pirates. From the outset, the focus of the discussions has been on how to ensure an increasing number of prosecutions in the region, but Working Group 2 has discussed all options, including those outlined in the various United Nations reports and Security Council resolutions. According to the United Nations Office on Drugs and Crime, as of autumn 2011, more than 1,000 pirates are either serving or awaiting their sentences in 20 countries.

Djibouti

Piracy

The recent phenomenon of piracy in the East Africa region has caused major disruptions for the countries of the region and is also of concern to the international community.

A series of pirate attacks on ships in the Gulf of Aden and the Indian Ocean has been disrupting maritime traffic in that area, even when carried out at some distance from the shores of coastal States. In the past few years, the region has become a global hot spot.

Securing commercial maritime routes and fishing areas, in response to the spread of piracy in the Gulf of Aden, off the coast of Somalia and on the high seas is now a priority.

These acts of piracy represent both a threat to peace and international security and a real danger for the Republic of Djibouti, situated as it is at the crossroads of maritime routes. Support in this area would include providing naval forces with maritime surveillance radars, patrol boats, Zodiac boats, binoculars, surveillance cameras and vehicles to ensure security at checkpoints.

Several ships and their crews are being held by pirates along the coast of Somalia.

Under the aegis of the International Maritime Organization, the Republic of Djibouti hosted a subregional conference on pirate attacks, from 26 to 29 January 2009, which took decisions regarding:

- (1) Adoption of the Djibouti Code of Conduct concerning the Repression of Piracy and Armed Robbery against Ships in the Western Indian Ocean and the Gulf of Aden;
- (2) Establishment of a regional training centre for personnel responsible for suppressing piracy and armed robbery against ships.

In this connection, a multisectoral committee tasked with coordination of and follow-up to the establishment of the regional maritime training centre was formed, pursuant to a decree of 19 April 2009.

Its responsibilities include:

- (1) Studying and following up on various piracy-related issues;
- (2) Coordination between various ministerial departments;
- (3) Consolidation within the Ministry of Transport of all data collected.

The committee thus functions as an interface between the authorities of the Republic of Djibouti and the international community, in particular the International Maritime Organization and the European Union, as well as other countries.

Djibouti belongs to the Contact Group on Piracy off the Coast of Somalia, which includes 27 States and six international organizations as members.

The establishment of the Contact Group is indicative of the commitment of the international community to promoting maritime security, protecting international commerce and guaranteeing safe passage for humanitarian aid shipments.

Piracy is detrimental to international commerce for the following reasons:

- It leads to increased maritime shipping costs and is a deterrent to development in the region;
- It delays and disrupts activities in the region;
- It diverts humanitarian aid intended for the poor and disadvantaged;
- It poses a threat to the energy supply routes of many countries;
- It causes increases in maritime insurance rates, etc.

This action comes in response to the appeal by the international community, and in particular the Security Council, which has called upon the States of the region to implement as soon as possible regional training and coordination mechanisms to prevent and eliminate acts of piracy and armed robbery against ships. It consists of:

- Making coastguard training a priority in order to strengthen anti-piracy efforts and improve security in the region;
- Training sea-going personnel, including seamen, customs agents, etc., who face the reality of piracy in the field;
- Subsequent expansion of training for the coastguards of the region.

These actions are aimed at:

- Prevention
- Information
- Repression

Nonetheless, it is apparent that the international forces patrolling the Gulf of Aden and the Western Indian Ocean face enormous difficulties with regard to prosecution of pirates. Where, how and by whom should pirates be prosecuted? Should they be prosecuted by the flag State, the State whose nationals were taken hostage or the State of the shipowners?

As piracy is one of the more ancient crimes under international law, it might be concluded that all States are, in theory, competent to prosecute and try perpetrators.

Yet it appears that the issue has not been resolved for the parties concerned, particularly for the international forces patrolling the zones affected.

The predicament of the international community with regard to this matter raises questions about its ability to tackle piracy.

Acts of piracy are punishable under the criminal laws of the Republic of Djibouti, most importantly, under articles 208 and 209 of the Code of Maritime Affairs of 18 January 1982, which state:

Article 208: The following shall be prosecuted and tried as pirates:

- 1° Anyone who is a crew member of a ship flying the Djiboutian flag who perpetrates armed criminal acts or acts of violence against Djiboutian ships or against ships belonging to a Power with which the Republic of Djibouti is not at war, or against the crew or cargo of such ships;
- 2° Anyone who is a crew member of a foreign ship which is neither at war nor holds a letter of marque and reprisal or a valid commission, who perpetrates against Djiboutian ships, their crews or cargos the acts described in the previous subparagraph;
- 3° Any individual who is a crew member of a ship of the Republic of Djibouti who attempts to seize that ship through deception or violence perpetrated against the captain.

Article 209: Anyone found guilty of the crime of piracy shall be sentenced to hard labour or incarceration. Note that the punishment of hard labour no longer exists in Djibouti.

Furthermore, articles 385 and 387 of the Criminal Code of Djibouti of 1995 state that hijacking aircraft, ships or other modes of transport with people on board carries a penalty of 20 years' rigorous imprisonment.

Article 385: Seizing or taking control by means of violence or threat of violence of an aircraft, ship or other mode of transport with people on board carries a penalty of 20 years' rigorous imprisonment.

Article 386: When accompanied by torture or acts of cruelty or if it results in the death of one or more persons, the offence set forth in article 385 carries a life sentence of rigorous imprisonment.

Article 387: Anyone who through the communication of false information knowingly jeopardizes the security of an aircraft in flight or of a ship shall be sentenced to five years' imprisonment and a fine of 2 million Djibouti francs.

The criminal provisions adopted before piracy became widespread are applicable in limited cases and areas. Offences shall be deemed to have been committed within the territory of the Republic of Djibouti if:

- The offences are committed within the national territory;
- An act comprising a constituent element of the crime is carried out within the territory of Djibouti;
- Offences are committed on board ships flying the flag of Djibouti or against its aircraft, regardless of location; or

- Offences are perpetrated against Djiboutian military aircraft.

Estonia

In the Republic of Estonia piracy is criminalized under the Penal Code. Article 110 of the Penal Code says that

attacking, seizure or destruction of a ship on the high seas or in a territory outside the jurisdiction of any State, or attacking or detention of persons on board such ship, or seizure or destruction of property on board such ship by using violence, is punishable by 2 to 10 years' imprisonment. The same criminal act, if it causes the death of a person, major damage or a danger to the life and health of a large number of people is punishable by 6 to 20 years' imprisonment.

Finland

Piracy is understood [...] as defined in article 101 of the United Nations Convention on the Law of the Sea, including the requirement that the act is committed in the high seas or in a place outside the jurisdiction of any State.

According to the Finnish Penal Code and Decree issued on the basis of Section 7 of Chapter 1 of the Penal Code, piracy is defined as follows:

“Homicide, assault, deprivation of liberty or robbery directed at a person on board a vessel or aircraft, or seizure, theft or damage of a vessel, aircraft or property on board a vessel or aircraft that is to be deemed piracy as referred to in the United Nations Convention on the Law of the Sea (Treaties of Finland 50/1996), (118/1999)”.

Chapter 1 of the Finnish Penal Code contains extensive rules on extraterritorial jurisdiction. According to its provisions, Finnish law applies to an offence connected with a Finnish vessel (section 2). Finnish law applies also to an offence committed outside of Finland and directed at a Finnish citizen, a Finnish corporation, foundation or other legal entity, or a foreigner permanently resident in Finland (section 5). Furthermore, Finnish law applies to an offence committed by a Finnish citizen. The so-called active nationality principle is not limited to Finnish citizens, but covers also persons permanently resident in Finland, citizens of other Nordic States or persons permanently resident in one of those countries (section 6). When applying the above-mentioned provisions on active and passive nationality, it is required that the act may be punishable by imprisonment of more than six months.

In accordance with the Penal Code, Chapter 1, Section 7, Finnish law applies also to an offence committed outside of Finland where the punishability of the act, regardless of the law of the place of commission, is based on an international agreement binding on Finland or on another statute or regulation internationally binding on Finland (international offence). A decree issued by virtue of this provision refers to the United Nations Convention on the Law of the Sea.

As a main rule, a criminal case where the offence was committed abroad may not be investigated in Finland without a prosecution order by the Prosecutor-General. There are certain exceptions to this rule, for instance in situations where the offence has been committed by a Finnish citizen or directed against Finland (section 12 of the Penal Code).

An English translation of Chapter 1 of the Finnish Criminal Code and of relevant provisions of Decree issued on the basis of Section 7 of Chapter 1, is attached to this report.

Finland participated with a vessel to the EU NAVFOR Atalanta, the European Union military crisis operation against piracy off the coast of Somalia, in the beginning of 2011. This was the first time Finland participated with a ship in a maritime crisis management operation. Finland also continues to send officials to the operational headquarters of EU NAVFOR Atalanta.

For the purposes of Finland's participation in Operation Atalanta, an Act on the Handling of Criminal Matters concerning Persons Suspected of Piracy or Armed Robbery in connection with EU NAVFOR Atalanta, the European Union Military Crisis Management Operation (1034/2010) was adopted. The act applies to the procedure to be followed in situations where, during the operation, a person apprehended as suspected of piracy or armed

robbery is kept on board a vessel under Finnish flag, or in other cases where Finland is asked whether it will exercise criminal jurisdiction in the matter.

In order to support efforts to prosecute individuals suspected of piracy off the coast of Somalia and the imprisonment of convicted pirates, in 2011, Finland gave a voluntary financial contribution of 190,000 euros to the United Nations Office on Drugs and Crime programme on combating maritime piracy in the Horn of Africa.

Attachment

Translation of Chapter 1 of the Finnish Penal Code

Chapter 1 - Scope of application of the criminal law of Finland (626/1996)

(amendments up to **940/2008** included)

Section 1 - Offence committed in Finland

- (1) Finnish law applies to an offence committed in Finland.
- (2) Application of Finnish law to an offence committed in Finland's economic zone is subject to the Act on the Economic Zone of Finland (1058/2004) and the Act on the Prevention of Ship-Source Pollution of Waters (300/1979). (1067/2004)

Section 2 - Offence connected with a Finnish vessel

- (1) Finnish law applies to an offence committed on board a Finnish vessel or aircraft if the offence was committed
 - (1) while the vessel was on the high seas or in territory not belonging to any State or while the aircraft was in or over such territory, or
 - (2) while the vessel was in the territory of a foreign State or the aircraft was in or over such territory and the offence was committed by the master of the vessel or aircraft, a member of its crew, a passenger or a person who otherwise was on board.
- (2) Finnish law also applies to an offence committed outside of Finland by the master of a Finnish vessel or aircraft or a member of its crew if, by the offence, the perpetrator has violated his or her special statutory duty as the master of the vessel or aircraft or a member of its crew.

Section 3 - Offence directed at Finland

- (1) Finnish law applies to an offence committed outside of Finland that has been directed at Finland.
- (2) An offence is deemed to have been directed at Finland
 - (1) if it is an offence of treason or high treason,
 - (2) if the act has otherwise seriously violated or endangered the national, military or economic rights or interests of Finland, or
 - (3) if it has been directed at a Finnish authority.

Section 4 - Offence in public office and military offence

- (1) Finnish law applies to an offence referred to in chapter 40 of this Code that has been committed outside of Finland by a person referred to in chapter 40, section 11, paragraphs (1), (2), (3) and (5) (604/2002).
- (2) Finnish law also applies to an offence referred to in chapter 45 that has been committed outside of Finland by a person subject to the provisions of that chapter.

Section 5 - Offence directed at a Finn

Finnish law applies to an offence committed outside of Finland that has been directed at a Finnish citizen, a Finnish corporation, foundation or other legal entity, or a foreigner permanently resident in Finland if, under Finnish law, the act may be punishable by imprisonment for more than six months.

Section 6 - Offence committed by a Finn

- (1) Finnish law applies to an offence committed outside of Finland by a Finnish citizen. If the offence was committed in territory not belonging to any State, a precondition for the imposition of punishment is that, under Finnish law, the act is punishable by imprisonment for more than six months.
- (2) A person who was a Finnish citizen at the time of the offence or is a Finnish citizen at the beginning of the court proceedings is deemed to be a Finnish citizen.
- (3) The following are deemed equivalent to a Finnish citizen:
 - (1) a person who was permanently resident in Finland at the time of the offence or is permanently resident in Finland at the beginning of the court proceedings, and
 - (2) a person who was apprehended in Finland and who at the beginning of the court proceedings is a citizen of Denmark, Iceland, Norway or Sweden or at that time is permanently resident in one of those countries.

Section 7 - International offence

- (1) Finnish law applies to an offence committed outside of Finland where the punishability of the act, regardless of the law of the place of commission, is based on an international agreement binding on Finland or on another statute or regulation internationally binding on Finland (*international offence*). Further provisions on the application of this section shall be issued by Decree.
- (2) Regardless of the law of the place of commission, Finnish law applies also to a nuclear explosive offence or the preparation of an endangerment offence that is to be deemed an offence referred to in the Comprehensive Nuclear Test Ban Treaty (Treaties of Finland 15/2001) (841/2003)
- (3) Regardless of the law of the place of commission, Finnish law applies also to trafficking in persons, aggravated trafficking in persons and an offence referred to in chapter 34a committed outside of Finland. (650/2004)

Decree on the application of chapter 1, section 7 of the Criminal Code (627/1996)

Section 1

1) In the application of chapter 1, section 7 of the Criminal Code, the following offences are deemed international offences:

[...]

12. homicide, assault, deprivation of liberty or robbery directed at a person on board a vessel or aircraft, or seizure, theft or damage of a vessel, aircraft or property on board a vessel or aircraft that is to be deemed piracy as referred to in the United Nations Convention on the Law of the Sea (Treaties of Finland 50/1996), (118/1999)

[...]

(2) Also a punishable attempt of and punishable participation in an offence referred to in subsection 1 is deemed an international offence.

Section 8 - Other offence committed outside of Finland

Finnish law applies to an offence committed outside of Finland which, under Finnish law, may be punishable by imprisonment for more than six months, if the State in whose territory the offence was committed has requested that charges be brought in a Finnish court or that the offender be extradited because of the offence, but the extradition request has not been granted.

Section 9 - Corporate criminal liability

If, under this chapter, Finnish law applies to the offence, Finnish law applies also to the determination of corporate criminal liability.

Section 10 - Place of commission

(1) An offence is deemed to have been committed both where the criminal act was committed and where the consequence contained in the statutory definition of the offence became apparent. An offence of omission is deemed to have been committed both where the perpetrator should have acted and where the consequence contained in the statutory definition of the offence became apparent.

(2) If the offence remains an attempt, it is deemed to have been committed also where, had the offence been completed, the consequence contained in the statutory definition of the offence either would probably have become apparent or would in the opinion of the perpetrator have become apparent.

(3) An offence by an inciter and abettor is deemed to have been committed both where the act of complicity was committed and where the offence by the offender is deemed to have been committed.

(4) If there is no certainty as to the place of commission, but there is justified reason to believe that the offence was committed in the territory of Finland, said offence is deemed to have been committed in Finland.

Section 11 - Requirement of dual criminality

(1) If the offence has been committed in the territory of a foreign State, the application of Finnish law may be based on sections 5, 6 and 8 only if the offence is punishable also under the law of the place of commission and a sentence could have been passed for it also by a court of that foreign State. In this event, no sanction that is more severe than what is provided by the law of the place of commission shall be imposed in Finland.

(2) Even if the offence is not punishable under the law of the place of commission, Finnish law applies to it if it has been committed by a Finnish citizen or a person referred to in section 6, subsection 3(1), and the penalty for it has been laid down in

(1) sections 5 or 6 of chapter 11, if the act is a war crime or aggravated war crime referred to in article 15 of the second protocol to the 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict or an act of participation into said acts (212/2008),

(2) sections 1-9 of chapter 15 pursuant to section 12a of said chapter,

(3) sections 1-3 of chapter 16 and even if the object of the offence is a person referred to in chapter 40, section 11, paragraph (2), (3) or (5) or a foreign public official who is in the service of the International Criminal Court,

(4) sections 13, 14 and 14a of chapter 16 and even if the provisions are applied pursuant to section 20 of the same chapter.

(5) sections 18, 18a or 19 of chapter 17,

(6) sections 6, 7 or 8a of chapter 20, (743/2006)

(7) sections 9 or 9a of chapter 20, if the act is directed at a person below the age of eighteen years, or

(8) sections 1-4 of chapter 40, if the offender is a member of Parliament, a foreign public official or a member of a foreign parliament. (650/2004)

Section 12 - Prosecution order by the Prosecutor-General (205/1997)

(1) A criminal case may not be investigated in Finland without a prosecution order by the Prosecutor-General, where

(1) the offence was committed abroad, or

(2) a foreigner has committed an offence on board a foreign vessel when the vessel was in Finnish territorial waters or on board a foreign aircraft when the aircraft was in Finnish air space and the offence was not directed at Finland, a Finnish citizen, a foreigner permanently resident in Finland or a Finnish corporation, foundation or other legal entity.

(2) However, the order by the Prosecutor-General is not be required, if

(1) the offence was committed by a Finnish citizen or a person who, under section 6, is equivalent to a Finnish citizen and it was directed at Finland, a Finnish citizen, a foreigner permanently resident in Finland, or a Finnish corporation, foundation or other legal entity,

(2) the offence was committed in Denmark, Iceland, Norway or Sweden and the competent public prosecutor of the place of commission has requested that the offence be tried in a Finnish court,

(3) the offence was committed aboard a Finnish vessel while on the high seas or in territory not belonging to any State or aboard a Finnish aircraft while it was in or over such territory,

(4) the offence was committed aboard a vessel or aircraft while it was in scheduled traffic between points in Finland or between a point in Finland and a point in Denmark, Iceland, Norway or Sweden,

(5) the offence is to be tried as a criminal case in accordance with the Military Court Procedure Act (326/1983), or

(6) there is a statutory provision to the effect that the President of the Republic or Parliament is to order any charges to be brought.

Section 13 - Foreign judgment

(1) Charges may not be brought in Finland if a judgment has already been passed and has become final in the State where the act was committed or in another member State of the European Union and

(1) the charge was dismissed,

(2) the defendant was found guilty but punishment was waived,

(3) the sentence was enforced or its enforcement is still in progress or

(4) under the law of the State where the judgment was passed, the sentence has lapsed. (814/1998)

(2) The provisions of subsection 1 notwithstanding, the Prosecutor-General may order that the charge be brought in Finland if the judgment passed abroad was not based on a request of a Finnish authority for a judgment or on a request for extradition granted by the Finnish authorities and

(1) under section 3, the offence is deemed to be directed at Finland,

(2) the offence is an offence in public office or a military offence referred to in section 4,

(3) the offence is an international offence referred to in section 7, or

(4) pursuant to section 10, the offence is deemed to have been committed also in Finland.

However, the Prosecutor-General shall not order charges to be brought for an offence that has been partially committed in the territory of that member State of the European Union where the judgment was passed. (814/1998)

[subsection 3 has been repealed; 515/2003]

Section 14 - Reference provision

Separate provisions apply to extradition on the basis of an offence and to other international legal assistance and to the immunity in certain cases of persons participating in court proceedings or a criminal investigation.

Section 15 - *Treaties and customary international law binding on Finland*

If an international treaty binding on Finland or another statute or regulation that is internationally binding on Finland in some event restricts the scope of application of the criminal law of Finland when compared with the provisions of this chapter, such a restriction applies as agreed. The provisions in this chapter notwithstanding, the restrictions on the scope of application of Finnish law based on generally recognized rules of international law also apply.

France⁵

Summary of the objectives and content of Act No. 2011-13 of 5 January 2011 concerning measures against piracy and the exercise of national police powers at sea

In the light of the emergence of piracy off the coast of Somalia and the active participation of France in the European Operation Atalanta, it has become necessary to update our national legal framework against piracy and, in particular, its judicial component. This Act amends the Act of 15 July 1994 concerning modalities for the exercise of national police powers at sea, which already provides for means of action by the State against crimes committed at sea, such as illicit trafficking and illegal immigration. The new legislation adds a new chapter to that Act, specifically addressing maritime piracy by referring to a number of offences relating to piracy that were already included in the Criminal Code but that have now been brought together in one instrument.

French courts, which had previously been competent only when the victim was a French national, now have quasi-universal jurisdiction under the new Act. When they deem it necessary or possible, they will now have competence to try any suspected pirate captured by French naval forces. That competence does not entail an obligation to put suspected pirates on trial in France. The French authorities can still decide whether or not to hold the trial in France, in accordance with article 105 of the United Nations Convention on the Law of the Sea, which gives the courts of the State that captured the suspected pirates the option of prosecuting them but does not impose an obligation.

The original legal framework has now been complemented with a specific procedure for the detention of persons suspected of crimes at sea, such as piracy and illicit trafficking. These persons are detained on the warships that captured them, but at that stage are still not subject to judicial proceedings in the strict sense. Any French judicial proceedings begin only once the detainees set foot on French soil and are brought before a French judge. Under the new procedure, the custodial judge takes action within 48 hours of the suspects capture in order to confirm or modify the detention measures taken on the warship pending a decision on what is to be done with the suspects. The judge then monitors the conditions of detention until the suspects disembark. This feature is the salient point of the procedure established by the new Act.

This Act will improve the legal framework for action to combat piracy at sea, particularly off the coast of Somalia. It specifies the conditions under which French forces may take action to counter the threat, as well as the modalities for prosecution by French judges. The Act incorporates the principles set forth in the United Nations Convention on the Law of the Sea (Montego Bay Convention). By adopting this Act, France is complying with the requests of various United Nations organs, in particular the Security Council, which have called on Member States to ensure that their legal framework facilitates effective action against piracy.

⁵ Original: French.

**Act no. 2011-13 of 5 January 2011 concerning measures against piracy
and the exercise of national police powers at sea¹**

NOR: DEFX0914087L

The National Assembly and Senate have adopted,

The President of the Republic has promulgated, the following Act:

CHAPTER I

**Provisions amending Act No. 94-589 of 15 July 1994 concerning modalities
for the exercise of national police powers at sea**

Article 1

Title I of Act No. 94-589 of 15 July 1994 concerning modalities for the exercise of national police powers at sea is hereby amended as follows:

“Title I:

“CONCERNING MEASURES AGAINST MARITIME PIRACY

“Article 1. – I. – This title applies to acts of piracy as defined in the United Nations Convention on the Law of the Sea, concluded at Montego Bay on 10 December 1982, where they are committed

“1° At sea;

“2° In maritime areas that do not fall under the jurisdiction of any State;

“3° Where provided for under international law, in the territorial waters of a State.

“II. – Where they constitute acts of piracy under article 1.I above, the offences that may be investigated, established and prosecuted under this title are as follows:

“1° The offences defined in articles 224-6, 224-7 and 224-8-1 of the Criminal Code, where they relate to at least one vessel or aircraft and involve another vessel or aircraft;

“2° The offences defined in articles 224-1 through 224-5-2 and article 224-8 of the Criminal Code where they precede, accompany or follow the offences mentioned in article 1.II.1 above;

“3° The offences defined in articles 450-1 and 450-5 of the Criminal Code where they are committed with a view to preparing the offences mentioned in articles 1.II.1 and 2 above.

“Article 2. – Where there are reasonable grounds to suspect that one or more of the offences mentioned in article 1.II have been or are being perpetrated, or are being prepared, on or against the vessels mentioned in article L.1521-1 of the Defence Code, commanders of Government vessels or aircraft responsible for maritime surveillance shall be entitled to conduct or have conducted inspection and coercion measures as provided for under international law, under the first part, book V, title II of the Defence Code, and under this Act. They shall act either under the authority of the Maritime Prefect — or, when overseas, the Government official responsible for State action at sea — or, in an international context, under the authority of a designated civilian or military command.

“The persons on board may be subjected to the coercive measures set forth in the first part, book V, title II, sole chapter, of the Defence Code, concerning conditions of detention on board.

“Article 3. – On boarding the vessel, the personnel mentioned in article 2 can take or have taken any provisional measure in respect of objects or documents apparently connected to the commission of the offences mentioned in article 1.II in order to ensure that the said offences are not perpetrated or repeated.

“They may also order that the vessel be diverted to an appropriate position or port in order to conduct such detailed examination as may be appropriate, or in order to hand over the detained individuals or the objects and documents subject to provisional measures.

“Article 4. – Officers of the judicial police, and - when granted special authorization under conditions determined by decree of the Council of State - commanders of Government vessels or aircraft and naval officers on such vessels responsible for maritime surveillance, shall establish the offences mentioned in article 1.II and pursue and apprehend the perpetrators or accomplices.

“They may seize objects or documents connected with the commission of the acts, proceeding, except in situations of extreme emergency, with the authorization of the public prosecutor.

“After the seizure provided for under the above paragraph, and when authorized by the public prosecutor, they may also destroy non-flagged vessels only used to commit the offences mentioned in article 1.II, acting in compliance with the international treaties and agreements in force, where no technical means are available to definitively prevent their use for a repeat offence.

“Measures taken in respect of persons on board are regulated by the first part, book V, title II, sole chapter, section 3 of the Defence Code.

“Article 5. – In the absence of any agreement with the authorities of another State for the latter to exercise its jurisdictional competence, the perpetrators and accomplices of the offences mentioned in article 1.II committed outside the territory of the Republic may be prosecuted and put on trial by French courts when they have been apprehended by the personnel mentioned in article 4.

“Article 6. – The following courts shall be responsible for the prosecution, investigation and judgment of offences under this title:

“1° On the territory of the mainland, the regional court in whose jurisdiction the maritime prefecture or the port to which the ship has been diverted is located;

“2° In overseas departments, Mayotte, Saint-Pierre-et-Miquelon, the Wallis and Futuna Islands, Saint-Barthélemy, Saint-Martin, French Polynesia, New Caledonia and the French Southern and Antarctic Lands, either the competent court of first instance in whose jurisdiction the headquarters of the Government official responsible for State action at sea are located or the court of first instance in whose jurisdiction the port to which the ship has been diverted is located;

“3° All competent courts in implementation of the Code of Criminal Procedure or a special law, in particular those mentioned in article 706-75 of the Code of Criminal Procedure.

“These courts are also competent in respect of offences related to those mentioned in this title.”

Article 2

In the title of Act No. 94-589 of 15 July 1994 referred to above, insert the words “measures against piracy and” after the word “concerning”.

Article 3

Articles 12 and 19 of Act No. 94-589 of 15 July 1994 referred to above are amended as follows:

1° In the first paragraph, delete the words “in addition to”.

2° Delete the two last subparagraphs.

CHAPTER II

Provisions amending the Criminal Code and Code of Criminal Procedure

Article 4

After article 224-6 of the Criminal Code, a new article 224-6-1 is inserted, as follows:

“Article 224-6-1. – Where the offence set forth in article 224-6 is committed by an organized gang, the penalty shall be increased to 30 years’ imprisonment.

“The provisions of the first two paragraphs of article 132-23 shall apply to this offence.”

Article 5

Article 706-73 of the Code of Criminal Procedure is amended as follows:

1° In paragraphs 15 and 16 insert the reference “and 17”.

2° After paragraph 16, insert a new paragraph 17, as follows:

“17° The crime of hijacking an aircraft, vessel or any other means of transport when committed by an organized gang, as provided for under article 224-6-1 of the Criminal Code”.

CHAPTER III

Provisions amending the Defence Code

Article 6

The Defence Code is amended as follows:

1° Article L.1521-1 is amended as follows:

(a) In the first line of paragraph 2, after the words “foreign vessels”, insert the words “vessels without a flag or nationality”.

(b) A new paragraph 4 is added, as follows:

“4° Vessels flying the flag of a State that has requested France’s intervention or accepted its request to intervene.”;

2° In the first part, book V, title II, sole chapter, a new section 3 is added as follows:

“Section 3

“Measures taken in respect of persons on board vessels

“Article L.1521-11. – From the time when the boarding party provided for under article L.1521-4 boards the ship that is being inspected, the personnel mentioned in article L.1521-2 can take such coercive measures as are necessary and appropriate in order to ensure the availability for questioning of the persons on board, the securing of the vessel and cargo, and the security of the persons on board.

“Article L.1521-12. – When measures are taken for the restriction or deprivation of liberty, the personnel mentioned in article 1521-2 shall inform the Maritime Prefect or, when overseas, the Government official responsible for State action at sea, who shall as soon as possible inform the competent public prosecutor.

“Article L.1521-13. – All persons subject to restriction or deprivation of liberty shall receive a health examination carried out by a qualified person within twenty-four hours of the time when the measure is imposed. A medical examination shall take place no later than ten days after the first health examination.

“A report on those examinations, including an opinion regarding the appropriateness of restriction or deprivation of liberty, shall be transmitted as soon as possible to the public prosecutor.

“Article L.1521-14. – Within 48 hours of the time when the restriction or deprivation of liberty referred to in article 1521-12, is imposed and at the request of the personnel mentioned in article 1521-2, the custodial judge to whom the case has been referred by the public prosecutor shall determine whether the measure may be extended for a maximum length of 120 hours from the expiration of the previous deadline.

“These measures can be renewed under the same formal and substantive conditions for the time that is needed in order to bring the person before the competent authority.

“Article L.1521-15. – In order to implement article 1521-14, the custodial judge may request from the public prosecutor any information that could shed light on the practical situation and health of the person subjected to restriction or deprivation of liberty.

“The custodial judge may order a new health examination.

“Unless technical reasons prevent it, the custodial judge shall, if he or she deems it useful, communicate with the person subjected to restriction or deprivation of liberty.

“*Article L1521-16.* – The custodial judge shall take decisions by reasoned orders that may not be appealed. A copy of the order shall be transmitted as soon as possible by the public prosecutor to the Maritime Prefect or, when overseas, the Government official responsible for State action at sea, who shall inform the person in question in a language that he or she understands.

“*Article L.1521-17.* – Measures in respect of persons on board a vessel may be undertaken, for the time strictly necessary, on land or on board an aircraft, under the authority of the Government agents entrusted with the transfer, under the oversight of the judicial authority as defined in this section.

“*Article L.1521-18.* – On arrival on French soil, the person subjected to coercive measures shall be handed over to the judicial authority.”

CHAPTER IV

Provisions regarding the children of the victims of acts of piracy at sea

Article 7

Children whose father, mother or breadwinner of French nationality has been the victim of acts of maritime piracy can be recognized as wards of the nation under the conditions set forth in title IV of book III of the Code of Military Pensions for Invalidity and War Victims.

These provisions shall apply to the victims of acts of maritime piracy committed from 10 November 2008.

CHAPTER V

Final provisions

Article 8

This Act shall apply throughout the territory of the Republic.

This Act shall be implemented as a law of the State.

Done at Paris, on 5 January 2011.

[Signatures omitted]

Footnote:

(1) *Preparatory work: Act No. 2011-13.*

Senate:

Bill No. 607, as corrected (2008-2009);

Report by Mr. André Dulait on behalf of the Foreign Affairs Committee,

No. 369 (2009-2010);

Committee Text No. 370 (2009-2010);

Discussed and adopted on 6 May 2010 (Adopted Text No. 99, 2009-2010).

National Assembly:

Bill No. 2502, adopted by the Senate;

Report by Mr. Christian Ménard on behalf of the Defence Committee, No. 2937;

Discussed and adopted on 25 November 2010 (Adopted Text No. 563).

Senate:

Bill No. 134, amended by the National Assembly (2010-2011);

Report by Mr. André Dulait on behalf of the Foreign Affairs Committee, No. 151 (2010-2011);

Committee Text No. 152 (2010-2011);

Discussed and adopted on 22 December 2010 (Adopted Text No. 48, 2010-2011).

Georgia

Piracy is criminalized under article 228 of the Criminal Code of Georgia, which reads as follows:

“Article 228. Piracy

1. Piracy, i.e., attack on ship or other swimming vessel with an aim of unlawful appropriation of other’s possession, committed through violence or a threat of violence, shall be punished by deprivation of liberty from seven to ten years;
2. Same act;
 - (a) Committed on multiple occasions;
 - (b) Resulting in termination of human life or other severe consequences;

Shall be punishable by deprivation of liberty from ten to fifteen years.”

Moreover, the crime of piracy may be cumulatively charged together with another offence under the Criminal Code, if the elements of the offence are sufficiently present to suggest the separate criminal intent expressed in relation to or within the context of the commission of the crime of piracy.

Georgia’s domestic legal provisions regulating mutual legal assistance and cooperation in criminal matters, as well as respective bilateral and multilateral treaties to which Georgia is a party, fully provide the Government with the necessary legal framework enabling its involvement in investigation and further prosecution of persons suspected of piracy.

Germany

I. Measures taken to criminalize piracy under domestic law and to prosecute and support the prosecution of individuals suspected of piracy off the coast of Somalia and imprisonment of convicted pirates

Piracy in domestic legislation

Section 316c of the German Criminal Code (Strafgesetzbuch, StGB) contains i.a. the crime of an attack on maritime traffic:

“Section 316c StGB

Attacks on air and maritime traffic

(1) Whosoever uses force or attacks the freedom of decision of a person or engages in other conduct in order to gain control of, or influence the navigation of

- (a) an aircraft employed in civil air traffic which is in flight; or
- (b) a ship employed in civil maritime traffic; or

uses firearms or undertakes to cause an explosion or a fire, in order to destroy or damage such an aircraft or ship or any cargo on board shall be liable to imprisonment of not less than five years. An aircraft which has already been boarded by members of the crew or passengers or the loading of the cargo of which has already begun or which has not yet been deboarded by members of the crew or passengers or the unloading of the cargo of which has not been completed shall be equivalent to an aircraft in flight.

(2) In less serious cases the penalty shall be imprisonment from one to ten years.

(3) If by the act the offender at least by gross negligence causes the death another person the penalty shall be imprisonment for life or not less than ten years.

(4) Whosoever in preparation of an offence under subsection (1) above produces, procures for himself or another, stores or supplies to another firearms, explosives or other materials designed to cause an explosion or a fire shall be liable to imprisonment from six months to five years.”

Germany has jurisdiction in accordance with the principle of universal jurisdiction in cases where the crime of an attack on maritime traffic has been committed pursuant to section 316c StGB, See section 6 (3) StGB:

“Section 6 StGB

Offences committed abroad against internationally protected legal interests

German criminal law shall further apply, regardless of the law of the locality where they are committed, to the following offences committed abroad: [. . .]

(3) attacks on air and maritime traffic (section 316c).”

Prosecution of individuals suspected of piracy off the coast of Somalia

In Germany, responsibility for criminal prosecution lies with public prosecutors. Pursuant to section 152 (2) of the Code of Criminal Procedure (*Strafprozessordnung*, StPO), public prosecutors are obliged to institute proceedings in response to all punishable criminal offences to the extent that sufficient factual indications exist. In the case of offences committed abroad such as piracy off the coast of Somalia, public prosecutors may be able to waive prosecution of the offence in accordance with the provisions of section 153c StPO.

In the event that criminal prosecution is taken up, the Federal Government supports the public prosecutors with requests for legal assistance, e.g. in obtaining evidence from foreign authorities.

Investigations in piracy-related crimes are currently being carried out by four different German public prosecutor’s offices. These investigations depend to a large extent on international cooperation. German public prosecutors closely cooperate with European and other counterparts in this area.

Ten persons who have been arrested by Dutch military officials on the high seas off the coast of Somalia are currently facing trial at the District Court of Hamburg. They have been accused of an attack on maritime traffic and other crimes. Criminal proceedings started in November 2010. Due to the particular circumstances of the cases, the hearings are expected to continue over an extended period of time.

II. Further measures aiming at supporting the prosecution of individuals suspected of piracy off the coast of Somalia and imprisonment of convicted pirates

Contributions to the counter-piracy programme of the United Nations Office on Drugs and Crime

- Germany provided initial funding in May 2009 to the counter-piracy programme of the United Nations Office on Drugs and Crime, aiming at supporting efforts of States in the region to detain and prosecute piracy suspects according to international standards of rule of law and respect for human rights.
- Bilateral funding amounts to approximately 1.9 million USD.
- Further funding was provided in 2011. Additional funding has been provided by the European Union.

Participation in the Contact Group on Piracy off the Coast of Somalia

- Germany is a founding member of the Contact Group on Piracy off the Coast of Somalia established in January 2009 and participates actively in all of its five Working Groups, including in Working Group 2 on legal questions.
- Germany has been a lead nation in creating the Trust Fund to Support the Initiatives of States to Counter Piracy off the Coast of Somalia in 2009. Germany has been a member of the Board of Trust Fund since 2010 and as such, participates in the consideration and selection of projects in the areas of prosecution and detention-related activities.
- Germany made a contribution of 1 million USD to the Trust Fund in 2009.

Efforts to establish jurisdiction and cooperation in the investigation and prosecution of piracy:

- As a member of the Contact Group on Piracy off the Coast of Somalia, Germany continues to participate in the work of Working Group 2 of the Contact Group to enhance international cooperation in the investigation and prosecution of piracy.
- As a member state of the European Union, Germany supports all efforts to enhance cooperation by the European Union in the investigation and prosecution of piracy (e.g. the latest transfer agreement by the European Union with Mauritius).
- Germany supports the criminal justice programme of the United Nations Office on Drugs and Crime in East Africa and is currently contributing 120,000 USD towards strengthening the public prosecution sector in Kenya.

III. Background information: Further efforts in the international fight against piracy

Participation in European Union Operation Atalanta

- Germany has been participating in Operation Atalanta since its inception in December 2008. The German Parliament recently extended the national mandate by 12 months until December 2012.
- Main tasks include: providing protection to World Food Programme vessels transporting food aid to the population in need in Somalia and to vessels of the African Union Mission in Somalia (AMISOM). Atalanta also provides protection, on a case by case basis, to the most vulnerable vessels sailing in the Gulf of Aden and off the Somali Coast.
- Germany has consistently provided at least one helicopter-equipped warship and, periodically, maritime patrol and reconnaissance aircrafts to Atalanta. Also, Germany delegated the Force Commander in the region from August through December 2011 and has nominated the Deputy Commander of Operation Atalanta to European Union headquarters from January to July 2012.

Efforts aiming at stabilizing Somalia and tackling the root causes of piracy

- Participation in European Union Training Mission to Somalia:
 - o Main tasks include: contributing to a sustainable perspective for the development of the Somali security sector by strengthening the Somali security forces through the provision of specific military training, and support to the training provided by Uganda of 2,000 Somali recruits.
 - o Germany has contributed 14 military personnel (trainers and staff) to the training mission to Somalia since May 2010.
 - o The third intake of Somali security forces started training in early November 2011.
- Support for AMISOM including:
 - o Contributions to the African Union through the European Union;
 - o Assessed contributions to the United Nations Support Office for the African Union Mission in Somalia;
 - o Voluntary contributions to the AMISOM Trust Fund totalling 2.5 million euros;
 - o Provision of materiel in 2010/2011 worth approximately 3.58 million euros.
- Training for AMISOM Police force in 2009.

Furthermore, Germany provides humanitarian assistance to Somalia, both bilaterally and through the European Union.

Greece

The Greek legislation contains several provisions concerning piracy as a criminal offence punishable under domestic Greek law. The relevant provisions are as follows:

1. Article 8 of the Greek Penal Code, which provides that Greek Penal laws apply to nationals and aliens, irrespective of the laws of the forum State, inter alia, with regard to acts of piracy.
2. Article 215 of the Code of Public Maritime Law, which reads as follows:
 - “1. Piracy is committed by whomever, being on board a ship, by physical force or threat thereof which is exercised against another person or persons, engages in acts of depredation against another ship on the high seas for the purpose of taking possession of property thereon.
 2. Pirate ship is considered any ship used for the purposes mentioned above or which has been used for such purposes, and still being under the control of pirates.
 3. Anyone committing the piracy acts mentioned in paragraph 1 of this Article is punishable to a sentence of at least 5 years. The same sentence is imposed upon the captain and the officers of the pirate ship. Those of the crew who are in the knowledge of the aims of such ship are punishable by a sentence not exceeding 10 years.”

Ireland

Pursuant to s. 2 of the Maritime Security Act 2004, the following acts, done unlawfully and intentionally, are offences in Irish law:

- seizing or exercising control over a ship or fixed platform by force or threat of force or any other form of intimidation;
- performing an act of violence against a person on board a ship or fixed platform if that act is likely to endanger the safe navigation of the ship or the safety of the fixed platform;
- destroying a ship or fixed platform;
- causing damage to a ship or its cargo which is likely to endanger its safe navigation;
- injuring or killing any person in connection with doing any of the above acts; and
- threatening to endanger the safe navigation of a ship by doing any of the above acts with the aim of compelling a person to do or not to do any other act.

A person guilty of any of these offences is liable, on conviction on indictment, to imprisonment for life.

The full text of the 2004 Act is available electronically at the following link:
www.irishstatutebook.ie/2004/en/act/pub/OO29/index.html.

MARITIME SECURITY ACT 2004

AN ACT TO GIVE EFFECT TO THE UNITED NATIONS CONVENTION FOR THE SUPPRESSION OF UNLAWFUL ACTS AGAINST THE SAFETY OF MARITIME NAVIGATION, DONE AT ROME ON 10 MARCH 1988, AND TO THE PROTOCOL FOR THE SUPPRESSION OF UNLAWFUL ACTS AGAINST THE SAFETY OF FIXED PLATFORMS LOCATED ON THE CONTINENTAL SHELF, DONE AT ROME ON THAT DATE. [19TH JULY 2004]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

1.— Interpretation.

(1) In this Act, unless the context otherwise requires—

“act” includes omission and a reference to doing an act includes a reference to making an omission;

“Convention” means the Convention for the suppression of unlawful acts against the safety of maritime navigation, done at Rome on 10 March 1988;

“Convention state” means a state (other than the State) which is a state party to the Convention or Protocol;

“fixed platform” means an artificial island installation or structure permanently attached to the sea-bed for the purpose of exploration or exploitation of resources or for other economic purposes and located within an area designated under section 2 of the Continental Shelf Act 1968;

“Irish ship” means a ship, as so defined in section 9 of the Mercantile Marine Act 1955, wherever situate;

“master”, in relation to a ship, means the person having for the time being the command or charge of the ship;

“Protocol” means the Protocol for the suppression of unlawful acts against the safety of fixed platforms located on the continental shelf, done at Rome on 10 March 1988;

“ship” means a vessel of any type not permanently attached to the sea-bed, including dynamically supported craft, submersibles or any other floating craft, but does not include—

- (a) a warship,
- (b) a ship *owned* or operated by a state when being used as a naval auxiliary or for customs or police purposes, or
- (c) a ship *which* has been withdrawn from navigation or laid up,

and in relation to a ship which is not an Irish ship, means such a ship which is in the territorial seas of the State.

(2) References in this Act to a member of the Defence Forces are references to such a member acting at the request of a member of the Garda Síochána not below the rank of inspector.

(3) For convenience of reference the texts of the Convention and Protocol in the English language are set out in *Schedules 1* and *2*.

(4) In this Act—

- (a) a *reference* to a section or Schedule is to a section of, or Schedule to, this Act,
- (b) a *reference* to a subsection, paragraph or subparagraph is to the subsection, paragraph or subparagraph of the provision in which the reference occurs, and
- (c) a *reference* to any other enactment is to that enactment as amended by or under any other enactment (including this Act).

2.—Offences.

(1) A person who unlawfully and intentionally does any of the following acts is guilty of an offence:

- (a) *seizing* or exercising control over a ship or fixed platform by force or threat of force or any other form of intimidation;
- (b) *performing* an act of violence against a person on board a ship or fixed platform if that act is likely to endanger the safe navigation of the ship or the safety of the fixed platform;
- (c) *destroying* a ship or fixed platform;
- (d) *causing* damage—
 - (i) to a ship or its cargo which is likely to endanger its safe navigation, or
 - (ii) to a fixed platform which is likely to endanger its safety:
- (e) *placing* or causing to be placed on a ship or fixed platform, by any means, a device or substance which is likely to—
 - (i) destroy the ship or fixed platform, or
 - (ii) cause the damage referred to in *paragraph (d)*;
- (f) destroying or seriously damaging maritime navigational facilities or seriously interfering with their operation, if the destruction, damage or interference is likely to endanger the safe navigation of a ship;
- (g) endangering the safe navigation of a ship by communicating information which the person *knows* to be false;
- (h) injuring or killing any person in connection with doing any of the acts mentioned elsewhere in this subsection;
- (i) *with* the aim of compelling a person to do or not to do any act, threatening to endanger the safe navigation of a ship by doing any of the acts mentioned elsewhere in this subsection;
- (j) *attempting* to do any of the acts mentioned in this subsection.

(2) A person guilty of an offence under this section is liable on conviction on indictment to imprisonment for life.

3.—Extra-territorial jurisdiction.

(1) *Section 2(1)* applies to an act done outside the State in relation to a ship or a fixed platform if it is done—

- (a) by *any* person on board or against an Irish ship,
- (b) by a *citizen* of Ireland on board or against a ship (other than an Irish ship) or a fixed platform, or
- (c) *subject* to *subsection (2)*, by a person who is not a citizen of Ireland on board or against a ship (other than an Irish ship) or a fixed platform.

(2) In the case of an act done in the circumstances mentioned in *subsection (1)(c)*, the Director of Public Prosecutions may not take, or consent to the taking of, proceedings for an offence in respect of that act except as authorised by *section 7(4)*.

(3) In this section—

“fixed platform” and “ship” mean a fixed platform and ship which are outside the State;

“outside the State” means—

- (a) in relation to a fixed platform, outside an area designated under section 2 of the Continental Shelf Act 1968, and
- (b) in *relation* to a ship, outside the territorial seas of the State.

4.—Power of arrest and detention.

(1) A member of the Garda Síochána or Defence Forces may arrest without warrant anyone whom the member, with reasonable cause, suspects to be guilty of an offence under *section 2*.

(2) Where a member of the Garda Síochána or Defence Forces suspects, with reasonable cause, that a person who is about to board, or is on board, a ship or fixed platform intends to commit an offence under *section 2* on or in relation to that ship or fixed platform, the member may—

- (a) *prevent* the person from boarding the ship or fixed platform or from travelling on board the ship,
- (b) *without* warrant board the ship or fixed platform and remove the person from it, or
- (c) *without* warrant arrest the person.

(3) The master of a ship or a person for the time being in charge of a fixed platform may arrest and detain any person whom he or she, with reasonable cause, believes to be guilty of an offence under *section 2*.

(4) Such a person may be so detained only until he or she can be delivered to—

- (a) a *member* of the Garda Síochána or Defence Forces, or
- (b) the appropriate authorities of a Convention state.

(5) A person arrested by or delivered to a member of the Defence Forces under this section shall be delivered by him or her to a member of the Garda Síochána as soon as practicable and shall thereupon be treated as a person arrested without warrant by a member of the Garda Síochána unless the person is brought as soon as practicable after such delivery before a judge of the High Court under the Extradition Acts 1965 to 2001 or the European Arrest Warrant Act 2003.

(6) In accordance with Article 7.1 of the Convention a judge of a court before whom such a person is brought shall, in considering any application for bail, take into account the need to ensure the person's presence in the State for such time as is necessary to enable any proceedings against the person to be instituted, including proceedings under any of the enactments referred to in *subsection (5)*.

(7) In considering a request for the surrender of such a person to a Convention state the High Court shall, in accordance with Article 11.6 of the Convention, pay due regard to whether the person's rights as set out in Article 7.3 thereof can be given effect to in that state.

(8) References in this section to Articles 7.1, 7.3 and 11.6 of the Convention are to be construed, as appropriate, as references to those provisions as applied by Article 1 of the Protocol.

(9) A master of a ship or person for the time being in charge of a fixed platform is not liable to—

- (a) *conviction* in any criminal prosecution, or
- (b) *damages* in any civil proceeding,

brought in respect of any action reasonably taken by either of them under this Act against any other person.

5.—Delivery of detained person to authorities in Convention state.

(1) A master of a ship may deliver to the appropriate authorities of a Convention state any person detained by him or her under section 4.

(2) A master of a ship who intends so to deliver such a person shall notify the authorities concerned of his or her intention to do so and the reasons for such delivery.

(3) The notification must be given whenever practicable and if possible, before the ship enters the territorial seas of the Convention state.

(4) On delivery of a person under *subsection (1)* the master shall—

- (a) make to the appropriate authorities of the Convention state such oral or written statements relating to the alleged offence as they may reasonably require, and

(b) give *them* any other evidence in his or her possession relating to that offence.

(5) A master who, without reasonable excuse, does not comply with *subsection (3)* or *(4)* is guilty of an offence and liable—

(a) on summary conviction, to a fine not exceeding €3,000 or imprisonment for a term not exceeding 12 months or both, or

(b) on conviction on indictment, to a fine or imprisonment for a term not exceeding 5 years or both.

6.—Search.

(1) A member of the Garda Síochána or Defence Forces may search without warrant a ship or fixed platform on which the member, with reasonable cause, believes—

(a) that an *offence* under *section 2* has been committed, or

(b) that a person who has committed such an offence is on the ship or fixed platform,

and may—

(i) remove any object which the member believes is related to such an offence, and

(ii) remove or take copies of any records or extracts from records which may be so related.

(2) A person who obstructs or attempts to obstruct a member of the Garda Síochána or Defence Forces while searching a ship or fixed platform is guilty of an offence and liable on summary conviction to a fine not exceeding €3,000 or imprisonment for a term not exceeding 12 months or both.

(3) Such a member may arrest without warrant any person who is committing an offence under *subsection (2)*.

(4) In *subsection (1)(ii)* “records” includes information in non-legible form which is capable of being converted into legible form.

7.—Proceedings.

(1) Proceedings for an offence under *section 2* in respect of an act done outside the State may be taken in any place in the State and the offence may for all incidental purposes be treated as having been committed in that place.

(2) Such an offence shall be tried by the Central Criminal Court.

(3) Where a person is charged with such an offence, no further proceedings in the matter (other than a remand in custody or on bail) shall be taken except by or with the consent of the Director of Public Prosecutions.

(4) The Director of Public Prosecutions may take, or consent to the taking of, further proceedings against a person for such an offence—

(a) if it is done in the circumstances mentioned in *paragraph (a)* or *(b)* of *section 3(1)*, or

(b) if it is done in the circumstances mentioned in *section 3(1)(c)* and the Director is satisfied –

(i) in case a request for the person’s surrender for the purpose of trying him or her for such an offence has been made by a Convention state under Part II of the Extradition Act 1965, that the request has been finally refused (whether as a result of a decision of a court or otherwise),

(ii) in case a European arrest warrant has been received for the person’s arrest for the purpose of bringing proceedings against him or her for such an offence in a Convention state that is a member state of the European Communities, that a final determination has been made under the European Arrest Warrant Act 2003,

whether by refusal of the High Court to endorse the warrant or otherwise under that Act, that the person should not be surrendered to the state concerned, or

- (iii) in any other case, that, because of special circumstances (including, but not limited to, the likelihood of the person not being surrendered in the circumstances mentioned in subparagraph (i) or (ii)), it is expedient that proceedings be taken against the person for such an offence.

(5) In *subsection (4)(b)(ii)* “European arrest warrant” has the meaning given to it by section 2(1) of the European Arrest Warrant Act 2003.

8.—Evidence.

(1) In any proceedings relating to an offence under *section 2* a certificate purporting to be signed by an officer of the Department of Foreign Affairs and certifying that—

- (a) a passport was issued by the Department to a specified person on a specified date, and
- (b) to the best of the officer’s knowledge and belief, the person has not ceased to be an Irish citizen,

is admissible in any proceedings, without further proof, as evidence that the person was an Irish citizen on the date on which the offence under *section 2* with which the person is charged was committed, unless the contrary is shown.

(2) A certificate purporting to be signed by the Director of Public Prosecutions or by a person authorised by the Director in that behalf and stating any of the matters specified in *paragraph (a) or (b) of section 7(4)* is evidence of the facts stated in the certificate, unless the contrary is shown.

(3) A document purporting to be a certificate under *subsection (1) or (2)* is deemed, unless the contrary is shown—

- (a) to be such a certificate.
- (b) to have been signed by the person purporting to have signed it, and
- (c) in the case of a certificate under *subsection (2)* purporting to be signed by a person authorised by the Director of Public Prosecutions in that behalf, to have been signed by such a person.

9.—Double jeopardy.

A person who has been acquitted or convicted of an offence outside the State shall not be proceeded against for an offence under *section 2* for the act which constituted the offence of which the person was acquitted or convicted.

10.—Amendment of Criminal Procedure Act 1967.

The Criminal Procedure Act 1967 is amended—

- (a) in section 13(1), by inserting “or the offence of killing or attempted killing under paragraph (h) or (j) of *section 2(1)* of the *Maritime Security Act 2004*” after “the offence of murder under section 2 of the Criminal Justice (Safety of United Nations Workers) Act 2000, or an attempt or conspiracy to commit that offence,” (inserted by section 7 of the said Act of 2000), and
- (b) in section 29(1), by inserting the following paragraph after paragraph (i) (inserted by the said section 7):
 - “(j) the offence of killing or attempted killing under *paragraph (h) or (j) of section 2(1)* of the *Maritime Security Act 2004*.”.

11.—Amendment of Extradition (Amendment) Act 1994.

The First Schedule to the Extradition (Amendment) Act 1994 is amended by adding the following after paragraph 14:

“Maritime security offences

14A. Any offence under *section 2* of the *Maritime Security Act 2004*.”

12.—Amendment of Bail Act 1997.

The Schedule to the Bail Act 1997 is amended by inserting the following after paragraph 22:

“Maritime security offences

22A.—Any offence under *section 2* of the *Maritime Security Act 2004*.”

13.—Expenses.

The expenses incurred in the administration of this Act shall, to such extent as may be sanctioned by the Minister for Finance, be paid out of moneys provided by the Oireachtas.

14.—Short title.

This Act may be cited as the Maritime Security Act 2004.

SCHEDULE 1

Convention for the Suppression of Unlawful Acts against the Safety of
Maritime Navigation, done at Rome on 10 March 1988

[The text of the Convention contained in Schedule 1 is available in United Nations, *Treaty Series*, vol. 1678, No. 29004, and online at <http://treaties.un.org/doc/Publication/UNTS/Volume%201678/v1678.pdf>]

SCHEDULE 2

Protocol for the Suppression of Unlawful Acts against the Safety of Fixed
Platforms Located on the Continental Shelf, done at Rome on 10 March 1988

[The text of the Protocol contained in Schedule 2 is available in United Nations, *Treaty Series*, vol. 1678, No. 29004, and online at <http://treaties.un.org/doc/Publication/UNTS/Volume%201678/v1678.pdf>]

EXPLANATORY AND FINANCIAL MEMORANDUM

[This Memorandum is not part of the Act and does not purport to be a legal interpretation]

Introduction

The purpose of this Act is to give effect to the **United Nations Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (1988)** and the **Protocol to that Convention for the Suppression of Unlawful Acts against the Safety of Fixed Platforms on the Continental Shelf (1988)**, the text of which was laid before Dáil Éireann and Seanad Éireann on 11 November 2003 and is set out in *Schedules 1* and *2* to the Act.

The Convention and Protocol are among a suite of international instruments against terrorism which Member States of the United Nations are enjoined, by Security Council resolution 1373 (2001) of 28 September 2001, to implement as soon as possible. **The terms of the Convention and Protocol were approved by Dáil Éireann pursuant to Article 29.5.2° of Bunreacht na hÉireann on 25 May 2004** and the Act was enacted to enable Ireland to be a party to them.

The Act creates specific offences against the safety of Irish ships and other ships which are in Irish territorial waters and against fixed platforms on the Continental Shelf (subject to imprisonment for life on conviction on indictment), and consequentially provides, on standard lines, for extra-territorial jurisdiction to cover offences committed outside the State in breach of the Convention or Protocol, the apprehension and detention of alleged offenders and handing them over to the appropriate authorities, extradition, bail, avoidance of double jeopardy and other necessary matters, on the model of provisions of the Criminal Justice (Terrorist Offences) Bill 2002 which makes necessary provision in relation to four other international conventions against terrorism.

Provisions of Act

Section 1 provides, on standard lines, for the definition of certain terms and expressions used in the Act.

Subsection (2) makes it clear, that any Defence Forces' involvement under the Act is only to be in aid of the civil power, at the request of a member of the Garda Síochána of at least inspector rank.

Section 2 gives effect to Article 3.1 of the Convention and Article 2.1 of the Protocol by outlawing specified acts which are mentioned therein (*subsection (1)*), and also to Article 5 of the Convention (which applies *mutatis mutandis* to the acts outlawed by the Protocol) by prescribing a penalty of imprisonment for life on conviction on indictment for doing any such acts (*subsection (2)*).

Both the 1988 Convention and Protocol thereto outlaw "aiding or abetting" the commission of unlawful acts specified therein. Section 7 of the Criminal Law Act 1997 (No 14) provides that any person who aids, abets, counsels or procures the commission of an indictable offence (such as those provided for in this section) is liable to be indicted, tried and punished as a principal offender. There is therefore no need to make separate provision for those acts in this section.

Section 3 is designed to prevent offenders escaping jurisdiction by giving *section 2* of the Act extra-territorial application.

***Subsection (1)* extends *section 2* of the Bill to cover unlawful acts done outside the State by any person on board or against an Irish ship, or by a citizen of Ireland on or against any non-Irish ship or fixed platform, or by a person who is not a citizen of Ireland but is found in the State.**

***Subsection (2)* restricts the Director of Public Prosecutions in consenting to or taking court proceedings in relation to unlawful acts done outside the State — on or against non-Irish ships or fixed platforms — by a person who is not a citizen of Ireland but is found in the State.**

***Subsection (3)* defines "outside the State" for the purposes of this section as meaning outside the territorial seas of the State (as defined by the Maritime Jurisdiction Acts 1959 to 1988) or outside an area designated under section 2 of the Continental Shelf Act 1968 (No. 18).**

Section 4 makes provision for the arrest of alleged offenders and their detention until they can be duly brought before a court in the State or handed over to the appropriate authorities of another Convention state.

Subsection (1) empowers a member of the Garda Síochána (or a member of the Defence Forces acting in aid of the civil power) to arrest an alleged offender without warrant.

Subsection (2) supplements *subsection (1)* by empowering a member of the Garda Síochána (or a member of the Defence Forces acting in aid of the civil power) to prevent a suspected intending offender from boarding a ship or fixed platform or remove that person from the ship or fixed platform or arrest that person without warrant.

Subsection (3) mirrors *subsection (1)* by empowering the master of the ship concerned or person in charge of the fixed platform concerned to arrest and detain an alleged offender until such time (as required by *subsection (4)*) as the alleged offender can be delivered to a member of the Garda Síochána or Defence Forces, or to the appropriate authorities of another Convention state.

Subsection (5) requires the delivery to a member of the Garda Síochána of any alleged offender delivered to a member of the Defence Forces under *subsection (4)* **or arrested by a member of the Defence Forces under this section.**

Subsections (6), (7) and (8) give effect to particular requirements of the Convention (articles 7.1, 7.3 and 11.6) and Protocol (article 1.1 which applies the said articles of the Convention *mutatis mutandis* to the Protocol).

Subsection (6) ensures that the court before which an alleged offender is brought shall, when considering an application for bail, take into account the need to ensure the person's presence in the State for such time as is necessary to enable any extradition or other proceedings to be brought.

Subsection (7) obliges the court to pay due regard to whether the rights of the person in question can be given effect to in the state requesting the extradition of that person, namely, the right to

- (a) communicate without delay with the nearest appropriate representative of the state of which that person is a national or which is otherwise entitled to establish such communication or, if that person is a stateless person, the state in the territory of which that person has his or her habitual residence, and
- (b) be visited by a representative of that state.

Subsection (8) makes it clear that subsections (6) and (7) apply *mutatis mutandis* to the Protocol as they apply to the Convention.

Subsection (9) is a necessary exemption from any liability for any master of a ship or person in charge of a fixed platform who acts in a reasonable way under this Act.

Section 5 makes provision in relation to the handing over by the master of a ship to the appropriate authorities of another Convention state of persons detained under *section 4* of the Act.

Subsection (1) is the main provision. It authorizes the master of the ship in question to deliver to the appropriate authorities of another Convention state an alleged offender detained under *section 4* of the Act. The remainder of the section elaborates on requirements to be observed by such a master in such cases.

Subsection (2) requires the master of the ship concerned to notify the appropriate authorities of the Convention state in question of the intended handing-over of the alleged offender and the reasons for so doing while

Subsection (3) requires that notification be given as soon as it is practicable to do so and, if possible, before the ship in question enters the territorial seas of the Convention state in question.

Subsection (4) requires the master of the ship in question to provide the appropriate authorities of the Convention state in question with any relevant statements they may reasonably require and such other evidence as the master of the ship in question may possess in relation to the alleged offence.

Subsection (5) is designed to ensure that the master of the ship concerned meets the requirements of *subsections (3) and (4)*, except where it is not reasonable to do so, by making unreasonable failure by the master of the ship concerned an offence subject to the potentially severe penalties set out in *subsection (5)*.

Section 6 clearly provides for the search by a member of the Garda Síochána (or member of the Defence Forces in aid of the civil power) of any ship or fixed platform on which it is alleged that an offence under this Act has been committed, or on which there is a person who is alleged to have committed such an offence.

Subsection (1) is the main provision. It provides for search by a member of the Garda Síochána (or member of the Defence Forces in aid of the civil power) of such a ship or fixed platform and for the removal of any object or records related to the alleged offence.

Subsection (2) outlaws obstruction of a search authorized by *subsection (1)* by making such obstruction an offence subject to a fine not exceeding €3,000 and/or imprisonment for a term not exceeding 12 months.

Subsection (3) empowers the arrest without warrant of any person who obstructs a search under *subsection (1)*.

Subsection (4) ensures that electronically-held information capable of being converted into legible form can be obtained by search under this section.

Section 7 makes provision for court proceedings in the State under this Act for alleged offences committed outside the State.

Subsection (1) provides that court proceedings for such offences may be brought anywhere in the State.

Subsection (2) appoints the Central Criminal Court as the court to try any offences under *section 2* of the Act (as extended by *section 3* of the Act), because of the gravity of such offences.

Subsection (3) makes it clear that it is for the Director of Public Prosecutions to determine what if any further proceedings (that is in addition to remand in custody or on bail) are to be brought in the State against persons alleged to have committed an offence outside the State, subject to *subsection (4)*.

Subsection (4) allows the Director of Public Prosecutions to take, or consent to the taking of, further proceedings in the State against a person for an offence in respect of an act done outside the State where, for example, extradition of the alleged offender to another Convention state was refused or is likely to be refused, or because of special circumstances it is considered expedient to bring court proceedings in the State against the alleged offender.

Subsection (5) defines “European Arrest Warrant” for the purposes of this section.

Section 8 ensures the admissibility of certain official certificates in court proceedings in the State for offences under *section 2* of the Act (as extended by *section 3* of the Act). A certificate issued by an officer of the Department of Foreign Affairs could state if an Irish passport was issued to a specified person on a specified date and that that person was believed to continue to be an Irish citizen. A certificate signed by or on behalf of the Director of Public Prosecutions would relate to any act committed outside the State in respect of which court proceedings in the State are brought by or with the consent of the Director of Public Prosecutions, because extradition of the alleged offender to another Convention state was refused or is likely to be refused, or because it is considered expedient to bring court proceedings in the State against the alleged offender in respect of an act committed outside the State.

Section 9 is designed to ensure that, insofar as the State is concerned, where a person has been acquitted or convicted outside the State of an offence for doing any act specified in *section 2* of the Act (as extended by *section 3* of the Act), that person cannot be proceeded against for the corresponding offence in the State also.

Section 10 provides that a person charged with the offence of murder or attempted murder contrary to *section 2* of the Act (as extended by *section 3* of the Act) may not, on a plea of guilty, be dealt with summarily in the District Court or sent forward for sentence, and that in such cases applications for bail must go to the High Court.

Section 11 ensures that, for extradition purposes, offences under *section 2* of the Act (as extended by *section 3* of the Act) will not be regarded as political offences.

Section 12 ensures that offences under *section 2* of the Act (as extended by *section 3* of the Act) will be considered to be serious offences for bail purposes. The Bail Act 1997 (No. 16) provides that bail may be refused to a person charged with a serious offence where it is considered necessary to prevent the commission of a serious offence. Serious offences are defined by reference to the Schedule to that Act which *section 12* of this Act amends to include offences under *section 2* of this Act (as extended by *section 3* of this Act).

Section 13 is a standard provision for Exchequer funding of any expenses incurred in administering the Act.

Section 14 is a standard provision giving the short title of the Act, for ease of reference.

Financial Implications

Exchequer expenditure could arise from mutual assistance, extradition of alleged offenders and other requirements of the 1988 Convention and Protocol. While such expenditure is unlikely to be significant, Dáil approval of the terms of the 1988 Convention and Protocol was specifically required by Article 29.5.2° of Bunreacht na hÉireann (**approval given on 25 May 2004**), as well as enactment of this Act.

Italy

Italian legislation on piracy and prosecution pursuant to Security Council resolution 2015 (2011)

Art. 5, para. 4-6 bis, of Law 12 of 24 February 2009 and amendments

4. Crimes under articles 1135 and 1136 of the Navigation Code and related crimes pursuant to Art. 12 of the Code of Criminal Procedure are punished pursuant to art. 7 of the Criminal Code and jurisdiction is assigned to the Court of Rome in case they are committed against the State of Italy, Italian citizens or Italian assets, in the high seas or in the territorial waters of another country and in case it is ascertained that the said crimes were committed in the area where the mission mentioned in art. 3, para. 14, takes place.

5. In case of arrest without a warrant, detention or interrogation of persons in pretrial detention for crimes under para. 4, if and when operational needs do not allow for the timely appearance of the arrested or detained before the judiciary, art. 9, para. 5 and 6 of Decree-law No. 421 of 1 December 2001, as amended by Law no. 6 of 31 January 2002, applies. The arrested or detained person can be held in a designated area of a military carrier.

6. After a seizure, the judiciary may entrust custody of the ship or aircraft captured through acts of piracy to the ship owner or his agent.

6-bis. With the exception of cases pursuant to para. 4, the jurisdiction shall be determined according to international agreements. Pursuant to Joint Action 2008/851/PESC of the Council of 10 November 2008, and to Decision 2009/293/PESC of the Council of 26 February 2009, the measures pursuant to art. 2, para. 1, letter e) of said Joint Action are authorized as well as the detention on board of military carriers of persons who have committed or are suspected to have committed acts of piracy, for the time strictly necessary for their transfer pursuant to art. 12 of the Joint Action. It is allowed to adopt said measures if provided for by counter-piracy agreements. It is also allowed to detain persons on board of military carriers if said agreements are stipulated by international organizations and Italy is one of their members.

Art. 5, para. 1-5 ter, Law 130 of 2 August 2011 regarding urgent counter-piracy measures (Law 130 enacts the Decree-law 12 July 2011, No. 107)

1. The Ministry of Defence, as a part of the international counter-piracy efforts and in order to ensure the freedom of navigation of national merchant shipping, may sign with the Italian private owners associations and with other subjects with specific powers of representation of that category framework agreements for the protection of vessels flying the Italian flag in transit in international sea areas at risk of piracy - designated by the Ministry of Defence upon consultations with the Ministry of Foreign Affairs and the Ministry of Infrastructures and Transportations, taking into consideration periodic reports by the International Maritime Organization – by embarking, at the request and with burden on the owners, Military Protection Detachments (*Nuclei Militari di Protezione*) of the Italian Navy which may avail itself of personnel from other armed forces in order to fulfil the task.

2. Military personnel which is part of the Military Protection Detachment referred to under para. 1 operates in compliance to the directives and the rules of engagement issued by the Ministry of Defence. The Commandant of each team, which has the exclusive responsibility for the military contrast to piracy, and the subordinate personnel are designated respectively as law enforcement officer and law enforcement auxiliaries in respect of the crimes listed in articles 1135 and 1136 of the Navigation Code and all those crimes linked to the former ones under the provision of article 12 of the Criminal Procedure Code (...omissis...).

3. The owner of the vessel under protection referred to in para. 1 shall refund the costs, including the cost for the personnel and the cost of operations as defined in the agreement referred to in para. 1, by the income chapter of the State budget in order to be reallocated to the estimates of expenditure of the Ministry of Defence (...omissis...).

4. In the context of international efforts for counter-piracy and the participation of military personnel in the operations referred to in article 4, para. 13 of this decree, and also in conjunction with the European Union Joint Action 2008/851/PESC of the Council, of 10 November 2008, and awaiting the approval of the guidelines of the Maritime Safety Committee of the United Nations within the International Maritime

Organization (IMO), it is authorized — whereas the detachments referred to in para. 1, are not established — and in any case within the limits established in paras. 5, 5-bis, 5-ter, the employment of “sworn guards”, authorized under articles 133 and 134 of the Unified law text on Public Security, approved with Royal Decree 18 of June 1931, No. 773, on board merchant ships flagged in Italy transiting in international waters referred to in para. 1, for the protection of the said ships.

5. The employment referred to under para. 4 is allowed exclusively on board ships equipped for defence against acts of piracy, through the implementation of at least one of the means mentioned in the «best management practices» for the self-protection of shipping developed by IMO, and authorized to carry arms under para. 5-bis, through sworn guards to be recruited preferably among those having military experience, eventually as volunteers, and have attended one of the theory and practical courses mentioned in the implementing of the Ministry of Interior

15 September 2009, n. 154, adopted in order to implement article 18 of the law decree 27 July 2005, n. 144, converted with modifications by the law 31 July 2005, n. 155.

5-bis. The personnel referred to in para. 4, while fulfilling their service in accordance with para. 5 and within the limits of international waters, may use the weapons which are part of the equipment of the ship, upon prior authorization by the Ministry of Interior to the ship owner under article 28 of the unified text for public security approved with Royal decree of 18 June 1931, No. 773. Authorization is granted by the Ministry of Interior heard the Ministry of Defence and the Ministry of Infrastructure and Transportation, for the purchase of arms, transportation and cession of arms in fiduciary trust to the personnel mentioned under para. 4.

5-ter. A decree of the Ministry of the Interior agreed with the Ministry of Defence and the Ministry of Infrastructures and Transportation, within 60 days from the entry into force of the law this decree, will detail the measures for the implementation of paras. 5, 5-bis and 5-ter to include the purchase, transport and fiduciary cession of the arms detained on board, their ammunition, the quantity as well as the relationship between the personnel mentioned in comma 4 and the Masters.

Jamaica

1. The Government of Jamaica has not passed legislation to specifically address piracy and armed robbery at sea.
2. Jamaica is party to the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, 1998, which has been incorporated into the Terrorism Prevention Act, 2005.
3. This Act criminalizes piratic offences such as endangering or creating a serious likelihood of endangering the safe navigation of a ship. The legislation also covers inchoate offences and imposes a maximum sanction of life sentence.

Kazakhstan⁶

Article 240 of the Criminal Code of the Republic of Kazakhstan, which comprises three parts, criminalizes piracy, understood as an attack against a seagoing or river vessel with the intention of seizing property, carried out with the use or threat of use of force. Part 1 of the article sets the penalty at 5-10 years' deprivation of liberty.

Under part 2, acts of piracy characterized by recidivism, use of weapons or use of objects as weapons, are punishable by 8-12 years' deprivation of liberty with confiscation of property.

⁶ Original: Russian.

Under part 3, when the acts described in parts 1 and 2 have been carried out by an organized group, resulting in an inadvertent loss of life or other grave consequences, the penalty is 10-15 years' deprivation of liberty with confiscation of property.

Thus, legislative steps have been taken with regard to counter-piracy efforts and the transfer of convicted pirates, rendering unnecessary any further legislative measures.

In keeping with article 192 of the Code of Criminal Procedure, the investigation of offences contrary to article 240 of the Criminal Code is solely within the purview of the National Security Committee of the Republic of Kazakhstan.

To date, no inquiries concerning individuals suspected of piracy off the coast of Somalia or requests for legal assistance in support of their prosecution have been received by Kazakhstan.

Kuwait

- 1) Kuwaiti Law #15 of 1986 approved Kuwait's joining of the United Nations Convention on the Law of the Sea, 1982, thus, the State of Kuwait became committed to the provisions in the Convention concerning combating the crime of piracy.
- 2) Article 252 of Kuwaiti Law #16 of 1960, stipulates maximum penalty of life imprisonment with possible payment of a fine as a punishment for all those who attack a vessel in the high seas with the purpose to seize that vessel, or the goods it is carrying, or to harm any person on board. Should such an attack on a vessel lead to the death of one or more persons on board, the attacker or attackers will face the death penalty, while the other two punishments shall apply if the act itself has been carried out on the high seas by a passenger of the vessel itself.
- 3) The State of Kuwait is currently undertaking all the necessary actions to implement the contents of the items of the relevant Security Council resolutions concerning piracy that occur off the coast of Somalia.

Latvia

Latvian criminal law criminalizes piracy under the domestic law:

Section 176. Robbery

(3) For a person who commits robbery, if it is committed on a large scale, or committed by a person who has previously committed robbery or extortion or been engaged in gangsterism or committed seizure of air or water transport vehicles, or such has been committed in an organized group, or who commits the robbery of narcotic, psychotropic, powerfully acting, poisonous or radioactive substances, or explosive substances, firearms or ammunition, the applicable punishment is deprivation of liberty for a term of not less than eight years and not exceeding 15 years, with confiscation of property, and police supervision for a term not exceeding three years.

Additionally, Latvian criminal law provides specific article on seizure of water transport:

Section 268. Seizure of an Air or Water Transport Vehicle

(1) For a person who commits seizing an air or water transport vehicle, except vehicles of small dimensions, on the ground, in water or during a flight, the applicable punishment is deprivation of liberty for a term of not less than five and not exceeding 15 years.

(2) For a person who commits the same acts, if commission thereof is by a group of persons pursuant to prior agreement or involves violence or threats of violence, or an accident or other serious consequences are caused thereby, the applicable punishment is deprivation of liberty for a term of not less than 10 and not exceeding 17 years.

(3) *For a person who commits acts provided for in paragraphs one and two of this Section, if the death of a human being is caused thereby, the applicable punishment is deprivation of liberty for a term of not less than 12 and not exceeding 20 years.*

With regard to the jurisdiction, Article 4 of the Criminal Law provides general principles:

Section 4. Applicability of The Criminal Law Outside the Territory of Latvia

(1) *Latvian citizens, non-citizens and foreigners who have a permanent residence permit for the Republic of Latvia, shall be held liable, in accordance with this Law, in the territory of Latvia for an offence committed in the territory of another State or outside the territory of any State regardless of whether it has been recognised as criminal and punishable in the territory of commitment.*

(2) *Soldiers of the Republic of Latvia who are located outside the territory of Latvia shall be held liable for criminal offences in accordance with this Law, unless it is provided otherwise in international agreements binding upon the Republic of Latvia.*

(3) *Foreigners who do not have permanent residence permits for the Republic of Latvia and who have committed serious or especially serious crimes in the territory of another State which have been directed against the Republic of Latvia or against the interests of its inhabitants, shall be held criminally liable in accordance with this Law irrespective of the laws of the State in which the crime has been committed, if they have not been held criminally liable or committed to stand trial in accordance with the laws of the state where the crime was committed.*

(4) *Foreigners who do not have a permanent residence permit for the Republic of Latvia and who have committed a criminal offence in the territory of another State, in the cases provided for in international agreements binding upon the Republic of Latvia, irrespective of the laws of the State in which the offence has been committed, shall be held liable in accordance with this Law if they have not been held criminally liable for such offence or committed to stand trial in the territory of another State.*

Lebanon⁷

1. Definition of maritime piracy:

Maritime piracy is the seizure by the crew or passengers of one ship of the crew or passengers of another ship with the aim of commandeering the ship; stealing the goods on board; or sinking the vessel or its cargo for the purpose of material gain.

Current instances of maritime piracy are considered to be occasioned by criminal organizations, because they are well planned and organized and professionally conducted. They are not national crimes and aim to acquire profit illegitimately.

2. Lebanese legal provisions to suppress maritime piracy:

Fully aware of the significance of and dangers posed by maritime piracy, the Lebanese legislature has provided rigorous penalties for those guilty of carrying out acts of piracy or imperilling maritime navigation. Those severe penalties include a life term of imprisonment with hard labour and in some cases may extend to a capital sentence.

In that regard, the Lebanese Penal Code provides as follows:

Article 641. Penalties:

Anyone who illegally takes over, by any means, a vessel that is anchored or under way or the goods it carries shall be liable to a fixed term of hard labour. Pursuant to article 258 of the Penal Code, the sentence imposed on the captain of the vessel will be more severe if he is the perpetrator of the crime, an accomplice thereto, or an instigator thereof.

⁷ Original: Arabic.

The captain may also be permanently banned from the exercise of the profession, and that ban may also be extended to the other perpetrators, accomplices to, or instigators of the crime if their profession is related to maritime navigation or trade.

Article 642. Penalties:

A life sentence of hard labour shall be pronounced if the crime was committed by two or more armed persons, who used arms or threatened to use them; or if violence was used when the crime was committed.

A capital sentence shall be pronounced if the crime led to the sinking of the vessel or the death of any passenger from terror or any other cause connected to the incident.

3. International instruments related to the suppression of maritime piracy:

Lebanon became a party to the Rome Convention of 10 March 1988, the aim of which is to suppress illegal acts against the safety of maritime navigation.

4. Efforts exerted by Lebanon in the field of the suppression of maritime piracy:

In its modern history, Lebanon has no experience of maritime piracy in its territorial waters, along its coastline or within its ports and harbours, other than certain acts of maritime piracy that have been committed by the naval forces of the Israeli enemy, which were directed against Lebanese fishing vessels inside Lebanese territorial waters. In addition, Lebanese journalists and human rights activists were abducted by the Israeli navy from one of the vessels in the Gaza Freedom Flotilla led by the Turkish ship Mavi Marmara in 2010.

With a view to ensuring the safety of maritime navigation, the naval force of the United Nations Interim Force in Lebanon conducts its maritime patrols of the Lebanese coastline and territorial waters in coordination with the naval component of the Lebanese Armed Forces.

No criminal act of pure maritime piracy off the Lebanese coast has been recorded, with the exception of the above-mentioned Israeli military piracy, nor has the arrest of any Lebanese or other national been registered in connection with crimes of maritime piracy off the Somali coast.

Liechtenstein

Crimes relating to maritime piracy can be subsumed under general crimes enumerated in the Liechtenstein Criminal Code (e.g. murder, deprivation of liberty, physical injury or traffic in human beings).

These crimes are punishable in Liechtenstein if they are also punishable by the law applicable at the place of the crime (double incrimination rule) and if the perpetrator is either a Liechtenstein national or is caught on Liechtenstein territory and cannot be extradited for a reason other than the nature or feature of his act. For crimes committed on the high seas the double incrimination rule does not apply; incrimination under Liechtenstein law is sufficient (Article 65 of the Criminal Code).

Provided that Liechtenstein interests have been violated or the perpetrator cannot be extradited the Liechtenstein criminal laws are applicable for special crimes (e.g. kidnapping or slave traffic) regardless of the law applicable at the place of crime. Furthermore, Liechtenstein criminal laws are applicable if an international treaty contains the obligation to prosecute (Article 64 of the Criminal Code). Crimes committed on board a Liechtenstein vessel can be prosecuted wherever the vessel is located (Section 63 of the Criminal Code).

Lithuania

Presently the Criminal Code of the Republic of Lithuania does not specifically define piracy. Instead, it provides for several definitions of crimes that share common characteristics with piracy, such as: robbery (Article 180), hijacking of an aircraft, ship or fixed platform on a continental shelf (Article 251), hostage taking (Article 252). The English version of the Criminal Code can be found at the following link: www3.lrs.lt/pls/inter3/dokpaieska.showdoc_e?p_id=366707&p_query=&p_tr2=2.

Recent analysis, carried out by the competent Lithuanian authorities, revealed that this fragmented approach does not fully cover the definition of piracy as provided for in Article 101 and other related provisions of the United Nations Convention on the Law of the Sea. Therefore, a new Article 252¹ of the Criminal Code dealing entirely with acts of piracy has been drafted and is planned to be introduced to the legislature at the earliest opportunity. A current version of draft Article 252¹ reads as follows (unofficial translation):

“Article 252¹. Piracy

1. A member of a crew or a passenger of a private ship or a private aircraft who, seeking to take possession over another’s property, on the high seas or on other territory outside the jurisdiction of any State, unlawfully detains another ship or aircraft, person, group of persons or another’s property on board such ship or aircraft, or uses physical or mental coercion against such person or group of persons, shall be punished by imprisonment for a term of four up to eight years.

2. A member of a crew of a warship, government ship or government aircraft who has mutinied and taken control of the ship or aircraft, or has participated in such mutiny, and commits the act provided for in paragraph 1 of this Article, or a person who commits the act provided for in paragraph 1 of this Article by using a firearm, explosive or another means posing a threat to a person’s life or health, shall be punished by imprisonment for a term of six up to ten years.

3. A person who commits the acts provided for in paragraphs 1 and 2 of this Article, where this causes grave consequences, shall be punished by imprisonment for a term of 10 up to 20 years or by life imprisonment.

4. A person who uses a ship or an aircraft while being aware that it has been used to commit the acts provided for in paragraphs 1, 2 and 3 of this Article and the ship or aircraft is in the possession of persons who have committed the acts, shall be punished by arrest or by imprisonment for a term of up to five years.

5. A legal entity shall also be held liable for the acts provided for in this Article.”

Malta

CRIMINAL CODE

Sub-title IV B

OF PIRACY

328N. Definition of piracy. Added by: XI.2009.7.

- (1) For the purposes of this subtitle “piracy” means any of the following acts:
- (a) any illegal acts of violence or detention, or any act of depredation, committed for private ends by the crew or passengers of a private ship or a private aircraft, and directed:
 - (i) on the high seas, against another ship or aircraft, or against persons or property on board such ship or aircraft;
 - (ii) against a ship, aircraft, persons or property in a place outside the jurisdiction of any State;
 - (b) any of the acts referred to in paragraph (a) committed by the crew or passengers of a warship, government ship or government aircraft whose crew has mutinied and taken control of the ship or aircraft;
 - (c) any act of voluntary participation in the operation of a ship or of an aircraft with knowledge of facts making it a pirate ship or aircraft.

- (d) any act of inciting or of knowingly facilitating an act described in paragraph (a) or (b) or (c).

(2) For the purposes of this Title, a ship or aircraft is 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 subarticle (1) or if the ship or aircraft has been used to commit any such act and the ship or aircraft remains under the control of the person guilty of that act.

- (3) Any person guilty of piracy under this article shall be liable:
 - (a) where the offence consists in any of the acts referred to in subarticle (1)(a) and (b) when accompanied with the loss of life of any person, to the punishment of imprisonment for life;
 - (b) where the offence consists in any of the acts referred to in (1)(a) and (b) then not accompanied with the loss or life of any person, to the punishment of imprisonment not exceeding 30 years;
 - (c) where the offence consists in any act referred to in subarticle (1)(c), to the punishment of imprisonment for a term not exceeding eight years;
 - (d) where the offence consists in any act referred to in subarticle (1)(d), to the punishment laid down for the act incited or facilitated.

328O. Jurisdiction. Added by: XI.2009.7

(1) Without prejudice to the provisions of article 5, the Maltese courts shall also have jurisdiction over the offences laid down in this article where the offence is committed:

- (a) by any citizen of Malta or permanent resident in Malta;
- (b) by any person while on board any ship, vessel or aircraft belonging to Malta;
- (c) by any person against any ship, vessel or aircraft belonging to Malta or against the person or property of any citizen of Malta or permanent resident in Malta.

(2) For the purposes of this article a ship, vessel or aircraft shall be deemed to belong to Malta in the same circumstances mentioned in article 5(2).

Mauritius

Despite its limited resources, Mauritius is committed to combating piracy which continues to be a major threat to regional and international peace and security. In this regard, with the assistance of international agencies, organizations and partner countries, Mauritius has adopted a set of measures to effectively combat the spread of piracy in the Indian Ocean off the Somali coast.

On 13 December 2011, we adopted the Piracy and Maritime Violence Act which provides a proper and adequate legal framework for the prosecution of suspected pirates in Mauritius (a copy of the Act is attached). Its main objectives are to provide or make better provision for:

- (i) the prosecution of piracy and related offences pursuant to the obligations of Mauritius under the United Nations Convention on the Law of the Sea, 1982;
- (ii) the handing over to Mauritius of persons suspected of having committed acts of piracy, maritime attack and related offences, pursuant to agreements or arrangements with the European Union or other States, for the purposes of investigation and prosecution;
- (iii) admissibility, with leave of the Court, of an out of Court statement in criminal proceedings under this Act, where the maker of the statement is not available to give evidence; and
- (iv) the repatriation of non-citizens suspected of having committed offences, or the transfer of persons convicted of offences, under this Act.

On 14 July 2011, Mauritius signed an Agreement with the European Union defining the conditions and the modalities for the transfer of suspected pirates for investigation, prosecution, trial and detention in Mauritius, transfer of associated property seized and the treatment of such persons.

With the assistance provided by the European Union, through the United Nations Office on Drugs and Crime, auxiliary infrastructural works at the Prison, the Supreme Court and the Police Department and capacity-building programmes for the police and the judiciary, which constitute actions in the short term, have been initiated. These actions will allow the Mauritius authorities to handle the first cases of piracy until the completion of major infrastructure works as envisaged in the long-term project that includes the construction of a dedicated prison for pirates.

The relevant Mauritius authorities, with the assistance of the United Nations Office on Drugs and Crime, are also in the process of finalizing guidelines for the transfer of suspected pirates. The document will set out the procedures to be followed by warships apprehending pirates who may be transferred to Mauritius for eventual prosecution. Furthermore, capacity-building programmes have been conducted in a number of fields such as revision of legislation, training of investigators and prosecutors, investigative and judicial procedures.

Moreover, given the capacity constraints of Mauritius and on humanitarian grounds, Mauritius is considering the possibility of concluding agreements with the Somali authorities for the repatriation and transfer of sentenced pirates. In this regard, Ambassador T. Winkler, Chairperson of the Working Group on Legal Issues (Working Group 2) of the Contact Group on Piracy off the Coast of Somalia will be visiting Mauritius from 11 to 13 January 2012 to advise and assist in the drafting of post-trial transfer agreements with the Transitional Federal Government of Somalia, Somaliland and Puntland.

At the regional level, Mauritius hosted the Second Regional Ministerial Conference on Piracy in October 2010 during which a regional strategy and a regional plan of action were adopted to combat piracy and promote maritime security in the short term, medium and long terms. The focus is now on the implementation of the regional strategy and plan of action to be implemented over a period of 15 years. The plan is costed at around 25 million Euros to be implemented by the Intergovernmental Authority on Development, the Common Market for Eastern and Southern Africa, the East African Community and the Indian Ocean Commission with the assistance of the European Union and other partners.

In line with decisions taken during that Regional Meeting, the Indian Ocean Commission is setting up a Counter-Piracy Unit in the Republic of the Seychelles to improve coordination of activities of countries in the region on piracy issues as well as exchanging information. I am pleased to inform that Mauritius will be deputing a representative to work in the Counter-Piracy Unit.

Mauritius strongly believes that a solution to the scourge of piracy in the Indian Ocean requires political stability in Somalia. We, therefore, welcome the keen and personal interest of the Secretary-General of the United Nations in the matter and express our full support to him.

[...] Mauritius [...notes...] the following updates:

- (i) The high-level participation of Mauritius at the London Conference on Somalia on 23 February 2012 and the informal preliminary discussions held in the margin of the Conference with the delegation from Somalia for concluding agreements with Somali authorities for the repatriation and the transfer of convicted pirates to their country of origin;
- (ii) The Piracy and Maritime Violence Act has been proclaimed and it will come into effect on 1 June 2012; and
- (iii) The first trial and prosecution of suspected pirates in Mauritius is expected as from the beginning of June 2012.

THE PIRACY AND MARITIME VIOLENCE ACT 2011

Act No. 39 of 2011

[...]

ARRANGEMENT OF SECTIONS

Section

1. Short title
2. Interpretation
3. Piracy and maritime attack
4. Hijacking and destroying ships
5. Endangering safe navigation
6. Master's power of delivery
7. Jurisdiction
8. Arrangements for handing over and transfer of suspected persons
9. Forfeiture
10. Regulations
11. Consequential amendments
12. Commencement

An Act

To provide a comprehensive framework for prosecuting in Mauritius persons suspected of having committed piracy and related offences

ENACTED by the Parliament of Mauritius, as follows –

1. Short title

This Act may be cited as the Piracy and Maritime Violence Act 2011.

2. Interpretation

In this Act –

“Court” means the Supreme Court or the Intermediate Court, as the case may be;

“Director of Shipping” has the same meaning as in the Merchant Shipping Act;

“EEZ” [exclusive economic zone] has the same meaning as in the Maritime Zones Act;

“forfeiture order” means an order made by the Court under section 9;

“high seas” –

(a) has the same meaning as in the United Nations Convention on the Law of the Sea (UNCLOS); and

(b) includes the EEZ;

“maritime zones”, “territorial sea”, “internal waters”, “archipelagic waters” and “historic waters” have the same meaning as in the Maritime Zones Act;

“master” has the same meaning as in the Merchant Shipping Act;

“Minister” means the Minister to whom responsibility for the subject of home affairs is assigned;

“pirate ship or aircraft” has the same meaning as in UNCLOS;

“ship” includes every description of watercraft, including non-displacement craft, WIG [wing-in-ground-effect] craft and seaplanes, used or capable of being used as a means of transportation over water;

“UNCLOS” means the United Nations Convention on the Law of the Sea, which has force of law pursuant to section 3 of the Maritime Zones Act, and Articles 100 to 107 of which are set out in the Schedule;

“warship” has the same meaning as in UNCLOS.

3. Piracy and maritime attack

(1) Any person who commits –

- (a) an act of piracy; or
- (b) a maritime attack,

shall commit an offence and shall, on conviction, be liable to penal servitude for a term not exceeding 60 years.

(2) A police officer may –

- (a) on the high seas or in the territorial sea, or the internal, historic and archipelagic waters of Mauritius; or
- (b) in any other place outside the jurisdiction of a State,

stop, board, search, detain or seize a pirate ship or aircraft, or a ship or aircraft taken by and under the control of pirates, arrest any person suspected of having committed an offence under this Act and seize any property on board which is suspected to have been used in connection with the commission of an offence under this Act, and may use such force as may be necessary for that purpose.

(3) In this section –

“act of piracy” means –

- (a) an illegal act of violence or detention, or any act of depredation for private ends by the crew or the passengers of a private ship or a private aircraft, and directed –
 - (i) on the high seas against another ship, or aircraft, or persons or property on board such ship or aircraft, as the case may be; or
 - (ii) against a ship, aircraft, persons or property on board the ship or aircraft, as the case may be, in a place outside the jurisdiction of a State;
- (b) any act of voluntary participation in the operation of a ship or of an aircraft, with knowledge of facts making it a pirate ship or aircraft; or
- (c) any act of inciting or of intentionally facilitating an act described in paragraph (a) or (b);

“maritime attack” means –

- (a) an illegal act of violence or detention, or any act of depredation for private ends by the crew or the passengers of a private ship or a private aircraft, and directed -
 - (i) against persons or property on board a ship or aircraft, as the case may be; or
 - (ii) against a ship or aircraft, as the case may be; or
- (b) any act of inciting or of intentionally facilitating an act described in paragraph (a),

within the territorial sea or the internal, historic and archipelagic waters of Mauritius.

4. Hijacking and destroying ships

- (1) Subject to subsection (4), a person who unlawfully, by the use of force or by threats of any kind, seizes a ship or exercises control of it, shall commit the offence of hijacking a ship.
- (2) Subject to subsection (4), a person shall commit an offence where he unlawfully and wilfully—
- (a) destroys a ship;
 - (b) damages a ship or its cargo so as to endanger, or to be likely to endanger, the safe navigation of the ship;
 - (c) does, on board a ship, an act of violence which is likely to endanger the safe navigation of the ship; or
 - (d) places or causes to be placed on a ship any device or substance which is likely to destroy the ship or is likely to so damage it or its cargo as to endanger its safe navigation.
- (3) Subject to subsection (4), subsections (1) and (2) shall apply –
- (a) whether the ship referred to in those subsections is in Mauritius or elsewhere;
 - (b) whether any act referred to in those subsections is committed in Mauritius or elsewhere; and
 - (c) irrespective of the nationality of the person doing the act.
- (4) Subsections (1) and (2) shall not apply in relation to any warship or any other ship used as a naval auxiliary or in customs or police service, or any act committed in relation to such a warship or such other ship, unless –
- (a) the person seizing or exercising control of the ship under subsection (1), or doing the act under subsection (2), as the case may be, is a Mauritius citizen;
 - (b) the act is committed in Mauritius; or
 - (c) the ship is used in the service of the Mauritius Police Force, in Mauritius.
- (5) Any person who commits an offence under this section shall, on conviction, be liable to penal servitude for a term not exceeding 60 years.

5. Endangering safe navigation

- (1) Subject to subsection (7), any person who –
- (a) destroys or damages any property to which this subsection applies; or
 - (b) interferes with the operation of any such property,
- shall, where the destruction, damage or interference is likely to endanger the safe navigation of a ship, commit an offence.
- (2) Subsection (1) applies to any property used for the provision of maritime navigation facilities, including any land, building, ship, apparatus or equipment so used, whether it is on board a ship or elsewhere.
- (3) (a) Subject to subsection (7), any person who intentionally communicates information which he knows to be false in a material particular, where the communication of the information endangers the safe navigation of a ship, shall commit an offence.
- (b) It shall be a defence for a person charged with an offence under paragraph (a) to prove that, when he communicated the information, he was lawfully employed to perform duties which consisted of, or included, the communication of information and that he communicated the information in good faith in performance of those duties.

(4) A person who, in order to compel any other person to do or abstain from doing any act, threatens that he or some other person will do, in relation to a ship, an act which is an offence by virtue of section 4(2)(a), (b) or (c), where the making of that threat is likely to endanger the safe navigation of the ship, shall commit an offence.

(5) Subject to subsection (7), a person who, in order to compel any other person to do or abstain from doing any act, threatens that he or some other person will do an act which is an offence by virtue of subsection (1), where the making of that threat is likely to endanger the safe navigation of a ship, shall commit an offence.

(6) Except as provided by subsection (7), subsections (1), (3), (4) and (5) shall apply whether any act referred to in those subsections is committed in Mauritius or elsewhere and whatever be the nationality of the person committing the act.

(7) For the purposes of subsections (1), (3) and (5), any danger, or likelihood of danger, to the safe navigation of a warship or any other ship used as a naval auxiliary or in customs or police service, shall be disregarded unless –

- (a) the person committing the act is a Mauritius citizen;
- (b) the act is committed in Mauritius; or
- (c) the ship is used in the service of the Mauritius Police Force.

(8) It shall be an offence for any person in Mauritius to induce or assist the commission, outside Mauritius, of any act which would but for –

- (a) section 4(4), be an offence under that section; or
- (b) subsection (7), be an offence under this section.

(9) Any person who commits an offence under this section shall, on conviction, be liable to penal servitude for a term not exceeding 60 years.

6. Master's power of delivery

(1) Where the master of a ship, wherever that ship may be, and whatever the State, if any, in which it may be registered, has reasonable ground to believe that any person on board the ship has–

- (a) committed any offence under section 3, 4 or 5;
 - (b) attempted to commit such an offence; or
 - (c) aided, abetted, counselled, facilitated, procured or incited the commission of such an offence,
- in relation to any ship, other than a warship or other ship used as a naval auxiliary, he may deliver that person to the Commissioner of Police in Mauritius or to the proper officer in any other Convention State.

(2) Where the master of a Mauritius ship intends to deliver any person in Mauritius or any other Convention State in accordance with subsection (1), he shall notify the Director of Shipping, if the delivery is to be in Mauritius or, if delivery is to be in another Convention State, to the proper officer in that State –

- (a) of his intention to deliver that person; and
- (b) of his reasons for intending to do so.

(3) A notification under subsection (1) shall be given –

- (a) before the ship has entered the Exclusive Economic Zone of Mauritius or the other State concerned; or
- (b) if, in the circumstances, it is not reasonably practicable to comply with paragraph (a), as soon as reasonably practicable, but not later than 72 hours in advance, before the ship enters the territorial waters of Mauritius.

(4) Where the master of a Mauritius ship delivers any person to the Commissioner of Police in Mauritius or to the proper officer in any other State under subsection (1), he shall –

- (a) make to the Commissioner of Police, if the person is to be delivered in Mauritius, or, if the person is to be delivered in another State, to a proper officer in that State, such oral or written statements relating to the alleged offence as the Commissioner of Police or that officer, as the case may be, may reasonably require; and
 - (b) deliver to the Commissioner of Police or the appropriate officer, as the case may be, such other evidence relating to the alleged offence as is in his possession.
- (5) In this section –

“Convention State” means a State in which the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation 1988 is in force.

7. Jurisdiction

(1) Notwithstanding any other enactment, prosecution for an offence under this Act shall, at the sole discretion of the Director of Public Prosecutions, take place before a Judge without a jury or the Intermediate Court.

(2) Notwithstanding any other enactment, the Intermediate Court shall have jurisdiction to inflict penal servitude for a term not exceeding 40 years where a person is convicted of an offence under this Act.

8. Arrangements for handing over and transfer of suspected persons

(1) The Minister may enter into an agreement or arrangement with another Government or an international organisation with a view to providing for –

- (a) a framework for the handing over of persons suspected of having committed offences under this Act to Mauritian authorities for purposes of investigation and eventual trial in Mauritius;
- (b) the repatriation of persons referred to in paragraph (a) where they are not prosecuted or convicted in Mauritius, and the post-trial transfer of persons convicted of offences under this Act; and
- (c) any related matter.

(2) Notwithstanding any other enactment, an agreement or arrangement entered into under subsection (1) shall have effect, in relation to the –

- (a) pre-trial or post-trial transfer of any person suspected of having committed any offence under this Act;
- (b) trial of persons suspected of having committed an offence under this Act.

(3) The agreement entered into with the European Union for the transfer of suspected pirates on 14 July 2011 shall be deemed to have been made under subsection (1).

9. Forfeiture

(1) Where a person is convicted of an offence under section 3, 4 or 5, the Court shall make an order that any ship, mode of conveyance or property, used in, or in connection with, the commission of such offence, be forfeited to the State, unless the owner of the ship, mode of conveyance or property or the person legally entitled to its possession establishes, to the satisfaction of the Court, that the ship, mode of conveyance or property was used in or in connection with the commission of the offence without his knowledge or connivance.

(2) Any ship, mode of conveyance or property forfeited by an order made under subsection (1), shall vest absolutely in the State.

(3) The vesting shall take effect where –

- (a) no appeal has been made from the conviction or forfeiture order within the statutory time limit, on the expiration of the delay for such appeal;

- (b) an appeal has been made against the conviction or forfeiture order, upon the final determination of such appeal affirming or upholding the forfeiture order.

(4) Where any ship, mode of conveyance or property is vested in the State by an order made under subsection (1), the Court shall cause such ship, conveyance or property to be sold by public auction and the proceeds of the sale shall be credited to the Consolidated Fund.

(5) This section shall be in addition to and not in derogation from the Court's powers to order the estreatment or forfeiture of any property in pursuance of its power under any other enactment.

10. Regulations

The Minister may, for the purposes of this Act, make such regulations as he thinks fit, including regulations for giving effect to an agreement or arrangement entered into under section 8.

11. Consequential amendments

- (1) The Courts Act is amended –
 - (a) by repealing section 134;
 - (b) in section 161B, by adding, after the words “sexual case”, the words “or any witness in relation to an offence under the Piracy and Maritime Violence Act 2011”;
 - (c) in sections 181B, 181C and 181E, by adding the words “in civil proceedings”;
 - (d) by inserting, after section 188B, the following new section –

188C. Admissibility of out of Court statement in piracy cases where maker is unavailable

- (1) In any criminal proceedings under the Piracy and Maritime Violence Act 2011, a statement made out of Court shall be admissible as evidence, with leave of the Court, of any matter stated when –
 - (a) oral evidence given in the proceedings by the person who made the statement would be admissible as evidence of that matter;
 - (b) the person who made the statement is identified to the Court's satisfaction; and
 - (c) one of the 5 conditions specified in subsection (2) is satisfied.
- (2) The conditions referred to in subsection (1)(c) are that the person who made the statement –
 - (a) is dead;
 - (b) is unfit to be a witness because of his bodily or mental condition;
 - (c) is outside Mauritius and it is not reasonably practicable to secure his attendance;
 - (d) cannot be found although such steps as is reasonably practicable to take to find him have been undertaken; or
 - (e) through fear, does not give or does not continue to give oral evidence in the proceedings, either at all or in connection with the subject matter of the statement.
- (3) Where a statement is admitted in evidence under subsection (1) any evidence which, if that person had been called as a witness, could have been admissible for the purpose of impeaching or supporting his credibility, shall be admissible for that purpose.
- (4) In assessing the weight, if any, to be attached to a statement admitted in evidence under subsection (1), the Court shall have regard to all the circumstances from which any inference can reasonably be drawn as to its accuracy or otherwise.

(2) The Criminal Procedure Act is amended, in the Fifth Schedule, by inserting, in the appropriate alphabetical order, the following item –

Piracy and Maritime Violence Act 2011;

(3) The Deportation Act is amended in section 2, in the definition of “prohibited immigrant”, by adding, after the word “immigration”, the words “or who has been transferred to Mauritius under the Piracy and Maritime Violence Act 2011”.

(4) The Merchant Shipping Act is amended –

(a) by repealing sections 213 to 216;

(b) in section 224 –

(i) in subsection (1), by inserting, after the words “in the course of any”, the word “civil”;

(ii) in subsection (2), by repealing paragraph (c), the semicolon and the word “and” at the end of paragraph (b) being deleted and replaced by a full stop.

(5) The Mutual Assistance in Criminal and Related Matters Act is amended, in section 2, by deleting the definition of “foreign state” and replacing it by the following definition –

“foreign State” –

(a) means a State other than Mauritius, and every constituent part of such State, including a territory, dependency, protectorate, which administers its own laws relating to international cooperation; and

(b) includes a foreign Government or international organization with which Mauritius has entered into an agreement under the Piracy and Maritime Violence Act 2011;

(6) The National Coast Guard Act is amended –

(a) in section 6(1), in paragraph (c), by inserting, after the words “illegal activity”, the words “, including any act of piracy or maritime attack referred to in the Piracy and Maritime Violence Act 2011”;

(b) in section 12(1), in paragraphs (h) and (i), by inserting, after the words “illegal activity”, the words “, including any act of piracy or maritime attack referred to in the Piracy and Maritime Violence Act 2011”.

(7) The Police Act is amended, in section 9, by inserting, after subsection (1), the following subsection –

(1A) The Police Force may exercise any of the duties referred to in subsections (1)(b), (c) and (k) in the maritime zones of Mauritius and, for the purposes of the Piracy and Maritime Violence Act 2011, in the high seas.

12. Commencement

(1) Subject to subsection (2), this Act shall come into operation on a date to be fixed by Proclamation.

(2) Different dates may be fixed for the coming into operation of different sections of this Act.

Passed by the National Assembly on the thirteenth day of December two thousand and eleven.

SCHEDULE

United Nations Convention on the Law of the Sea

[The text of articles 100-107 of the United Nations Convention on the Law of the Sea, contained in the Schedule, is available in United Nations, *Treaty Series*, vol. 1833, No. 31353, and online at www.un.org/Depts/los/convention_agreements/convention_overview_convention.htm.]

Netherlands

Criminalization and prosecution of piracy in the Netherlands

Dutch criminal law on piracy

Article 4 (5) of the Dutch Criminal Code establishes universal jurisdiction over the crime of piracy as defined in articles 381 to 385 of the Criminal Code.

Article 381

1. Anyone who:

1°. enlists as or serves as a master of a vessel, knowing that the vessel is intended for, or using it for the commission of acts of violence on the high seas against other vessels or against persons or property on board such other vessels, without having been authorised to do so by a belligerent power and without belonging to the navy of a recognised power, is guilty of piracy and liable to a term of imprisonment not exceeding twelve years or a fifth-category fine;

2°. knowing of such intention or use, enlists as a crew member on such a vessel, or voluntarily remains in service as a crew member after learning of such intention or use, is guilty of piracy and liable to a term of imprisonment not exceeding nine years or a fifth-category fine.

2. Exceeding any authorisation or possessing authorisations issued by powers at war with each other is equated with the absence of authorisation.

3. Article 81 does not apply.

4. The provisions of the previous paragraphs concerning a master and a crew member apply *mutatis mutandis* to captains and crew members of aircraft. The term “vessel” includes “aircraft” and “on the high seas” includes “in the airspace above the high seas”.

Article 382

If an act of violence as defined in article 381 results in the death of any person on board the vessel or aircraft attacked, the master of the vessel or the captain of the aircraft and those persons who participated in the act of violence are liable to a term of imprisonment not exceeding fifteen years or a fifth-category fine.

Article 383

Any person who equips a vessel or aircraft for the purpose defined in article 381 at their own expense or at the expense of another is liable to a term of imprisonment not exceeding twelve years or a fifth-category fine.

Article 384

Any person who cooperates directly or indirectly, at their own expense or at the expense of another, in the hiring out, chartering for freight or insuring of a vessel or aircraft, knowing that it is to be used for the purpose defined in article 381, is liable to a term of imprisonment not exceeding eight years or a fifth-category fine.

Article 385

Any person who intentionally places a Dutch vessel under the control of pirates is liable:

1°. to a term of imprisonment not exceeding twelve years or a fifth-category fine if he is the master of the vessel;

2°. to a term of imprisonment not exceeding nine years or a fifth-category fine in all other cases

Piracy-related criminal proceedings in the Netherlands from 2009 to the present

	<i>Case</i>	<i>Number of suspects</i>	<i>Stage</i>
2009	Cygnus	5	Conviction
2009	Portia	1	Ongoing investigation
2010	Shebelle	10	Extradition to Germany
2010	Choizil	5	Ongoing trial
2011	Dhow	5	Ongoing trial

- (1) The Cygnus case is probably the best-known, as it was the first time Somalis were convicted in Europe for maritime piracy.
- (2) The Portia case concerns a criminal investigation into the hijacking of *MV Marathon* during which one of the crew members was shot dead by the pirates. The owner of the ship, who lives in the Netherlands, was forced to pay ransom money to rescue his ship and its crew. The ongoing investigation is focusing on the arrest and prosecution for extortion of the individual who negotiated on behalf of the pirates.
- (3) The Shebelle case concerns the rescue of the German merchant vessel *Taipan* by the Royal Netherlands Navy, during which 10 Somali suspects were arrested. On the instructions of the Dutch Public Prosecution Service, the Navy took the first steps towards collecting evidence. The suspects were transferred to the Netherlands, upon which the German authorities filed a request for their extradition for trial. The request was eventually declared admissible by Amsterdam district court.
- (4) The Choizil case concerns a Royal Netherlands Navy operation in the Indian Ocean. When a self-styled pirate action group was intercepted, the suspicion arose that some of the suspects could actually be responsible for the hijacking of a South African yacht. Owing to the serious nature of the offence — at the time of writing, more than a year after the incident, the whereabouts and condition of two of the yacht's passengers are unknown, although it is believed they are still being held by the pirates — the decision was made to prosecute a number of suspects. The defendants were convicted by Rotterdam district court in August 2011, and are currently appealing.
- (5) The Dhow case concerns another operation by the Royal Netherlands Navy in the Indian Ocean. The defendants in this case are on trial for the attempted murder of Navy personnel and for armed robbery at sea. Proceedings are pending before Rotterdam district court.

Dutch initiatives for detecting and prosecuting piracy and those who finance it

- Since 2009, the Dutch Public Prosecution Service has held an annual meeting with European public prosecutors responsible for piracy cases. These meetings contribute to an active exchange of expert knowledge and information, and promote international cooperation in the fight against piracy.
- In 2011, at the Netherlands suggestion, a task force for investigating piracy and prosecuting pirates was set up. A number of European countries are involved. The aim is to step up prosecution of organizers, financiers and negotiators.
- In 2011, at the Netherlands suggestion, a joint investigation team (Nemesis) was set up. Dutch and German police will work together on a number of criminal cases involving piracy. The objective of the joint investigation team is to investigate and prosecute organizers, financiers and negotiators; where possible, to seize and confiscate the financial assets of these suspects; and to initiate and encourage judicial co-operation in this area with regional and national authorities in Somalia.

Norway

Legislation

The criminal act

Piracy and armed robbery at sea is punishable under the general provisions on armed robbery and aggravated armed robbery in sections 267 and 268 of the Norwegian General Civil Penal Code.

The penalty for robbery is imprisonment for a term not exceeding five years while the penalty for aggravated robbery is imprisonment for a term not exceeding 12 years. If an aggravated robbery has resulted in death or considerable injury to body or health, imprisonment for a term not exceeding 21 years may be imposed.

Preparatory acts to piracy are also covered by the Code. A person who for the purpose of committing robbery equips or begins to equip any vessel is punishable pursuant to section 269 nr. 2.

According to section 151a, a person who on board a ship by violence, threats or otherwise unlawfully and forcibly takes control of the vessel or otherwise interferes with its sailing shall be liable to imprisonment for a term of not less than 2 years and not exceeding 21 years. The same is applicable for anyone who aids and abets such an offence. Attempts are similarly punishable within the same penalty frames.

Attempts to commit piracy/armed robbery at sea are punishable pursuant to section 49 of the Code.

Conspiracy to armed robbery is punishable pursuant to section 269, first paragraph, of the Code.

Aiding and abetting in armed robbery and aggravated armed robbery is punishable pursuant to sections 266, first paragraph, and 267, third paragraph, respectively. This provision also covers organizing and facilitating acts of piracy.

Prosecution

Norwegian criminal law applies to all acts that can be punished pursuant to Penal Code sections 151a, 266, 267 and 269, regardless of where the act is committed (in the realm, including Norwegian flagged vessels on the high seas, or abroad, including the high seas) and by whom (Norwegian nationals or foreigners). However, prosecution of foreigners in Norway, for acts committed abroad, may be limited to cases where Norwegian investigation and prosecution would be comparatively advantageous compared to prosecution by other jurisdictions.

Extradition

Suspected pirates apprehended in Norway can be extradited from Norway in conformity with the applicable Norwegian extradition legislation. Extradition is regulated in the Extradition Act, 13 June 1975. Extradition may take place irrespective of the existence of an extradition treaty. However, Norwegian nationals may not be extradited, except under certain conditions to other Nordic States, conf. Extradition Act, section 2, and Nordic Extradition Act, section 2.

Further, extradition may not take place if the person sought risks persecution based on his or her race, religion, nationality, political opinion etc., conf. Extradition Act, section 6. Extradition may also be refused on humanitarian grounds, conf. Extradition Act, section 7.

Norway will always require a formal extradition request, which, unless the requesting State adheres to the Schengen Implementation Convention, must be forwarded via diplomatic channels. The requirements for an extradition request are described in the Extradition Act, section 13, which corresponds with the European Convention on Extradition, 13 December 1957, section 12.

Mutual legal assistance

Mutual legal assistance in criminal matters is regulated in the Court Administration Act, 13 August 1915, sections 46-51 and the Extradition Act, 13 June 1975, chapter V.

Mutual legal assistance may be afforded irrespective of the existence of a treaty covering the assistance sought. The limitations on the assistance that may be afforded are to be found in domestic law, which as the main rule allows for the same measures to be taken based on a request from another State as in domestic criminal investigations and prosecutions.

Norway requires double criminality in order to comply with requests for coercive measures.

Unless otherwise provided in an applicable treaty, requests for mutual assistance should be forwarded via the diplomatic channel.

Transfer of proceedings

The act on Transfer of Proceedings, 25 March 1977, regulates the transfer of proceedings between Norway and States that have ratified the European Convention on the Transfer of Proceedings in Criminal Matters, 15 May 1972.

Such transfer may, however, also take place in relation to States that are not a party to this convention, thus transfer of proceedings is not dependent on any treaty obligation.

Requests for transfer of criminal proceedings not covered by the 1972 Convention or the European Convention on Mutual Assistance in Criminal Matters 20 April 1959, should be forwarded through the diplomatic channel.

Support of prosecution

Norway contributed 5 million USD to prosecution-related capacity-building in Somalia and neighbouring States in 2011. The prison sector in Puntland was the main beneficiary (80 per cent), including funds for the construction of new prison infrastructure in Garowe and training of the Puntland correctional service employees through the United Nations Office on Drugs and Crime.

Norway also contributed to the strengthening of the capacity of United Nations Office on Drugs and Crime in the field by seconding two correctional experts to its regional office in Nairobi. An additional 1 million USD was divided between projects to strengthen police investigations of piracy cases (International Criminal Police Organization (INTERPOL)), livelihoods (United Nations Development Programme) and various capacity-building projects (Trust Fund to Support the Initiatives of States to Counter Piracy off the Coast of Somalia). Most of the funds will be in use in 2012.

Oman

The Government of the Sultanate of Oman, believing in the importance attached by the international community to combating piracy of the Somali coast and western Indian Ocean and Gulf of Aden, and guided by the relevant international conventions to which it has become a party, has taken a number of measures in line with Security Council resolution 2015 (2011), adopted on 24 October 2011 as follows:

1. The Sultanate of Oman confirms its commitment to the content of the provision of resolution 2015 (2011).
2. The competent tribunals, based on national legislations, have tried 12 Somali persons accused of piracy and armed robbery.
3. Keenness to participate in most meetings of the Contact Group on piracy off the coast of Somalia and Gulf of Aden and the working groups emanating from these groups.
4. The Sultanate of Oman supports all regional and international efforts in addressing this phenomenon, including the provision of necessary assistance to ships according to the available capability in Omani ports.

Panama⁸

The Republic of Panama, aware of the problem currently posed by piracy, has criminalized it in Title IX “Crimes against the collective security”, chapter VI, “Piracy”, articles 319 to 322, of the Penal Code, which was adopted by Act No. 14 of 18 May 2007.

With respect to the prosecution of pirates, the Republic of Panama has not conducted any criminal trial of pirates captured on board vessels flying the Panamanian flag.

Panama’s Maritime Authority, through the Merchant Marine Department, has been participating actively in the meetings of the Contact Group on Piracy off the Coast of Somalia and in all the meetings of its working groups. Particularly noteworthy in this connection is the work of Working Group 2 on legal and judicial issues and the prosecution of pirates, chaired by the Government of Denmark, in which issues related to jurisdiction over the prosecution of captured pirates are discussed.

Lastly, Panama’s Maritime Authority supports the efforts of the Security Council and the Contact Group on Piracy off the Coast of Somalia to eliminate piracy in Somalia, the western Indian Ocean and the Gulf of Aden.

Qatar²

Measures taken by the State of Qatar to combat piracy at sea

I. Legislative measures

Penal Law No. 11 (2004)

Law No. 11 (2004), article 17, concerning applicability, provides that the Law applies to anyone located in the State who has participated as a perpetrator or accomplice in crimes of drug trafficking, human trafficking, piracy or international terrorism committed abroad.

It follows that contrary to the territoriality principle, anyone who commits a crime of piracy outside the State of Qatar will be prosecuted for that crime before a Qatari court if he enters Qatar and is arrested.

Article 245, concerning public danger, provides that anyone who attacks a vessel or aircraft in order to gain control of it, or of some or all of the goods transported thereon, or in order to harm any individual located thereon, or in order to change its route unnecessarily, shall be sentenced to life in prison.

Capital punishment shall be imposed if the act results in a death.

The penalty shall be imprisonment for no more than five years if, after taking control of the vessel or aircraft, the perpetrator of his own accord returns it to its lawful pilot or to a person legally entitled to take control of it, provided that it or the goods contained thereon have not been damaged, and that no person located thereon has been harmed.

Article 245, also concerning public danger, provides that whoever in any way deliberately endangers the safety of aviation or navigation, or the safety of a vessel or aircraft or any means of public transport, shall be sentenced to imprisonment for no more than 10 years.

II. International and regional conventions

1. Decree No. 41 (2003) ratifies the 1982 United Nations Convention on the Law of the Sea.
2. Decree No. 2 (2009) approves the accession of the State of Qatar to the 1988 Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, with a reservation in respect of article 16, paragraph 1, concerning arbitration and referral to the International Court of Justice.

⁸ Original: Spanish.

² Original: Arabic.

III. Regional level

In accordance with Security Council resolution 1851(2008), which encourages all States and regional and international organizations to establish an international cooperation mechanism to act as a point of contact among them, the General Secretariat of the League of Arab States has prepared a draft Arab protocol on combating piracy at sea. The draft protocol is included as an annex to the Arab Convention against Transnational Organized Crime, signed at the Secretariat of the League of Arab States, in Cairo, on 21 December 2010.

Qatar contributed to the preparation of the draft protocol, which contains 17 articles and is seven pages long. It is intended to strengthen cooperation among Arab States in order to prevent, suppress and prosecute the crime of piracy at sea, in addition to strengthening and deepening ties between Arab States in that regard.

IV. International co-operation

Qatar has contributed \$500,000 to the United Nations anti-piracy trust fund.

Republic of Korea

Korea's judicial actions against piracy

I. Criminalization of piracy under the national legal system

i. Criminal Act

- The criminal law of the Republic of Korea has been punishing piracy acts under the title of "Piracy" since the enactment of the *Criminal Act*, on 18 September 1953.
- Under this Act, the crime of piracy is deemed to have been committed when a person, through the threat of collective force in the sea, forcibly seizes a ship or forcibly takes another's property after intruding upon a ship. Any person who has committed this crime shall be punished by imprisonment for life or for not less than seven years; any person who commits the crime of piracy, thereby causing injury to another, shall be punished by imprisonment for life or for not less than 10 years; and any person who commits the crime of piracy, thereby killing another or causing another person's death or committing rape, shall be punished by death or imprisonment for life.¹

ii. Act on Punishment for Damaging Ships and Sea Structures

- The Act on Punishment for Damaging Ships and Sea Structures, a special act to counter crimes of maritime terrorism, was enacted on 27 May 2003 and is currently in force.
- Under this Act, any person who seizes a ship or marine structure in operation by violence, threat, or any other means or who forces anyone to operate a ship shall be punished by imprisonment for life or for not less than five years; any person who injures or causes another person to be injured during the commission or attempted commission of the above offence shall be punished by imprisonment for life or for not less than seven years; and any person who murders or causes another person to be murdered during the commission or attempted commission of the above offence shall be punished by imprisonment for life or for not less than 10 years.²
- This act was legislated as a domestic implementing law to incorporate the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation and the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf, joined by the Republic of Korea in 2003.
- This act includes a provision that acknowledges jurisdiction of the Republic of Korea over seizure of foreign ship(s) committed by a foreigner.

II. Prosecution (including support) measures taken against suspected pirates

i. Prosecution

- **Background**

- On 15 January 2011, the *MV Samho Jewelry*, a Maltese-flagged chemical tanker sailing in the Arabian Sea with 8 Korean and 13 foreign crew members, was hijacked by 13 Somali pirates heavily armed with AK rifles, rocket guns, etc. At daybreak of 21 January 2011, the vessel and its crew were safely rescued by the Navy of the Republic of Korea dispatched to the waters off Somalia to ensure the safety of vessels transiting the high-risk piracy area.
- Five pirates from Puntland, Somalia were captured during the rescue operation and transferred to the Republic of Korea on 30 January 2011. According to the warrant of detention, requested by the prosecutor and issued by the Busan District Court, five suspected pirates were placed under detention at the Busan Detention Centre.
- The investigation of the pirates proceeded. On 25 February 2011, the Busan District Prosecutors' Office indicted five pirates for attempted murder during piracy, attempted murder during robbery, and causing injury in the course of special obstruction of public duty under the *Criminal Act* and for the violation of the *Act on Punishment for Damaging Ships and Sea Structures*.

- **Personal information of suspected pirates**

<i>Name</i>	<i>Gender</i>	<i>Age</i>	<i>Place of birth</i>
Mahomed Araye	Male	21	Puntland, Somalia
Abdulahi Hussein Maxamuud	Male	20	Puntland, Somalia
Awil Braale	Male	18	Puntland, Somalia
Abdulahi Ali	Male	23	Puntland, Somalia
Abdikhadar Aman Ali	Male	21	Puntland, Somalia

- **Charges filed against suspected pirates**

The five pirates, in collusion with eight other pirates, hijacked *MV Samho Jewelry* on 15 January 2011 and demanded ransom for their release. In the process, the pirates robbed the crew of their possessions by force, injured three Republic of Korea navy commandos resulting from a failed attempt of murder, injured one sailor, attempted to kill four sailors, including the captain, by using them as a human shield, and shot the captain in an attempt of murder.

- **Trial proceedings**

- (25 February 2011) Indictment of five pirates for attempted murder during piracy, etc. by the Busan District Prosecutors' Office
- (23 May - 1 June) Busan District Court (court of first instance) trial procedure and sentence³
- (31 May - 2 June) Appeals by the Busan District Prosecutors Office and each of the five defendants
- (8 August - 8 September) Busan High Court (appellate court) trial procedure and sentence⁴
- (9 - 15 September) Appeals by the Busan High Prosecutors' Office and each of the five defendants
- (22 December) Supreme Court decision⁵

ii. Support for piracy prosecutions by other countries

• Support for piracy prosecution by Japan

- On 6 March 2011, on the high seas of the Arabian Sea, the Navy of the United States of America arrested four pirates aboard the Japanese-owned oil tanker *Guanabara* in an attempt to hijack the vessel. On 11 March 2011, Japan took over the four pirates from the Navy of the United States of America and the Tokyo District Prosecutors Office initiated investigations. The Tokyo District Prosecutors Office indicted three adult suspects on 1 April 2011 and one minor suspect on 2 May 2011 according to Japan's Anti-Piracy Measures Law.
- At the request of the Japanese Government, a bilateral meeting between the Republic of Korea and Japan on piracy investigations was held on 24 June 2011 at the Busan District Prosecutors Office.
- Through the above meeting, the Busan District Prosecutors Office actively supported the Japanese Government regarding the prosecution of pirates, by sharing the experiences of investigating and prosecuting the pirates who hijacked the *MV Samho Jewelry* and by providing information on practical and legal problems in the investigation process.

• Support for piracy prosecution by the United States of America

- Collaborative investigation efforts were made from 28 to 29 September 2011, at the Busan District Prosecutors Office with participation of the Federal Bureau of Investigation and Naval Criminal Investigative Service. This was to reveal (1) the connection between the five pirates indicted in Korea for charges including the hijacking of *MV Samho Jewelry* and those indicted or convicted for piracy in the United States and (2) the pirate network.

Footnotes:

1 Criminal Act Article 340 (Piracy)

- (1) A person who, through the threat of collective force in the sea, forcibly seizes a ship or forcibly takes another's property after intruding upon a ship, shall be punished by imprisonment for life or for not less than seven years.
- (2) A person who commits the crime as referred to in paragraph (1), thereby causing injury to another, shall be punished by imprisonment for life or for not less than ten years.
- (3) A person who commits the crime of paragraph (1), thereby killing another or causing another person's death or committing rape, shall be punished by death or imprisonment for life.

2 Act on Punishment for Damaging Ships and Sea Structures

Article 6 (Seizure of Ships)

- (1) Any person who seizes a ship or marine structure in operation by violence, threat, or any other means or who forces anyone to operate a ship shall be punished by imprisonment with prison labor for life or for not less than five years.
- (2) Any person who prepares or conspires to intentionally commit an offense under paragraph (1) shall be punished by imprisonment with prison labor for not more than five years: Provided, That any person who voluntarily surrendered before perpetrating the intended offense shall have the sentence mitigated or waived.

Article 12 (Murder, Manslaughter or Injury by Battery during Seizure of Ship)

- (1) Any person who murders or causes another person to be killed during the commission or attempted commission of an offense under Article 6 (1) shall be punished by death or imprisonment with prison labor for life or for not less than ten years, while any person who injures, or causes another person to be injured, during the commission or attempted commission of such an offense shall be punished by imprisonment with prison labor for life or for not less than seven years.

3 The Busan District Court sentenced Mahomed Araye to life imprisonment, Abdulahi Hussein Maxamuud and Awil Buraale to imprisonment for 15 years, and Abdulahi Ali and Abdikhadar Aman Ali to imprisonment for 13 years.

4 The Busan High Court (appellate court) maintained the ruling by the lower court except for mitigating the sentence of Abdulahi Hussein Maxamuud to imprisonment of 12 years.

5 The Supreme Court upheld the ruling by the Busan High Court. The sentences for the convicted pirates will be carried out under the direction of the prosecutor.

Republic of Moldova

The Republic of Moldova actively participates in the International Maritime Organization in terms of the piracy issue in general and on the coast of Somalia in particular.

The Republic of Moldova is following the practice of other flag States concerning the fight against piracy, and on the basis of the International Maritime Organization recommendations for the flag States regarding individual enrolment of armed personnel on board ships that are sailing in high-risk areas (MSC.1/Circ.1406/Rev.1), a notification was issued to all ship-owners in order to avoid high-risk areas, and in case of transiting these areas, to undertake all safeguard measures in accordance with the International Maritime Organization document mentioned above.

According to article 289 of the Moldovan Criminal Code, piracy is qualified as subject of infringement under the national law.

Russian Federation¹⁰

In accordance with its international commitments, the Russian Federation has criminalized maritime piracy under its domestic law, which includes penal and procedural provisions for the criminal prosecution of suspected pirates. Russian law enforcement and investigative bodies are also guided by provisions incorporated into Russian law in accordance with international treaties (conventions) to which the Russian Federation is a party and by resolutions of the Security Council.

The definition of piracy under Russian law is fully consistent with the definition contained in article 101 of the 1982 United Nations Convention on the Law of the Sea. Specifically, under Russian law, piracy is a penal offence criminalized under article 227 of the Criminal Code of the Russian Federation.

The taking of hostages (mainly seamen) by pirates is characterized in accordance with article 206 of the Criminal Code, “Hostage-taking,” which defines this act as “the seizure or detention of a person as a hostage in order to compel a State, organization or individual to perform any act...”.

When a crime related to acts of piracy on the high seas or in any other place outside State jurisdiction is identified, the principle of near-universal jurisdiction over acts of piracy is applicable. Thus, foreign nationals and stateless persons are subject to criminal prosecution on behalf of the Russian Federation regardless of the flag State of the vessel and/or the nationality of the victims of acts of piracy.

The obligations laid down in article 227 of the Criminal Code of the Russian Federation with respect to the verification of criminal allegations, the institution of criminal proceedings and the conduct of initial investigations and other procedural steps are the responsibility of the investigators of the military investigative bodies of the Russian Federation Investigative Committee. The investigators are seconded to the crews of the Navy’s anti-piracy and navigation safety vessels. They exercise their authority in cooperation with military prosecution officers on board such ships.

The effectiveness of the anti-piracy legislation in force was demonstrated by the outcome of an investigation into the 24 July 2009 hijacking in Swedish territorial waters of the bulk freighter *Arctic Sea*, which had a Russian crew. The freighter was headed from Finland to Algeria with a cargo of timber. Six defendants were sentenced to prison terms ranging from five to seven years.

At the same time, work to enhance and adapt national legislation on unlawful acts at sea, including piracy, is ongoing. For example, regulations are being developed to clarify the jurisdiction of the Russian Federation over pirate vessels apprehended by Russian military personnel and over vessels seized by pirates. Legal provisions on the detention of persons suspected or accused of piracy are being prepared, including provisions for ensuring the necessary conditions for temporary custody in specially equipped facilities on board military vessels.

¹⁰ Original: Russian.

It has been proposed that the legislation should be supplemented with legal provisions that would expand specific procedural powers of commanders of military vessels and captains of non-military vessels, endowing them with investigative authority; increase the number of participants in criminal cases to include individuals providing legal assistance to suspected pirates; and modify procedural deadlines for the investigation of crimes of piracy.

Singapore

1. As a maritime nation, Singapore shares the grave concerns of the international community over the piracy situation in the Gulf of Aden region. Singapore is committed to working with the international community on various initiatives to eradicate piracy off the coast of Somalia.
2. Singapore has in place the necessary laws for prosecuting acts of piracy, including those that involve hijackings, committed on the high seas. A copy of Singapore's national legislation on piracy, submitted earlier to the Division for Ocean Affairs and the Law of the Sea in February 2010 via a third person note (Reference No. MFA/IOD/00051/2010), is appended.
3. Singapore welcomes and supports the adoption of Security Council resolution 2015 (2011). While the naval operations by various countries have gone some way in helping to deter piracy in the Gulf of Aden, it is clear that a permanent solution will not be possible without also finding solutions to the issue of prosecution, including building up the capacity of regional States to prosecute and imprison persons responsible for acts of piracy and hostage-taking off the coast of Somalia. We will continue to work closely with the United Nations and through the Contact Group on Piracy off the Coast of Somalia to develop comprehensive solutions to the problem of piracy off the coast of Somalia.

[...]

Extract of "Penal Code" (cap 224), CHAPTER VIA "Piracy"

Piracy by law of nations. Cf. 12 and 13 Victoria c. 96 (Admiralty Offences (Colonial) Act 1849)

130B. —(1) A person commits piracy who does any act that, by the law of nations, is piracy.

(2) Whoever commits piracy shall be punished with imprisonment for life and with caning with not less than 12 strokes, but if while committing or attempting to commit piracy he murders or attempts to murder another person or does any act that is likely to endanger the life of another person he shall be punished with death.

Piratical acts

130C. Whoever, while in or out of Singapore –

- (a) steals a Singapore ship;
- (b) steals or without lawful authority throws overboard, damages or destroys anything that is part of the cargo, supplies or fittings in a Singapore ship;
- (c) does or attempts to do a mutinous act on a Singapore ship; or
- (d) counsels or procures a person to do anything mentioned in paragraph (a), (b) or (c),

shall be punished with imprisonment for a term not exceeding 15 years and shall be liable to caning.

Extract of "Maritime Offences Act" (CAP 1708)

Hijacking of ships

3.—(1) Subject to subsection (2), any person who unlawfully, by the use of force or by threats of any kind, seizes a ship or exercises control of a ship, shall be guilty of an offence, whatever his nationality or citizenship, whatever the state in which the ship is registered and whether the ship is in Singapore or elsewhere.

(2) Subsection (1) shall not apply to any act committed in relation to a warship, or any other ship used as a naval auxiliary or in customs or law enforcement service, unless—

- (a) the person seizing or exercising control of the ship is a citizen of Singapore;
- (b) the act is committed in Singapore; or
- (c) the ship is used in the naval, customs or law enforcement service of Singapore.

Destroying or damaging ships, etc.

4.—(1) Subject to subsection (5), any person who unlawfully and intentionally—

- (a) destroys a ship;
- (b) damages a ship or its cargo so as to endanger, or to be likely to endanger, the safe navigation of the ship; or
- (c) commits on board a ship an act of violence which is likely to endanger the safe navigation of the ship,

shall be guilty of an offence.

(2) Subject to subsection (5), any person who unlawfully and intentionally places, or causes to be placed, on a ship any device or substance which is likely to destroy the ship or is likely so to damage it or its cargo as to endanger its safe navigation shall be guilty of an offence.

(3) Nothing in subsection (2) shall be construed as limiting the circumstances in which the commission of any act may—

- (a) constitute an offence under subsection (1); or
- (b) constitute attempting or conspiring to commit or aiding, abetting, counselling, procuring or inciting the commission of the offence.

(4) Except as provided in subsection (5), subsections (1) and (2) shall apply whether any act referred to in those subsections is committed in Singapore or elsewhere, whatever the nationality or citizenship of the person committing the act and whatever the state in which the ship is registered.

(5) Subsections (1) and (2) shall not apply to any act committed in relation to a warship, or any other ship used as a naval auxiliary or in customs or law enforcement service, unless—

- (a) the person committing the act is a citizen of Singapore;
- (b) the act is committed in Singapore; or
- (c) the ship is used in the naval, customs or law enforcement service of Singapore.

[...]

Offences involving threats

6.—(1) A person shall be guilty of an offence if—

- (a) in order to compel any other person to do or abstain from doing any act, he threatens that he or some other person will do in relation to any ship an act which is an offence under section 4 (1); and
- (b) the making of that threat is likely to endanger the safe navigation of the ship.

(2) Subject to subsection (4), a person shall be guilty of an offence if-

- (a) in order to compel any other person to do or abstain from doing any act, he threatens that he or some other person will do an act which is an offence under section 5 (1); and
- (b) the making of that threat is likely to endanger the safe navigation of any ship.

(3) Except as provided in subsection (4), subsections (1) and (2) shall apply whether any act referred to in those subsections is committed in Singapore or elsewhere, whatever the nationality or citizenship of the person committing the act and whatever the state in which the ship is registered.

(4) Section 4 (5) shall apply for the purposes of subsection (1) as it applies for the purposes of section 4 (1); and section 5 (6) shall apply for the purposes of subsection (2) as it applies for the purposes of section 5 (1).

Ancillary offences

7.—(1) Any act of violence done by any person in connection with an offence under section 3, 4 or 5 committed or attempted to be committed by him shall be deemed to have been committed in Singapore and shall constitute an offence punishable under the law in force in Singapore applicable to it, wherever the act of violence was committed, whatever the state in which the ship concerned is registered (if any), and whatever the nationality or citizenship of the person committing or attempting to commit the act.

(2) Subsection (1) is without prejudice to section 180 of the Merchant Shipping Act (Cap 179).

(3) Any person in Singapore who abets the commission elsewhere of any act which would—

- (a) but for section 3 (2), be an offence under that section;
- (b) but for section 4 (5), be an offence under that section;
- (c) but for section 5 (6), be an offence under that section; or
- (d) but for section 6 (4), be an offence under that section,

shall be guilty of an offence.

[...]

General penalties

9.—(1) Any person guilty of an offence under this Act for which no penalty is expressly provided shall be liable on conviction to be punished with imprisonment for life.

(2) For the avoidance of doubt, subsection (1) shall not apply to any act which constitutes an offence punishable under the law in force in Singapore applicable to it by virtue of section 7 (1).

Consent for prosecution

10.—(1) No prosecution shall be instituted under this Act without the written consent of the Public Prosecutor.

(2) Notwithstanding that consent has not been given in relation to the offence in accordance with subsection (1)—

- (a) a person may be arrested for an offence under this Act;
- (b) a warrant for the arrest of any person in respect of any offence under this Act may be issued and executed;
- (c) a person may be charged with an offence under this Act; and
- (d) a person charged with any offence under this Act may be remanded in custody or granted bail,

but no further steps in the proceedings in relation to the offence shall be taken until the consent of the Public Prosecutor has been obtained.

Slovakia

The criminal act of piracy is within the Slovak legal order criminalized by the Criminal Code (Act No. 300/2005 of the Collection of Laws). Piracy is covered by the provisions concerning the crime on jeopardy of the safety of aircraft and ship (para. 291), taking of hostages (para. 185) and robbery (para. 188). The Slovak Republic is of the view that the existing national legal regime provides all necessary requirements for criminalization of piracy and prosecution of individuals suspected of piracy off the coast of Somalia and imprisonment of convicted pirates.

Slovenia

In November 2011, amendments to the Criminal Code of the Republic of Slovenia KZ-1 (Official Journal of the Republic of Slovenia, Nr. 55/08, 66/08 — amended, 39/09) were adopted with

KZ-1B (Official Journal of the Republic of Slovenia, 91/11). Inter alia, the criminal offence of piracy (Article 374 KZ-1) has also been changed. Amendments shall enter into force six months after KZ-1B was published in the Official Gazette of the Republic of Slovenia (namely, 15 May 2012). The unofficial translation of the amended provision on piracy is attached.

In addition the State Prosecutor's Office in Koper, which would presumably deal with cases of piracy according to the rules of territorial jurisdiction, so far did not deal with any case of piracy.

[...]

Piracy

Article 374

[Unofficial translation]

(1) A crew member or passenger on a vessel or aircraft other than military ship or aircraft and public ship or aircraft, who in breach of rules of international law with intention of acquiring material or non-material gain for himself or other or causing great damage to other, on the high seas or in a place that is outside of jurisdiction of any State, unlawfully commits an act of violence, detention or any kind of pillaging against another vessel or aircraft, persons or property on board of such vessel or aircraft, shall be given a prison sentence of between one and ten years.

(2) The piracy from first paragraph of this Article shall also be considered if an act is committed by a member of a crew of military or public ship or aircraft, which unlawfully undertakes a mutiny and takes over command of the ship or aircraft.

(3) If the offence under paragraphs 1 or 2 of this Article entails the death of one or more persons or a large property damage, the perpetrator shall be given a prison sentence of between five and fifteen years.

Spain¹¹

Domestic legislation relevant to Security Council resolution 2015 (2011)

1- In terms of criminalization, the offence of maritime piracy was reintroduced into the Spanish Criminal Code through Organization Act 5/2010 of 22 July, which came into force on 22 December 2010. The Act adds a new Chapter V under Title XXIV of Book Two of the Criminal Code, which contains articles 616 ter and 616 quater.

Article 616 ter:

“Anyone who through violence, intimidation or fraud, seizes, damages or destroys an aircraft, ship or other type of vessel or sea platform, or threatens persons, cargo or goods aboard such vessels, shall be convicted of piracy and liable to a term of imprisonment of 10 to 15 years.

In all cases, the penalty provided in this article shall be imposed without prejudice to those [penalties] imposed for any [other] offences committed.”

Article 616 quáter:

“1. Anyone who resists or disobeys a war ship, or military aircraft or any other ship or aircraft that is seeking to prevent or prosecute the acts set forth in the previous article and is authorized to do

¹¹ Original: Spanish.

so, and which bears clear signs of and is identifiable as a ship or aircraft of the Spanish State, shall be liable to a term of imprisonment of one to three years.

2. If, in the course of the act described above, force or violence is used, a penalty of imprisonment for a term of 10 to 15 years shall be imposed.

3. In all cases, the penalties described in this article shall be imposed without prejudice to those [penalties] imposed for any [other] offences committed.”

2- With regard to the issue of jurisdiction, Spanish tribunals have the jurisdiction to judge offences of piracy committed by Spaniards or foreigners outside of the national territory, as provided in article 23 of Judicial Power Organization Act 6/1985 of 1 July.

Organization Act 1/2009 of 3 November, which took effect on 5 November 2009, incorporated into paragraph 4 of the above-mentioned article 23 the terms under which Spanish courts may hear piracy cases, as follows: (1) the accused must be present in Spain, or (2) there must be victims of Spanish nationality, or (3) a relevant link to Spain must be established. In all cases, proceedings involving the investigation or prosecution the alleged act of piracy must not have been initiated in another competent country or in an international court.

In addition, the criminal proceedings initiated in a Spanish court shall be temporarily stayed where it has been established that proceedings based on the same alleged acts have been initiated elsewhere.

Paragraph 4 of article 23 of the Judicial Power Act (Organization Act 6/1985 of 1 July):

“4. Spanish jurisdiction shall also apply to acts committed by Spaniards or foreigners outside the national territory when those acts can be classified as one of the following offences, under Spanish law:

- (a) Genocide or crimes against humanity.
- (b) Terrorism.
- (c) Piracy or unlawful seizure of aircraft.
- (d) Crimes related to prostitution or the corruption of minors and legally incompetent persons.
- (e) Unlawful trafficking in psychotropic, toxic or narcotic drugs.
- (f) Unlawful trafficking in or smuggling of persons, whether or not they are workers.
- (g) Offences related to female genital mutilation, as long as those responsible are present in Spain.
- (h) Any other offence which, pursuant to international treaties or conventions, in particular conventions on international humanitarian law or the protection of human rights, should be prosecuted in Spain.

Without prejudice to the provisions of international treaties and agreements signed by Spain, in order for Spanish courts to have jurisdiction over the offences listed above, it must be established that the alleged perpetrators are present in Spain, that there are victims of Spanish nationality or that there is some relevant link with Spain and, in any event, that no other competent country or international court has initiated proceedings to investigate and, where appropriate, prosecute, such offences.

The criminal proceedings initiated in a Spanish court shall be temporarily stayed where it has been established that proceedings based on the alleged acts have been initiated in a country or by a court referred to in the previous paragraph.”

Measures taken to criminalize piracy under Spanish domestic law and to prosecute and support the prosecution of individuals suspected of piracy off the coast of Somalia as well as the imprisonment of those convicted of such acts

Spain's current regulatory system contains all of the instruments that have been defined at the international level as being necessary and appropriate to prosecute the crime of piracy.

This regulatory system is based on the principles of international law on piracy, which were integrated using the criteria agreed by international organizations and forums working to combat piracy, of which Spain is an active member.

In that respect, the recent criminalization of piracy and the amendment of the articles of Spanish law pertaining to so-called "universal jurisdiction" should be noted. Both of these legislative changes constitute positive steps towards prosecuting this offence and incorporate the recommendations contained in the relevant Security Council resolutions.

The present document is aimed at presenting the amendments. The judgements issued by Spanish courts on these types of offences are included at the end of the document. (It should be noted that Spain has a specific court, the National High Court, dedicated to hearing, inter alia, piracy cases, pursuant to article 65.1 (e) of Judicial Power Organization Act 6/1985 of 1 July).

I. Criminalization of the offence of maritime piracy in Spanish legislation

The offence of maritime piracy was reintroduced into the Spanish Criminal Code through Organization Act 5/2010 of 22 July, which amended Organization Act 10/1995 of 23 November of the Criminal Code. The amendment came into force on 23 December 2010, as provided in the seventh final provision of the act.

The amendment adds a new Chapter 5 (Offence of Piracy) under Title XXIV (Offences against the International Community) of Book Two (Offences and Their Punishments) of the Criminal Code, under the heading Offence of Piracy, which is made up of two articles (see article 616 ter and article 616 quater above).

II. Amendment concerning the exercise of universal jurisdiction by Spanish courts

Organization Act 1/2009 of 3 November amended, inter alia, article 23.4 of Judicial Power Organization Act 6/1985 of 1 July, which pertains to, among other issues, the so-called universal jurisdiction of Spanish courts over the offence of piracy (see article 23.4 above).

III. Recent cases brought before Spanish courts

The Spanish courts had the opportunity to issue judgements on acts of piracy off the coast of Somalia in the so-called "Alakrana" case, concerning the hijacking of the tuna purse seine vessel of the same name, flying the Spanish flag, at the end of 2009.

Two of the assailants were detained by the Spanish frigate *Canarias* as part of the European Union's Operation Atalanta, which was established by Council Joint Action 2008/851/CFSP of 10 November 2008, on a military operation to contribute to the deterrence, prevention and repression of acts of piracy.

Following the submission of a complaint by the State Prosecutor on 3 October 2009, Central Court of Investigation No. 5 sentenced the two assailants to imprisonment and transfer to Spanish territory.

Later, on 16 November 2009, an indictment was issued, and on 17 November the case records were sent to the Criminal Chamber of the National High Court (fourth division). On 3 May 2011, this Chamber sentenced the two individuals on trial, listing the offences committed and penalties as follows:

- 1º.- For committing one count of unlawful association, a term of two years of imprisonment and a fine equivalent to 12 months, at the rate of 6 euros a day, for each of the accused.
- 2º.- For committing 36 counts of illicit detention, 36 terms of 11 years of imprisonment for each of the accused.
- 3º.- For committing violent robbery, a term of 5 years of imprisonment for each of the accused.

4°.- For committing 36 counts of offences against moral integrity, 36 terms of one year of imprisonment for each of the individuals mentioned.”

Lastly, attention is drawn to the severity of the sentence, despite the fact that the new offence of piracy was not charged in the case, as the criminalization of the act was not yet in force when the crimes were committed.

Turkey

1. The Turkish Penal Code contains both procedural and substantive clauses which address acts of piracy and armed robbery at sea. Article 8 on Territorial Jurisdiction, paragraph 2, extends the criminal jurisdiction of Turkish courts to offences committed within Turkish territorial sea, as well as in the high seas when Turkish flagged vessels or Turkish citizens on board of foreign flagged vessels are subjected to criminal activity. Likewise, article 13(1)(i) states that Turkish law shall apply in cases of illegal seizure or hijacking of air or sea transport vehicles. The crime of hijacking a vessel prompts a penalty of imprisonment for a term of two to five years (article 223(2)).
2. In this respect, unlawful acts committed against an air or sea vehicle in the high seas are penalized under the relevant provisions of the Turkish Penal Code. For instance, articles 81 and 86 of the Turkish Penal Code penalize the acts of intentional killing and intentional injury respectively. Article 106 of the Turkish Penal Code penalizes armed coercion, whereas articles 148 and 149 penalize the acts of armed robbery. Lastly, article 152 of the Turkish Penal Code penalizes the acts of aggravated damage to property.
3. Another criminal offence that may be relevant to piracy-related activities is the illegal seizure of a fixed platform located on the continental shelf or exclusive economic zone of Turkey, which is also punishable with a penalty of imprisonment for a term of 5 to 15 years (article 224).
4. In case of attempt to commit piracy/armed robbery at sea, the Turkish Penal Code contains two articles on attempt and voluntary abandonment, article 35 and article 36 respectively. In case of attempt, the penalty is reduced by one-quarter to three-quarters of the penalty for the committed crime.
5. As to conspiracy, the general clauses are contained in articles 37 to 41 of the Turkish Penal Code. The degree of responsibility of a conspirer depends on the type of conspiracy. Various cases covered in these articles are: principal involvement, incitement, assistance and the case of voluntary abandonment in jointly committed offences. This is also valid for aiding and abetting.
6. In order to address the establishment of an organization for the purpose of committing a crime, the Turkish Penal Code contains a general clause, that is, article 220. There is a requirement of at least three persons to form a criminal organization. Possession of arms is an aggravating factor. If the intended crime is committed, it is punished separately.
7. As to the prosecution of persons having committed/suspected of committing acts of piracy/armed robbery, article 12 of the Turkish Penal Code states that crimes of certain gravity shall prompt the prosecution of the accused (regardless of his nationality) by Turkish courts. In particular, paragraph 2 reads as follows:

“Where the aforementioned offence is committed to the detriment of a Turkish citizen or to the detriment of a legal personality established under Turkish civil law and the offender is present in Turkey and there has been no conviction in a foreign country for the same offence then, upon the making of a complaint by the victim, he shall be subject to penalty under Turkish law.”
8. For the purposes of prosecution, nationality of pirates is immaterial, since article 13(1) states:

“Turkish law shall apply to the following offences committed in a foreign country whether or not committed by a citizen or non-citizen of Turkey:

(...)

(i) Seizing control or hijacking of air, sea or rail transport vehicles ...”

9. However, the nationality plays a basic role as far as extradition questions are concerned.

10. In terms of jurisdiction, as indicated in above, article 8 of the Turkish Penal Code on Territorial Jurisdiction, paragraph 2, extends the criminal jurisdiction of Turkish courts to offences committed within Turkish territorial sea, as well as on the high seas when Turkish flagged vessels are subjected to criminal activity. Also, article 13(1)(i) states that Turkish law shall apply in cases of seizing control or hijacking of air or sea transport vehicles. Thus, Turkish courts always have jurisdiction over crimes committed against Turkish vessels, while they may have jurisdiction on foreign vessels subject to a set of conditions (particularly article 12).

11. Detention and investigation of persons who have committed piracy-related offences are subject to the discretion of the commander of the Turkish naval ship in the area, who will use his/her power in accordance with Turkish legislation, in particular with the decision of the Turkish Grand National Assembly, n. 934 of 10 February 2009, which authorizes the Government of Turkey to send naval forces to the area in question. The effective period of this decision was later extended for one year by decision n. 956 of 2 February 2010 of the Turkish Grand National Assembly, and lastly the decision was extended for another year on 25 January 2012. Issues related to detention and investigations are basically regulated by the Criminal Procedure Code.

United Arab Emirates

At the national level

- The United Arab Emirates criminalized piracy activities in all its forms and brings perpetrators to justice at the national level. For this purpose, the Government of the United Arab Emirates issued Federal Law 3, 1987 - the Penal Code, which in part 1 (Crimes constituting public danger), chapter 4 (Attacks Against Public Transport and Utilities), article 288 stipulated that “Any person, who attacks an aircraft or a ship for the purpose of taking possession thereof or whole or part of goods carried thereon, or assaulted one or more of its passengers or diverted its direction unnecessarily shall be sentenced to life imprisonment”. Article 289 stipulated that “Any person, who intentionally endangers the safety of a ship or an aircraft or any other means of public transport shall be subject to a term of imprisonment. The sentence will be life imprisonment if the assault leads to a disaster affecting the above-mentioned”.
- The United Arab Emirates has issued Federal Law 1/2004 on combating crimes of terrorism, in pursuance of articles No. 15, 16 and 17 of the Penal Code.

At the regional level

The Government of the United Arab Emirates acceded to the following regional conventions against terrorism:

- 1- Federal Decree No. 103/1998 on the Arab Convention on the Suppression of Terrorism.
- 2- Federal Decree No. 54/2004 on the Gulf Cooperation Council Convention on Combating Terrorism.
- 3- Federal Decree No. 36/2007 on the accession of the United Arab Emirates to the Convention of the Organization of the Islamic Conference on Combating International Terrorism.
- 4- The Arab Convention on Combating Transnational Organized Crime.

At the international level

- 1- Federal Decree No. 8/1981 on the Convention on Offences and Certain Other Acts Committed on Board Aircraft.
- 2- Federal Decree No. 95/1980 on the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation.

- 3- Federal Decree No. 9/1981 on the Convention on Offences and Certain Other Acts Committed on Board Aircraft.
- 4- Federal Decree No. 91/2005 on the International Convention for the Suppression of the Financing of Terrorism.
- 5- The United Nations Convention against Transnational Organized Crime.

Furthermore, the United Arab Emirates concluded bilateral agreements on cooperation in combating terrorism and organized crime with a number of countries, including Turkey, Pakistan and Uzbekistan. The United Arab Emirates is currently participating with the members of the League of Arab States in drafting a protocol on combating maritime piracy, which is complementary to the Arab Convention on Combating Transnational Crime, which the United Arab Emirates signed on 21 December 2010.

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