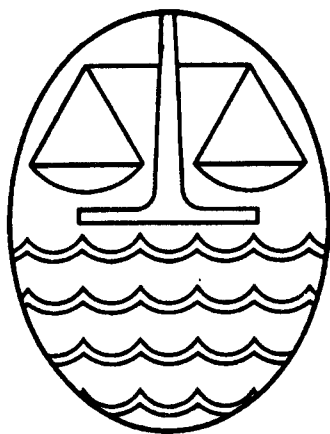


Division for Ocean Affairs and the Law of the Sea
Office of Legal Affairs

Law of the Sea



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NOTE

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I. UNITED NATIONS CONVENTION ON THE LAW OF THE SEA

A. Status of the United Nations Convention on the Law of the Sea^{1/}

1. Chronological list of ratifications, accessions and successions to the Convention and their regional groups, as at 31 August 1998

Number	Date of ratification/ accession/succession	State/Entity	Regional group
1	10 December 1982	Fiji	Asian
2	7 March 1983	Zambia	African
3	18 March 1983	Mexico	Latin America/Caribbean
4	21 March 1983	Jamaica	Latin America/Caribbean
5	18 April 1983	Namibia	African
6	7 June 1983	Ghana	African
7	29 July 1983	Bahamas	Latin America/Caribbean
8	13 August 1983	Belize	Latin America/Caribbean
9	26 August 1983	Egypt	African
10	26 March 1984	Côte d'Ivoire	African
11	8 May 1984	Philippines	Asian
12	22 May 1984	Gambia	African
13	15 August 1984	Cuba	Latin America/Caribbean
14	25 October 1984	Senegal	African
15	23 January 1985	Sudan	African
16	27 March 1985	Saint Lucia	Latin America/Caribbean
17	16 April 1985	Togo	African
18	24 April 1985	Tunisia	African
19	30 May 1985	Bahrain	Asian
20	21 June 1985	Iceland	Western European and Other
21	16 July 1985	Mali	African
22	30 July 1985	Iraq	Asian
23	6 September 1985	Guinea	African
24	30 September 1985	United Republic of Tanzania	African

^{1/} The Convention entered into force on 16 November 1994, in accordance with its article 308.

Number	Date of ratification/ accession/succession	State/Entity	Regional group
25	19 November 1985	Cameroon	African
26	3 February 1986	Indonesia	Asian
27	25 April 1986	Trinidad and Tobago	Latin America/Caribbean
28	2 May 1986	Kuwait	Asian
29	5 May 1986	Yugoslavia	Eastern European
30	14 August 1986	Nigeria	African
31	25 August 1986	Guinea-Bissau	African
32	26 September 1986	Paraguay	Latin America/Caribbean
33	21 July 1987	Yemen	Asian
34	10 August 1987	Cape Verde	African
35	3 November 1987	Sao Tome and Principe	African
36	12 December 1988	Cyprus	Asian
37	22 December 1988	Brazil	Latin America/Caribbean
38	2 February 1989	Antigua and Barbuda	Latin America/Caribbean
39	17 February 1989	Democratic Republic of the Congo	African
40	2 March 1989	Kenya	African
41	24 July 1989	Somalia	African
42	17 August 1989	Oman	Asian
43	2 May 1990	Botswana	African
44	9 November 1990	Uganda	African
45	5 December 1990	Angola	African
46	25 April 1991	Grenada	Latin America/Caribbean
47	29 April 1991	Micronesia (Federated States of) ^{2/}	Asian
48	9 August 1991	Marshall Islands ^{2/}	Asian
49	16 September 1991	Seychelles	African
50	8 October 1991	Djibouti	African
51	24 October 1991	Dominica	Latin America/Caribbean

^{2/} Accession to the Convention.

Number	Date of ratification/ accession/succession	State/Entity	Regional group
52	21 September 1992	Costa Rica	Latin America/Caribbean
53	10 December 1992	Uruguay	Latin America/Caribbean
54	7 January 1993	Saint Kitts and Nevis	Latin America/Caribbean
55	24 February 1993	Zimbabwe	African
56	20 May 1993	Malta	Western European and Other
57	1 October 1993	Saint Vincent and the Grenadines	Latin America/Caribbean
58	5 October 1993	Honduras	Latin America/Caribbean
59	12 October 1993	Barbados	Latin America/Caribbean
60	16 November 1993	Guyana	Latin America/Caribbean
61	12 January 1994	Bosnia and Herzegovina ^{3/}	Eastern European
62	21 June 1994	Comoros	African
63	19 July 1994	Sri Lanka	Asian
64	25 July 1994	Viet Nam	Asian
65	19 August 1994	The former Yugoslav Republic of Macedonia ^{3/}	Eastern European
66	5 October 1994	Australia	Western European and Other
67	14 October 1994	Germany ^{2/}	Western European and Other
68	4 November 1994	Mauritius	African
69	17 November 1994	Singapore	Asian
70	12 December 1994	Sierra Leone	African
71	5 January 1995	Lebanon	Asian
72	13 January 1995	Italy	Western European and Other
73	15 February 1995	Cook Islands	Asia
74	5 April 1995	Croatia ^{3/}	Eastern European
75	25 April 1995	Bolivia	Latin America/Caribbean
76	16 June 1995	Slovenia ^{3/}	Eastern European
77	29 June 1995	India	Asian

^{3/} Succession.

Number	Date of ratification/ accession/succession	State/Entity	Regional group
78	14 July 1995	Austria	Western European and Other
79	21 July 1995	Greece	Western European and Other
80	2 August 1995	Tonga ²	Asian
81	14 August 1995	Samoa	Asian
82	27 November 1995	Jordan ²	Asian
83	1 December 1995	Argentina	Latin America/Caribbean
84	23 January 1996	Nauru	Asian
85	29 January 1996	Republic of Korea	Asian
86	20 March 1996	Monaco	Western European and Other
87	21 March 1996	Georgia ²	Eastern European
88	11 April 1996	France	Western European and Other
89	24 April 1996	Saudi Arabia	Asian
90	8 May 1996	Slovakia	Eastern European
91	15 May 1996	Bulgaria	Eastern European
92	21 May 1996	Myanmar	Asian
93	7 June 1996	China	Asian
94	11 June 1996	Algeria	African
95	20 June 1996	Japan	Asian
96	21 June 1996	Ireland	Western European and Other
97	21 June 1996	Finland	Western European and Other
98	21 June 1996	Czech Republic	Eastern European
99	24 June 1996	Norway	Western European and Other
100	25 June 1996	Sweden	Western European and Other
101	28 June 1996	Netherlands	Western European and Other
102	1 July 1996	Panama	Latin America/Caribbean
103	17 July 1996	Mauritania	African
104	19 July 1996	New Zealand	Western European and Other
105	31 July 1996	Haiti	Latin America/Caribbean
106	13 August 1996	Mongolia	Asian

Number	Date of ratification/ accession/succession	State/Entity	Regional group
107	30 September 1996	Palau	Asian
108	14 October 1996	Malaysia	Asian
109	5 November 1996	Brunei Darussalam	Asian
110	17 December 1996	Romania	Eastern European
111	14 January 1997	Papua New Guinea	Asian
112	15 January 1997	Spain	Western European and Other
113	11 February 1997	Guatemala	Latin America/Caribbean
114	26 February 1997	Pakistan	Asian
115	12 March 1997	Russian Federation	Eastern European
116	13 March 1997	Mozambique	Africa
117	23 June 1997	Solomon Islands	Asian
118	21 July 1997	Equatorial Guinea	Africa
119	25 July 1997	United Kingdom ²	Western European and Other
120	25 August 1997	Chile	Latin America/Caribbean
121	16 October 1997	Benin	Africa
122	3 November 1997	Portugal	Western European and Other
123	23 December 1997	South Africa	Africa
124	11 March 1998	Gabon	Africa
125	1 April 1998	European Community	
126	5 June 1998	Lao People's Democratic Republic	Asian
127	9 July 1998	Suriname	Latin America/Caribbean

127 ratifications/accessions/successions deposited with the Secretary-General.

2. Alphabetical list of States having ratified, acceded or succeeded to the Convention, as at 31 August 1998

Algeria	Iceland	Saudi Arabia
Angola	India	Senegal
Antigua and Barbuda	Indonesia	Seychelles
Argentina	Iraq	Sierra Leone
Australia	Ireland	Singapore
Austria	Italy	Slovakia
Bahamas	Jamaica	Slovenia
Bahrain	Japan	Solomon Islands
Barbados	Jordan	Somalia
Belize	Kenya	South Africa
Benin	Kuwait	Spain
Bolivia	Lao People's	Sri Lanka
Bosnia and Herzegovina	Democratic Republic	Sudan
Botswana	Lebanon	Suriname
Brazil	Malaysia	Sweden
Brunei Darussalam	Mali	The former Yugoslav Republic
Bulgaria	Malta	of Macedonia
Cameroon	Marshall Islands	Togo
Cape Verde	Mauritania	Tonga
Chile	Mauritius	Trinidad and Tobago
China	Mexico	Tunisia
Comoros	Micronesia (Federated	Uganda
Cook Islands	States of)	United Kingdom of Great
Costa Rica	Monaco	Britain and Northern Ireland
Côte d'Ivoire	Mongolia	United Republic of Tanzania
Croatia	Mozambique	Uruguay
Cuba	Myanmar	Viet Nam
Cyprus	Namibia	Yemen
Czech Republic	Nauru	Yugoslavia
Djibouti	Netherlands	Zaire
Dominica	New Zealand	Zambia
Egypt	Nigeria	Zimbabwe
Equatorial Guinea	Norway	
European Community	Oman	
Fiji	Pakistan	
Finland	Palau	
France	Panama	
Gabon	Papua New Guinea	
Gambia	Paraguay	
Germany	Philippines	
Georgia	Portugal	
Ghana	Republic of Korea	
Greece	Romania	
Grenada	Russian Federation	
Guatemala	Saint Kitts and Nevis	
Guinea	Saint Lucia	
Guinea-Bissau	Saint Vincent and	
Guyana	the Grenadines	
Haiti	Samoa	
Honduras	Sao Tome and Principe	

3. European Community

Declaration concerning the competence of the European Community with regard to matters governed by the United Nations Convention on the Law of the Sea of 10 December 1982 and the Agreement of 28 July 1994 relating to the implementation of Part XI of the Convention

The European Community presents its compliments to the Secretary-General of the United Nations and has the honour of depositing its instrument of formal confirmation of the United Nations Convention of 10 December 1982 on the Law of the Sea and the Agreement adopted by the United Nations General Assembly on 28 July 1994 relating to the implementation of Part XI of the United Nations Convention of 10 December 1982 on the Law of the Sea.

By depositing this instrument, the Community has the honour of declaring its acceptance, in respect of matters for which competence has been transferred to it by those of its member States which are parties to the Convention, of the rights and obligations laid down for States in the Convention and the Agreement. The declaration concerning competence provided for in article 5, paragraph 1, of Annex IX to the Convention is attached.

The Community also wishes to declare, in accordance with article 310 of the Convention, its objection to any declaration or position excluding or amending the legal scope of the provisions of the United Nations Convention on the Law of the Sea, and in particular those relating to fishing activities. The Community does not consider the Convention to recognize the rights or jurisdiction of coastal States regarding the exploitation, conservation and management of fishery resources other than sedentary species outside their exclusive economic zone.

The Community reserves the right to make subsequent declarations in respect of the Convention and the Agreement and in response to future declarations and positions.

(Declaration made pursuant to article 5, paragraph 1, of Annex IX to the Convention and to article 4, paragraph 4, of the Agreement)

Article 5, paragraph 1, of Annex IX of the United Nations Convention on the Law of the Sea provides that the instrument of formal confirmation of an international organization shall contain a declaration specifying the matters governed by the Convention in respect of which competence has been transferred to the organization by its member States which are parties to the Convention.^{4/}

Article 4, paragraph 4, of the Agreement relating to the implementation of Part XI of the United Nations Convention on the Law of the Sea of 10 December 1982^{5/} provides that formal confirmation by an international organization shall be in accordance with Annex IX of the Convention.

⁴ When it signed the Convention, the Community made the requisite declaration, in accordance with article 2 of Annex IX, in which it specified the matters dealt with by the Convention for which competence had been transferred to it by its member States.

⁵ Signed by the Community on 29 July 1994 and applied by it provisionally with effect from 16 November 1994.

The European Communities were established by the Treaties of Paris (European Coal and Steel Community - ECSC) and of Rome (European Economic Community - EEC and European Atomic Energy Commission - EURATOM), signed on 18 April 1951 and 25 March 1957 respectively. After being ratified by the signatory States, the Treaties entered into force on 25 July 1952 and 1 January 1958. They have been amended by the Treaty on European Union, which was signed at Maastricht on 7 February 1992 and entered into force, after being ratified by the signatory States, on 1 November 1993, and most recently by the Accession Treaty signed at Corfu on 24 June 1994, which entered into force on 1 January 1995.⁶

The current members of the Communities are the Kingdom of Belgium, the Kingdom of Denmark, the Federal Republic of Germany, the Hellenic Republic, the Kingdom of Spain, the French Republic, Ireland, the Italian Republic, the Grand Duchy of Luxembourg, the Kingdom of the Netherlands, the Republic of Austria, the Portuguese Republic, the Republic of Finland, the Kingdom of Sweden and the United Kingdom of Great Britain and Northern Ireland.

The United Nations Convention on the Law of the Sea and the Agreement relating to the implementation of Part XI of the Convention shall apply with regard to the competences transferred to the European Community, to the territories in which the Treaty establishing the European Community is applied and under the conditions laid down in that Treaty, in particular article 227 thereof.

This declaration is not applicable to the territories of the member States in which the said Treaty does not apply and is without prejudice to such acts or positions as may be adopted under the Convention and the Agreement by the member States concerned on behalf of and in the interests of those territories.

In accordance with the provisions referred to above, this declaration indicates the competence that the member States have transferred to the Community under the Treaties in matters governed by the Convention and the Agreement.

The scope and the exercise of such Community competence are, by their nature, subject to continuous development, and the Community will complete or amend this declaration, if necessary, in accordance with article 5, paragraph 4, of Annex IX to the Convention.

The Community has exclusive competence for certain matters and shares competence with its member States for certain other matters.

1. Matters for which the Community has exclusive competence

- The Community points out that its member States have transferred competence to it with regard to the conservation and management of sea fishing resources. Hence in this field it is for the Community to adopt the relevant rules and regulations (which are enforced by the member States) and, within its competence, to enter into external undertakings with third States or competent international organizations. This competence applies to waters under national fisheries jurisdiction and to the high

⁶ The Treaty of Paris establishing the European Coal and Steel Community was registered with the Secretariat of the United Nations on 15 March 1957 under No. 3729; the Treaties of Rome establishing the European Economic Community and the European Atomic Energy Community (EURATOM) were registered on 21 April and 24 April 1958 respectively under Nos. 4300 and 4301. The Treaty on European Union was registered on 28 December 1993 under No. 30615; the Accession Treaty of 24 June 1994 was published in OJ No C 241 of 29 August 1994.

seas. Nevertheless, in respect of measures relating to the exercise of jurisdiction over vessels, flagging and registration of vessels and the enforcement of penal and administrative sanctions, competence rests with the member States while respecting Community law. Community law also provides for administrative sanctions.

- By virtue of its commercial and customs policy, the Community has competence in respect of those provisions of Parts X and XI of the Convention and of the Agreement of 28 July 1994 which are related to international trade.

2. Matters for which the Community shares competence with its member States

- With regard to fisheries, for a certain number of matters that are not directly related to the conservation and management of sea fishing resources, for example research and technological development and development cooperation, there is shared competence.

- With regard to the provisions on maritime transport, safety of shipping and the prevention of marine pollution contained, *inter alia*, in Parts II, III, V, VII and XII of the Convention, the Community has exclusive competence only to the extent that such provisions of the Convention or legal instruments adopted in implementation thereof affect common rules established by the Community. When Community rules exist but are not affected, in particular in cases of Community provisions establishing only minimum standards, the member States have competence, without prejudice to the competence of the Community to act in this field. Otherwise competence rests with the member States.

A list of relevant Community acts appears in the appendix. The extent of Community competence ensuing from these acts must be assessed by reference to the precise provisions of each measure, and in particular the extent to which these provisions establish common rules.

- With regard to the provisions of Parts XIII and XIV of the Convention, the Community's competence relates mainly to the promotion of cooperation on research and technological development with non-member countries and international organizations. The activities carried out by the Community here complement the activities of the member States. Competence in this instance is implemented by the adoption of the programmes listed in the appendix.

3. Possible impact of other Community policies

- Mention should also be made of the Community's policies and activities in the fields of control of unfair economic practices, government procurement and industrial competitiveness as well as in the area of development aid. These policies may also have some relevance to the Convention and the Agreement, in particular with regard to certain provisions of Parts VI and XI of the Convention.

APPENDIX

Community Acts which refer to matters governed by the Convention and the Agreement

In the maritime safety and prevention of marine pollution sectors

Council Decision of 25 February 1992 on radionavigation systems for Europe (92/143/EEC) (OJ No. L 59, 4.3.1992, p. 17)

Council Directive of 21 December 1978 concerning pilotage of vessels by deep sea pilots in the North Sea and English Channel (79/115/EEC) (OJ No. L 33, 8.2.1979, p. 32)

Council Directive of 13 September 1993 concerning minimum requirements for vessels bound for or leaving Community ports and carrying dangerous or polluting goods (93/75/EEC) (OJ No. L 247, 5.10.1993, p. 19)

Council Directive of 23 November 1993 concerning the minimum safety and health requirements for work on board fishing vessels (thirteenth individual Directive within the meaning of article 16(1) of Directive 89/391/EEC) (93/103/EC) (OJ No. L 307, 13.12.1993, p. 1)

Council Directive of 22 November 1994 on common rules and standards for ship inspection and survey organizations and for the relevant activities of maritime administrations (Classification Societies Directive) (94/57/EC) (OJ No. L 319, 12.12.1994, p. 20)

Council Directive of 22 November 1994 on the minimum level of training of seafarers (94/58/EC) (OJ No. L 319, 12.12.1994, p. 28)

Council Directive of 19 June 1995 concerning the enforcement, in respect of shipping using Community ports and sailing in the waters under the jurisdiction of the member States, of international standards for ship safety, pollution prevention and shipboard living and working conditions (port State control) (95/21/EC) (OJ No. L 157, 7.7.1995, p. 1)

Council Directive of 20 December 1996 on marine equipment (96/98/EC) (OJ No. L 46, 17.2.1997, p. 25)

Council Regulation of 4 March 1991 on the transfer of ships from one register to another within the Community (91/613/EEC) (OJ No. L 68, 15.3.1991, p.1) and Commission Regulation of 28 July 1993 concerning the application of amendments to the International Convention for the Safety of Life at Sea, 1974, and to the International Convention for the Prevention of Pollution from Ships, 1973, for the purpose of Council Regulation (EEC) No. 613/91 (2158/93/EEC) (OJ No. L 194, 3.8.1993, p. 5)

Council Regulation of 21 November 1994 on the implementation of IMO resolution A.747(18) on the application of tonnage measurement of ballast spaces in segregated ballast oil tankers (2978/94/EEC) (OJ No. L 319, 12.12.1994, p. 1)

Council Regulation of 8 December 1995 on the safety management of roll-on/roll-off passenger ferries (ro-ro ferries) (3051/95/EEC) (OJ No. L 320, 30.12.1995, p. 14)

*In the field of protection and preservation of the marine environment
Part XII of the Convention*

Council Decision of 3 December 1981 establishing a Community information system for the control and reduction of pollution caused by hydrocarbons discharged at sea (81/971/EEC) (OJ No. L 355, 10.12.1981, p. 52)

Council Decision of 6 March 1986 establishing a Community information system for the control and reduction of pollution caused by the spillage of hydrocarbons and other harmful substances at sea (86/85/EEC) (OJ No. L 77, 22.3.1986, p. 33)

Council Directive of 16 June 1975 on the disposal of waste oils (75/439/EEC) (OJ No. L 194, 25.7.1975, p. 23)

Council Directive of 15 July 1975 on waste (75/442/EEC) (OJ No. L 194, 25.7.1975, p. 39)

Council Directive of 8 December 1975 concerning the quality of bathing water (76/160/EEC) (OJ No. L 31, 5.2.1976, p. 1)

Council Directive of 4 May 1976 on pollution caused by certain dangerous substances discharged into the aquatic environment of the Community (76/464/EEC) (OJ No. L 129, 18.5.1976, p. 23)

Council Directive of 20 February 1978 on wastes from the titanium dioxide industry (78/176/EEC) (OJ No. L 54, 25.2.1978, p. 19)

Council Directive of 30 October 1979 on the quality required of shellfish waters (79/923/EEC) (OJ No. L 281, 10.11.1979, p. 47)

Council Directive of 15 July 1980 on air quality limit values and guide values for sulphur dioxide and suspended particulates (80/779/EEC) (OJ No. L 229, 30.8.1980, p. 30)

Council Directive of 22 March 1982 on limit values and quality objectives for mercury discharges by the chlor-alkali electrolysis industry (82/176/EEC) (OJ No. L 81, 27.3.1982, p. 29)

Council Directive of 24 June 1982 on the major-accident hazards of certain industrial activities (82/501/EEC) (OJ No. L 230, 5.8.1982, p. 1)

Council Directive of 3 December 1982 on procedures for the surveillance and monitoring of environments concerned by waste from the titanium dioxide industry (82/883/EEC) (OJ No. L 378, 31.12.1982, p. 1)

Council Directive of 3 December 1982 on limit value for lead in the air (82/884/EEC) (OJ No. L 378, 31.12.1982, p. 15)

Council Directive of 26 September 1983 on limit values and quality objectives for cadmium discharges (83/513/EEC) (OJ No. L 291, 24.10.1983, p. 1)

Council Directive of 8 March 1984 on limit values and quality objectives for mercury discharges by sectors other than the chlor-alkali electrolysis industry (84/156/EEC) (OJ No. L 74, 17.3.1984, p. 49)

Council Directive of 28 June 1984 on the combating of air pollution from industrial plants (84/360/EEC) (OJ No. L 188, 16.7.1984, p. 20)

Council Directive of 9 October 1984 on limit values and quality objectives for discharges of hexachlorocyclohexane (84/491/EEC) (OJ No. L 274, 17.10.1984, p. 11)

Council Directive of 7 March 1985 on air quality standards for nitrogen dioxide (85/203/EEC) (OJ No. L 87, 27.3.1985, p. 1)

Council Directive of 27 June 1985 on the assessment of the effects of certain public and private projects on the environment (85/337/EEC) (OJ No. L 175, 5.7.1985, p. 40)

Council Directive of 12 June 1986 on limit values and quality objectives for discharges of certain dangerous substances included in List 1 of the annex to Directive 76/464/EEC (86/280/EEC) (OJ No. L 181, 4.7.1986, p. 16)

Council Directive of 24 November 1988 on the limitation of emissions of certain pollutants into the air from large combustion plants (88/609/EEC) (OJ No. L 336, 7.12.1988, p. 1)

Council Directive of 8 June 1989 on the prevention of air pollution from new municipal waste incineration plants (89/369/EEC) (OJ No. L 163, 14.6.1989, p. 32)

Council Directive of 21 June 1989 on the reduction of air pollution from existing municipal waste incineration plants (89/429/EEC) (OJ No. L 203, 15.7.1989, p. 50)

Council Directive of 21 May 1991 concerning urban waste water treatment (91/271/EEC) (OJ No. L 135, 30.5.1991, p. 40)

Council Directive of 12 December 1991 concerning the protection of waters against pollution caused by nitrates from agricultural sources (91/676/EEC) (OJ No. L 375, 31.12.1991, p. 1)

Council Directive of 12 December 1991 on hazardous waste (91/689/EEC) (OJ No. L 377, 31.12.1991, p. 20)

Council Directive of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora (92/43/EEC) (OJ No. L 206, 22.7.1992, p. 7)

Council Directive of 15 December 1992 on procedures for harmonizing the programmes for the reduction and eventual elimination of pollution caused by waste from the titanium dioxide industry (92/112/EEC) (OJ No. L 409, 31.12.1992, p. 11)

Council Directive of 16 December 1994 on the incineration of hazardous waste (94/67/EEC) (OJ No. L 365, 31.12.1994, p. 34)

Council Regulation of 1 February 1993 on the supervision and control of shipments of waste within, into and out of the European Community (259/93/EEC) (OJ No. L 30, 6.2.1993, p. 1)

In the marine environment research and scientific and technological cooperation sector

Marine Science and Technology Programme
Environment and Climate Programme

Cooperation with third countries and international organizations: Scientific and technological cooperation with developing countries Programme (INCO-DC)

Conventions to which the Community is a party

Convention for the prevention of marine pollution from land-based sources, Paris, 4 June 1974 (Council decision 75/437/EEC of 3 March 1975, published in OJ No. L 194, 25.7.1975, p. 5)

Protocol amending the Convention for the prevention of marine pollution from land-based sources, Paris, 26 March 1986 (Council decision 87/57/EEC of 28 December 1986, published in OJ No. L 24, 27.1.1987, p. 47)

Protocol for the protection of the Mediterranean Sea against pollution from land-based sources, Athens, 17 May 1980 (Council decision 83/101/EEC of 28 February 1983, published in OJ No. L 67, 12.3.1983, p.1)

Convention for the protection of the Mediterranean Sea against pollution and the Protocol for the prevention of the pollution of the Mediterranean Sea by dumping from ships and aircraft, Barcelona, 16 February 1976 (Council decision 77/585/EEC of 25 July 1977, published in OJ No. L 240, 19.9.1977, p. 1)

Protocol concerning cooperation in combating pollution of the Mediterranean Sea by oil and other harmful substances in cases of emergency, Barcelona, 16 February 1976 (Council decision 81/420/EEC of 19 May 1981, published in OJ No. L 162, 19.6 1981, p. 4)

Convention on long-range transboundary air pollution, Geneva, 13 November 1979 (Council decision 81/462/EEC of 11 June 1981, published in OJ No. L 171, 27.6.1981, p. 11)

Protocol of 23 April 1982 concerning Mediterranean specially protected areas, Geneva, 3 April 1982, (Council decision 84/132/EEC of 1 March 1984, published in OJ No. L 68, 10.3.1984, p. 36)

Agreement for cooperation in dealing with pollution of the North Sea by oil and other harmful substances, Bonn, 13 September 1983 (Council decision 84/358/EEC of 28 June 1984, published in OJ No. L 188, 16.7. 1984, p. 7)

Cooperation agreement for the protection of the coasts and waters of the north-east Atlantic against pollution, Lisbon, 17 October 1990 (Council decision 93/550/EEC of 20 October 1993, published in OJ No. L 267, 28.10.1993, p. 20)

Basel Convention on the control of transboundary movements of hazardous wastes and their disposal, signed at Basel on 22 March 1989 (Council decision 93/98/EEC of 1 February 1993, published in OJ No. L 39, 16.2.1993, p. 1)


B. Status of the Agreement relating to the implementation of Part XI of the Convention, adopted by the General Assembly of the United Nations on 28 July 1994


1. Alphabetical list of States having consented to be bound by the Agreement, as at 31 August 1998


Algeria	Germany	Netherlands
Argentina	Greece	New Zealand
Australia	Guatemala	Nigeria
Austria	Guinea	Norway
Bahamas	Haiti	Oman
Barbados	Iceland	Pakistan
Belize	India	Palau
Benin	Ireland	Panama
Bolivia	Italy	Papua New Guinea
Brunei Darussalam	Jamaica	Paraguay
Bulgaria	Japan	Philippines
Chile	Jordan	Portugal
China	Kenya	Republic of Korea
Cook Islands	Lao People's Democratic Republic	Romania
Côte d'Ivoire	Lebanon	Russian Federation
Croatia	Malaysia	Samoa
Cyprus	Malta	Saudi Arabia
Czech Republic	Mauritania	Senegal
Equatorial Guinea	Mauritius	Seychelles
European Community	Micronesia (Federated States of)	Sierra Leone
Fiji	Monaco	Singapore
Finland	Mongolia	Slovakia
France	Mozambique	Slovenia
Gabon	Myanmar	Solomon Islands
Georgia	Namibia	South Africa
Grenada	Nauru	Spain


Sri Lanka	Trinidad and Tobago	The former Yugoslav Republic of Macedonia
Suriname	Uganda	Zambia
Sweden	United Kingdom	Zimbabwe
Togo	United Republic of Tanzania	
Tonga	Yugoslavia	


2. Table recapitulating the status of the Convention and of the Agreement, as at 31 August 1998


 DOALOS/OLA United Nations	United Nations Convention on the Law of the Sea		Agreement relating to the implementation of Part XI of the Convention		
	Signature (with ♦ / without ◊ declaration)	Signature			
State or entity	Date of ratification; formal confirmation (fc); accession (a); succession (s); (♦ decla-ation)	Ratification; formal confirmation (fc); accession (a); definitive signature(ds); participation (p)			Provisional membership ¹ in the International Seabed Authority until
Afghanistan	◊				
Albania					
Algeria	♦	11 June 1996	✓	11 June 1996 (p) ²	
Andorra					
Angola	♦	5 December 1990			
Antigua and Barbuda	◊	2 February 1989			
Argentina	♦	1 December 1995	✓	1 December 1995	
Armenia					
Australia	◊	5 October 1994	✓	5 October 1994	
Austria	◊	14 July 1995	✓	14 July 1995	
Azerbaijan					
Bahamas	◊	29 July 1983	✓	28 July 1995 ³	
Bahrain	◊	30 May 1985			
Bangladesh	◊				16 November 1998 ⁴
Barbados	◊	12 October 1993	✓	28 July 1995 ^{3/}	
Belarus	♦				16 November 1998 ⁵
Belgium	♦		✓		16 November 1998 ^{4/}
Belize	◊	13 August 1983		21 October 1994 (ds)	
Benin	◊	16 October 1997		16 October 1997 (p) ^{2/}	
Bhutan	◊				


 DOALOS/OLA United Nations	United Nations Convention on the Law of the Sea		Agreement relating to the implementation of Part XI of the Convention	
	Signature (with ♦ / without ◊ declaration)	Signature		Provisional membership ¹ in the International Seabed Authority until
State or entity		Date of ratification; formal confirmation (fc); accession (a); succession (s); (♦ declaration)		Ratification; formal confirmation (fc); accession (a); definitive signature(ds); participation (p)
Bolivia	♦	28 April 1995		28 April 1995 (p)2/
Bosnia and Herzegovina		12 January 1994 (s)		
Botswana	◊	2 May 1990		
Brazil	♦	22 December 1988	✓	
Brunei Darussalam	◊	5 November 1996		5 November 1996 (p)2/
Bulgaria	◊	15 May 1996		15 May 1996 (a)
Burkina Faso	◊		✓	
Burundi	◊			
Cambodia	◊			
Cameroon	◊	19 November 1985	✓	
Canada	◊		✓	16 November 1998 4/
Cape Verde	♦	10 August 1987	✓	
Central African Republic	◊			
Chad	◊			
Chile	♦	25 August 1997		25 August 1997 (a)
China	◊	7 June 1996	✓	7 June 1996 (p)2/
Colombia	◊			
Comoros	◊	21 June 1994		
Congo	◊			
<i>Cook Islands</i> ⁶	◊	15 February 1995		15 February 1995 (a)


 DOALOS/OLA United Nations	United Nations Convention on the Law of the Sea		Agreement relating to the implementation of Part XI of the Convention		
	Signature (with ♦ / without ◊ declaration)	Signature			Provisional membership ¹ in the International Seabed Authority until
State or entity	Date of ratification; formal confirmation (fc); accession (a); succession (s); (♦ declaration)	Ratification; formal confirmation (fc); accession (a); definitive signature(ds); participation (p)			
Costa Rica	♦	21 September 1992			
Côte d'Ivoire	◊	26 March 1984	✓	28 July 1995 3/	
Croatia		15 April 1995 (s)		5 April 1995 (p)2/	
Cuba	♦	15 August 1984			
Cyprus	◊	12 December 1988	✓	27 July 1995	
Czech Republic	◊	21 June 1996	✓	21 June 1996	
Democratic People's Republic of Korea	◊				
Democratic Republic of the Congo	◊	17 February 1989			
Denmark	◊		✓		
Djibouti	◊	8 October 1991			
Dominica	◊	24 October 1991			
Dominican Republic	◊				
Ecuador					
Egypt	◊	26 August 1983	✓		
El Salvador	◊				
Equatorial Guinea	◊	21 July 1997		21 July 1997 (p)2/	
Eritrea					
Estonia					
Ethiopia	◊				
European Community	♦	1 April 1998 (fc)	✓	1 April 1998 (fc)	


 DOALOS/OLA United Nations	United Nations Convention on the Law of the Sea		Agreement relating to the implementation of Part XI of the Convention		
	State or entity	Signature (with ♦ / without ◊ declaration)	Date of ratification; formal confirmation (fc); accession (a); succession (s); (♦ declaration)	Signature	Ratification; formal confirmation (fc); accession (a); definitive signature(ds); participation (p)
Fiji		◊		10 December 1982	
Finland	♦	21 June 1996	✓	21 June 1996	
France	♦	11 April 1996	✓	11 April 1996	
Gabon	◊	11 March 1998	✓	11 March 1998 (p)2/	
Gambia	◊	22 May 1984			
Georgia		21 March 1996 (a)		21 March 1996 (p)2/	
Germany		14 October 1994 (a)	✓	14 October 1994	
Ghana	◊	7 June 1983			
Greece	♦	21 July 1995	✓	21 July 1995	
Grenada	◊	25 April 1991	✓	28 July 1995 3/	
Guatemala	◊	11 February 1997		11 February 1997 (p)2/	
Guinea	♦	6 September 1985	✓	28 July 1995 3/	
Guinea-Bissau	◊	25 August 1986			
Guyana	◊	16 November 1993			
Haiti	◊	31 July 1996		31 July 1996 (p)2/	
<i>Holy See</i> 6/					
Honduras	◊	5 October 1993			
Hungary	◊				
Iceland	◊	21 June 1985	✓	28 July 1995 3/	
India	◊	29 June 1995	✓	29 June 1995	
Indonesia	◊	3 February 1986	✓		


 DOALOS/OLA United Nations	United Nations Convention on the Law of the Sea		Agreement relating to the implementation of Part XI of the Convention		
	Signature (with ♦ / without ◊ declaration)	Signature			Provisional membership ¹ in the International Seabed Authority until
State or entity	Date of ratification; formal confirmation (fc); accession (a); succession (s); (♦ declaration)	Ratification; formal confirmation (fc); accession (a); definitive signature(ds); participation (p)			
Iran (Islamic Republic of)	♦				
Iraq	♦	30 July 1985			
Ireland	◊	21 June 1996	✓	21 June 1996	
Israel					
Italy	♦	13 January 1995	✓	13 January 1995	
Jamaica	◊	21 March 1983	✓	28 July 1995 ^{3/}	
Japan	◊	20 June 1996	✓	20 June 1996	
Jordan		27 November 1995 (a)		27 November 1995 (p) ^{2/}	
Kazakhstan					
Kenya	◊	2 March 1989		29 July 1994 (ds)	
<i>Kiribati</i> ^{6/}					
Kuwait	◊	2 May 1986			
Kyrgyzstan					
Lao People's Democratic Republic	◊	5 June 1998	✓	5 June 1998 (p) ^{2/}	
Latvia					
Lebanon	◊	5 January 1995		5 January 1995 (p) ^{2/}	
Lesotho	◊				
Liberia	◊				
Libyan Arab Jamahiriya	◊				

 DOALOS/OLA United Nations	United Nations Convention on the Law of the Sea		Agreement relating to the implementation of Part XI of the Convention		
	Signature (with ♦ / without ◊ declaration)	Date of ratification; formal confirmation (fc); accession (a); succession (s); (◊ declaration)	Signature	Ratification; formal confirmation (fc); accession (a); definitive signature(ds); participation (p)	Provisional membership ¹ in the International Seabed Authority until
State or entity					
Liechtenstein	◊				
Lithuania					
Luxembourg	♦		✓		
Madagascar	◊				
Malawi	◊				
Malaysia	◊	14 October 1996	✓	14 October 1996 (p)2/	
Maldives	◊		✓		
Mali	♦	16 July 1985			
Malta	◊	20 May 1993	✓	26 June 1996	
Marshall Islands		9 August 1991 (a)			
Mauritania	◊	17 July 1996	✓	17 July 1996 (p)2/	
Mauritius	◊	4 November 1994		4 November 1994 (p)2/	
Mexico	◊	18 March 1983			
Micronesia (Federated States of)		29 April 1991 (a)	✓	6 September 1995	
Monaco	◊	20 March 1996	✓	20 March 1996 (p)2/	
Mongolia	◊	13 August 1996	✓	13 August 1996 (p)2/	
Morocco	◊		✓		
Mozambique	◊	13 March 1997		13 March 1997 (a)	
Myanmar	◊	21 May 1996		21 May 1996 (a)	
Namibia	◊	18 April 1983	✓	28 July 1995 3/	

 DOALOS/OLA United Nations	United Nations Convention on the Law of the Sea		Agreement relating to the implementation of Part XI of the Convention		
	Signature (with ♦ / without ◊ declaration)	Signature	Provisional membership ¹ in the International Seabed Authority until		
State or entity	Date of ratification; formal confirmation (fc); accession (a); succession (s); (♦ declaration)	Ratification; formal confirmation (fc); accession (a); definitive signature(ds); participation (p)			
Nauru 6/	◊	23 January 1996		23 January 1996 (p)2/	
Nepal	◊				16 November 1998 4/
Netherlands	◊	28 June 1996	✓	28 June 1996	
New Zealand	◊	19 July 1996	✓	19 July 1996	
Nicaragua	♦				
Niger	◊				
Nigeria	◊	14 August 1986	✓	28 July 1995 3/	
Niue 6/	◊				
Norway	◊	24 June 1996		24 June 1996 (a)	
Oman	♦	17 August 1989		26 February 1997 (a)	
Pakistan	◊	26 February 1997	✓	26 February 1997 (p)2/	
Palau		30 September 1996 (a)		30 September 1996 (p)2/	
Panama	◊	1 July 1996		1 July 1996 (p)2/	
Papua New Guinea	◊	14 January 1997		14 January 1997 (p)2/	
Paraguay	◊	26 September 1986	✓	10 July 1995	
Peru					
Philippines	♦	8 May 1984	✓	23 July 1997	
Poland	◊		✓		16 November 1998 4/
Portugal	◊	3 November 1997	✓	3 November 1997	
Qatar	♦				16 November 1998 5/
Republic of Korea	◊	29 January 1996	✓	29 January 1996	

 DOALOS/OLA United Nations	United Nations Convention on the Law of the Sea		Agreement relating to the implementation of Part XI of the Convention		
	Signature (with ♦ / without ◊ declaration)	Signature			Provisional membership ¹ in the International Seabed Authority until
State or entity		Date of ratification; formal confirmation (fc); accession (a); succession (s); (◊ declaration)		Ratification; formal confirmation (fc); accession (a); definitive signature(ds); participation (p)	
Republic of Moldova					
Romania	♦	17 December 1996		17 December 1996 (a)	
Russian Federation	♦	12 March 1997		12 March 1997 (a)	
Rwanda	◊				
Saint Kitts and Nevis	◊	7 January 1993			
Saint Lucia	◊	27 March 1985			
Saint Vincent and the Grenadines	◊	1 October 1993			
Samoa	◊	14 August 1995	✓	14 August 1995 (p)2/	
San Marino					
Sao Tome and Principe	♦	3 November 1987			
Saudi Arabia	◊	24 April 1996		24 April 1996 (p)2/	
Senegal	◊	25 October 1984	✓	25 July 1995	
Seychelles	◊	16 September 1991	✓	15 December 1994	
Sierra Leone	◊	12 December 1994		12 December 1994 (p)2/	
Singapore	◊	17 November 1994		17 November 1994 (p)2/	
Slovakia	◊	8 May 1996	✓	8 May 1996	
Slovenia		16 June 1995 (s)	✓	16 June 1995	
Solomon Islands	◊	23 June 1997		23 June 1997 (p)2/	
Somalia	◊	24 July 1989			

 DOALOS/OLA United Nations	United Nations Convention on the Law of the Sea		Agreement relating to the implementation of Part XI of the Convention		
	Signature (with ♦ / without ◊ declaration)	Signature	Provisional membership ¹ in the International Seabed Authority until		
State or entity	Date of ratification; formal confirmation (f.); accession (a); succession (s); (♦ declaration)	Ratification; formal confirmation (fc); accession (a); definitive signature(ds); participation (p)			
South Africa	♦	23 December 1997	✓	23 December 1997	
Spain	♦	15 January 1997	✓	15 January 1997	
Sri Lanka	◊	19 July 1994	✓	28 July 1995 3/	
Sudan	♦	23 January 1985	✓		
Suriname	◊	9 July 1998		9 July 1998 (p)2/	
Swaziland	◊		✓		
Sweden	♦	25 June 1996	✓	25 June 1996	
Switzerland 6/	◊		✓		16 November 1998 4/
Syrian Arab Republic					
Tajikistan					
Thailand	◊				
The former Yugoslav Republic of Macedonia		19 August 1994 (s)		19 August 1994 (p)2/	
Togo	◊	16 April 1985	✓	28 July 1995 3/	
Tonga 6/		2 August 1995 (a)		2 August 1995 (p)2/	
Trinidad and Tobago	◊	25 April 1986	✓	28 July 1995 3/	
Tunisia	◊	24 April 1985	✓		
Turkey					
Turkmenistan					
Tuvalu 6/	◊				
Uganda	◊	9 November 1990	✓	28 July 1995 3/	

 DOALOS/OLA United Nations	United Nations Convention on the Law of the Sea		Agreement relating to the implementation of Part XI of the Convention		
	Signature (with ♦ / without ◊ declaration)	Signature	Date of ratification; formal confirmation (fc); accession (a); succession (s); (♦ declaration)	Ratification; formal confirmation (fc); accession (a); definitive signature(ds); participation (p)	Provisional membership ¹ in the International Seabed Authority until
State or entity					
Ukraine	♦	✓			16 November 1998 <u>4/</u>
United Arab Emirates	◊				16 November 1998 <u>4/</u>
United Kingdom		✓	25 July 1997 (a)	25 July 1997	
United Republic of Tanzania	◊	✓	30 September 1985	25 June 1998	
United States of America		✓			16 November 1998 <u>4/</u>
Uruguay	♦	✓	10 December 1992		
Uzbekistan					
Vanuatu	◊	✓			
Venezuela					
Viet Nam	◊		25 July 1994		
Yemen	♦		21 July 1987		
Yugoslavia	◊	✓	5 May 1986	28 July 1995 <u>3/</u>	
Zambia	◊	✓	7 March 1983	28 July 1995 <u>3/</u>	
Zimbabwe	◊	✓	24 February 1993	28 July 1995 <u>3/</u>	
TOTALS	158		127	79	91
					11

NOTES

1. In accordance with article 6, paragraph 1, the Agreement entered into force on 28 July 1996. On the same date, in accordance with its article 7, paragraph 3, the provisional application of the Agreement terminated. In accordance with the provisions of section 1, paragraph 12 (a), of the Annex to the Agreement, States and entities referred to in article 3 of the Agreement which had been applying it provisionally and for which it was not in force were able to continue to be members of the Authority on a provisional basis, pending its entry into force for such States and entities, by sending a written notification to the depositary to that effect. The following States and entity made such notification: Bangladesh, Belgium, Cambodia, Canada, Chile, Congo, *European Community*, Gabon, Lao People's Democratic Republic, Luxembourg, Malaysia, Nepal, New Zealand, Papua New Guinea, Poland, Russian Federation, South Africa, Suriname, Switzerland, Ukraine, United Arab Emirates, United Kingdom of Great Britain and Northern Ireland and the United States of America.

Paragraph 12(a) also provides that such membership shall terminate either on 16 November 1996 or upon the entry into force of the Agreement and the Convention for such member, whichever is earlier. Furthermore, it has empowered the Council to extend, upon the request of the State or entity concerned, such membership beyond 16 November 1996 for a further period or periods not exceeding a total of two years provided that the Council is satisfied that the State or entity concerned has been making efforts in good faith to become a party to the Agreement and the Convention.

At the second (resumed), third and fourth sessions of the International Seabed Authority, held at Kingston, Jamaica, in August 1996, March 1997 and March 1998, respectively, the Council of the Authority approved requests for the extension of membership on a provisional basis of the following States: Bangladesh, Belarus, Belgium, Canada, Chile, *European Community*, Gabon, Lao People's Democratic Republic, Mozambique, Nepal, Poland, Qatar, Russian Federation, Solomon Islands, South Africa, Switzerland, Ukraine, United Arab Emirates, United Kingdom of Great Britain and Northern Ireland and United States of America (see documents ISBA/C/9; ISBA/3/C/3; ISBA/3/C/11; and Press-Release SEA/1574). The following States and entities became or are in the process of becoming States Parties and, consequently, full members of the Authority: Chile, Gabon (10 April 1998), *European Community* (1 May 1998), Mozambique, Russian Federation, Solomon Islands, South Africa and the United Kingdom of Great Britain and Northern Ireland.

2. State bound by the Agreement by having ratified, acceded or succeeded to the Convention under article 4, paragraph 1, of the Agreement.
3. State bound by the Agreement under the simplified procedure set out in article 5 of the Agreement.
4. States and entities which continue to be members of the Authority on a provisional basis after 16 November 1996, as decided by the Council of the Authority, in accordance with section 1, paragraph 12(a), of the Annex to the Agreement (see note 1).
5. States which have not notified the depositary in accordance with section 1, paragraph 12(a), of the Annex to the Agreement (see note 1) but are considered to be members of the Authority on a provisional basis after 16 November 1996, as decided by the Council of the Authority on 18 March 1997.
6. Non-member State of the United Nations.

C. Status of the Agreement for the implementation of the provisions of the Convention relating to the conservation and management of straddling fish stocks and highly migratory fish stocks, adopted by the United Nations Conference on Straddling Fish Stocks and Highly Migratory Fish Stocks on 4 August 1995

Status of the Agreement as at 31 August 1998

State or entity ¹	Signature of the Agreement ²	Provisional application as of	Ratification; ³ accession ^(a)
Afghanistan			
Albania			
Algeria ♦			
Andorra			
Angola ♦			
Antigua and Barbuda ♦			
Argentina ♦	4 December 1995		
Armenia			
Australia ♦	4 December 1995		
Austria ♦	27 June 1996		
Azerbaijan			
Bahamas ♦			16 January 1997 ^(a)
Bahrain ♦			
Bangladesh	4 December 1995		
Barbados ♦			
Belarus			
Belgium	3 October 1996		
Belize ♦	4 December 1995		
Benin			
Bhutan			
Bolivia ♦			
Bosnia and Herzegovina ♦			

State or entity ¹	Signature of the Agreement ²	Provisional application as of	Ratification; ³ accession ^(a)
Botswana ♦			
Brazil ♦	4 December 1995		
Brunei Darussalam ♦			
Bulgaria ♦			
Burkina Faso	15 October 1996		
Burundi			
Cambodia			
Cameroon ♦			
Canada	4 December 1995		
Cape Verde ♦			
Central African Republic			
Chad			
Chile			
China ♦	6 November 1996		
Colombia			
Comoros ♦			
Congo			
Cook Islands ⁴ ♦			
Costa Rica ♦			
Côte d'Ivoire ♦	24 January 1996		
Croatia ♦			
Cuba ♦			
Cyprus ♦			
Czech Republic ♦			
Democratic People's Republic of Korea			
Denmark	27 June 1996		

State or entity ¹	Signature of the Agreement ²	Provisional application as of	Ratification; ³ accession ^(a)
Djibouti ♦			
Dominica ♦			
Dominican Republic			
Ecuador			
Egypt ♦	5 December 1995		
El Salvador			
Equatorial Guinea			
Eritrea			
Estonia			
Ethiopia			
<i>European Community</i>	27 June 1996		
Fiji ♦	4 December 1995		12 December 1996
Finland ♦	27 June 1996		
France ♦	4 December 1996		
Gabon	7 October 1996		
Gambia ♦			
Georgia ♦			
Germany ♦	28 August 1996		
Ghana ♦			
Greece ♦	27 June 1996		
Grenada ♦			
Guatemala ♦			
Guinea ♦			
Guinea-Bissau ♦	4 December 1995		
Guyana ♦			
Haiti ♦			
Holy See ♦			

State or <i>entity</i> ¹	Signature of the Agreement ²	Provisional application as of	Ratification; ³ accession ⁽⁴⁾
Honduras ♦			
Hungary			
Iceland ♦	4 December 1995		14 February 1997
India ♦			
Indonesia ♦	4 December 1995		
Iran (Islamic Republic of)			
Iraq ♦			
Ireland ♦	27 June 1996		
Israel	4 December 1995		
Italy ♦	27 June 1996		
Jamaica ♦	4 December 1995		
Japan ♦	19 November 1996		
Jordan ♦			
Kazakhstan			
Kenya ♦			
Kiribati ^{4/}			
Kuwait ♦			
Kyrgyzstan			
Lao People's Democratic Republic			
Latvia			
Lebanon ♦			
Lesotho			
Liberia			
Libyan Arab Jamahiriya			
Liechtenstein			
Lithuania			

State or entity ¹	Signature of the Agreement ²	Provisional application as of	Ratification; ³ accession ^(a)
Luxembourg	27 June 1996		
Madagascar			
Malawi			
Malaysia ♦			
Maldives	8 October 1996		
Mali ♦			
Malta ♦			
Marshall Islands ♦	4 December 1995		
Mauritania ♦	21 December 1995		
Mauritius ♦			25 March 1997 ^(a)
Mexico ♦			
Micronesia (Federated States of) ♦	4 December 1995		23 May 1997
Monaco ♦			
Mongolia ♦			
Morocco	4 December 1995		
Mozambique ♦			
Myanmar ♦			
Namibia ♦	19 April 1996		
Nauru ^{d/} ♦			10 January 1997 ^(a)
Nepal			
Netherlands ♦	28 June 1996		
New Zealand ♦	4 December 1995		
Nicaragua			
Niger			
Nigeria ♦			
Niue ^{d/}	4 December 1995		

State or <i>entity</i> ¹	Signature of the Agreement ²	Provisional application as of	Ratification; ³ accession ^(a)
Norway ♦	4 December 1995		30 December 1996
Oman ♦			
Pakistan ♦	15 February 1996		
Palau ♦			
Panama ♦			
Papua New Guinea	4 December 1995		
Paraguay ♦			
Peru			
Philippines ♦	30 August 1996		
Poland			
Portugal	27 June 1996		
Qatar			
Republic of Korea ♦	26 November 1996		
Republic of Moldova			
Romania ♦			
Russian Federation ♦	4 December 1995		4 August 1997
Rwanda			
Saint Kitts and Nevis ♦			
Saint Lucia ♦	12 December 1995		9 August 1996
Saint Vincent and the Grenadines ♦			
Samoa ♦	4 December 1995		25 October 1996
San Marino			
Sao Tome and Principe ♦			
Saudi Arabia ♦			
Senegal ♦	4 December 1995		30 January 1997
Seychelles ♦	4 December 1996		

State or entity ¹	Signature of the Agreement ²	Provisional application as of	Ratification; ³ accession ^(a)
Sierra Leone ♦			
Singapore ♦			
Slovakia ♦			
Slovenia ♦			
Solomon Islands			13 February 1997
Somalia ♦			
South Africa			
Spain ♦	3 December 1996		
Sri Lanka ♦	9 October 1996		24 October 1996
Sudan ♦			
Suriname			
Swaziland			
Sweden ♦	27 June 1996		
Switzerland *			
Syrian Arab Republic			
Tajikistan			
Thailand			
The former Yugoslav Republic of Macedonia ♦			
Togo ♦			
Tonga ⁴ ♦	4 December 1995		31 July 1996
Trinidad and Tobago ♦			
Tunisia ♦			
Turkey			
Turkmenistan			
Tuvalu ⁴			
Uganda ♦	10 October 1996		

State or <i>entity</i> ¹	Signature of the Agreement ²	Provisional application as of	Ratification; ³ accession ⁽⁴⁾
Ukraine	4 December 1995		
United Arab Emirates			
United Kingdom	27 June 1996		
United Republic of Tanzania ♦			
United States of America	4 December 1995		21 August 1996
Uruguay ♦	16 January 1996		
Uzbekistan			
Vanuatu	23 July 1996		
Venezuela			
Viet Nam ♦			
Yemen ♦			
Yugoslavia ♦			
Zaire ♦			
Zambia ♦			
Zimbabwe ♦			
TOTALS:	59		15

NOTES

1. ♦ States or *entities* which are Parties to the United Nations Convention on the Law of the Sea of 10 December 1982.
- ◻ Land-locked States.
2. In accordance with its article 37, the Agreement was opened for signature at United Nations Headquarters from 4 December 1995 until 4 December 1996 by all States and the other entities referred to in article 305 (1) (a), (c), (d), (e) and (f) of the United Nations Convention on the Law of the Sea of 10 December 1982.
3. In accordance with its article 40, the Agreement shall enter into force 30 days after the date of deposit of the thirtieth instrument of ratification or accession.
4. Non-member State of the United Nations.

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

A. Recent national legislation received from Governments

1. Niue

Territorial Sea and Exclusive Economic Zone Act 1996

AN ACT to make provision with respect to the territorial sea of Niue to establish an exclusive economic zone for Niue adjacent to the territorial sea, and in the exercise of the sovereign rights of Niue to make provision for the exploration and exploitation, and conservation and management, of the resources of the zone; and related matters.

BE IT ENACTED by the Niue Assembly, and by the authority of the same, as follows:

1. Short title and commencement

- (i) This Act may be cited as the Territorial Sea and Exclusive Economic Zone Act 1996;
- (ii) This Act comes into force on 7 April 1997.

2. Interpretation

In this Act, unless the context otherwise requires:

"Access agreement" means an agreement under section 22, and includes any other agreement or arrangement entered into under such an agreement,

"Authorized officer" means:

- (a) the Director; or
- (b) a fisheries officer; or
- (c) a police constable; or
- (d) a surveillance officer; or
- (e) a person appointed under section 38; or
- (f) a person or body referred to in section 24.

"Body corporate" means a body corporate resident on Niue Constitution;

"Cabinet" means the Cabinet of Ministers of Niue established by article 2 of the Niue Constitution Act 1974;

"Chief Officer of Police" means the officer in charge of the police in Niue;

"Commercial fishing" means taking fish for sale;

"Court" means any court of competent jurisdiction;

"Designated fishery" means any fishery designated in accordance with section 12;

"Director" means the Director of Agriculture, Forestry and Fisheries;

"Driftnet" means a gillnet or other net which is more than 2.5 kilometres in length, the purpose of which is to enmesh, entrap or entangle fish;

"Driftnet fishing" means fishing with a driftnet;

"Exclusive economic zone" and "zone" means the exclusive economic zone of Niue described in section 10 of this Act;

"Fish" means any aquatic plant or animal, whether piscine or not, and includes any oyster or other mollusc, crustacean (including uga), coral, sponge, holothurian (beche-de-mer), or other echinoderm, turtle and marine mammal, and includes their eggs, spawn, spat and juvenile stages;

"Fish processing" means the producing of any substance or article from fish by any method and includes the cutting up, dismembering, cleaning, sorting, loining, freezing, canning, salting and preserving of fish;

"Fish processing establishment" means a place (other than a licensed fishing craft) where fish are canned, dried, gutted, salted, iced, chilled, frozen or otherwise processed for sale on or outside Niue;

"Fishery" means one or more stocks of fish or any fishing operation based on those stocks which can be treated as a unit for the purposes of conservation and management.

"Fishery waters" means all:

- (a) the internal waters of Niue (including lagoons);
- (b) the territorial sea of Niue; and
- (c) the exclusive economic zone;

"Fishing" means activity that is either:

- (a) searching for, catching, taking or harvesting fish;
- (b) the attempted searching for, catching, taking or harvesting of fish;
- (c) engaging in any activity which can reasonably be expected to result in the locating, catching, taking or harvesting of fish;
- (d) placing, searching for or recovering any fish, aggregating device or associated equipment including radio beacons;
- (e) fish processing within the fishery waters;
- (f) transshipment within the fishery waters;
- (g) any operation at sea in support of or in preparation for any activity described in this paragraph;
- (h) the use of any fishing craft in relation to any activity described in this definition;
- (i) any related activity; or
- (j) the use of any vehicle, vessel or aircraft, for any activity described in this paragraph, except for emergencies involving the health or safety of crew members or the safety of the vessel;

"Fishing craft" means any vessel, aircraft, hovercraft, submersible craft or other craft, of whatever size, that is capable of being used for fishing but shall not include any vessel that is 5 metres or less in overall length;

"Fishing gear" means any equipment, implement, or other thing that can be used in the act of fishing, including any fishing net, rope, line, float, trap, hook, winch, fishing craft or vessel;

"Fisheries Officer" means a fisheries officer appointed by the Niue Public Service Commission and responsible to the Director;

"Foreshore" means all the land between the high-water line at mean-high-water spring tides and the low-water line at mean-low-water spring tides;

"Gazette" means any periodical printed publication circulating in Niue such as the "Niue Star";

"High Court" means the High Court of Niue as defined in article 37 of the Niue Constitution Act 1974;

"Highly migratory species" means species that, in the course of their life cycle, migrate over great distances of ocean;

"Low-water mark" has the meaning assigned thereto by section 8(1) of this Act;

"Master", in relation to any fishing craft, means the person for the time being having command or charge, or apparent command or charge of the craft;

"Median line" as between Niue and any other country, means a line every point of which is equidistant from the nearest points of the baseline of the territorial sea of Niue and the corresponding baseline of that other country;

"Minister" means the Minister of Agriculture, Forestry and Fisheries;

"Nautical mile" means the international nautical mile;

"Niuean" means:

- (a) a person belonging to the aboriginal race of Niue and includes a person descended from a Niuean; or
- (b) a person having the status of permanent resident as defined in the Entry, Residence and Departure Act 1985, and its Regulations and Amendments;

"Observer" means any person authorized to act as an observer pursuant to section 38 and includes any person who has any or all of the functions, powers and duties of an observer pursuant to an access agreement;

"Observer device" means any device or machine placed on a fishing craft in accordance with this Act or an access agreement, which transmits (whether in conjunction with other machines elsewhere or not) information or data concerning the position of fishing activities of the fishing craft;

"Operator" in relation to any fishing craft includes any body of persons, whether incorporated or not, by whom the craft is operated, and any owner, charterer, master, lessee or sub-lessee who exercises control over any of the fishing activities of the craft;

"Owner", in relation to a fishing craft, includes any person or body of persons whether incorporated or not, by whom the craft is owned, and any charterer, sub-charterer, lessee or sub-lessee.

"Prescribed" means prescribed by regulations made under this Act;

"Protected fish species" means the species of fish the Government of Niue recognizes as fish that are to be protected within Niue's Territorial and Exclusive Economic Sea Zone, such as:

- (i) Cetaceans; all species of whales identified within/under the three groups Right whale, Grey whale, and Rorquals;
- (ii) Cetaceans; all species of whales identified within/under the five groups Sperm whale, Beaked whale, Belugas whale, Narwhal, and Dolphin and Porpoise;
- (iii) All marine species of the Chelonia order, which includes all species of Turtle;
- (iv) Myliobatdidae; rays, all species; and
- (v) Lamniformes; sharks, all species; if caught, they must be released unharmed where caught;

"Regional Register" means the Regional Register of Foreign Fishing Vessels maintained by the South Pacific Forum Fisheries Agency at Honiara, Solomon Islands;

"Related activity" means doing anything in support of, or in preparation for, fishing operations, including doing, or attempting or preparing to do or having done any of the following:

- (a) transshipping fish; or
- (b) storing, processing or transporting fish at any time before the fish is or are brought on land; or
- (c) refuelling or supplying fishing craft; or
- (d) performing activities in support of fishing operations;

"Surveillance Officer" means any officer of a vessel or aircraft used for the enforcement of this Act, whether or not the officer is a Niuean and whether or not the vessel or aircraft is registered in Niue;

"Territorial sea" means that area of the sea defined in section 4 of this Act;

"Transshipment" means transferring any fish or fish product to or from one fishing craft to another;

"Vessel" means any boat, ship or other watergoing craft.

(2) The administration of this Act is under the control and direction of Cabinet, which may delegate, either generally or particularly, all or any of the powers conferred on it under this Act.

3. Reference to money amount

(1) A reference in this Act or the Regulations to any penalty or fee, the amount of which is specified, or to any other specified amount of money, is to be read as a reference to the specified amount in the currency of the United States of America.

(2) A reference in this Act or the Regulations to a penalty or fee, the amount of which is not specified, or to any other unspecified amount of money, is to be read as empowering the person or body authorized to specify the amount to do so in the currency of the United States of America.

PART I TERRITORIAL SEA

4. Territorial sea

The territorial sea of Niue comprises those areas of the sea having, as their inner limits, the baseline described in section 6 of this Act and, as their outer limits, a line measured seaward from that baseline, every point of which is distant 12 nautical miles from the nearest point of the baseline.

5. Internal waters

The internal waters of Niue include any areas of the sea that are on the landward side of the baseline of the territorial sea of Niue.

6. Baseline of territorial sea

The baseline from which the breadth of the territorial sea of Niue is measured shall be the low-water mark along the coast of Niue or where there is a coral reef along any part of the coast of Niue, the low-water mark along the outer edge of the coral reef.

7. Foreshore, bed of internal waters, and territorial sea vested in Crown

1. The seabed and subsoil of the submarine areas of the internal waters of Niue are, and are taken always to have been vested in the Crown.
2. The foreshore of Niue and ten metres inland from the foreshore and the seabed and subsoil of the territorial sea of Niue, are, and are taken always to have been vested in the Crown.

8. Official Chart

1. For the purposes of this Act, the low-water mark in a particular area is the line of low water at mean low-water spring tides as shown on the largest scale British Admiralty chart for the time being of that area.
2. In any proceedings in a court, a certificate purporting to be signed by an officer of the New Zealand Naval Forces authorized by the Secretary of Defence or a Deputy Secretary of Defence, stating that a specified chart of a specified area is the largest-scale British Admiralty Chart for the time being of that area is admissible as evidence of the matters stated in the certificate.

9. Permanent harbour works

For the purposes of this Act, permanent harbour works forming an integral part of a harbour system are taken to from part of the coast of Niue.

PART II
EXCLUSIVE ECONOMIC ZONE OF NIUE

10. Exclusive economic zone

1. The exclusive economic zone of Niue comprises those areas of the sea, seabed and subsoil that are beyond and adjacent to the territorial sea of Niue, having as their outer limits a line measured seaward from the baseline described in section 6, every point of which line is distant 200 nautical miles from the nearest point of the baseline.
2. Notwithstanding subsection 1 of this section, where any part of the median line between Niue and any other country is less than 200 nautical miles from the nearest part of the baseline of the territorial sea of Niue, that part of the median line shall be an outer limit of the zone.

PART III
APPLICATION

11. Application

1. This Act applies to every person, every fishing craft and every vessel, fishing within fishery waters;
2. No fishing craft shall be used for commercial fishing unless the craft is licensed in accordance with section 28 of this Act.

PART IV
FISHERIES MANAGEMENT AND DEVELOPMENT

12. Designated fisheries

If Cabinet thinks it is in the national interest to ensure the effective conservation or the efficient use of a fishery, it may, by notice in the Gazette, declare the fishery to be a designated fishery.

13. Management and development plans

1. The Director may direct a Fisheries Officer to prepare and implement a management and development plan for a designated fishery.
2. The management and development plan shall:
 - (a) identify the fishery to which it relates; and
 - (b) set out the objectives to be achieved by the plan; and
 - (c) specify the management measures to be adopted to achieve those objectives; and
 - (d) specify what protection is to be given to the habitat of the fishery; and
 - (e) specify the limits within which the fishery may be exploited; and
 - (f) specify what licensing requirements (if any) are to apply to anyone who wants to operate within a fishery; and
 - (g) specify what protection is to be given to any other designated fishery (whether by way of management measures, habitat protection, exploitation limits or licensing requirements) for the purpose of:
 - (i) ensuring the conservation of the fishery in accordance with its management and development plan; or
 - (ii) ensuring that the objectives set out in the management and development plan can be achieved
 - (h) To identify new "protected fish species".

14. Variation of management and development plan

1. If the Director thinks that a management and development plan should be varied in order to ensure the effective conservation or the efficient use of the fishery to which it relates, the Director may, in writing, prepare a variation of the plan and submit it to Cabinet for approval.
2. A variation takes effect when it is approved by Cabinet or at such other time as Cabinet determines.

15. Exemptions

1. Cabinet may, on application made by or on behalf of a person or a group of persons, declare that a management and development plan, or a specified part of such a plan, is not to apply to the person or group.
2. Cabinet may make a declaration subject to such conditions, if any, as Cabinet thinks necessary in order to ensure the effective conservation or efficient use of the fishery to which the management and development plan relates.

16. Revocation of management and development plan

If Cabinet is satisfied that the objectives set out in a management and development plan have been achieved, the Cabinet may revoke the plan by notice in the Gazette.

17. Offences

1. A person may not contravene or fail to comply with a provision of a management and development plan that applies to the person. Penalty: a fine not exceeding \$100,000.
2. A person must not contravene or fail to comply with a direction given to the person by an authorized officer, being a direction that is consistent with a management and development plan, or part of such a plan, that applies to the person. Penalty: A fine not exceeding \$100,000.00.
3. In this section: person includes a Niuean and a resident of Niue.

PART V UNAUTHORIZED FISHING AND PROHIBITED FISHING METHODS

18. Unauthorized fishing prohibited

1. A person shall not engage in commercial fishing in fishery waters unless the person is licensed, authorized or otherwise permitted to so by or under this Act or the Regulations. Penalty: a fine not exceeding \$100,000; and the Court may order the confiscation of fishing gear.
2. A fishing craft shall not:
 - (a) do anything in fishery waters that is not authorized or permitted by or under international law, or
 - (b) be used for fishing in fishery waters unless it is licensed, authorized or otherwise permitted to do so by or under this Act or the Regulations.
3. A fishing craft shall not, while in any area within fishery waters, carry any fishing gear that is stored in a way that would allow it to be made readily available for fishing in that area, unless the vessel is licensed for use for fishing in that area or such use otherwise authorized or permitted by or under this Act or the Regulations.
4. If a fishing craft contravenes subsections 2 and 3 of this section, the owner or charterer and the master of the vessel are each guilty of an offence. Penalty: a fine not exceeding \$500,000; and the Court may order the confiscation of fishing gear.

19. Prohibited fishing methods

1. A person shall not:
 - (a) have control or possession of a driftnet; or
 - (b) engage in driftnet fishing in fishery waters; or
 - (c) use any explosives, poison or other noxious substance for the purpose of killing, stunning, disabling or catching fish in fishery waters; or
 - (d) bring on land, sell, dispose of, receive or have possession of any fish caught in contravention of paragraph (b) or (c) of this section.

Penalty: a fine not exceeding \$10,000.

2. If a contravention of sub-section 1 of this section occurs on board a vessel or by use of a vessel, the owner or charterer, and the master, of the vessel is each guilty of an offence. Penalty: \$250,000; and the Court may order confiscation of fishing gear.

20. Driftnets and other equipment on board vessels

1. If a driftnet is found on board a vessel, then, for the purpose of any proceedings under section 19 of this Act:

- (a) the driftnet is taken to be in the possession and control of the owner or charterer, and of the master, of the vessel; and
- (b) the vessel is taken to have been used for the purpose of driftnet fishing in fishery waters; and
- (c) fish on board the vessel are taken to have been caught in fishery waters by driftnet fishing.

2. If an explosive, poison or other noxious substance is found on board a vessel that is used mainly for the purpose of fishing, the explosive, poison or substance is to be presumed, unless the contrary is proved, to be intended for use in contravention of section 19, subsection 1, paragraph (c), of this Act.

21. Evidentiary Certificate

In any proceedings for an offence against section 19 of this Act, a certificate signed by an authorized officer stating the cause and manner of death or injury of a specified fish, or the circumstances surrounding the alleged commission of the offence, is evidence of the matter stated in the certificate.

**PART VI
ACCESS AGREEMENTS**

22. Access agreements

1. The Minister may, with Cabinet's approval, enter into a bilateral or multilateral access agreement on behalf of the Government of Niue with the Governments of one or more other countries.

2. An access agreement may provide for vessels owned or controlled by the country concerned, or by its nationals:

- (a) to be licensed for use in fishing in fishery waters and have access to those waters for that purpose; and
- (b) to engage in any other related activities.

3. The Minister may, in entering into access agreements, grant preferential access to vessels owned or controlled by member countries of the South Pacific Forum Fisheries Agency.

4. Every access agreement must:

- (a) provide for fishing allocations at a level consistent with the proper conservation and management of fishery resources; and
- (b) be consistent with any relevant management and development plan; and
- (c) provide for the proper protection of fishing by Niueans; and
- (d) require the other parties to the agreement to take all necessary steps to ensure that the vessels covered by the agreement comply with the terms of the agreement and with the applicable laws of Niue; and
- (e) require the transshipment of fish at a time and place authorized by the licensing authority under the agreement except in cases where a licensed group seiner carries out transshipment to its licensed carrier vessel with the prior approval of the licensing authority; and
- (f) require the master of each vessel covered by the agreement to maintain fishing data about fishing carried out using the vessel on the high seas adjacent to the fishery waters, and to report that data in the prescribed form and manner to the Fisheries Officer; and
- (g) provide for the issuing of licences for fishing in fishery waters, or in a specified part of these waters, on terms and conditions consistent with this Act.

23. Licences taken to have been issued under this Act

A licence, or authorization issued or granted under an access agreement, is, for the purposes of this Act, taken to have been issued or granted under this Act.

24. Persons may act on behalf of the Government of Niue in certain cases

1. A multilateral access agreement may authorize a person or body to act on behalf of the Government of Niue, or to act on its behalf in the performance of any obligations, duties or responsibilities (including the issue of licences).

2. Any act done by any person on behalf of the Government of Niue under an authority given in a multilateral access agreement is taken to have been done by the Government of Niue.

25. Certain provisions to have no effect

A provision in an access agreement has no effect if it:

- (a) purports to operate in substitution of this Act; or
- (b) purports to prevent the Government of Niue from enforcing compliance with any provision of the access agreement; or
- (c) purports to prevent the Government of Niue from taking proceedings under this Act against any person in respect of any fishing activity not authorized by the agreement.

26. Related agreements

1. The Minister may, with Cabinet's approval, enter into any other agreement that may be appropriate for the promotion of fisheries cooperation and harmonization between Niue and any other country or countries.
2. Without limiting subsection 1 of this section, the agreements referred to in that subsection could include, for example, agreements relating to:
 - (a) the harmonization of minimum terms and conditions for access to fisheries; or
 - (b) the implementation of multilateral access agreements; or
 - (c) the establishment of harmonized joint or reciprocal fisheries surveillance and enforcement measures;
 - (d) the harmonization of the joint exploration and development of fisheries; or
 - (e) the development of observer programmes; or
 - (f) the harmonization of transshipment requirements; or
 - (g) the harmonization of fisheries conservation and management.

PART VII LICENSING

27. Application for licensed fishing craft

1. An application for a licence for a fishing craft may be made by or on behalf of the owner or charterer of the craft.
2. An application must be in writing and lodged with the Director. It must include the following particulars:
 - (a) the fishing craft's name, international radio call sign, specifications and country of registration;
 - (b) the name of the owner or charterer, and the master, of the vessel;
 - (c) the fishery resources to be exploited and the period during which exploitation is expected to occur;
 - (d) the term for which the licence is sought;
 - (e) the allocation of the fishery resources sought;
 - (f) the desired area of the fishery waters within which the exploitation is to be carried out;
 - (g) the method to be used to exploit the fishery resource;
 - (h) the way in which the catch or harvest is to be disposed of, including particulars of the port where this is to occur and a statement indicating whether the catch or harvest is to be processed and, if so, in what form;
 - (i) the estimated costs of exploiting the fishery resources and the estimated amount of the revenue to be derived from the exploitation;
 - (j) such other matters, if any, as are prescribed.
3. An application must also include statements indicating:
 - (a) whether the vessel has at any time contravened an access agreement (whether the Government of Niue is a party or not) and, if so, the nature of the contravention and the action taken or the penalty imposed as a consequence; and
 - (b) whether the vessel is the subject of an inquiry or investigation relating to an alleged contravention of such an access agreement and, if so, the nature of the allegation; and
 - (c) whether the vessel is subject to any encumbrance, charge, lien, mortgage or liability whether potential or actual and whether or not arising out of any inquiry, investigation or legal proceeding; and

- (d) whether the vessel has been denied approval to fish in the waters of any other country and, if so, the reasons for the denial; and
- (e) whether the vessel has had its approval to fish in the waters of any other country suspended or withdrawn and, if so, the reasons for the suspension or withdrawal.

4. An application must also include statements indicating:

- (a) whether the owner, charterer or master of the vessel has contravened any access agreement (whether the Government of Niue is party or not) and, if so, the nature of the contravention; and
- (b) whether the owner, charterer or master of the vessel is alleged to have contravened such an access agreement and, if so, the nature of the allegation; and
- (c) whether the owner, charterer or master of the vessel is or has been involved in any inquiry, investigation or legal proceeding as a consequence of being engaged in fishing in the waters of any other country and, if so, particulars of that involvement; and
- (d) whether the owner, charterer or master of the vessel has incurred any unsatisfied liability or penalty or may incur any liability or penalty arising out of any contravention, inquiry, investigation or proceeding mentioned in paragraph (a), (b) or (c) of this subsection;
- (e) whether the owner, charterer or master of the vessel has engaged, or is alleged to have engaged, in driftnet fishing.

28. Issue of licences

1. The Minister may, on an application made under section 27 of this Act and with Cabinet's approval, issue a licence permitting fishing craft identified in the application to be used:

- (a) for fishing (including test fishing) in the fishery waters; and
- (b) for scientific research in the fishery waters.

2. The Minister may issue a licence in respect of a fishing craft whether or not the fishing craft is covered by an access agreement which is in force.

3. A license shall:

- (a) specify the particular fishing activity permitted by it; and
- (b) provide fishing allocations at a level consistent with the proper conservation and management of fishery resources; and
- (c) be consistent with any relevant management and development plan; and
- (d) ensure the protection of fishing by Niueans.

4. In approving a licence, the Cabinet may impose any special conditions that it thinks desirable to ensure the proper conservation and management of fishery resources, including, for example, conditions relating to the following:

- (a) the type and method of fishing;
- (b) the area within which fishing is permitted;
- (c) the target species and quantity of fish authorized to be caught, including restrictions on by-catches;
- (d) the term of the licence.

5. The Cabinet must not approve a licence unless satisfied that it ensures appropriate protection of fishing by Niueans,

6. A licence must not be issued to a fishing craft pursuant to this section, unless that fishing craft is in good standing on the Regional Register.
7. If a fishing craft is not registered on the Regional Register a licence may nevertheless be issued to a fishing craft that is fully owned or controlled by;
 - (a) the Government of Niue; or
 - (b) a Niuean or permanent resident of Niue; or
 - (c) a person resident in Niue.

8. In this section:

"test fishing" means fishing for the purpose of testing the feasibility of commercial fishing;

"scientific fishing" means gathering data for the purpose of conserving or managing a fishery.

29. General conditions of licences

1. The Cabinet may, by notice in the Gazette, specify general conditions applicable to all licences.
2. A general condition is taken to come into operation on a date specified in the notice or, if no date is specified, on the day on which it is published in the Gazette.
3. General conditions applicable to all licences, whether or not an access agreement is in effect, may include, for example, conditions relating to the following:
 - (a) open and closed fishing seasons;
 - (b) prohibited fishing areas;
 - (c) minimum mesh size or fishing nets;
 - (d) minimum fish size;
 - (e) observer devices;
 - (f) any other general conditions as required by Cabinet.
4. Any person who, whether intentionally or unintentionally, destroys, damages, renders inoperative or otherwise interferes with an observer device aboard a fishing craft without first obtaining the approval of the Director, commits an offence. Penalty: a fine not exceeding \$250,000.

30. Variation and revocation of conditions

1. Cabinet may, if satisfied that it is necessary to do so to ensure the proper conservation or management of fishery resources, add to, vary or revoke any special or general conditions imposed under this Act.
2. A general condition must be varied or revoked by notice in the Gazette.
3. If Cabinet adds a new general condition, it must do so by notice in the Gazette.
4. If Cabinet adds a new special condition or varies or revokes a special condition, it must cause the holder of the licence concerned to be notified accordingly.

31. Statutory conditions

Every licence issued under Part VII of this Act is subject to the following conditions:

- (a) The owner or charterer, and the master of the fishing craft to which the licence applies, must comply with the laws of Niue;
- (b) The performance by the fishing craft to which the licence relates must at all times be consistent with the information, and financial projections, given in the application for the licence.

32. Term of licence

1. Subject to this Act and any special or general conditions imposed by or under this Act, the term of a licence issued under Part VII of this Act shall be for a period of one year from the date the licence is issued.
2. A licence issued under this Act may be renewed on application made in accordance with section 27 of this Act before the end of the latest term of the licence.

33. Authority to use fishing craft for certain activities

1. The Director may, with Cabinet's approval, authorize the use of a fishing craft for a specified fishing activity within fishery waters.
2. An authorization may be made subject to such conditions, if any, as Cabinet determines.
3. The Director must not grant an authorization under this section unless satisfied:
 - (a) that it would not be appropriate in the circumstances to require a licence to be issued permitting the fishing craft to be used for the relevant activity; and
 - (b) that the activity will not involve catching fish; and
 - (c) that the activity will not be a continuing one.

34. Fees

1. There shall be a fee payable for every licence issued and for authorizations granted under this Act, provided, however, that where an access agreement specifies for the making of such payments no additional payment shall be required.
2. Cabinet shall from time to time prescribe the fees payable for the issue of licences and shall determine the amount payable for the granting of an authorization.

35. Assignment of licence or authorization

1. A licence or authorization issued or granted under this Act is not transferable, except with Cabinet's approval or in accordance with an access agreement.
2. Any provision in a contract or arrangement that purports to assign, transfer or dispose of all or any of the rights or benefits conferred by a licence or authorization issued or granted under this Act is void.
3. Each person who enters into an agreement or arrangement that contains a provision of the kind described in subsection 2 of this section is guilty of an offence. Penalty: a fine not exceeding \$100,000.

4. For the purpose of this section, the charter of a fishing craft in respect of which a licence or authorization has been issued or granted under this Act is taken to be transfer of the licence or authorization.

36. Cancellation or suspension of licence

1. Cabinet may cancel a licence issued under this Act, or suspend such a licence for the period determined by Cabinet if:

- (a) the licence is, or becomes, inconsistent with the requirements of a management and development plan; or
- (b) the fishing craft in respect of which it is issued, or the owner, charterer or the master of the fishing craft, has contravened:
 - (i) a provision of this Act; or
 - (ii) a condition of the licence; or
 - (iii) if the licence was issued under an access agreement - a provision of the agreement;
- (c) a payment due under, or in respect of, the licence is outstanding; or
- (d) the fishing craft's good standing on the Regional Register is suspended or withdrawn; or
- (e) the fishing craft, or the owner, charterer or master of the fishing craft has been engaged in driftnet fishing; or
- (f) there is a driftnet on board the fishing craft.

2. The owner, charterer or the master of a fishing craft whose licence is cancelled or suspended must be notified of the cancellation or suspension in accordance with Cabinet's directions.

3. A cancellation or suspension takes effect when the notice referred to in subsection 2 of this section is given.

4. If a licence is cancelled or suspended on the ground mentioned in paragraph 1 (a) of this section, any fee paid in respect of the issue of the licence must be apportioned, and the amount that represents the unexpired part of the term of the licence, worked out on a pro rata basis, must be reimbursed to the person who paid the fee.

37. Appeals

A person aggrieved by a decision of the Cabinet to cancel or suspend a licence may, within 21 days after the cancellation or suspension takes effect, appeal to a Judge of the High Court against the decision.

PART VIII AUTHORIZED OFFICERS AND OBSERVERS

38. Appointment of authorized officers

1. The Minister may, by notice in the Gazette, appoint a person, or each person in a class of persons (including a national or nationals of another country), to be an authorized officer for the purposes of this Act.

2. The Minister may direct that an authorized officer shall not be an employee of the Public Service Commission.

39. Powers of authorized officers

1. For the purposes of enforcing this Act, an authorized officer may, without a warrant, do any of the following:

- (a) stop, board and search any fishing craft to which this Act applies that the officer reasonably suspects has contravened or is contravening a provision of this Act;
- (b) stay on board that fishing craft;
- (c) require the master or anyone else on board to tell the officer the fishing craft's name, call sign and country of registration and the name of the master, owner, charterer or other crew member;
- (d) require the master or anyone else on board to answer questions about the fishing craft's cargo, the contents of its holds and storage spaces, and its voyage and activities;
- (e) make any examination and inquiry that the officer thinks necessary about any premises, vessel, vehicle or aircraft in relation to which any of the powers conferred by this section have been or may be exercised, and take samples of any fish or fish product found in or on the premises, vessel, vehicle or aircraft;
- (f) examine and take copies of any licence, logbook, record or other document that is required under this Act or that concerns the operation of any fishing craft;
- (g) make, date and sign an entry in the fishing craft's log;
- (h) examine any fish, fishing gear or explosive, poison or other noxious substance in or on any premises, vessel, vehicle or aircraft;
- (i) give any directions to the master or to a crew member of any fishing craft stopped, boarded or searched that may be necessary or reasonably expedient for any purpose specified in this Act, or to provide for the compliance of the fishing craft or master or any crew member with the conditions of any licence, authority, permission or approval given or issued under this Act;
- (j) examine any observer device;
- (k) require the master of a fishing craft, or a person apparently in charge of any premises, vehicle or aircraft, to produce to the officer anything mentioned in paragraph (f), (h) or (j) or this subsection that is in or on the fishing craft, premises, vehicle or aircraft.

2. Where an authorized officer has reasonable grounds to believe an offence against this Act is being or has been committed, he may without a warrant:

- (a) enter, inspect and search any premises, other than premises used exclusively as a dwelling-house, in which he has reasonable grounds to believe an offence has been or is being committed or fish taken illegally are being stored;
- (b) stop, enter and search, and stay in or on any vehicle or aircraft which he reasonably suspects of transporting fish or fish products;
- (c) following hot pursuit in accordance with international law and commenced within the fisheries waters, stop, board and search outside the fisheries waters any vessel which he has reasonable grounds to believe has been used in the commission of any offence and bring that vessel and all persons and things on board within the fisheries waters;
- (d) seize:
 - (i) any vessel (together with its fishing gear, equipment, stores and cargo), vehicle or aircraft which he has reasonable grounds to believe has been or is being used in the commission of an offence or which he knows or has reasonable grounds to believe has been seized or forfeited in accordance with any provision of this Act;
 - (ii) any fish or fish products which he has reasonable grounds to believe have been caught in the commission of an offence or are possessed in contravention of this Act;

- (iii) any logs, charts or other documents required to be maintained by this Act or under the terms of any licence or permit or which he has reasonable grounds to believe show or tend to show, with or without other evidence, the commission of an offence against this Act;
 - (iv) anything which he has reasonable grounds to believe might be used as evidence in any proceedings under this Act; and
 - (e) arrest any person whom he has reasonable grounds to believe has committed an offence against this Act.
3. An authorized officer may, with or without a warrant or other process:
- (a) execute any warrant or other process issued by any court of competent jurisdiction; and
 - (b) exercise any other lawful authority.

40. Powers of authorized officers beyond limits of fishery waters

If a vessel in hot pursuit beyond the limits of the fishery waters, the powers conferred on authorized officers under this Act may be exercised beyond the limits of the fishery waters in accordance with international law.

41. Treatment of seized vessels

1. If a fishing craft is seized under this Act:
- (a) the master and crew must take it to the nearest or most convenient port designated by the authorized officer; and
 - (b) the master is responsible for the safety of the fishing craft and everyone on board the fishing craft, until the fishing craft arrives at the designated port.
2. If the master does not take the seized fishing craft to the designated port, an authorized officer, or person called upon to assist the officer, may do so.
3. If a fishing craft is brought to port in the circumstances described in subsection 2, no claim whatever may be made against an authorized officer or the Government of Niue in respect of any death, injury, loss or damage incurred while the vessel is being taken to the designated port.
4. The provisions of subsections 1, 2 and 3 apply (with necessary changes) to vehicles and aircraft seized in accordance with this Act, and their drivers and pilots respectively.
5. The owner and operator shall pay the costs of any environmental damage, cleaning, disposal or removal of a fishing craft from Niue's exclusive economic zone.

42. Removal of parts from seized vessels

1. An authorized officer may remove any part or parts from any fishing craft held in the custody of the Government of Niue for the purpose of immobilizing the fishing craft.
2. The authorized officer who removes a part or parts under subsection 1 must ensure that the part or parts are kept safely and returned to the fishing craft upon its lawful release from custody.

3. A person must not:

- (a) possess or arrange to obtain any part or parts removed under subsection 1, except for the purposes of keeping the part or parts safely in accordance with subsection 2; or
- (b) possess or arrange to obtain or make any replacement or substitute part or parts for those removed under subsection 1; or
- (c) fit any part or parts or any replacement or substitute part or parts to a fishing craft, held in the custody of the Government of Niue. Penalty for an offence against subsection 3: a fine not exceeding \$250.000.

43. Observers

1. The Director may designate, in writing, one or more persons to act as observers on fishing craft in respect of which a licence or authorization has been issued or granted under this Act.

2. An access agreement may confer on a person the powers and duties of an observer and may confer powers and duties on the person in addition to those conferred by this section.

3. An observer may board any fishing craft in respect of which a licence or authorization or has been granted under this Act for the purpose of:

- (a) ensuring compliance by the fishing craft and its crew with this Act and the terms and conditions of the licence or authorization; or
- (b) monitoring any of the fishing craft's activities; or
- (c) undertaking any research determined by the Director.

4. The operator, and each member of the crew, of the fishing craft must allow and assist an observer to exercise all or any of the following powers:

- (a) to board the fishing craft;
- (b) to gain full access to, and use, any of the facilities and equipment on the fishing craft that the observer thinks necessary to carry out his duties;
- (c) to gain full access to the bridge and to areas which may be used to hold, weigh and store fish;
- (d) to gain full access to the fishing craft's records (including its log) and gather any information he requires relating to fisheries in fishery waters;
- (e) to gain full access to any fish on the fishing craft and to take samples of them;
- (f) to inspect and copy the fishing craft's records (including its log);
- (g) to disembark at the time and place determined by the Director or in accordance with an access agreement.

5. The operator must provide the observer, while on board the fishing craft and at no expense to the Government of Niue, with food, accommodation and medical facilities as may be reasonably acceptable to the Director.

6. An observer may enter in or on any place where fish taken in the fishery waters are unloaded or transhipped, and may remove samples and gather any information he requires relating to fisheries in the fishery waters.

44. Duties to authorized officers and observers

1. The master and each crew member of any fishing craft, the driver of any vehicle and the pilot and crew of any aircraft must comply immediately with every lawful instruction or direction given by an authorized officer or an observer.
2. The master and each crew member of a fishing craft, driver of a vehicle and pilot and crew of an aircraft must take all reasonable measures:
 - (a) to ensure the safety of an authorized officer or observer in the performance of his duties; and
 - (b) to assist the officer or observer in the performance of those duties or the exercise of any of his powers.
3. A person must not:
 - (a) assault, obstruct, resist, delay, intimidate or otherwise interfere with an authorized officer or observer in the performance of his duties; or
 - (b) assault, obstruct, resist, delay, intimidate or otherwise interfere with anyone lawfully acting under the orders, or in aid of, an authorized officer; or
 - (c) threaten, insult or use abusive language or insulting gestures towards any authorized officer or observer while performing his duties or exercising his powers; or
 - (d) threaten, insult or use abusive language or threatening gestures towards anyone lawfully acting under the orders, or in aid of an authorized officer; or
 - (e) fail to comply with the lawful requirements of any authorized officer or observer; or
 - (f) give an authorized officer any particulars which the person knows are false or misleading in a material respect; or
 - (g) impersonate or falsely represent himself to be an authorized officer, or falsely represent himself to be a person lawfully acting under an authorized officer's orders or in his aid.
4. The penalty for any offence committed under this section shall be a fine not exceeding \$250,000 or imprisonment for a term not exceeding two months or both.

45. Identification of authorized officers and observers

An authorized officer or observer, when exercising any of the powers conferred by this Act, must, if asked to do so, produce identification to show he is an authorized officer or observer under this Act.

46. Protection of authorized officers, observers and others

An action or other proceeding (whether civil or criminal) does not lie against a person in relation to anything done, or not done, by the person in good faith in the performance or exercise, or purported performance or exercise, of the person's functions or powers under this Act.

47. Information must be true, complete and correct

1. A person required to record, notify, communicate or report any information under this Act must ensure that any information so recorded, notified or communicated is true, complete and correct.

2. A person required to notify, communicate or report any information to the Director by or under this Act or the Regulations must notify the Director immediately of any change in circumstances which has the effect of rendering any information previously notified, communicated or reported false, incomplete or misleading.
3. A person who contravenes this section commits an offence. Penalty: a fine not exceeding \$250,000.

**PART IX
SALE, RELEASE AND FORFEITURE OF RETAINED PROPERTY**

48. Release of seized goods

1. The High Court may, on application, order the release of any fishing craft (together with its fishing gear, equipment, stores and cargo), vehicle, aircraft or other item seized under this Act on receipt of a bond or other form of security.
2. In determining the value of the bond or other form of security, the Court must take into consideration:
 - (a) the total value of the property to be released, including the value of any catch which might be forfeited;
 - (b) the total maximum fine or fines provided for the offences charged or likely to be charged; and
 - (c) the costs the prosecution would be likely to recover if a conviction were entered.

49. Sale of perishable goods seized

1. Any fish or other items of a perishable nature seized under this Act, or the proceeds of sale of the fish or items, must be held and dealt with in accordance with this Act.
2. The Director may sell the fish or other items referred to in subsection (1).
3. If the Director, after making all reasonable efforts, is unable to sell the fish or other items referred to in subsection (1), or if the fish or other items are unfit for sale, the Director may dispose of them in such manner as he thinks fit.

50. Seized goods to be held

The Government of Niue must hold anything seized under this Act, and any bond or security and the proceeds of sale, until:

- (a) any relevant legal proceedings under this Act have been finally dealt with; or
- (b) a decision is made not to start any such proceedings.

51. High Court's power of forfeiture

1. If a person is convicted of an offence against this Act, the High Court, in addition to any other penalty, may order:
 - (a) that any fishing craft (together with its fishing gear, equipment, stores and cargo) and any vehicle or aircraft used in the commission of that offence be forfeited to the Crown; and
 - (b) that any fish or perishables caught or involved in the commission of the offence, or the proceeds of sale of the fish or perishables, and any explosive, poison or other noxious substance used involved in the commission of the offence, be forfeited.

2. Where a fishing craft, vehicle, aircraft or other item seized under this Act, or any bond, security or the proceeds of a sale is not forfeited or applied in the discharge of any fine, order for costs or penalty imposed under this Act, it must be made available for collection by its owner or his nominee or, in the absence of those persons, the person who appears to be entitled to it.

3. If a fishing craft, vehicle, aircraft or other item has been released upon the lodging of a bond or security, an order for forfeiture operates as an order for forfeiture of the amount of the bond or security, unless the court for special reasons fixes a small sum.

4. If a fishing craft, vehicle, aircraft or other item has been released upon the lodging of a bond or security, the court may order any defendant convicted of an offence against this Act involving the fishing craft, vehicle or aircraft or item or the owner of the fishing craft, vehicle or aircraft or item concerned (whether or not the owner is a defendant) to pay the difference between the amount of the bond or security and the total value of the forfeited property as determined under section 54.

52. Application of bond, security or proceeds of sale

A bond or security, or the proceeds of sale, must be applied in the following order:

- (a) first, in paying the costs associated with the sale (if any);
- (b) secondly, in discharging any forfeiture ordered under section 51;
- (c) thirdly, in paying all fines or penalties imposed under this Act in connection with the fishing craft, vehicle, aircraft or item;
- (d) fourthly, in discharging all orders for costs in proceedings under this Act arising out of relating to the fishing craft, vehicle, aircraft;
- (e) finally, in making sure other payments (if any) as the High Court determines.

53. Removal of forfeited goods

If a fishing craft, vehicle, aircraft or other item held or forfeited under this Act has been unlawfully removed from the custody of the Government of Niue it is liable to seizure.

54. Disposal of seized or forfeited goods

1. A fishing craft, vehicle, aircraft or other item ordered to be forfeited under this Act may, at the expiry of the time limited for appeal and if no appeal is lodged, be disposed of in such manner as Cabinet may direct.
2. A fishing craft, vehicle, aircraft or other item seized under this Act but not forfeited must be sold and the proceeds disposed of in the manner and the priority specified in section 52.

55. Liability for loss, damage or deterioration of items in custody

The Government of Niue is not liable for any loss of, damage to or deterioration in the condition of any fishing craft, vehicle, aircraft or other item while in the custody of the Government of Niue under this Act.

56. Banning order

1. If a person is convicted of an offence against section 44 (3), the court may, in addition to imposing any penalty, make an order banning the person for a period not exceeding five years from going on or remaining on board any fishing craft while the fishing craft is being used for fishing in the fishery waters.
2. A person who contravenes an order under subsection 1, or the master of a fishing craft who has on board a person he knows is banned from remaining on the fishing craft by an order under subsection 1, is guilty of an offence. Penalty: a fine not exceeding \$250,000.

57. Removal of item in custody

A person who without lawful authority removes a fishing craft, vehicle, aircraft or other item held in the custody of the Government of Niue under this Act is guilty of an offence, whether or not the person knew the fishing craft, vehicle, aircraft or other item was held in the custody of the Government of Niue. Penalty: a fine not exceeding \$250,000 or imprisonment for a term not exceeding three months, or both.

PART X
GENERAL PENALTY AND LIABILITY

58. Liability of master

Where an offence against this Act has been committed by a person on board or employed on a fishing vessel, the master of the vessel may be charged with the same offence.

59. Penalties

If a penalty is not specified for an offence under this Act, the penalty shall be a fine not exceeding \$250,000.

PART XI
REGULATIONS

60. Regulations

1. Cabinet may from time to time make all such regulations as may in the opinion of Cabinet be necessary or expedient for giving effect to the provisions of this Act and for the due administration thereof.
2. Without limiting the general power conferred by subsection 1, regulations may be made pursuant under this section for all or any of the following;
 - (a) Providing for the conservation, management, development, licensing and regulation of fisheries or any particular fishery;
 - (b) Licensing authorization or registration in respect of any fishing craft or class or category of fishing craft to be used for fishing, related activities or any other purpose pursuant to this Act, including the form, issuance requirements, grounds for denial, terms and conditions, and fees, charges, royalties and other form of compensation related to the licensing, authorization or registration;
 - (c) Licensing, authorization or registration in respect of any fisherman or class of fisherman, fishing gear and other equipment or device used for fishing;
 - (d) The operation of, and conditions and procedures to be observed by any fishing craft while in the fishery waters;

- (e) The operation of, and conditions and procedures to be observed by any other fishing craft which may enter the fishery waters for any purpose under this Act;
- (f) The catching, loading, landing, handling, transhipping, transporting, possession and disposal of fish;
- (g) The import, export, distribution and marketing of fish and fish products;
- (h) The manner in which any fishing gear is to be stowed;
- (i) The appointment, powers and duties of authorized officers and observers;
- (j) The duties and procedures to be followed by the master and crew of any vessel in respect of authorized officers and observers;
- (k) Rewards to be paid to any person providing information on the operations of foreign fishing craft leading to a conviction of an offence against this Act;
- (l) The licensing, control and use of fish aggregating devices and the rights to the aggregated fish, and prescribing times and the minimum distances from the device any vessel may fish around it;
- (m) Regulating or prohibiting the use of self-contained underwater breathing apparatus; and any other underwater breathing apparatus other than a snorkel;
- (n) Regulating or prohibiting the use of spear guns or other similar devices;
- (o) Registration of fishing craft and the standards and measures for the safety of persons on board, and the safety of the fishing craft;
- (p) Regulating aquaculture and access to land leased for aquaculture and to the waters adjacent to the land;
- (q) Prescribing the terms and conditions of leases for aquaculture;
- (r) Requiring the provision of statistical and other information related to fisheries;
- (s) The control, inspection and conditions of operation for fish processing establishments;
- (t) The prevention of marine pollution, whether originating from a land-based source or by discharge at sea;
- (u) The appointment, maintaining of and procedures for agents appointed to receive and respond to process pursuant to this Act;
- (v) The implementation of any access or related agreement or other agreement or arrangement entered into pursuant to this Act;
- (w) Regulating or prohibiting, either generally or in any specified fishery:
 - (i) the taking of coral and shells;
 - (ii) the setting of fish fences or nets;
 - (iii) the taking of aquarium fish; or
 - (iv) aquaculture operations;
 - (v) prescribing measures for the protection of marine life;
 - (vi) regulating or prohibiting fishing of all kinds within any lagoon or any part of any lagoon, the time or times of year during which that fishing may occur or is prohibited, and approving, restricting or prohibiting the equipment or methods which may be used in connection with that fishing;
- (x) Prescribing offences against the regulations and penalties for the offences, not exceeding a fine of \$250,000 and, where the offence is a continuing one, a further fine not exceeding \$500 for each day that the offence continues;

- (y) **Regulating for:**
- (i) **the implementation of an access agreement;**
 - (ii) **the implementation of any agreement to which the Government of Niue is a party relating to the establishment of uniform tests and conditions as between the parties to the agreement in respect of conservation, management, exploitation and surveillance, and**
 - (iii) **access to and enforcement measures undertaken within the fisheries waters of each party.**

**PART XI
GENERAL**

61. Savings

All regulations, orders and notices made or given under the Territorial Sea and Exclusive Economic Zone Act 1978 and all licences, permits, other authorizations and agreements issued or made thereunder except so far as they are inconsistent with this Act, continue to have effect as though made, given or issued under this Act.

62. Repeals

The enactments specified in the Schedule are repealed.

SCHEDULE

Enactments repealed

Cook Islands Commercial Fishing Regulations 1951 (SR 1951/2).

Cook Islands Pearl Shell Fisheries Regulations 1950 (SR 1950/50).

Cook Islands Pearl Shell Export Duty Regulations 1950 (SR 2950/51).

Territorial Sea and Exclusive Economic Zone Act 1978.

Territorial Sea and Exclusive Economic Zone Amendment Act 1984.

Territorial Sea and Exclusive Economic Zone Amendment Act 1987.

I, John Tofo Funaki, Speaker of the Niue Assembly, certify that the requirements of article 34 of the Niue Constitution have been duly complied with.

Signed and sealed at the Assembly Chambers this 30th day of April 1997.

2. Panama

National Executive Decree Law No. 7 of 10 February 1998. Published in the Gaceta Oficial, No. 23,484, Tuesday, 17 February 1998

"Creating the Maritime Authority of Panama, unifying the various maritime jurisdictions of the Public Administration and enacting other provisions"

THE PRESIDENT OF THE REPUBLIC

Pursuant to his constitutional powers, in particular the power conferred by article 1, paragraph 3, of Law No. 1 of 2 January 1998, the Cabinet Council having given a favourable opinion,

DECREES:

CHAPTER I

Description, definitions and general rules

Article 1

An autonomous State body, called the Maritime Authority of Panama (hereinafter "the Authority"), shall be created with legal personality, its own assets, and independence in its internal arrangements, subject only to the policies, guidance and supervision of the Executive and to the controls of the Office of the Controller-General of the Republic. For the purposes of this Decree Law, the Executive shall exercise its powers through the Ministry whose Minister presides over the Authority's Board of Directors.

The creation of the Authority institutionalizes the manner in which the coordination of all the institutions and authorities of the Republic having a connection with the maritime sector shall be effected, in accordance with the last paragraph of article 311 of the Constitution of the Republic of Panama, so that the Authority shall enjoy all the rights and privileges which guarantee its status of supreme authority for the implementation of the "National Maritime Strategy".

Article 2

For the purposes of the application and regulation of this Decree Law, the following terms used therein shall have the meaning defined below:

1. Maritime sector means all activities related to the merchant marine, ports system, marine and coastal resources, human resources and auxiliary maritime industries of the Republic of Panama;
2. Maritime jurisdictions means all the responsibilities of the coastal, port and flag State in the maritime zones and sea lanes and in the physical, administrative, economic and legal activities carried on therein. This term includes the administration of the human resources engaged in the activities mentioned above;
3. National Maritime Strategy means all the policies, plans, programmes and guidelines adopted in this area by the State of Panama in order to promote the development of the maritime sector;
4. Marine and coastal resources means all the renewable and non-renewable resources found between the coast and the outer limit of the exclusive economic zone of the Republic of Panama, with the exception of mineral and hydrocarbon resources;

5. **Coastal zone** means the interface or transitional space between two environmental realms: the land and the sea;
6. **Maritime zones and internal waters** means the zones and waters defined in Law No. 38 of 4 June 1996, which ratified the United Nations Convention on the Law of the Sea, signed on 10 December 1982 at Montego Bay, Jamaica. This term includes the territorial sea, the contiguous zone, the internal waters, the exclusive economic zone and the continental shelf of the Republic of Panama;
7. **Coast** means the land part of the coastal zone adjacent to the high-water line. The land area of the coast depends on the public use assigned to it in a programme of integrated coastal management, in accordance with such criteria as: control of residential, tourism, commercial and industrial development; protection of vulnerable species and habitats; aesthetic protection of the coastline; protection of water quality; and prevention of erosion and degradation of coastal resources;
8. **Integrated coastal management programme** means a process uniting Government and communities, science and management, and public and private interests in the preparation and implementation of an integrated plan for the conservation and development of coastal resources and ecosystems. The purpose of integrated coastal management is to improve the quality of life of the communities which depend on coastal resources and to maintain the productivity and biodiversity of these ecosystems;
9. **Hydrobiological resources** means the aquatic species which live temporarily or permanently in the marine or inland waters over which the Republic of Panama exercises jurisdiction.

Article 3

The Authority's principal objectives shall be:

1. To administer, promote, regulate, design and execute policies, strategies, laws and regulations, plans and programmes relating, directly, indirectly or by association, with the functioning and development of the maritime sector;
2. To coordinate its activities with the Panama Canal Authority, the Interoceanic Regional Authority, the Tourism Institute of Panama, the National Institute for Renewable Natural Resources, and any other institution or authority having a connection with the maritime sector which exists or may be established in the future, with a view to promoting the country's social and economic development;
3. To act as the supreme maritime authority of the Republic of Panama in the exercise of the rights and discharge of the responsibilities of the State of Panama under the United Nations Convention on the Law of the Sea of 1982 and other current laws and regulations.

Article 4

The Authority shall have the following functions:

1. To propose, coordinate and carry out the National Maritime Strategy;
2. To recommend policies and measures, perform administrative acts, and enforce the laws and regulations applicable to the maritime sector;
3. To carry out measures to safeguard the national interests in the maritime zones and internal waters;
4. To administer, preserve, restore and exploit marine and coastal resources;

5. To work together with the Ministry of Agricultural Development to ensure that the country's aquatic resources are developed in strict compliance with the international obligations of the State of Panama, for which the Authority bears the primary responsibility;
6. To ensure strict compliance with the provisions of the United Nations Convention on the Law of the Sea of 1982 and with the other international treaties, agreements and instruments relating to the maritime sector which have been ratified by Panama;
7. To assess and propose to the Executive, and to other State bodies which so require, the necessary measures for the adoption of international treaties and agreements relating to activities carried on within the maritime sector;
8. To represent Panama in international organizations with respect to maritime sector matters, in coordination with the Ministry of Foreign Affairs;
9. To coordinate with the National Maritime Service the enforcement of national legislation in the maritime zones and internal waters of the Republic of Panama;
10. To keep up to date the system of signs and signals, navigational aids, nautical charts and other hydrographic information necessary for the safe passage of vessels through the maritime zones and internal waters of the Republic of Panama, in accordance with the Constitution and laws of the Republic;
11. To direct, in coordination with the other competent State bodies, the necessary operations for dealing with discharges of hydrocarbons or chemicals and with any other disasters or accidents which occur in the maritime zones or internal waters under Panamanian jurisdiction;
12. To coordinate with the National Institute for Renewable Natural Resources, or its equivalent, the application of the provisions of the United Nations Convention on the Law of the Sea and of national legislation concerning the protected maritime coastal areas for which the Authority is responsible;
13. Any other functions assigned to it by law.

CHAPTER II

Assets, finances and controls

Section 1 - Assets

Article 5

The Authority's assets shall consists of:

1. All the movable and immovable property which at today's date belongs to any of the agencies of the Public Administration which, pursuant to the present Decree Law, become part of the Authority;
2. The legacies, gifts and bequests made to it, which shall be deposited in the reserves;
3. The yield from shares, securities, bonds and other financial instruments which it owns;
4. The grants received from the State;
5. The fees charged for the services which it provides and the income from its direct management or from the concessions which it grants;

6. The proceeds of the monetary fines imposed by the Authority;
7. Any other property or assets authorized by legislation or regulations or by the Board of Directors.

Section 2 - Finances and controls

Article 6

In order to ensure the development of the maritime sector, the Authority shall have the following powers:

1. To encourage the creation and development of private or mixed enterprises in the maritime sector by providing guarantees, by leasing assets, or by any other means;
2. To participate in the share capital of private or mixed enterprises by purchasing shares or other financial instruments of such enterprises when they are established;
3. To buy, sell, lease or deal in property of any kind, to grant concessions, to recruit specialized technical personnel, to construct works and plan or implement its programmes in accordance with the legislation in force;
4. To prepare and submit recommendations to the Executive with respect to the classification of posts and the amounts of salaries and other benefits applicable to executive-level officials, managers and technical personnel of the Authority. To this end, the Executive, through the Office of the President, shall introduce the necessary regulations for adapting the current legislation on the civil service to the specialized nature of the services to be furnished by the staff of the Authority;
5. To use its economic resources to maintain the qualifications of the Authority's staff at a proper level;
6. To establish rates of payment for the services that it provides;
7. Any other powers assigned to it by the Executive or by law.

Article 7

The State shall be jointly responsible for the liabilities contracted by the Authority.

Article 8

The Authority shall have coercive jurisdiction, which shall be exercised by the Administrator, who may delegate this power to other employees of the Authority.

Statements certified by the auditors concerning the outstanding debts owed to the Authority shall confer the power of enforcement for the purposes of the coercive jurisdiction possessed by the Authority.

Article 9

The Authority shall be exempt from payment of any kind of tax, contribution, fee, charge or duty, with the exception of the contributions for social security and for education and occupational risks insurance.

The Authority shall enjoy all the facilities and privileges accorded to the State by procedural legislation in any legal proceedings to which it is a party.

Article 10

Without prejudice to the powers which the Constitution confers on the Office of the Controller-General of the Republic, the Authority shall have its own audit arrangements.

Article 11

Any construction of works, purchase or leasing of property, provision of services, operation or administration of property, or management of administrative functions which the Authority may require shall be effected in accordance with the legislation governing and regulating public contracts.

However, the Executive, through the Office of the President, may introduce regulations allowing the Authority to choose the most appropriate delivery or completion time for the construction of works, supply of goods, or provision of services, with a view to adapting the current legislation on public contracts to the very specialized nature of the services to be furnished by the Authority.

CHAPTER III

Administrative organization

Section 1 - Organic structure

Article 12

The Authority's organic structure shall be composed as follows:

1. Senior management:
 - (a) The Board of Directors;
 - (b) The Administrator;
 - (c) The Deputy Administrator.
2. Administrative service and programme implementation agencies:
 - (a) The Office of the Merchant Marine;
 - (b) The Office of Ports and Auxiliary Maritime Industries;
 - (c) The Office of Marine and Coastal Resources;
 - (d) The Seafarers' Office;
 - (e) Other offices, sub-offices or administrative units which may be created by the Board of Directors.
3. The Advisory Council.
4. The Panamanian Maritime Research Institute.

The functioning and internal organization of all the bodies referred to in this article shall be brought into conformity with the provisions of the present Decree Law and the regulations introduced in application thereof.

Article 13

The Authority may perform its functions and exercise its powers directly or through existing institutions or institutions which may be created, in accordance with the conditions specified in the agreements adopted for this purpose.

With regard to the coordination which is to be established between the Maritime Authority of Panama and the Panama Canal Authority, and in the light of the provisions of Title XIV of the Constitution and Law 19 of 11 June 1997, the Authority shall conclude with the Panama Canal Authority any agreements necessary for ensuring harmonious relations with each other, in fulfilment of the international obligations of the State of Panama, for which the Maritime Authority of Panama bears the primary responsibility.

It is understood that the functions and powers which this Decree Law confers on the Authority shall not affect the powers of the Panama Canal Authority in matters connected with the administration, functioning, preservation, maintenance and modernization of the Panama Canal or of related activities, in accordance with the constitutional rules and the Law of 11 June 1997 and its regulations.

Section 2 - The Board of Directors

Article 14

The Authority's Board of Directors shall consist of seven members and their deputies, namely:

1. A Cabinet minister designated by the President of the Republic, who shall preside over the Board; in his absence his place shall be taken by his Deputy Minister;
2. The Minister for Canal Affairs; in his absence his place shall be taken by the Administrator of the Panama Canal Authority;
3. A professional with knowledge and experience of maritime law;
4. A businessman with experience in the maritime sector;
5. A leading professional in the training of human resources for the maritime sector;
6. A leading professional in nautical sciences;
7. A leading professional in the management of marine resources.

The Directors referred to in paragraphs 3 to 7 and their deputies shall be appointed by the Executive.

The Directors and their deputies shall be appointed for a period of five (5) years, which shall coincide with the presidential term of office, and they may be reappointed for an additional period.

A Director may be removed from the Board only for the reasons specified in this Decree Law.

Transitional paragraph. The first Directors of the Authority shall serve until 31 August 2004.

Article 15

In order to be a Director of the Authority a person must:

1. Be of Panamanian nationality and of recognized integrity;
2. Be aged over 25 years;
3. Not have been convicted by a court of fraud or an offence against the Public Administration;
4. Not have, at the time of his appointment, a relationship of the fourth degree of consanguinity or the second degree of affinity with any other member of the Board of Directors.

Article 16

In view of their status, the Authority's Directors shall not receive a salary or entertainment allowance, but they may receive a subsistence allowance for attending the meetings of the Board of Directors.

Article 17

The Board of Directors shall meet in ordinary session at least once a month, and in extraordinary session when convened by the Administrator or two members of the Board.

The quorum for meetings of the Board of Directors shall be a majority of its members, and its decisions shall be taken by majority vote, in accordance with the rules of procedure.

Article 18

The Board of Directors shall have the following functions and powers:

1. To propose to the Executive the development policy for the maritime sector and the National Maritime Strategy;
2. To propose to the Executive the establishment of a method of valuing the resources of the maritime sector in the System of National Accounts, in order to provide tools for facilitating planning and the allocation of these resources;
3. To adopt administrative, scientific and technological policies to promote and secure the competitiveness and profitability of the maritime sector and the development of its human resources;
4. To coordinate the Authority's services with those of other public institutions having a direct or indirect connection with the maritime sector;
5. To propose, and coordinate with the competent agencies, the necessary measures for the protection and conservation of the marine environment;
6. To examine and approve the Authority's annual plan and annual budget prepared by the Administrator;
7. To organize the Authority and, in general, to adopt any measures which it deems appropriate on the organization and functioning of the maritime sector;
8. To adopt the rules of procedure of the Authority and its own rules of procedure;

9. To establish a structure and regulations for the fees and charges for the services provided by the Authority and to determine, fix, alter and impose such fees and charges;
10. To propose to the Executive the delimitation of the sea and land areas within which the Authority shall exercise its jurisdiction;
11. To authorize transactions and contracts for sums in excess of one million balboas (B1,000,000);
12. To request the Executive, when absolutely necessary, to obtain legal control of specific areas, or expropriate them, with a view to achieving the Authority's objectives;
13. To settle, as the body of last resort, the claims and appeals of the users of the National Maritime Administration, terminating administrative recourse with respect to the actions taken by the Administrator;
14. To supervise the Administrator's management, ensure prior scrutiny of his actions, and require him to render account thereof;
15. To confirm the appointment of the executive-level managerial and technical staff of the Authority proposed by the Administrator;
16. To consider the recommendations made by the Panamanian Maritime Research Institute;
17. The other functions specified in laws or regulations.

Article 19

A Director of the Authority shall be suspended and, if necessary, removed from his post for the commission of fraud or an offence against the Public Administration.

Such suspension or removal shall be effected without prejudice to any criminal sanction which may be necessary.

A Director may also be suspended or removed from his post on the grounds of verified physical, mental or administrative incapacity by decision of the Executive.

Section 3 - The Advisory Council

Article 20

The Advisory Council shall have the following members:

1. The Deputy Administrator of the Authority;
2. The Secretary-General for Science, Technology and Innovation (SENACYT) of the Office of the President;
3. The Director for International Affairs of the Ministry of Foreign Affairs;
4. The Director for International Affairs of the Ministry of Labour and Social Welfare;
5. The Director-General of the Panamanian Foreign Trade Institute;

6. The President of the Chamber of Commerce of Panama;
7. The Secretary-General of one of the Panamanian seafarers' social organizations which the Minister of Labour and Social Welfare sees fit to suggest.

Article 21

The Deputy Administrator of the Authority shall act as secretary of the Advisory Council and may delegate his functions to any of the directors of the Authority's offices.

Article 22

The Advisory Council shall hold ordinary meetings once a month or whenever the Board of Directors deems it appropriate or necessary to seek its advice.

Article 23

The Advisory Council shall have the following functions:

1. To advise the Administrator of the Authority on matters related to the maritime sector, the performance of the Authority's functions, and the regulation of the practices of the maritime jurisdictions which are submitted for its consideration;
2. To provide a link, through their respective representatives, between the Authority and the bodies represented on the Advisory Council;
3. To put motions to the Administrator for the proposal of measures to improve and develop the maritime sector and render it more efficient;
4. To adopt its own rules of procedure.

Section 4 - The Administrator and the Deputy Administrator

Article 24

The Executive shall appoint the Administrator and the Deputy Administrator of the Authority. The Administrator shall be the legal representative of the Authority, and this function shall be delegated to the Deputy Administrator in the event of the Administrator's temporary or permanent absence.

The Administrator shall also be responsible for the entire administration of the Authority and, subject to the authorization of the Board of Directors in the cases in which this Decree Law so requires, he may effect all kinds of operations, transactions, agreements or contracts which may be required under this Decree Law.

Article 25

In order to be Administrator or Deputy Administrator of the Authority a person must:

1. Be of Panamanian nationality and of recognized integrity;
2. Be aged over 25 years;
3. Not have been convicted of fraud or an offence against the Public Administration;

4. Hold a university degree in maritime administration, public administration, business administration, international relations, law, economics or politics, or some other university degree similar or equivalent to these degrees; or

Have been employed for a period of at least five (5) years in work connected with the control, management and administration of shipping or marine resources, or with the administration or supervision of matters connected with the safety of navigation or the operation of ships in general.

Article 26

The Administrator and the Deputy Administrator shall be appointed for a period of five years, which shall coincide with the presidential term of office, and may be reappointed for an additional period.

Transitional paragraph. The first Administrator and Deputy Administrator of the Authority shall serve until 31 August 2004.

Article 27

The Administrator shall have the following functions:

1. To prepare and submit to the Board of Directors a proposal for the establishment of a method of valuing the resources of the maritime sector in the System of National Accounts, in order to provide tools to facilitate planning and the allocation of these resources;
2. To prepare, for approval by the Board of Directors, the policies, plans and programmes of the maritime sector. Once these plans, policies and programmes have been approved, they shall be carried out by the corresponding Offices of the Authority;
3. To prepare the Authority's draft budget and submit it to the Board of Directors for approval;
4. To submit to the Board of Directors an annual report and any other reports which it may request;
5. To appoint and establish any advice, consultation, execution and coordination units for the Authority which he may deem fit, subject to prior authorization of the Board of Directors and in accordance with the Authority's rules of procedure;
6. To propose to the Board of Directors the appointment of the Authority's executive-level managerial and technical staff;
7. To appoint, transfer, promote, suspend, terminate and remove junior staff members, in accordance with the relevant provisions of the law and the Authority's rules of procedure;
8. To ensure that the recommendations made by the Authority's offices are the result of coordination between them;
9. To conclude contracts and agreements and carry out transactions and operations in accordance with the Authority's terms of reference in amounts not in excess of one million balboas (B1,000,000), subject to the provisions of the law, without prejudice to prior and subsequent scrutiny by the Board of Directors, and in conformity with the provisions governing and regulating public contracts and with the Authority's rules;
10. To sell, alienate, exchange or transfer movable and immovable property of the Authority whose value does not exceed fifty thousand balboas (B50,000);

11. To identify, collect and keep account of the taxes, fees and other charges which must be paid by all the contributors to and users of the Authority;
12. To settle, as the body of last resort, the claims and appeals of the users of the National Maritime Administration, terminating administrative recourse with respect to the actions of the directors of the Authority's offices;
13. To perform all the other functions and exercise all the other powers specified in the legislation and in the Authority's rules, as well as those conferred by the Executive or the Board of Directors;
14. To represent the Authority in the Tripartite Commission created by Cabinet Decree No. 76 of 11 July 1990, and therefore the said Cabinet Decree is amended accordingly.

Article 28

The Deputy Administrator shall fill the vacancy in the post of Administrator produced by his resignation or death or by any other cause, until the replacement is appointed or takes up the post.

The Deputy Administrator shall perform the functions assigned to him by the Board of Directors and the Administrator, as well as the functions described in the Authority's rules of procedure.

Article 29

The Administrator and Deputy Administrator may be suspended or removed from their posts only by the Executive, pursuant to a decision taken by a majority vote of the members of the Board of Directors, on the grounds of manifest physical, mental or administrative incapacity or following a conviction for fraud or an offence against the Public Administration.

The suspension or removal of the Administrator or Deputy Administrator shall be effected without prejudice to any criminal sanction which may be necessary.

CHAPTER IV

Office of the Merchant Marine

Article 30

The Office of the Merchant Marine shall have the following functions:

1. To carry out on an exclusive basis all the administrative procedures relating to the registration of vessels in the National Merchant Marine;
2. To authorize and assign to other officials of Panama's Public Administration appointed for this purpose by the Authority the implementation of procedures relating to the provisional registration of vessels and preliminary registration of titles of ownership and other property rights to be granted in respect of vessels registered in the National Merchant Marine;
3. To establish the schedule for the payment of taxes, fees and other charges which must be paid by vessels registered in the National Merchant Marine;

4. To receive all the funds collected and remittances relating to the National Merchant Marine from the officials in the service of the Authority overseas, and to impose sanctions on these officials if they fail to discharge their legal and disciplinary duties;
5. To enforce, on vessels of Panamanian registration, the national legislation and the regulations contained in the international agreements ratified by the Republic of Panama with respect to the safety of navigation, maritime safety, and the prevention and control of marine pollution;
6. To investigate, itself or through third parties, such third parties being either officials or private individuals, nationals or foreigners, accidents at sea, spills or pollution of the sea involving a vessel of Panamanian registration, or a vessel of any nationality in the maritime zones and internal waters of Panama;
7. To enforce the national legislation and the regulations contained in the international agreements ratified by the Republic of Panama concerning the State supervision of ports;
8. To impose appropriate sanctions on persons who violate the legislation and regulations on the administration of the National Merchant Marine;
9. To perform the other functions assigned to it by the Administrator and the Board of Directors of the Authority.

CHAPTER V

Office of Ports and Auxiliary Maritime Industries

Article 31

The Office of Ports and Auxiliary Maritime Industries shall have the following functions:

1. To propose and coordinate the plans for development of the national ports system and to take appropriate action to that end;
2. To implement a general plan for the development of the national ports system, in accordance with the policies issued by the Office of the Administrator;
3. To construct, improve, expand and maintain the ports and commercial port installations in public use, in accordance with the policies laid down by the Office of the Administrator. It may construct works itself or have them constructed by other specialized State agencies or by private individuals;
4. To operate the port services mentioned in the preceding paragraph and to monitor and control the ports and installations which it does not operate directly;
5. To operate the national ports and port installations which are not run under concessions by private companies and which are not ports or port installations of the armed forces or of the Panama Canal Authority;
6. To administer and control concessions for the operation of the existing national ports or others which may be constructed in the future;
7. To improve the navigation, manoeuvring and berthing facilities for vessels calling at the national ports and, in general, to provide the services which these vessels require for the efficient handling of cargo and the usual supplies, and to regulate these activities within the port areas;

8. To load, unload, transship, store, guard and deliver to the consignees or their representatives, either itself or through concessionaires, the merchandise, products or other goods which are loaded or unloaded;
9. To establish an appropriate schedule for payment of fees and duties for port services;
10. To promote the adaptation of auxiliary maritime enterprises to the requirements of the traffic using the Panama Canal and the ports system;
11. To impose appropriate sanctions on persons who violate the legislation and regulations on the administration of ports and auxiliary maritime industries;
12. To perform the other functions assigned by the Administrator and the Board of Directors of the Authority.

CHAPTER VI

Office of Marine and Coastal Resources

Article 32

The Office of Marine and Coastal Resources shall have the following functions:

1. To administer the marine and coastal resources of the State of Panama;
2. To promote and coordinate with the National Institute for Renewable Natural Resources, or its equivalent, plans to ensure appropriate use of marine, coastal and lacustrine resources, in such a way as to facilitate their conservation, recovery and sustainable use;
3. To implement, direct, control and evaluate the integrated coastal management programmes, in accordance with the policies issued by the Office of the Administrator;
4. To ensure strict compliance with the legislation and regulations governing the use of marine and coastal resources and the conduct of activities which depend on these resources;
5. To propose the adoption of fisheries regulations applicable to fishing vessels operating under foreign flags in waters under the jurisdiction of the Republic of Panama;
6. To process applications for and keep a register of licences for the use of the country's marine and coastal resources, and to set limits on and supervise the proper conduct of such activities;
7. To promote the coordinated participation of the production sectors as strategic allies in the management and development of the coastal zone;
8. To establish arrangements for improving the scientific and technological qualifications of personnel involved in the administration of marine and coastal resources;
9. To encourage scientific research as a fundamental factor of the good management of marine and coastal resources;
10. To coordinate and agree with the Authority's offices and with the National Institute for Renewable Natural Resources, or its equivalent, and to propose to the Administrator the necessary measures for the protection and conservation of the marine environment;

11. To establish an appropriate schedule for payment of the fees and duties relating to the exploitation and use of marine and coastal resources;
12. To impose appropriate sanctions on persons who violate the legislation and regulations on the administration of marine and coastal resources;
13. To ensure compliance with environmental legislation and legislation on the management, conservation, restoration and exploitation of the marine environment;
14. To perform the other functions assigned to it by the Administrator and the Board of Directors of the Authority.

CHAPTER VII

Seafarers' Office

Article 33

The Seafarers' Office shall have the following functions:

1. To enforce the legislation on the education, training, qualifications and protection of seafarers, in accordance with the provisions of the international agreements ratified by the Republic of Panama;
2. To ensure strict compliance with the minimum rules on the manning of vessels of Panamanian registration in terms of the safety of navigation;
3. To administer the Nautical School of Panama;
4. To authorize, control and supervise the conduct of the education and training programmes of any other institutions offering nautical or maritime education in general;
5. To conduct inspections of the working, living and accommodation conditions on vessels flying the Panamanian flag, in order to ensure strict application of the national legislation and the international agreements ratified by the Republic of Panama concerning work at sea and in sea lanes;
6. To submit a written report to the relevant authorities, describing anomalies or infractions discovered during the inspections referred to in paragraph 5 of this article, and to recommend the imposition of appropriate sanctions;
7. To establish an appropriate schedule for payment of the fees and duties relating to the services which it provides;
8. To perform the other functions assigned to it by the Administrator and the Board of Directors of the Authority.

CHAPTER VIII

Panamanian Maritime Research Institute

Article 34

The Panamanian Maritime Research Institute shall be created as the lead agency for applied research in the maritime sector, in which the users of all of the services furnished by the Authority shall be involved.

Article 35

The Institute shall have the following functions:

1. To conduct, promote and direct applied research, with a view to advancing the orderly and sustained development of the maritime sector;
2. To prepare and submit recommendations to the Board of Directors of the Authority.

Transitional paragraph. The Board of Directors of the Authority shall appoint five (5) staff members to form the Institute's first executive secretariat, whose function shall be to encourage membership by the private sector and propose the Institute's rules of procedure. Once it has been set up, the Institute shall determine its organization and functioning.

CHAPTER IX

Transitional clauses

Article 36

On the promulgation of the present Decree Law the following agencies and offices of the Administration shall cease to exist as such and become part of the Authority:

1. The Consular and Shipping Office of the Ministry of Finance and the Exchequer;
2. The Office of Marine Resources of the Ministry of Trade and Industry;
3. The National Ports Authority;
4. Any other body which is integrated in the Authority by the Executive.

Article 37

All the property, rights, budgets and personnel of the bodies mentioned in article 36 shall be transferred to the Authority. The Authority shall also assume responsibility for the liabilities of these bodies at the time when this Decree Law enters into force.

The Executive shall adopt the necessary measures to effect the transfers referred to in this article, respecting in all cases acquired rights and existing concessions.

Article 38

All the property, rights, budget and personnel of the Nautical School of Panama shall be transferred to the Authority. The Authority shall also assume responsibility for the School's liabilities at the time when this Decree Law enters into force.

Article 39

The Executive may delegate to the Authority some of the functions of the Public Registry with respect to the constitution, amendment, cancellation or liquidation of titles of ownership to or mortgages on ships and to the registration of precautionary or interim protection measures pertaining thereto.

The Executive may also assign to the Authority some of the functions currently performed by the National Maritime Service, in order to secure faithful and comprehensive compliance with the legislation and regulations governing the maritime zones of the Republic of Panama.

Article 40

The National Maritime Commission shall be responsible for effecting the transfer of the agencies and offices which are to become part of the National Maritime Authority created by the present Decree Law, in accordance with an executive decree to be issued for this purpose.

CHAPTER X

Final clauses

Article 41

Once the Authority has come into operation, the provisions of the laws and decrees listed below shall be expressly abrogated only with respect to the establishment of the bodies, agencies and offices which, pursuant to article 36 of the present Decree Law, are to be integrated in the Authority: Law No. 2 of 17 January 1980, Decree Law No. 17 of 26 October 1989, Cabinet Decree No. 33 of 9 February 1990, Law No. 36 of 6 July 1995, Law No. 42 of 2 May 1974, Law No. 2 of 11 February 1982, Cabinet Decree No. 225 of 16 July 1969, Decree No. 16 of 11 May 1979, and Decree No. 755 of 5 October 1971.

The present Decree Law abrogates all the legislation and regulations which conflict with it.

Article 42

This Decree Law shall have immediate effect and shall enter into force on its promulgation.

LET IT BE COMMUNICATED AND PUBLISHED

DONE at Panama City on the tenth day of the month of February of the year one thousand nine hundred and ninety-eight (1998).

3. Sao Tome and Principe

Law No. 1/98 on delimitation of the territorial sea and the exclusive economic zone¹

Whereas the need to safeguard the legitimate rights and essential interests of the Nation with regard to living and non-living resources in the maritime domain in the Democratic Republic of Sao Tome and Principe,

Whereas fisheries and the exploitation of natural living and non-living resources that exist in the maritime bed and subsoil thereof, as well as in the adjacent waters contiguous to the territorial sea of Sao Tome and Principe have a paramount importance to the national economy;

Taking into account the United Nations Convention on the Law of the Sea,

Whereas it is necessary to set up the boundary delimitation of its exclusive economic zone, where the State of Sao Tome and Principe will enjoy the sovereign rights in and exclusive jurisdiction over all the natural living and non-living resources therein,

Now therefore,

The National Assembly, under subparagraph (b) of article 86 of the Constitution, enacts as follows:

Article 1
Territorial sea

The territorial sea in the Democratic Republic of Sao Tome and Principe has a breadth of twelve nautical miles, measured from the baseline, whose outer limit is a line every point of which is at a distance that is equal to twelve nautical miles from to the nearest point of the baseline.

Article 2
Archipelagic baseline

1. The baseline from which the breadth of the territorial sea in the Democratic Republic of Sao Tome and Principe is measured, is straight lines joining successively the outermost points in the two main islands, islets and emersed reefs that lie around thereof and that are determined by the following geographical coordinates:

Points	Vertices	Latitude				Longitude			
		Degrees	Minutes	Seconds	N-S	Degrees	Minutes	Seconds	E-W
1	Ilhéu das Rolas (SE)	00	00	45	S	06	31	44	E
2	Ilhéu das Rolas (E)	00	00	47	S	06	31	21	E
3	Ilhéu das Rolas (SW)	00	00	28	S	06	31	00	E
4	Ilhéu Gabado (SW)	00	07	52	N	06	59	05	E
5	Ilhéu Côco (W)	00	12	02	N	06	27	58	E

¹ Entry into force: 31 March 1998.

Points	Vertices	Latitude				Longitude			
		Degrees	Minutes	Seconds	N-S	Degrees	Minutes	Seconds	E-W
6	Ponta Furada (W)	00	14	39	N	06	27	56	E
7	Ponta Alemã	00	15	48	N	06	28	20	E
8	Ponta Diogo Vaz (W)	00	19	06	N	06	29	51	E
9	Pedra de Calé (NW)	01	43	40	N	07	22	55	E
10	Ihéus Monteiro (NE)	01	41	14	N	07	28	20	E
11	Ponto a Sul da Ponta da Garça (E)	01	37	40	N	07	27	52	E
12	Ihéu Carçoço (SE)	01	30	47	N	07	26	05	E
13	Ihéu Santana (E)	00	14	29	N	06	45	59	E
14	Sete Pedras (SE)	00	02	17	N	06	37	48	E

2. The ellipsoid and the datum points that have been used to determined the geographical coordinates are as follows:

Ellipsoid used: International Datum points:

- (a) in Sao Tome Island:
Fortaleza
Latitude: 0° 20' 49,02"N
Longitude: 6° 44'41,85"E
- Morro do Papagaio
Latitude: 1° 36'46,87"N
Longitude: 7° 23'39,65"E

Article 3
Waters within the baseline

The waters that are enclosed by the baseline are the archipelagic waters in the Democratic Republic of Sao Tome and Principe.

Article 4
Delimitation of exclusive economic zone

1. The breadth of the exclusive economic zone in the Democratic Republic of Sao Tome and Principe is two hundred nautical miles, measured from the baselines that are used to determine the breadth of the territorial sea.

2. In case of specific provisions set up in international treaties signed together with other States whose coasts are adjacent to the ones in the Democratic Republic of Sao Tome and Principe, the outer limit of the exclusive economic zone in the Democratic Republic of Sao Tome and Principe shall not be extended beyond the median line every point of which is equidistant to the other one.

3. The equidistance line means the line every point of which is at the same equal distance from the nearest point of the baseline drawn up by each State according to international law.

Article 5
Geographical coordinates

1. The outer limit of the exclusive economic zone is determined by the listing of geographical coordinates herein under defined and according to the chart hereinafter attached as a schedule of this Law:

Points	Latitude					Longitude				
	Degrees	Minutes	Seconds	Decimal (m.&s.)	N-S	Degrees	Minutes	Seconds	Decimal (m.&s.)	E-W
1	1	28	47.7	0.479917	S	7	16	16.9	0.271361	E
2	1	05	50.3	0.097306	S	6	40	38.3	0.677306	E
3	0	47	15.8	0.787722	S	6	11	30.7	0.191861	E
4	0	29	09.4	0.485944	S	5	43	56.3	0.732306	E
5	0	05	33.8	0.092722	S	5	06	05.2	0.101444	E
6	0	41	45.3	0.695917	N	3	37	03.2	0.617556	E
7	0	54	37.0	0.910278	N	3	12	11.9	0.203306	E
8	1	11	35.5	0.193194	N	3	16	22.4	0.272889	E
9	1	24	44.0	0.412222	N	3	20	44.8	0.345778	E
10	1	36	45.5	0.612639	N	3	25	37.9	0.427194	E
11	1	56	23.1	0.939750	N	3	35	09.0	0.585833	E
12	2	05	56.3	0.098972	N	4	25	32.8	0.585833	E
13	2	16	08.6	0.269056	N	5	05	47.1	0.096417	E
14	2	25	11.6	0.419889	N	5	32	02.5	0.534028	E
15	2	33	24.7	0.556861	N	5	51	26.2	0.857278	E
16	2	49	33.4	0.825944	N	6	24	15.7	0.404361	E
17	2	56	41.5	0.944861	N	6	43	07.2	0.718667	E

Points	Latitude					Longitude				
	Degrees	Minutes	Seconds	Decimal (m.&s.)	N-S	Degrees	Minutes	Seconds	Decimal (m.&s.)	E-W
18	3	01	31.2	0.025333	N	7	01	26.7	0.024083	E
19	3	02	33.5	0.042639	N	7	07	38.9	0.127472	E
20	2	52	34.3	0.876194	N	7	22	35.9	0.376639	E
21	2	38	50.7	0.647417	N	7	42	20.8	0.705778	E
22	2	31	35.3	0.526472	N	7	53	20.4	0.889000	E
23	2	22	58.9	0.383028	N	8	06	56.8	0.115778	E
24	2	18	06.9	0.301917	N	8	14	23.9	0.239972	E
25	2	11	30.9	0.191917	N	8	23	44.5	0.395694	E
26	2	04	20.2	0.072278	N	8	32	45.0	0.545833	E
27	1	49	01.5	0.817083	N	8	30	25.8	0.507167	E
28	1	42	09.0	0.702500	N	8	28	57.6	0.482667	E
29	1	27	42.9	0.461917	N	8	25	12.0	0.420000	E
30	1	11	40.3	0.194528	N	8	21	35.5	0.359861	E
31	0	55	48.1	0.930028	N	8	16	55.1	0.281972	E
32	0	34	19.0	0.571944	N	8	11	54.3	0.198417	E
33	0	23	43.5	0.395417	N	8	09	15.4	0.154278	E
34	0	13	02.5	0.217361	N	7	59	41.4	0.994833	E
35	0	00	05.0	0.001389	S	7	50	28.0	0.841111	E
36	0	17	28.0	0.291111	S	7	41	21.1	0.689194	E
37	0	25	45.5	0.429306	S	7	37	42.9	0.628583	E
38	0	52	51.9	0.881083	S	7	28	25.6	0.473778	E

2. Points 1, 2, 3, 4, 5, 6 and 7 are the equidistance line between the Democratic Republic of Sao Tome and Principe and the Republic of Equatorial Guinea.

3. Point 1 (triple point) is the equidistance point from the baseline in the Democratic Republic of Sao Tome and Principe, the corresponding ones in the Republic of Equatorial Guinea and in the Republic of Gabon.

4. Points 7, 8, 9, 10 and 11 are the geometrical points whose distance to the outermost point of the baseline is 200 nautical miles, which are determined by drawing an arc of circumference with a radius of 200 nautical miles and centered on the points of the baseline herein under defined:

- (a) Ponta Furada:
 - Latitude: 0° 14' 39"N
 - Longitude: 6° 27'56"E
- (b) Ponta Diogo Vaz:
 - Latitude: 0° 19'06"N
 - Longitude: 6° 29'51"E
- (c) Príncipe
Ilhéu Bombom:
 - Latitude: 1° 31'03"N
 - Longitude: 7° 25'05"E.

5. Points 11, 12, 13, 14, 15, 16, 17, 18 and 19 set up the equidistance line between the Democratic Republic of Sao Tome and Principe and the Republic of Nigeria.

6. Point 19 (triple point) is the equidistance point from the baseline in the Democratic Republic of Sao Tome and Principe, the corresponding ones in the Republic of Nigeria and in the Republic of Equatorial Guinea.

7. Points 19, 20, 21, 22, 23, 24, 25 and 26 set up the median line between the Democratic Republic of Sao Tome and Principe and the Republic of Equatorial Guinea.

8. Point 26 (triple point) is the equidistance point from the baseline in the Democratic Republic of Sao Tome and Principe, the corresponding ones in the Republic of Equatorial Guinea and in the Republic of Gabon.

9. Points 26, 27, 28 and 29 set up the median line between the Democratic Republic of Sao Tome and Principe and the Republic of Equatorial Guinea.

10. Points 30, 31, 32, 33, 34, 35, 36, 37, 38 and 1 set up the median line between the Democratic Republic of Sao Tome and Principe and the Republic of Gabon.

Article 6

Rights of the Democratic Republic of Sao Tome and Principe in the exclusive economic zone

The Democratic Republic of Sao Tome and Principe exercises the rights set up in and deriving from international Conventions and laws, including but not limited to:

- (a) the sovereign right for the purpose of exploration, exploitation, conservation and management of the natural living and non-living resources in the seabed, the subsoil and superjacent waters thereof included;
- (b) the exclusive rights and jurisdiction with regard to the establishment and use of artificial islands, installations and structures;
- (c) the exclusive jurisdiction over other activities related to economic exploration and exploitation of the zone, including the use of maritime currents and any other maritime feature whatsoever that may bring about technical and scientific development;

- (d) jurisdiction with regard to the preservation of the marine environment, especially, the control and elimination of pollution;
- (e) scientific research.

Article 7
Rights of other States

1. All remaining States may enjoy the freedoms of navigation, overflight and installation of submarine cables, tubes, as well as the other internationally legitimate use of the sea related to navigation and communication.
2. The installation of submarine cables and tubes shall be undertaken under arrangement with the State of the Democratic Republic of Sao Tome and Principe.

Article 8
The Scope of this Law

This Law does neither go to all length nor jeopardize the scope of the rights of the State of the Democratic Republic of Sao Tome and Principe that derive from the United Nations Convention on the Law of the Sea, adopted on 10 December 1982, and other eventual legal documents related thereto.

Article 9
Revocation

Decree-Laws Nos. 14/78, 15/78 and 48/82 are hereby revoked.

Article 10
Entry into force

This Law will enter into force on the date of publication thereof.

Enacted by the National Assembly, in Sao Tome town, on 11 March 1998.

4. Spain

List of geographical coordinates of points constituting the delimitation made by Spain of the Fisheries Protection Zone in the Mediterranean Sea, established by Royal Decree 1315/1997 of 1 August²

The Permanent Mission of Spain to the United Nations presents its compliments to the United Nations Secretariat, Division for Ocean Affairs and the Law of the Sea, and has the honour to deposit the list of geographical coordinates of points constituting the delimitation made by Spain of the Fisheries Protection Zone in the Mediterranean Sea, established by Royal Decree 1315/1997 of 1 August.

Said deposit is made in order to give effect to the provisions of article 75, paragraph 2, of the United Nations Convention on the Law of the Sea. All points indicated in said list are referred to the Postdam Datum.

List of coordinates

<u>Point No.</u>	<u>Latitude</u>	<u>Longitude</u>
1.	42° 26' 18" North	003° 10' 58" East
2.	42° 44' 95" North	003° 51' 65" East
3.	42° 43' 25" North	004° 08' 45" East
4.	42° 40' 95" North	004° 11' 90" East
5.	42° 27' 00" North	004° 32' 90" East
6.	41° 56' 50" North	004° 58' 75" East
7.	41° 53' 00" North	005° 00' 60" East
8.	41° 34' 75" North	005° 14' 65" East
9.	41° 29' 50" North	005° 19' 75" East
10.	41° 15' 50" North	005° 53' 00" East
11.	41° 09' 30" North	005° 56' 60" East
12.	41° 06' 50" North	005° 57' 60" East
13.	40° 35' 70" North	006° 07' 80" East
14.	40° 31' 70" North	006° 08' 90" East
15.	40° 27' 30" North	006° 10' 10" East
16.	40° 21' 50" North	006° 11' 90" East
17.	40° 01' 70" North	006° 18' 00" East
18.	39° 37' 50" North	006° 18' 00" East
19.	39° 20' 80" North	006° 13' 00" East
20.	38° 55' 00" North	006° 05' 80" East
21.	38° 47' 50" North	006° 03' 20" East
22.	38° 41' 15" North	005° 49' 70" East
23.	38° 26' 70" North	005° 18' 00" East
24.	38° 23' 05" North	004° 43' 80" East
25.	38° 22' 75" North	004° 34' 15" East
26.	38° 19' 80" North	004° 24' 65" East
27.	38° 17' 75" North	004° 20' 25" East
28.	38° 15' 15" North	004° 13' 90" East
29.	38° 13' 15" North	004° 08' 05" East
30.	38° 01' 35" North	003° 21' 95" East
31.	37° 59' 50" North	003° 14' 40" East

² Communicated by the Permanent Mission of Spain to the United Nations in a note verbale dated 10 September 1998. For text of Royal Decree No. 1315/1997, see Bulletin No. 36, p. 47.

<u>Point No.</u>	<u>Latitude</u>	<u>Longitude</u>
32.	37° 58' 90" North	003° 08' 50" East
33.	37° 58' 65" North	002° 54' 70" East
34.	37° 58' 65" North	002° 46' 05" East
35.	37° 55' 00" North	002° 37' 95" East
36.	37° 42' 95" North	002° 10' 70" East
37.	37° 38' 25" North	001° 52' 15" East
38.	37° 36' 50" North	001° 37' 80" East
39.	37° 36' 25" North	001° 32' 00" East
40.	37° 36' 05" North	001° 29' 40" East
41.	37° 36' 20" North	000° 47' 10" East
42.	37° 25' 80" North	000° 36' 00" East
43.	37° 10' 40" North	000° 17' 55" East
44.	36° 59' 90" North	000° 00' 25" East
45.	36° 50' 05" North	000° 19' 60" West
46.	36° 48' 85" North	000° 22' 50" West
47.	36° 46' 10" North	000° 28' 45" West
48.	36° 44' 50" North	000° 37' 40" West
49.	36° 43' 25" North	000° 43' 15" West
50.	36° 41' 75" North	000° 52' 00" West
51.	36° 34' 95" North	000° 59' 70" West
52.	36° 33' 65" North	001° 02' 25" West
53.	36° 28' 20" North	001° 11' 90" West
54.	36° 26' 55" North	001° 15' 65" West
55.	36° 23' 25" North	001° 22' 00" West
56.	36° 17' 15" North	001° 32' 50" West
57.	36° 05' 30" North	001° 50' 90" West
58.	35° 57' 40" North	002° 02' 80" West
59.	35° 56' 40" North	002° 04' 10" West
60.	35° 53' 80" North	002° 05' 65" West
61.	35° 54' 50" North	002° 12' 00" West
62.	36° 43' 35" North	002° 09' 95" West

B. Treaties and declaration

Regional

1. Declaration of Belize, adopted by the Thirteenth Conference of Ministers of the countries members of the Latin American Fisheries Development Organization, at Belize City, 27 November 1997

The Thirteenth Conference of Ministers of the countries members of the Latin American Fisheries Development Organization,

Welcoming the admission of Belize to membership of the Latin American Fisheries Development Organization, since Belize will strengthen the Organization and its collaboration will be very advantageous for the attainment of its objectives in the promotion of the region's fisheries development,

Considering the outcome of the meeting of the Committee on Fisheries of the Food and Agriculture Organization of the United Nations held in March 1997,

Bearing in mind the promulgation by the Government of the United States of America of amendments to the legislation on protection of marine mammals, which reflect some of the commitments undertaken in the Declaration of Panama, and the efforts made by countries to make progress in the negotiation of the binding agreement amending the Agreement of La Jolla,

Recognizing the importance of the Inter-American Convention for the Protection and Conservation of Sea Turtles,

Concerned by the fact that, despite the existence of an international legal instrument guaranteeing free trade and despite the region's intensive efforts to secure observance of that instrument, some countries or groups of countries persist in their tendency to erect barriers to Latin American exports of fish products, which have an adverse effect on food security, the profitability of investments and the development of this important activity,

Bearing in mind the approval by the Inter-American Development Bank of the project "Regional Support for the Implementation of International Fisheries Instruments",

Considering the existence of the natural phenomenon known as El Niño and its effects on the oceans and in particular on the region's fisheries,

Recognizing the renewed efforts of the Government of Bolivia for the sustainable development of its fisheries activities,

Bearing in mind that the rapid expansion of fish farming in Latin America is making fish farming into a major option for fisheries development,

Profoundly grateful to the people and Government of Belize for having hosted this thirteenth Conference of Ministers,

Resolves:

First

To express its profound satisfaction at the admission of Belize to membership of the Latin American Fisheries Development Organization;

To urge the other countries of Latin America and the Caribbean which are not yet members of the Latin American Fisheries Development Organization to consider the possibility of joining the

Organization in order to strengthen the region's negotiating capacity and the positions of the countries themselves in protection of their common interests;

- Second** To welcome the outcome of the meeting of the Committee on Fisheries of the Food and Agriculture Organization of the United Nations;
- Third** To take note of the amendment of United States legislation to solve the problem of the tuna embargo;
- To urge the countries of Latin America which fish for tuna in the East Pacific to continue their efforts to secure the adoption and signature of the binding agreement amending the Agreement of La Jolla at the meeting to be held in February 1998 and its subsequent ratification and entry into force;
- Fourth** To urge the countries able to be parties to the Inter-American Convention for the Protection and Conservation of Sea Turtles to sign and ratify the Convention with a view to its early entry into force, and to urge the countries which have signed the Convention to ratify it;
- Fifth** To reiterate its profound concern at the existence of commercial practices contrary to international law which lack any scientific basis and disregard the efforts of the member countries to apply the principles of responsible fishing;
- Sixth** To express their concern at the measures taken for the use of the commercial appellation "sardine" adopted by the Council of the European Union;
- Seventh** To thank the Inter-American Development Bank for its positive response in connection with the implementation of the project "Regional Support for the Implementation of International Fisheries Instruments", which will contribute to the sustainable development of fisheries activities in the region;
- Eighth** To promote a regional effort under the Organization's auspices to collect and exchange up-to-date information on the development of the El Niño phenomenon and its possible effects, an effort in which account will be taken, in particular, of the work done under the Estudio Regional del Fenomeno El Niño (ERFEN) project of the Permanent Commission for the South Pacific and the work of other organizations;
- To thank the delegation of Peru for the information given to the Conference on this important topic;
- Ninth** To welcome the decision of the Government of Bolivia to promote the sustainable development of its fisheries activities by creating the Bolivian Institute for Fisheries and Fish Farming;
- Tenth** To reaffirm its decision to carry forward regional plans for the development of fish farming as a means of increasing fisheries output in a context of sustainability;
- Eleventh** To offer its profound thanks to the Government of Belize for its generous hospitality and the services provided for the successful conduct of the Thirteenth Conference of Ministers.

Having been read and approved, this Declaration was signed on the twenty-seventh day of November 1997 in Belize City, Belize.

RESOLUTION NO. 147-CM-97

Report of the Executive Director

The Conference of Ministers,

Pursuant to article 14 of the Agreement instituting the Organization and working paper DT. No.2-XIII RO-CM-97 prepared by the Executive Director,

Whereas,

The Executive Director, pursuant to the provisions of article 11, paragraph (k), of the Agreement instituting the Organization, has presented his annual report on the activities carried out in the areas of responsibility assigned by the said Agreement, the rules of procedure and the resolutions of the Conference of Ministers,

Resolves:

Single article

To approve the report submitted by the Executive Director, which describes the implementation of the Organization's programme of work.

Belize, 27 November 1997

RESOLUTION NO. 148-CM-97

System of fisheries information

The Conference of Ministers,

Pursuant to article 14 of the Agreement instituting the Organization,

Whereas,

The Organization needs to have sufficient information for analysing the situation of fisheries in the member countries and in the Latin American region,

It is important to have a system for the collection of information on the conduct of fisheries activities in each of the countries of the region,

There is a need to establish such a system, which will facilitate the production of timely and pertinent analyses and assessments,

There is a need to explore the possibility of installing a spreadsheet incorporating the region's fisheries information, in accordance with the guidelines approved for this purpose by the Conference of Ministers,

Resolves:

Article one

Each of the countries members of the Organization shall send to the Executive Director, in June of each year at the latest, a report on the conduct of its fisheries activities, including inter alia the information indicated in annex 1 of this resolution.

Article two

To request the Executive Director to establish the necessary contacts to obtain information about the development of fisheries activities in other countries of the region.

Article three

To request the Executive Director to send the proposed OLDEPESCA spreadsheet to all its members, together with the corresponding budget, for their approval.

Article four

To request the Executive Director to prepare a proposal on guidelines for entering information in the OLDEPESCA spreadsheet, for approval by the members of the Organization.

Belize, 27 November 1997

Annex

I. Summary

II. Governmental actions

- II.1 Administration of fisheries resources
- II.2 Research
- II.3 Financing
- II.4 Economic efficiency
- II.5 International cooperation
- II.6 Regulations
- II.7 Programmes for protection of fish species

III. Fish farming

- III.1 Management/policy
- III.2 Production
- III.3 Research

- IV. Fisheries statistics (production) (volume, value), commercial fisheries balance (volume, value), output by main fisheries, processing, consumption, etc.
- V. Processing, marketing and consumption
- VI. Outlook

RESOLUTION NO. 149-CM-97

Development of fish farming in the region

The Conference of Ministers,

Whereas,

Fish farming is expanding in Latin America and the Caribbean,

The region's fish farming has a potential for the sustainable use of natural resources and for improving the living standards of communities by providing a source of food and income,

The development of the region's fish farming requires attention to the commercial and health aspects of native species,

Fish farming, at the global level, is encountering a number of problems such as diseases in some species,

Pursuant to the mandate of the Twelfth Conference of Ministers, the Executive Director has identified a set of factors which may support the sustainable development of this activity from a standpoint of regional cooperation,

Resolves:

Article one

To approve the regional plan of action for the development of fish farming, which consists, inter alia, of the following components:

- Establishment of a fish farming database in the OLDEPESCA spreadsheet;
- Formulation and implementation of a cooperation programme including:
 - * Exchange of information and experts
 - * Consultation meetings and technical workshops
 - * Promotion of trade in fish farming products derived from native species
 - * Development of programmes on the health of fish farming species
- Promotion of inter-institutional cooperation with organizations in the region and in other countries of the world.

Article two

Each member and participating country shall transmit to the Executive Director its comments and suggestions on the specific content and implementation of the plan, by 15 February 1998 at the latest.

Article three

The Executive Director shall be responsible for incorporating in the plan the elements proposed by countries. The plan shall then be submitted to the countries for their consideration, before its final version is drafted.

Article four

The countries, through the Executive Director, shall endeavour to identify sources of funding for the plan.

Belize, 27 November 1997

RESOLUTION NO. 150-CM-97

Expression of thanks to the Inter-American Development Bank

The Conference of Ministers,

Pursuant to article 14 of the Agreement instituting the Organization,

Whereas,

The Organization has done important and energetic work in the coordination of the international system of fisheries law through its participation in the drafting of the International Code of Conduct for Responsible Fishing and the Agreement on transboundary and highly migratory species,

Pursuant to the mandates of the Conference of Ministers, the Executive Director has conducted intensive and fruitful negotiations with the Inter-American Development Bank, securing approval of the project on support for the regional implementation of international legal instruments on fisheries,

Resolves:

Article one

To welcome the approval by the Inter-American Development Bank of the project on support for the regional implementation of international legal instruments on fisheries.

Article two

To thank the Inter-American Development Bank for approving the technical cooperation for the implementation of this important project, which reaffirms the Bank's readiness to support Latin American fisheries development.

Belize, 27 November 1997

RESOLUTION NO. 151-CM-97

**Monitoring of fisheries topics under the Convention on
International Trade in Endangered Species of
Wild Flora and Fauna (CITES)**

The Conference of Ministers,

Pursuant to article 14 of the Agreement instituting the Organization and resolutions Nos. 136-CM-96 and 138-CM-96,

Whereas,

The sustainable use of natural resources, particularly in the fisheries sector, is one of the fundamental purposes of the countries of the Latin American region and that major efforts are being made to that end,

Discriminatory practices in the trade in Latin American fisheries products have recently been intensified, in accordance with environmentalist arguments which are not based on scientific evidence,

The Organization maintains an active presence in the various forums dealing with these topics, with positive results for the trade in the region's fisheries products,

Resolves:

Article one

To request the Executive Director to continue his permanent monitoring of proposals to include fisheries species in the CITES appendices, in particular with respect to shark.

With regard to the proposal to create a working group on marine species in CITES, the Executive Director should, as far as possible, take part in the meetings convened to study this question under the auspices of CITES and other bodies.

Article two

To request the Executive Director to monitor and keep member countries informed about the work of the Food and Agriculture Organization of the United Nations on the following topics:

- I. Workshop on sharks;
- II. Workshop on fleet capacity;
- III. Workshop on sea birds.

Article three

To reject any move to impose restrictions on the region's fisheries activities.

Belize, 27 November 1997

RESOLUTION NO. 152-CM-97

Restrictions on the canned sardine trade

The Conference of Ministers,

Pursuant to article 14 of the Agreement instituting the Organization and resolution No. 134-CM of the twelfth session of the Conference of Ministers,

Whereas,

At its twelfth session (Havana, Cuba, 4-6 November 1996) the Conference of Ministers adopted resolution No. 134-CM-96, in which it reviewed the provisions of the European legislation on this question, the proposed alternative to the Codex Alimentarius and other technical matters, and consequently expressed its concern at and rejection of the measures adopted by the European authorities in connection with the commercial appellation "sardine",

Some countries members of the European Union have a tradition of importing sardine products from Latin America using the commercial appellation "sardine", which in the internal legislation of those countries is different from the one used in the common rules on the marketing of canned sardines,

At its twelfth session the Conference of Ministers adopted resolution No. 140-CM-96, which created the consultative group on foreign trade and the environment,

Resolves:

Article one

To convey to the European authorities its concern at the measures for the use of the commercial appellation "sardine" adopted by the Council of the European Union.

Article two

To support the efforts of the region's Governments, private sector and scientific community to devise workable solutions for this situation.

Article three

To request the European authorities to consider the possibility of revising the rules on the canned sardine trade in order to bring them into line with the best scientific evidence available from multilateral technical bodies such as the Codex Alimentarius Commission.

Article four

To entrust to the consultative group on foreign trade and the environment the task of examining the technical elements of this topic.

Article five

To reconfirm resolution No. 134-CM-96 adopted at the twelfth session of the Conference of Ministers.

Article six

To request the Executive Director to transmit this ministerial resolution to the authorities of the European Union.

Belize, 27 November 1997

RESOLUTION NO. 153-CM-97

Tuna embargo

The Conference of Ministers,

Pursuant to article 14 of the Agreement instituting the Organization and resolution No. 133-CM of the twelfth session of the Conference of Ministers,

Whereas,

On 15 August 1997 Public Law 105-42 or Law on the International Programme for the Conservation Dolphins entered into force in the United States, a development which will make it possible to lift the tuna embargo, in partial application of the 1995 Declaration of Panama,

The United States legislation has not modified the "safe dolphin" concept to render it consistent with the progress made in the 1992 Agreement of La Jolla but has postponed such modification and made it subject to preliminary and final studies on the numbers of marine mammals and the impact on their populations of purse-seine tuna fishing,

The Latin American Governments parties to the Agreement of La Jolla have made laudable efforts to establish a binding instrument of international law at the informal meetings in Caracas, Ensenada and Santa Fe de Bogotá (August, September and October 1997 respectively),

The Latin American countries have held meetings with States members of the Inter-American Tropical Tuna Commission in order to exchange views about the machinery and content of the binding instrument to replace the 1992 Agreement of La Jolla,

At the fifty-ninth (special) meeting of the Inter-American Tropical Tuna Commission and at the thirty-fourth meeting on the conservation of tuna and dolphins in the East Pacific, a formal round of negotiations took place on the instrument to replace the 1992 Agreement of La Jolla, and the resulting text is at an advanced stage of drafting,

At its twelfth session, held in Havana, Cuba, from 4 to 6 November 1996, the Conference of Ministers adopted resolution No. 133-CM-96, which set out the technical considerations relating to purse-seine tuna fishing in the East Pacific by the Latin American countries.

Resolves:

Article one

To take note of the partial fulfilment of the commitments undertaken by the United States in the 1995 Declaration of Panama and of the efforts of the Governments of the Latin American countries to fulfil their own commitments.

Article two

To urge the States members of the Inter-American Tropical Tuna Commission, the Governments parties to the Agreement of La Jolla, and the signatories of the Declaration of Panama to continue to make their best efforts to conclude and sign, at the meeting to be held in February 1998, the binding instrument amending the Agreement of La Jolla, and to secure its subsequent ratification and entry into force.

Article three

To express its confidence that the studies being made by the United States fisheries authorities, in conjunction with the Inter-American Tropical Tuna Commission, on the numbers of marine mammals and the impact of purse seine tuna fishing on their populations will yield conclusive results and confirm that this method is the most rational one from the environmental and economic standpoints, since it allows optimum catches of tuna with minimum impact on dolphins and other associated species.

Article four

To state the readiness of the Latin American States involved in tuna fishing in the East Pacific to take part in the work to be done by the United States fisheries authorities, in the conviction that it will result in the same conclusions as were reached in the studies already made under the auspices of the Inter-American Tropical Tuna Commission and lead to a modification of the "safe tuna" concept.

Article five

To reconfirm mutatis mutandis resolution No. 133-CM-96 adopted at the twelfth session of the Conference of Ministers.

Article six

To request the Executive Director to disseminate the present resolution.

Belize, 27 November 1997

RESOLUTION NO. 154-CM-97

**Inter-American Convention for the Protection
and Conservation of Sea Turtles**

The Conference of Ministers,

Pursuant to article 14 of the Agreement instituting the Organization and resolution No. 141-CM of the twelfth session of the Conference of Ministers,

Whereas,

At its twelfth session (Havana, Cuba, 4-6 November 1996) the Conference of Ministers adopted resolution No. 141-CM-96, in which it urged those countries able to be parties to the Inter-American Convention for the Protection and Conservation of Sea Turtles to complete the necessary formalities for its signature and ratification,

The Inter-American Convention, adopted on 1 December 1996, has been signed by the Governments of Brazil, Costa Rica, Nicaragua, Peru, the United States of America, and Venezuela,

The scientific community has supported the Governments of the region and urged them to sign and ratify the Convention, both at the seventeenth annual symposium on the biology and conservation of sea turtles (Orlando, Florida, 2-8 March 1997) and at the regional workshop on the conservation of sea turtles in Central America (Tortuguero, Costa Rica, 26 September to 1 October 1997),

Resolves:

Article one

To welcome the signature by several countries of the region of the Inter-American Convention for the Protection and Conservation of Sea Turtles.

Article two

To urge those countries able to be parties to the Convention to sign it, and those countries who have signed the Convention to ratify it, so that it may shortly enter into force.

Article three

To reconfirm mutatis mutandis resolution No. 141-CM-96 adopted at the twelfth session of the Conference of Ministers.

Article four

To request the Executive Director to disseminate the present resolution.

Belize, 27 November 1997

RESOLUTION NO. 155-CM-97

Tribute to Margarita Lizarraga

The Conference of Ministers,

Pursuant to article 14 of the Agreement instituting the Organization,

Considering,

The important personal and professional contribution of Dr. Margarita Lizarraga to the sustainable development of fisheries in the region,

Resolves:

Single article

To express its gratitude and pay a tribute to Dr. Margarita Lizarraga for her invaluable contribution to the development of Latin American fisheries and in particular for her estimable role in the drafting of the International Code of Conduct for Responsible Fishing.

Belize, 27 November 1997

RESOLUTION NO. 156-CM-97

Support for the development of Bolivia's fisheries

The Conference of Ministers,

Pursuant to article 14 of the Agreement instituting the Organization,

Whereas,

The Government of Bolivia has made considerable efforts to develop its fisheries in accordance with the principles of the sustainability of aquatic resources,

To this end the Government of Bolivia has the financial support of the European Union under the cooperation project BOL/B7-3010/94/053 on support for fisheries and fish farming in Bolivia, in which the Latin American Fisheries Development Organization has actively collaborated,

Resolves:

Single article

To express its full support for the Government of Bolivia in its objective of creating the Bolivian Institute for Fisheries and Fish Farming (INBOPECA).

Belize, 27 November 1997

RESOLUTION NO. 157-CM-97

Budget and programme of work for 1998

The Conference of Ministers,

Pursuant to:

Articles 11 (j) and 14 of the Agreement instituting the Organization,

The draft budget and programme of work for 1998,

Resolution No. 020-CM, which approved the Organization's assessments system,

Resolutions Nos. 070-CM and 086-CM, which amended the scale of assessments,

Resolution No. 143-CM, which created the Committee on Finances,

Whereas,

It is necessary to furnish the Executive Director with the budgetary and programme resources essential to the normal conduct of the Organization's activities,

It is therefore necessary to approve the budget and programme of work for 1998,

In order to overcome the Organization's financial difficulties it is necessary to urge the member countries to meet their obligations in good time,

Resolves:

Article one

To approve the budget and programme of work for 1998 as contained in annexes 1 and 2, which form part of the present resolution.

Article 2

To urge the member and participating countries to pay their contributions during the first half of each year, in order to facilitate the normal conduct of the Organization's activities.

Article three

That the Committee on Finances, of which the President and Vice-President of the Organization are members, shall be supplemented during 1998 by the delegations of Mexico and Peru and that it shall meet as circumstances require.

Article four

To approve the auditor's report prepared by the company Mejia y Asociados.

Belize, 27 November 1997.

2. Cambodia

Maritime boundary which affects two neighbouring countries with Cambodia, namely, the Kingdom of Thailand and the Socialist Republic of Viet Nam, in the Gulf of Thailand, and Cambodia itself^{3/}

The Ministry of Foreign Affairs and International Cooperation presents its compliments to the Royal Embassy of Thailand and to the Embassy of the Socialist Republic of Viet Nam in Phnom Penh and, with reference to the Agreement between the Government of the Kingdom of Thailand and the Government of the Socialist Republic of Viet Nam on the Delimitation of the Maritime Boundary between the two countries in the Gulf of Thailand, has the honour to declare the position of the Royal Government of Cambodia as follows:

1. The said Agreement between Thailand and Viet Nam, signed on 9 August 1977 in Bangkok, in article 1, paragraph 3, which is based on the so-called "maritime boundary" between the Socialist Republic of Viet Nam and the Kingdom of Cambodia, and which Cambodia has never agreed to, constitutes a violation of Cambodia's sovereignty and its rights over its exclusive economic zone as well as its continental shelf in this part of the Gulf of Thailand.
2. All provisions of the said Agreement are without prejudice with respect to Cambodia, and are, under international law, neither binding upon Cambodia nor affect her rights and legitimate interests in the area in question.
3. The boundary delimitation of the continental shelf and the exclusive economic zone in this part of the Gulf of Thailand shall be determined on the basis of agreement in accordance with both the general principles of international law and the United Nations Convention on the Law of the Sea of 1982, which calls for all States concerned to achieve an equitable solution.
4. In this connection, Cambodia totally reserves its position in relation to any delimitation of the maritime boundary in this part of the Gulf of Thailand, which has been made or may be made without the agreement of the Royal Government of Cambodia.
5. In a spirit of goodwill, cooperation and respect of each State's sovereignty, the Royal Government Cambodia wishes to reiterate its readiness and determination to work in a positive, productive and friendly way with its neighbours in order to reach a provisional arrangement of a practical nature or a final agreement on this matter as soon as possible.

³ Communicated by the Permanent Mission of the Kingdom of Cambodia to the United Nations in a note verbale dated 13 March 1998.

3. New Zealand

Status of the Convention for the Prohibition of Fishing with Long Driftnets in the South Pacific,
9 March 1998⁴

The Government of New Zealand, as the depositary for the Convention for the Prohibition of Fishing with Long Driftnets in the South Pacific (the Convention), done at Wellington on 24 November 1989, wishes to advise that an instrument of ratification to the Convention was deposited with the Government of New Zealand by the Government of the Solomon Islands on 19 January 1998. In accordance with Article 13, paragraph 2, the Convention entered into force for the Solomon Islands on 19 January 1998.

An updated list of parties to the Driftnet Fishing Convention is attached:

Convention for the Prohibition of Fishing with Long Driftnets in the South Pacific

Place concluded: Wellington
Date concluded: 24 November 1989
Entry into force: 15 May 1991
Status: 3 in force

Files references: 701/14/7/10/4

Reference to previous

Reference to subsequent

Reference to text

M1989/08-01
N1989/08-02

(1990) 29 ILM 1449
NZTS 1991 No 14

Comments:

Enters into force on date of deposit of fourth instrument of ratification or accession. Thereafter, on deposit of instrument of ratification or accession. New Zealand is depositary for the Convention under article 10, paragraph 2. South Pacific Forum concern led to the conclusion of this Convention.

⁴ Communicated by the Permanent Mission of New Zealand to the United Nations in a note verbale dated 26 February 1998.

List of parties to the Convention for the Prohibition of Fishing with Long Driftnets in the South

Country	Signature date	Ratification date	Accession date	Effective date	Withdrawal date	Additional notes
New Zealand	29 November 1989	17 May 1991		17 May 1991		C
Australia	2 February 1990	6 July 1992		6 July 1992		
Cook Islands	29 November 1989	24 January 1990		17 May 1991		
Fiji	11 August 1993	18 January 1994		18 January 1994		
France	30 April 1990					
Federated States of Micronesia	29 November 1989	20 December 1990				
Kiribati	13 February 1990	10 January 1992		17 May 1991		
Marshall Islands	29 November 1989			10 January 1992		
Nauru	13 February 1990	14 October 1992		14 October 1992		
Niue	29 November 1989	9 June 1997		9 June 1997		
Palau	29 November 1989					
Pitcairn Islands						C
Papua New Guinea						C
Solomon Islands	7 March 1991	17 January 1998		17 January 1998		
Tokelau	29 November 1989	17 May 1991		17 May 1991		C
Tonga						C
Tuvalu	13 February 1990					
United States of America	14 November 1990	28 February 1992		28 February 1992		D
Vanuatu	13 February 1990					
W. Samoa			9 September 1996	9 September 1996		

Protocol II to the Convention for the Prohibition of Fishing with Long Driftnets in the South Pacific⁵

The Government of New Zealand, as the depositary for the Convention [for the Prohibition of Fishing with Long Driftnets in the South Pacific] and its Protocols, has the honour to advise of an error in the French text of article 3, paragraph 1 (b), of Protocol II. This appears to have been caused by a mistaken transliteration of phraseology used in the Convention into Protocol II. In the French version of the text, Article 3(1) (b) reads as follows:

- “(1) Chaque Partie s’engage a:
(a) ...
(b) prendre des mesures conformes au droit international afin de restreindre les activités de pêche au filet maillant dérivant dans la Zone d’application de la Convention, comprenant ...”.

The Government of New Zealand has the honour to advise that the equivalent of the words “dérivant dans la Zone d’application de la Convention” do not appear in the English text of Protocol II.

As depositary for the Convention and its Protocols, the Government of New Zealand is empowered under article 79, paragraph 2, of the Vienna Convention on the Law of the Treaties to notify signatory States and contracting States of the error, and to rectify it by means of a proces-verbal if no objections have been raised within an appropriate period of time.

The Government of New Zealand has the honour to propose that the French text be rectified by expunging the words “dérivant dans la Zone d’application de la Convention” and will cause the text to be so rectified unless any original recipient of the final text of Protocol II lodges an objection thereto before 18 May 1998.

If the foregoing is acceptable, and if no objection is raised by 18 May 1998, the French text of article 3, paragraph 1 (b) will be rectified in due course by a proces-verbal.

⁵ Communicated by the Permanent Mission of New Zealand to the United Nations in a note verbale dated 9 March 1998.

III. LEGAL INFORMATION FROM OTHER INTERNATIONAL ORGANIZATIONS

International Maritime Organization

1. Resolution A.847(20)

Guidelines to assist flag States in the implementation of IMO instruments

The Assembly,

Recalling article 15(j) of the Convention on the International Maritime Organization concerning the functions of the Assembly in relation to regulations and guidelines concerning maritime safety and the prevention and control of marine pollution from ships,

Recalling further that, at its sixteenth session, it affirmed the contents of resolution A.500(XII) and the assignment of the highest priority to promoting the implementation of relevant international instruments for the improvement of maritime safety and pollution prevention,

Recognizing that international law requires flag States to meet the responsibilities set forth in generally accepted international regulations, procedures and practices contained in IMO instruments and other mandatory instruments, and to take any steps which may be necessary to secure their observance,

Reaffirming its desire that ships comply at all times with maritime safety and pollution prevention standards laid down in relevant IMO instruments,

Being aware of the difficulties some States have in giving full and complete effect to the provisions of IMO instruments,

Recognizing the importance of the ratification and implementation by all flag States of relevant instruments adopted by other international bodies,

Desiring to assist member Governments in ensuring achievement of the IMO objectives,

Having adopted resolution A.739(18) on Guidelines for the Authorization of Organizations Acting on Behalf of the Administration and resolution A.789(19) on Specifications on the Survey and Certification Functions of Recognized Organizations Acting on Behalf of the Administration,

Noting that, while States may realize certain benefits by becoming party to instruments aiming at promoting maritime safety and the prevention of pollution from ships, these desired benefits can only be obtained when all parties concerned fully carry out their obligations as required by the conventions,

Noting further that the ultimate effectiveness of any convention depends upon all States:

1. becoming party to the instruments mentioned above;
2. implementing them widely and effectively;
3. enforcing them rigorously; and
4. reporting to the Organization, as required,

Having considered the recommendations made by the Maritime Safety Committee at its sixty-eighth session and the Marine Environment Protection Committee at its fortieth session,

1. **Adopts the Guidelines to Assist Flag States in the Implementation of IMO Instruments, set out in the annex to the present resolution;**
2. **Requests the Maritime Safety Committee and the Marine Environment Protection Committee to conduct, with the direct participation of Governments concerned, a comprehensive analysis of difficulties encountered by them in the implementation of IMO instruments, with a view to identifying needs and appropriate solutions;**
3. **Requests also the above Committees to keep the Guidelines under continuous review and to update them in the light of the results of the comprehensive analysis referred to above;**
4. **Revokes resolution A.740(18).**

ANNEX

Guidelines to Assist Flag States in the Implementation of IMO Instruments

1. GENERAL

1.1 These Guidelines are intended to provide flag States with a means to establish and maintain measures for the effective application and enforcement of the following IMO Conventions:⁶

1. the International Convention for the Safety of Life at Sea (SOLAS) 1974;
2. the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto (MARPOL 73/78);
3. the International Convention on Load Lines (LL) 1966; and
4. the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers (STCW) 1978.

1.2 Under the provisions of the United Nations Convention on the Law of the Sea (UNCLOS) and of the above IMO conventions, Administrations are responsible for promulgating laws and regulations and for taking all other steps which may be necessary to give these instruments full and complete effect so as to ensure that, from the point of view of safety of life at sea and protection of the marine environment, a ship is fit for the service for which it is intended.

1.3 Administrations should improve the adequacy of the measures which are taken to give effect to those conventions and protocols which they have accepted and ensure that they are effectively monitored. Improvement can be made through rigorous and more effective application and enforcement of national legislation. These Guidelines can help to achieve this improvement.

1.4 Some flag States have encountered difficulties in fully implementing IMO instruments and in ensuring that prompt and timely surveys are conducted. Reasons for these difficulties include finances, personnel and technical expertise, delegation of authority, division of responsibilities and inadequate supervision of bodies acting on behalf of the flag State.

⁶ Reference is made to such applicable amendments as may be in force at any time.

1.5 Technical assistance for flag States experiencing difficulties in meeting their international responsibilities or in complying with these Guidelines is available through IMO.

2. INITIAL ACTIONS

2.1 When a convention enters into force for a State, the Government of that State must be in a position to implement its provisions through appropriate national legislation and to provide the necessary infrastructure. This means that a Government must have a functioning legislative body to enact laws applicable to ships flying its flag, and to provide for their subsequent enforcement. Consistent with article 94 of UNCLOS and the relevant provisions of the IMO conventions listed in 1.1, this capacity encompasses:

1. the ability of the flag State to promulgate laws which permit effective jurisdiction and control in administrative, technical and social matters over ships flying its flag and, in particular, provide the legal basis for general requirements for registries, the inspection of vessels, safety and pollution prevention laws applying to such ships and the making of associated regulations;
2. a legal basis for the enforcement of the flag State's national laws, including the associated investigative and penal processes; and
3. the availability in the flag State of sufficient personnel with maritime expertise to assist in the promulgation of the necessary national laws and to discharge the responsibilities of the flag State, including reporting as required by the respective convention.

2.2 A possible framework for national legislation implementing the SOLAS, MARPOL, Load Line and STCW Conventions is given in the appendix.

3. IMPLEMENTATION

3.1 In order to effectively discharge their responsibilities, flag States should:

1. implement policies through the issuance of national legislation and guidance which will assist in the implementation and enforcement of the convention requirements;
2. assign responsibilities within the Administration to update and revise the policies as necessary; and
3. formally adopt the above within a long-term strategic planning document.

3.2 Flag States should seek to establish a support infrastructure capable of administering a safety and environmental protection programme which, as a minimum, should consist of the following:

1. personnel with appropriate technical expertise and background, qualified to guide, direct and manage the programme, as well as providing the continuity in service. Flag States should recruit and train suitable applicants taking full advantage of existing training and technical assistance offered by IMO;
2. administrative instructions to implement applicable international regulations as well as any interpretative national regulations that may be needed;
3. facilities and personnel commensurate with the number, type and tonnage of ships flying their flag. In determining the number and location of offices needed, flag States should consider data collected from the oversight and control programmes below and the amount of work delegated to

recognized organizations. It should be noted that evidence of non-compliance may indicate the need for greater focus on those areas to ensure compliance and/or an increase in programme resources;

4. resources to ensure compliance with basic MARPOL, SOLAS and Load Line requirements using an audit and inspection programme independent of the entities which have been delegated authority by the flag State to issue the required international certificates and documentation;
5. resources to ensure compliance with the requirements of the STCW Convention, as amended. This includes resources to ensure, *inter alia*, that:
 - 5.1 training, assessment of competence and certification of seafarers are in accordance with the provisions of the Convention;
 - 5.2 STCW certificates and endorsements accurately reflect the competencies of the seafarers serving on board each ship flying its flag, using the appropriate STCW terminology as well as terms which are identical to those used in the safe manning document issued to the ship;
 - 5.3 impartial investigation of any reported incompetency, act or omission, that may pose a direct threat to safety of life or property at sea or to the marine environment, by the holders of certificates or endorsements issued by that Party, can be held;
 - 5.4 certificates or endorsements issued by the flag State can be withdrawn, suspended or cancelled when warranted, and when necessary to prevent fraud;
 - 5.5 administrative arrangements, including those involving training, assessment and certification activities conducted under the purview of another State, are such that the flag State accepts its responsibility for ensuring the competence of masters, officers and other seafarers serving on ships flying its flag. In this regard, particular reference is made to regulations I/2, I/9, I/10 and I/11 of the STCW Convention as amended; and
6. resources to ensure that investigations into casualties are conducted and to ensure adequate and timely handling of cases of deficient ships.

4. DELEGATION OF AUTHORITY

4.1 Many flag States authorize organizations to act on their behalf in conducting the surveys and inspections required under the IMO conventions. Such delegation of authority must be regulated in order to promote uniformity of inspections and maintain established standards. Any delegation of authority to recognized organizations should therefore follow the Guidelines for the Authorization of Organizations Acting on behalf of the Administration (resolution A.789(18))⁷ and the Specifications on the Survey and Certification Functions of Recognized Organizations Acting on behalf of the Administration (resolution A.789(19))⁸ and, in particular, should:

⁷ Resolution A.739(18) became mandatory under SOLAS regulation XI/1 on 1 January 1996.

⁸ Resolution A.789(19) is scheduled to become mandatory under SOLAS regulation XI/1, as amended, on 1 July 1998.

1. determine that the recognized organization has adequate resources in terms of technical, managerial and research capabilities to accomplish the tasks being assigned, in accordance with the Minimum Standards for Recognized Organizations Acting on behalf of the Administration set out in appendix 1 to resolution A.739(18);
2. have as its basis formal written agreement between the Administration and the recognized organizations which should as a minimum include the elements as set out in appendix 2 to resolution A.739(18) or equivalent legal arrangements, and may be based on the Model Agreement for the Authorization of Recognized Organizations Acting on behalf of the Administration (MSC/Circ.710 / MEPC/Circ.307);
3. specify instructions detailing actions to be followed in the event that a ship is found not fit to proceed to sea without danger to the ship or persons on board, or is found to present an unreasonable threat of harm to the marine environment;
4. provide the recognized organization with all appropriate instruments of national law giving effect to the provisions of the conventions or specify whether the Administration's standards go beyond convention requirements in any respect; and
5. specify that the recognized organization must maintain records which will provide the Administration with data to assist in interpretation of convention regulations.

4.2 To ensure that its international obligations are fully met when this type of arrangement is adopted, the flag State should establish an oversight programme with adequate resources for continuous monitoring of, and communication with, its recognized organizations, by:

1. retaining authority to conduct supplementary surveys to ensure that ships flying its flag comply with any national requirements which supplement the IMO conventions, e.g., occupational safety and health standards, manning levels, working hours and language requirements to assure shipboard communications; and
2. providing staff who have a good knowledge of the rules and regulations of the flag State and the recognized organizations and who are available to carry out effective field oversight of the recognized organizations.

5. ENFORCEMENT

5.1 To fulfil its international obligations it is essential for a flag State to establish and maintain an effective control over ships flying its flag. The need for this control is set out in article 94 of UNCLOS, and is implied in the IMO conventions listed in 1.1.

5.2 Flag States should take all necessary measures to secure observance of international rules and standards by ships flying their flag so as to ensure compliance with their international obligations. Such measures should, *inter alia*, include:

1. prohibiting ships flying their flag from sailing until such ships can proceed to sea in compliance with the requirements of international rules and standards;
2. the periodic inspection of ships flying their flag to verify that the actual state of the ship and its crew is in conformity with the certificates it carries;

3. instituting proceedings against ships flying their flag which have violated international rules and standards, irrespective of where the violation has occurred; and
4. providing in national laws and regulations for penalties of adequate severity to discourage violation of international rules and standards by ships flying their flag.

5.3 A control and monitoring programme should be an integral part of a flag State's maritime safety Administration. Such programmes help in maintaining internal quality standards, in evaluating the effectiveness of a flag State's actions in complying with convention instruments, and in identifying areas in IMO instruments which may need improvement. An effective programme should:

1. provide for prompt and thorough casualty investigations, with reporting to IMO as appropriate;
2. provide for the collection of statistical data, so that trend analyses can be conducted to identify problem areas;
3. provide for a timely response to deficiencies and alleged pollution incidents reported by port or coastal States;
4. include a regular review of:
 - 4.1 fleet loss and accident ratios to identify trends over selected time periods;
 - 4.2 the number of verified cases of substandard ships in relation to the size of the fleet;
 - 4.3 responses to port State deficiency reports or interventions;
 - 4.4 investigations into serious casualties and lessons learned therefrom; and
 - 4.5 financial, technical and other resources committed.

5.4 The flag State should:

1. ensure compliance with UNCLOS and with applicable IMO instruments through national legislation;
2. coordinate appropriate action against ships flying its flag which are not in compliance with applicable requirements;
3. ensure that an investigation is conducted in such cases;
4. provide an appropriate number of qualified personnel to implement and enforce the national legislation referred to in 5.4.1, including personnel for performing investigations and surveys; and
5. ensure the training and oversee the daily activities of flag State surveyors and investigators.

5.5 A sufficient number of qualified flag State personnel should be available to investigate incidents where ships flying its flag have been detained by other port States. The flag State should be prepared to oversee appropriate corrective measures to bring the ship in question into immediate compliance with the applicable international conventions as far as practicable and whenever possible.

5.6 A flag State, or a recognized organization acting on its behalf, should only issue an international certificate to a ship after it has determined that the ship meets all applicable requirements.

6. FLAG STATE SURVEYORS

6.1 Flag State surveyors should have the following professional qualifications, wherever possible:

1. a certificate issued under the relevant provisions of the STCW Convention, as amended, designating the holder as:
 - 1.1 master, qualified to command a ship of 3,000 GT or more; or as
 - 1.2 chief engineer, qualified to be in charge of machinery installed in a ship powered by main propulsion machinery of 3,000 kW or more; or as
 - 1.3 meeting the provisions of the Radio Regulations or holding an appropriate certificate related to the GMDSS; or
2. a university degree or diploma as a naval architect, mechanical engineer, electrotechnical engineer, or other type of engineer whose professional education relates to the maritime industry; or
3. not less than five years' service as an officer on board a ship at sea, as a naval architect, or as an engineer in the maritime field; or
4. a relevant university degree or diploma, augmented by completion of the following IMO model courses: 3.03 (Machinery), 3.04 (Electrical Installations), 3.05 (Fire Appliances and Provisions), 3.06 (Life-Saving Appliances), 3.07 (Hull), and 3.08 (Navigation) and relevant sea service of not less than six months.

6.2 While the above qualifications are highly desirable, it is recognized that some countries may not have available a sufficient number of individuals so qualified. Competent surveyors may originate from other backgrounds, but all must be grounded in the same basic skills, taught in classrooms and subsequently reinforced in the field under the guidance of qualified surveyors approved by the flag State. The maritime administration should develop and oversee the curriculum taught and the follow-up training for every surveyor. In addition to developing courses specializing in IMO conventions and in national laws and regulations, the maritime Administration is responsible for developing a policy to assist its field surveyors.

6.3 The flag State should ensure that individual surveyors have working knowledge and practical experience in those subject areas pertaining to their normal duties. Additionally, to assist individual surveyors in the conduct of duties outside of their normal assignments, the flag State should ensure ready access to expertise in the following areas, as necessary:

1. all aspects of the IMO conventions;
2. all aspects of national laws and regulations;
3. hull fit-up and repair;
4. welding and hot work safety;
5. non-destructive testing;
6. vessel construction, subdivision, stability, watertight integrity;
7. vessel electrical and machinery systems;
8. load line and tonnage assignment;
9. safety equipment systems, plans, and equipment items;
10. fire protection construction methods;
11. bridge navigation and communications equipment;

12. vessel cargo operations and deck machinery;
13. carriage of dangerous chemicals in bulk and liquefied gases in bulk;
14. oil pollution prevention systems and procedures, including noxious liquid substances in bulk;
15. safe methods of confined space entry;
16. safety management systems; and
17. evaluation of the effects of the human element.

6.4 During the first six months of employment within the flag State Administration, the surveyor should perform tasks under the supervision of an experienced surveyor, in accordance with an approved practical training programme.

6.5 When a surveyor is to be employed for tasks other than those within his or her field of expertise and experience, the surveyor should receive the necessary training and guidance for the new tasks and should perform them for a period of not less than one month, as appropriate, under the supervision of a surveyor with experience in that field.

6.6 Before a surveyor is employed on tasks relating to special ship types he or she should follow an appropriate training programme related to the particular ship type.

6.7 When performing tasks on board ship, the surveyor should carry an identification document issued by the flag State. This document should indicate the surveyor's authority to conduct specific tasks on behalf of the flag State, and likewise indicate any limitations on that authority.

7. FLAG STATE INVESTIGATIONS

7.1 In addition to providing qualified surveyors, the flag State should provide qualified investigators. Consistent with article 94.6 and article 217.4, 5 and 6 of UNCLOS and with the provisions of the relevant IMO conventions, investigations should be carried out following a marine casualty or pollution incident. The flag State should ensure that individual investigators have working knowledge and practical experience in those subject areas pertaining to their normal duties. Additionally, to assist individual investigators in performing duties outside their normal assignments, the flag State should ensure ready access to expertise in the following areas, as necessary:

1. navigation and the Collision Regulations;
2. flag State regulations on certificates of competency;
3. causes of marine pollution;
4. interviewing techniques;
5. evidence gathering; and
6. evaluation of the effects of the human element.

7.2 Any accidents involving personal injury necessitating absence from duty of three days or more and any deaths resulting from occupational accidents and casualties to ships of the flag State should be investigated and the results of such investigations made public. Ship casualties should be investigated and reported upon in accordance with UNCLOS, relevant IMO conventions, and the Guidelines currently being developed by IMO⁹. Casualty investigations should be conducted by suitably qualified investigators, competent in matters relating to the casualty. The report on the investigation should be forwarded to IMO together with the flag State's observations, in accordance with the Guidelines referred to above.

⁹ Refer to the Code for the Investigation of Marine Casualties and Incidents, adopted by the Organization by resolution A.849(20).

APPENDIX

A POSSIBLE FRAMEWORK FOR NATIONAL LEGISLATION IMPLEMENTING
THE SOLAS, MARPOL, LOAD LINE AND STCW CONVENTIONS

National legislation, whether primary or subsidiary legislation, should deal with the matters set out below. Detailed guidance on this subject is given in "Guidelines for Maritime Legislation", a United Nations publication.

1. GENERAL PROVISIONS

1. definitions
2. scope, i.e. to which ships the regulations apply
3. power to give exemptions and to allow equivalents
4. recognition and authority of classification societies

2. SUBSTANTIVE PROVISIONS

1. structure, machinery and equipment, maintenance
2. load lines
3. stability
4. stowage, loading, ballasting, deballasting
5. instructions, documents and other information on board
6. practice drills
7. linkage with and status of class rules and regulations
8. manning level
9. safe manning document
10. standards of training
11. certificates of competence and endorsements
12. conduct of examinations, examiners, conditions for admission
13. watchkeeping requirements
14. hours of work
15. medical fitness
16. ship's log book and entries
17. prohibition on the discharge of harmful substances
18. provision of reception facilities in ports

3. REQUIREMENTS FOR FOREIGN SHIPS IN WATERS UNDER JURISDICTION OF FLAG STATES

4. SURVEYS AND CERTIFICATION

1. surveys, intervals between them, authority to be entrusted with surveys
2. issue of certificates and authority entrusted with issuing them
3. issue of certificates by other Governments on request
4. acceptance of foreign certificates
5. period of validity of certificates and formats
6. suspension, withdrawal, loss and return of certificates
7. class surveys and certificates

5. RIGHTS AND OBLIGATIONS OF OWNER/OPERATOR, MASTER AND SEAMEN

1. prohibition against making alterations to a ship without the permission of the competent authority
2. duty to maintain condition of the ship during the voyage
3. duty to notify competent authority on damage sustained
4. duty to report discharges of harmful substances
5. prohibition against the master going to sea if
 - 5.1 the ship does not comply with the relevant requirements
 - 5.2 the ship is not provided with valid certificates and safe manning document, log and record books
 - 5.3 the ship is not manned in accordance with the requirements
6. prohibition against serving on board without appropriate endorsement
7. duty of the owner to enable the master to carry out his obligations
8. right of crew members to complain to competent authority and duty of authority to investigate complaints

6. ENFORCEMENT

1. designation of authority entrusted with enforcement
2. carrying out random inspections
3. rights and powers of surveyors (administration and class)
4. duty of master to produce certificates to surveyor
5. duty of owner and master to cooperate during surveys
6. power to withdraw certificates and to detain a ship
7. detention and release procedures
8. duty of master if the ship is detained abroad

7. PENALTIES

1. penalties for non-compliance, operational violations, contravenhon of a prohibition
2. penalties on the owner who incites the master to violate any of the provisions

8. APPEAL

1. right to appeal against decisions by the competent authority
2. appeal procedures

9. INVESTIGATION OF CASUALTIES AND ACCIDENTS

10. COSTS AND FEES

2. Resolution A.848(20)

Implementation of the International Safety Management (ISM) Code

The Assembly,

Recalling article 15(j) of the Convention on the International Maritime Organization concerning the functions of the Assembly in relation to regulations and guidelines concerning maritime safety and the prevention and control of marine pollution from ships,

Recalling also resolution A.741(18), by which it adopted safety and pollution prevention management requirements through the International Management Code for the Safe Operation of Ships and for Pollution Prevention (International Safety Management (ISM) Code).

Recalling further that the 1994 Conference of Contracting Governments to the International Convention for the Safety of Life at Sea (SOLAS), 1974:

- adopted a new chapter IX on Management for the Safe Operation of Ships by virtue of which the ISM Code is due to become mandatory on 1 July 1998 (the date on which the new chapter will apply to passenger ships, including passenger high-speed craft, oil tankers, chemical tankers, gas carriers, bulk carriers and cargo high-speed craft of 500 gross tonnage and upwards, regardless of their date of construction);
- recognized that the implementation of the requirements of new SOLAS chapter IX would place a significant burden on Administrations, organizations acting on their behalf, shipowners and operators and that experience had shown that it might require as much as two years preparation by shipowners and operators to establish a safety management system that would meet the standard required by the ISM Code; and
- recognizing that, even allowing for a necessary period of preparation, a large number of applications for certification under the ISM Code might be submitted close to the application dates specified in SOLAS regulation IX/2, resolved to recommend that all Administrations concerned designate dates in advance of the application dates specified in SOLAS regulation IX/2 by which requests for certification should be submitted for each ship type, in order to allow Administrations or organizations recognized by them time to complete their certification schedule, and shipping companies to rectify any non-compliance,

Further recalling resolution A.788(19) on Guidelines on Implementation of the International Safety Management (ISM) Code by Administrations, whereby Governments should have requested companies concerned to apply for certification under the ISM Code not later than 1 July 1997,

Noting with concern that, in spite of the appeal for action made in three circulars (MSC/Circ.761; MSC/Circ.771 and MEPC/Circ.311) regarding the implementation of the International Safety Management (ISM) Code, the situation has not improved to a satisfactory level, since a significant percentage of shipping companies and ships have not either applied for or obtained the certification required by the ISM Code, or "pre-authorization" certification prepared by the relevant Administrations or recognized organizations,

Noting also with concern that some Governments have apparently not yet enacted the required domestic legislation to give effect to the requirements of the Code,

Appreciating the efforts made by the Secretary-General to promote the timely and effective implementation of the ISM Code,

Having considered the recommendations made by the Maritime Safety Committee at its sixty-eighth session and by the Marine Environment Protection Committee at its fortieth session,

1. **Draws the attention of Member Governments, Contracting Governments to SOLAS and the industry to the fact that SOLAS regulation IX/2 does not provide for any extension of implementation dates for the introduction of the ISM Code;**
2. **Urges all parties concerned to recognize that ships which are not certified under the provisions of the ISM Code will be regarded as not being in compliance with the requirements of the SOLAS Convention and the privileges of the Convention may not be claimed in favour of such ships under the provisions of the Convention, when the Code becomes mandatory under SOLAS chapter IX;**
3. **Urges also all parties concerned to recognize that:**
 - .1 **non-compliance with the ISM Code may be regarded as causing an increase in the risk of marine pollution which may lead to a violation of pollution prevention requirements; and that**
 - .2 **article 217 of the United Nations Convention on the Law of the Sea (UNCLOS) provides that penalties provided for by laws and regulations to prevent, reduce and control pollution of the marine environment of States for ships flying their flag shall be adequate in severity to discourage violations wherever they occur,**
4. **Urges further Member Governments and Contracting Governments to SOLAS to make the utmost effort to finalize as soon as possible the ISM Code certification of ships entitled to fly their flags as required by SOLAS regulation IX/2;**
5. **Draws the attention of Member Governments to the fact that a certain amount of "pre-authorization" certification may exist, which may be considered as a basis for verification of compliance with the ISM Code, if issued by an Administration or a recognized organization meeting the requirements of resolution A.739(18) and if it gives evidence of full compliance with the technical contents of the ISM Code;**
6. **Invites Governments to inform the Organization about their arrangements for verifying compliance with the Code and whether such verifications would be undertaken by Administrations themselves, or by recognized organizations acting on their behalf. in which case the Governments concerned are invited to inform the Organization of the recognized organizations so authorized.**
7. **Invites also Member Governments and Contracting Governments to SOLAS, already at this stage:**
 - .1 **to be aware that there is a significant amount of work required to ensure application of the ISM Code to other general cargo ships and mobile offshore drilling units of 500 gross tonnage and upwards by 1 July 2002; and**
 - .2 **to expedite the process of application of the ISM Code to those ships well in advance of the enforcement date;**
8. **Requests the Maritime Safety Committee and the Marine Environment Protection Committee to keep the matter under review and take action as appropriate; and**
9. **Requests the Secretary-General to take any such additional measures as may be required aiming at assisting in ensuring the timely and effective implementation of the ISM Code.**

3. Resolution A.851(20)

General principles for ship reporting systems and ship reporting requirements, including guidelines for reporting incidents involving dangerous goods, harmful substances and/or marine pollutants

The Assembly,

Recalling article 15(j) of the Convention on the International Maritime Organization concerning the functions of the Assembly in relation to regulations and guidelines concerning maritime safety and the prevention and control of marine pollution from ships,

Recalling also resolution 3 of the International Conference on Maritime Search and Rescue, 1979, on the need for an internationally agreed format and procedure for ship reporting systems,

Considering that current national ship reporting systems may use different procedures and reporting formats,

Realizing that such different procedures and reporting formats could cause confusion to masters of ships moving from one area to another covered by different ship reporting systems,

Believing that such confusion could be alleviated if ship reporting systems and reporting requirements were to comply as far as practicable with relevant general principles and if reports were made in accordance with a standard format and procedures,

Recalling the General Principles for Ship Reporting Systems and Ship Reporting Requirements, including Guidelines for Reporting Incidents Involving Dangerous Goods, Harmful Substances and/or Marine Pollutants, adopted by resolution A.648(16),

Recognizing that States Parties to the International Convention relating to Intervention on the High Seas in Cases of Oil Pollution Casualties (1969) and the Protocol relating to Intervention on the High Seas in Cases of Marine Pollution by Substances other than Oil (1973) may take such measures on the high seas as may be necessary to prevent, mitigate or eliminate grave and imminent danger to their coastline or related interests from pollution or threat of pollution of the sea by oil and substances other than oil following upon a maritime casualty or acts related to such a casualty, which may reasonably be expected to result in major harmful consequences,

Recognizing also the need for coastal States to be informed by the master of an assisting ship, or of a ship undertaking salvage, of particulars of the incident and of action taken,

Recognizing further that an incident involving damage, failure or breakdown of the ship, its machinery or equipment could give rise to a significant threat of pollution to coastlines or related interests,

Having considered the recommendation made by the Maritime Safety Committee at its sixty-seventh session and the Marine Environment Protection Committee at its thirty-ninth session,

1. **Adopts** the General Principles for Ship Reporting Systems and Ship Reporting Requirements, including Guidelines for Reporting Incidents Involving Dangerous Goods, Harmful Substances and/or Marine Pollutants, set out in the Annex to the present resolution;
2. **Urges** Governments to ensure that ship reporting systems and reporting requirements comply as closely as possible with the general principles specified in the Annex to the present resolution;

3. **Urges also** Governments to bring the reporting format and procedures to the notice of shipowners and seafarers as well as of the designated authorities concerned;
4. **Recommends** Governments and States Parties to MARPOL 73/78 to implement the Guidelines, in accordance with paragraph (2) of article V of Protocol I thereof;
5. **Revokes** resolution A.648(16).

ANNEX

General principles for ship reporting systems and ship reporting requirements, including guidelines for reporting incidents involving dangerous goods, harmful substances and/or marine pollutants

1. General principles

1.1 Ship reporting systems and reporting requirements are used to provide, gather or exchange information through radio reports. The information is used to provide data for many purposes including search and rescue, vessel traffic services, weather forecasting and prevention of marine pollution. Ship reporting systems and reporting requirements should, as far as practicable, comply with the following principles:

1. reports should contain only information essential to achieve the objectives of the system;
2. reports should be simple and use the standard international ship reporting format and procedures; where language difficulties may exist, the languages used should include English, using where possible the Standard Marine Navigational Vocabulary, or alternatively the International Code of Signals. The standard reporting format and procedures to be used are given in the appendix ¹⁰ to this Annex;
3. the number of reports should be kept to a minimum;
4. no charge should be made for communication of reports;
5. safety or pollution-related reports should be made without delay; however, the time and place of making non-urgent reports should be sufficiently flexible to avoid interference with essential navigational duties;
6. information obtained from the system should be made available to other systems when required for distress, safety and pollution purposes;
7. basic information (ship's particulars, on-board facilities and equipment, etc.) should be reported once, be retained in the system and be updated by the ship when changes occur in the basic information reported;
8. the purpose of the system should be clearly defined;
9. Governments establishing a ship reporting system should notify mariners of full details of the requirements to be met and procedures to be followed. Details of types of ships and areas of applicability, of times and geographical positions for submitting reports, of shore establishments responsible for operation of the system and of the services provided should be clearly specified.

¹⁰

Appendix to the Annex not attached.

Chartlets depicting boundaries of the system and providing other necessary information should be made available to mariners;

10. the establishment and operation of a ship reporting system should take into account:
 - 10.1 international as well as national responsibilities and requirements;
 - 10.2 the cost to ship operators and responsible authorities;
 - 10.3 navigational hazards;
 - 10.4 existing and proposed aids to safety; and
 - 10.5 the need for early and continuing consultation with interested parties including a sufficient period to allow for trial, familiarization and assessment to ensure satisfactory operation and to allow necessary changes to be made to the system;
11. Governments should ensure that shore establishments responsible for operation of the system are manned by properly trained persons;
12. Governments should consider the interrelationship between ship reporting systems and other systems;
13. ship reporting systems should preferably use a single operating radio frequency; where additional frequencies are necessary, the number of frequencies should be restricted to the minimum required for the effective operation of the system;
14. information provided by the system to ships should be restricted to that necessary for the proper operation of the system and for safety;
15. ship reporting systems and requirements should provide for special reports from ships concerning defects or deficiencies with respect to their hull, machinery, equipment or manning, or concerning other limitations which could adversely affect navigation and for special reports concerning incidents of actual or probable marine pollution;
16. Governments should issue instructions to their shore establishments responsible for the operation of ship reporting systems to ensure that any reports involving pollution, actual or probable, are relayed without delay to the officer or agency nominated to receive and process such reports, and to ensure that such an officer or agency relays these reports without delay to the flag State of the ship involved and to any other State which may be affected;
17. States which are affected or likely to be affected by pollution incidents and may require information relevant to the incident should take into account the circumstances in which the master is placed, and should endeavour to limit their requests for additional information; and
18. the appendix to this Annex does not apply to danger messages referred to under regulation V/2 of the 1974 SOLAS Convention, as amended. The present practice of transmitting such messages should remain unchanged.

2. Guidelines for reporting incidents involving dangerous goods

2.1 The intent of these Guidelines and those contained in the appendix is to enable coastal States and other interested parties to be informed without delay when any incident occurs involving the loss, or likely loss, overboard of packaged dangerous goods into the sea.

2.2 Reports should be transmitted to the nearest coastal State. When the ship is within or near an area for which a ship reporting system has been established, reports should be transmitted to the designated shore station of that system.

3. Guidelines for reporting incidents involving harmful substances and/or marine pollutants

3.1 The intent of these Guidelines and those contained in the appendix is to enable coastal States and other interested parties to be informed without delay of any incident giving rise to pollution, or threat of pollution, of the marine environment, as well as of assistance and salvage measures, so that appropriate action may be taken.

3.2 In accordance with article V(1) of Protocol I of MARPOL 73/78, a report shall be made to the nearest coastal State.

3.3 Whenever a ship is engaged in or requested to engage in an operation to render assistance to or undertake salvage of a ship involved in an incident referred to in I (a) or (b) of article II of Protocol I of MARPOL 73/78, as amended, the master of the former ship should report, without delay, the particulars of the action undertaken or planned. The coastal States should also be kept informed of developments.

3.4 The probability of a discharge resulting from damage to the ship or its equipment is a reason for making a report.

4. Resolution A.858(20)

Procedure for the adoption and amendment of traffic separation schemes, routeing measures other than traffic separation schemes, including designation and substitution of archipelagic sea lanes, and ship reporting systems

The Assembly,

Recalling article 15(j) of the Convention on the International Maritime Organization concerning the functions of the Assembly in relation to regulations and guidelines concerning maritime safety,

Noting that regulations V/8 and V/8-1 of the International Convention for the Safety of Life at Sea, 1974 and rule I(d) of the International Regulations for Preventing Collisions at Sea, 1972, *inter alia*, recognize the Organization as the only body for establishing and adopting traffic separation schemes, routeing measures other than traffic separation schemes and ship reporting systems on an international level,

Recognizing the need for an expeditious adoption and amendment procedure of the schemes, measures and systems referred to above,

Recognizing also the need for such a procedure to be compatible,

Recognizing further the need for any procedure agreed for the purpose of adoption, designation and substitution of archipelagic sea lanes to also be compatible,

Having considered the recommendations made by the Maritime Safety Committee at its sixty-seventh session and by the Subcommittee on Safety of Navigation at its forty-third session,

1. **Resolves** that the function of adopting traffic separation schemes, routeing measures other than traffic separation schemes, including designation and substitution of archipelagic sea lanes, and ship reporting systems, as well as amendments thereto, shall be performed by the Maritime Safety Committee on behalf of the Organization;
2. **Revokes** resolution A.376(X), resolution A.377(X) and resolution A.826(19).

5. Resolution A.867 (20)

Combating unsafe practices associated with the trafficking or transport of migrants by sea

The Assembly,

Recalling article 15(j) of the Convention on the International Maritime Organization concerning the functions of the Assembly in relation to regulations and guidelines concerning maritime safety,

Recalling also the adoption, in 1993, of resolution A.773(18) on enhancement of safety of life at sea by the prevention and suppression of unsafe practices associated with alien smuggling by ships,

Noting with concern incidents involving substandard ships used for the trafficking or transport of migrants, which have reportedly resulted in heavy loss of life,

Noting further the recommendation made by the Facilitation Committee at its twenty-fifth session that the Maritime Safety Committee be invited to consider taking appropriate measures in the context of the concern expressed by the Secretary-General in document FAL 25/7/1,

Being aware of the work currently carried out in this field by the United Nations Commission on Crime Prevention and Criminal Justice,

Bearing in mind the relevant rights and obligations contained in the international law of the sea,

Recognizing the grave danger to life arising from unsafe practices associated with the trafficking or transport of migrants by sea,

Being of the opinion that Governments should cooperate in taking, as a matter of the highest priority, all necessary action to prevent and suppress any unsafe practices associated with the trafficking or transport of migrants by sea,

1. **Invites** Governments to cooperate in the interests of safety of life at sea by increasing their efforts to suppress and prevent unsafe practices associated with the trafficking or transport of migrants by sea and by ensuring that effective and prompt action is taken against such unsafe practices;
2. **Further invites** Governments to develop, as appropriate, agreements and procedures to facilitate cooperation in applying efficient and effective measures to prevent and suppress unsafe practices associated with the trafficking or transport of migrants by sea;
3. **Also invites** Governments to cooperate in ensuring that, to the maximum extent possible, information on ships believed to be engaged in unsafe practices associated with the trafficking or transport of migrants by sea is collected and disseminated to the Organization and to all Governments which may be affected by such unsafe practices;
4. **Encourages** Governments to apply the provisions of international instruments dealing with the safety of life at sea;
5. **Requests** Governments to take action as required by international instruments to detain all unsafe ships, including those used for the trafficking or transport of migrants by sea, to report promptly to the Government whose flag such ships are entitled to fly, and to supply to the Organization pertinent information on all incidents concerning unsafe practices associated with the trafficking or transport of migrants by sea which come to their attention;

6. **Directs the appropriate IMO bodies to consider, as necessary, the issue of the trafficking or transport of migrants by sea from the safety of life at sea viewpoint, as well as the development of a reporting system for these practices;**
7. **Requests the Secretary-General to ensure participation by IMO in the preparation of any draft convention or other instrument intended to combat the trafficking or transport of migrants by sea; and to ensure that a report is submitted to the twenty-first session of the Assembly on progress made on this issue;**
8. **Requests the Secretary-General to bring this resolution, and in due course the outcome of the work of this Organization on the matter, to the attention of the United Nations and other international organizations concerned for information and appropriate action, with the recommendation that an international convention be concluded aiming at combating the trafficking or transport of migrants by sea.**

6. Resolution A.868(20)

Guidelines for the control and management of ships' ballast water to minimize the transfer of harmful aquatic organisms and pathogens

The Assembly,

Recalling article 15(j) of the Convention on the International Maritime Organization concerning the functions of the Assembly in relation to regulations and guidelines concerning prevention and control of marine pollution from ships,

Recalling also resolution A.774(18) by which it recognized that the uncontrolled discharge of ballast water and sediment from ships has led to the transfer of harmful aquatic organisms and pathogens, causing injury to public health and damage to property and the environment, and accordingly adopted Guidelines for Preventing the Introduction of Unwanted Aquatic Organisms and Pathogens from Ships' Ballast Water and Sediment Discharges, and further that the Marine Environment Protection Committee (MEPC) and the Maritime Safety Committee (MSC) shall keep the ballast water issue and the application of the Guidelines under review with a view to further developing the Guidelines as a basis for a new annex to MARPOL 73/78,

Recalling further that the 1992 United Nations Conference on Environment and Development (UNCED), in its Agenda 21, requests IMO to consider the adoption of appropriate rules on ballast water discharge to prevent the spread of non-indigenous organisms, and further proclaims in the Rio Declaration on Environment and Development that States shall widely apply the precautionary approach according to their capabilities,

Bearing in mind that MEPC/Circ.288 recognized that the existing Guidelines do not provide a complete solution towards the total prevention of the introduction of harmful aquatic organisms and pathogens, but urged that focus should be directed on measures aimed at minimizing the risks, emphasizing further that in applying the existing Guidelines, the ship's safety was of paramount importance,

Noting the objectives of the Convention on Biological Diversity, 1992, and that the transfer and introduction of alien aquatic species with ballast water threatens the conservation and sustainable use of biological diversity,

Noting further the status of work carried out by MEPC as requested by resolution A.774(18) concerning the development of legally binding provisions on ballast water management together with guidelines for their effective implementation, as well as the Guidance on Safety Aspects of Ballast Water Exchange at Sea prepared by the Subcommittee on Ship Design and Equipment, and distributed as MEPC/Circ.329 and MSC/Circ.806, both of 30 June 1997,

Recognizing that several States have taken unilateral action by adopting legally binding provisions for local, regional or national application with a view to minimizing the risks of introducing harmful aquatic organisms and pathogens through ships entering their ports, and also that this issue, being of worldwide concern, demands action based on globally applicable regulation together with guidelines for their effective implementation and uniform interpretation,

Having considered the recommendation of the MEPC at its fortieth session on this issue,

1. **Adopts** the Guidelines for the Control and Management of Ships' Ballast Water to Minimize the Transfer of Harmful Aquatic Organisms and Pathogens set out in the Annex to the present resolution;

2. **Requests** Governments to take urgent action in applying these Guidelines, including the dissemination thereof to the shipping industry, to use them as a basis for any measures they adopt with a view to minimizing the risks of introducing harmful aquatic organisms and pathogens, and to report to the MEPC on any experience gained in their implementation;
3. **Requests also** the MEPC to work towards completion of legally binding provisions on ballast water management in the form of a new Annex to MARPOL 73/78, together with guidelines for their uniform and effective implementation with a view to their consideration and adoption in the year 2000;
4. **Requests further** the MSC to include in its work plan the evaluation of information received from interested parties, particularly that relevant to 12.2 of the Guidelines adopted herewith, with a view to determining the hazards and potential consequences for various existing ship types and operations. The MSC is also requested to consider any other relevant issues concerning ballast water management as well as design objectives for new ships, with a view to minimizing to the extent possible risks of introducing harmful aquatic organisms and pathogens with ships' ballast water and sediments;
5. **Revokes** resolution A.774(18).

ANNEX

Guidelines for the Control and Management of Ships' Ballast Water to Minimize the Transfer of Harmful Aquatic Organisms and Pathogens

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1. Introduction

1.1 Studies carried out in several countries have shown that many species of bacteria, plants and animals can survive in a viable form in the ballast water and sediment carried in ships, even after journeys of several months' duration. Subsequent discharge of ballast water or sediment into the waters of port States may result in the establishment of harmful aquatic organisms and pathogens which may pose threats to indigenous human, animal and plant life, and the marine environment. Although other media have been identified as being responsible for transferring organisms between geographically separated water bodies, ballast water discharge from ships appears to have been among the most prominent.

1.2 The potential for ballast water discharge to cause harm has been recognized not only by the International Maritime Organization but also by the World Health Organization, which is concerned about the role of ballast water as a medium for the spreading of epidemic disease bacteria.

1.3 These Guidelines are not to be regarded as a certain solution to the problem. Rather, each part of them should be viewed as a tool which, if correctly applied, will help to minimize the risks associated with ballast water discharge. As scientific and technological advances are made, the Guidelines will be refined to enable the risk to be more adequately addressed. In the interim, port States, flag States and other parties that can assist in mitigating this problem should exercise due care and diligence in an effort to conform to the maximum extent possible with the Guidelines.

1.4 The selection of appropriate methods of risk minimization will depend upon several factors, including the type or types of organisms being targeted, the level of risk involved, its environmental acceptability, the economic and ecological costs involved and the safety of ships.

2. Definitions

For the purposes of these Guidelines, the following definitions apply:

Administration means the Government of the State under whose authority the ship is operating.

Convention means MARPOL 73/78 (International Convention for the Prevention of Pollution from Ships, 1973, and the Protocol of 1978 related thereto).

Member States means States that are members of the International Maritime Organization.

Organization means the International Maritime Organization (IMO).

Port State authority means any official or organization authorized by the Government of a port State to administer guidelines or enforce standards and regulations relevant to the implementation of national and international shipping control measures.

Treatment means a process or mechanical, physical, chemical or biological method to kill, remove or render infertile, harmful or potentially harmful organisms within ballast water.

3. Application

The Guidelines are directed to member States and can apply to all ships; however, a port State authority shall determine the extent to which they do apply.

4. Guideline objectives and background

4.1 The objectives of these Guidelines, developed under technical and scientific guidance, are intended to assist Governments and appropriate authorities, ship masters, operators and owners, and port authorities, as well as other interested parties, in minimizing the risk of introducing harmful aquatic organisms and pathogens from ships' ballast water and associated sediments while protecting ships' safety.

4.2 The Guidelines allow port States to exempt ships within the area under their jurisdiction from part or all of the relevant provisions. Notwithstanding, any administration wishing to apply restrictions to ballast water operations should still follow these Guidelines, when developing legislation or procedures.

4.3 In order that the Guidelines may be implemented in a standard and uniform manner, all member State Governments, ship operators, other appropriate authorities and interested parties are requested to apply these Guidelines.

5. Dissemination of information

5.1 Administrations are encouraged to maintain and exchange information relevant to these Guidelines through the Organization. Accordingly, administrations are encouraged to provide the Organization with the following:

1. Information on severe outbreaks or infestations of harmful aquatic organisms which may pose a risk;
2. Copies of current domestic laws and regulations;
3. Technical and research information;
4. Education materials (such as audio and video tapes) and printed materials; and
5. Location and terms of use of alternative exchange zones, contingency strategies, availability of shore reception facilities, fees, etc.

5.2 Member States applying ballast water and sediment discharge procedures should notify the Organization of specific requirements and provide to the Organization, for the information of other member States and non-governmental organizations, copies of any regulations, standards, exemptions or guidelines being applied. Verification and detailed information concerning port State requirements should be obtained by the ship prior to arrival.

5.3 Port State authorities should provide the widest possible distribution of information on ballast water and sediment management and treatment requirements that are being applied to shipping. Failure to do so may lead to unnecessary delays for ships seeking entry to port States.

5.4 Shipping organizations and ships' managers should be familiar with the requirements of port State authorities with respect to ballast water and sediment management and treatment procedures, including information that will be needed to obtain entry clearance.

5.5 Member States are invited to provide the Organization with details of any research and development studies that they carry out with respect to the impact and control of harmful aquatic organisms and pathogens in ships' ballast water and sediment.

5.6 Member States should provide to the Organization details of records describing reasons why existing requirements could not be complied with, e.g. force majeure, heavy weather, failure of equipment, or lack of information concerning port State requirements.

6. Training and education

6.1 Training for ships' masters and crews as appropriate should include instructions on the application of ballast water and sediment management and treatment procedures, based upon the information contained in these Guidelines. Instruction should also be provided on the maintenance of appropriate records and logs. Governments should ensure that their marine training organizations include this in the contents of their syllabus.

6.2 The application of processes and procedures concerning ballast water management are currently at the core of the solution to minimize the introduction of harmful aquatic organisms and pathogens.

6.3 Governments are encouraged to include knowledge of duties regarding the control of pollution of the sea by harmful aquatic organisms and pathogens in their training requirements for certificates.

7. Procedures for ships and port States

7.1 Procedures for ships

7.1.1 Every ship that carries ballast water should be provided with a ballast water management plan to assist in the minimization of transfer of harmful aquatic organisms and pathogens. The intent of the plan should be to provide safe and effective procedures for ballast water management.

7.1.2 The ballast water management plan should be specific to each ship.

7.1.3 The ballast water management plan should be included in the ship's operational documentation. Such a plan should address, *inter alia*:

- relevant parts of these Guidelines;
- approval documentation relevant to treatment equipment;

- an indication of records required; and
- the location of possible sampling points.

7.2 Procedures for port States

7.2.1 Reception and treatment facilities should be made available for the environmentally safe disposal of ballast tank sediments.

7.2.2 Discharge of ship's ballast water into port reception and/or treatment facilities may provide an acceptable means of control. Port State authorities wishing to utilize this strategy should ensure that the facilities are adequate.

8. Recording and reporting procedures

8.1 Procedures for ships

8.1.1 Where a port State authority requires that specific ballast water procedures and/or treatment option(s) be undertaken, and due to weather sea conditions or operational impracticability such action cannot be taken, the master should report this fact to the port State authority as soon as possible and, where appropriate, prior to entering seas under its jurisdiction.

8.1.2 To facilitate the administration of ballast water management and treatment procedures on board each ship, a responsible officer should be appointed to maintain appropriate records and to ensure that ballast water management and/or treatment procedures are followed and recorded.

8.1.3 When taking on or discharging ballast water, as a minimum, the dates, geographical locations, ship's tank(s) and cargo holds, ballast water temperature and salinity as well as the amount of ballast water loaded or discharged should be recorded. A suitable format is shown in appendix 1. The record should be made available to the port State authority.

8.1.4 The location and suitable access points for sampling ballast or sediment should be described in the ship's ballast water management plan. This will allow crew members to provide maximum assistance when officers of the port State authority require a sample of the ballast water or sediment.

8.2 Procedures for port States

8.2.1 Consistent with 5.2 above, port States should provide ships with the following information:

- details of their requirements concerning ballast water management;
- location and terms of use of alternative exchange zones;
- any other port contingency arrangements; and
- the availability, location, capacities of and applicable fees relevant to reception facilities that are being provided for the environmentally safe disposal of ballast water and associated sediment.

8.2.2 To assist ships in applying the precautionary practices described in 9.1.1 below, port States should inform local agents and/or the ship of areas and situations where the uptake of ballast water should be minimized, such as:

- areas with outbreaks, infestations or known populations of harmful organisms and pathogens;

- areas with current phytoplankton blooms (algal blooms, such as red tides);
- nearby sewage outfalls;
- nearby dredging operations;
- when a tidal stream is known to be the more turbid; and
- areas where tidal flushing is known to be poor.

9. Ships' operational procedures

9.1 Precautionary practices

9.1.1 Minimizing uptake of harmful aquatic organisms, pathogens and sediments

When loading ballast, every effort should be made to avoid the uptake of potentially harmful aquatic organisms, pathogens and sediment that may contain such organisms. The uptake of ballast water should be minimized or, where practicable, avoided in areas and situations such as:

- areas identified by the port State in connection with advice relating to 8.2.2 above;
- in darkness when bottom-dwelling organisms may rise up in the water column;
- in very shallow water; or
- where propellers may stir up sediment.

9.1.2 Removing ballast sediment on a timely basis

Where practicable, routine cleaning of the ballast tank to remove sediments should be carried out in mid-ocean or under controlled arrangements in port or dry dock, in accordance with the provisions of the ship's ballast water management plan.

9.1.3 Avoiding unnecessary discharge of ballast water

If it is necessary to take on and discharge ballast water in the same port to facilitate safe cargo operations, care should be taken to avoid unnecessary discharge of ballast water that has been taken up in another port.

9.2 Ballast water management options

9.2.1 Ballast water exchange

Near-coastal (including port and estuarine) organisms released in mid-ocean, and oceanic organisms released in coastal waters, do not generally survive.

When exchanging ballast at sea, guidance on safety aspects of ballast water exchange as set out in appendix 2 should be taken into account. Furthermore, the following practices are recommended:

- where practicable, ships should conduct ballast exchange in deep water, in open ocean and as far as possible from shore. Where this is not possible, requirements developed within regional agreements may be in operation, particularly in areas within 200 nautical miles from shore.

Consistent with 9.1.2 above, all of the ballast water should be discharged until suction is lost, and stripping pumps or eductors should be used if possible;

- where the flow-through method is employed in open ocean by pumping ballast water into the tank or hold and allowing the water to overflow, at least three times the tank volume should be pumped through the tank;
- where neither form of open ocean exchange is practicable, ballast exchange may be accepted by the port State in designated areas; and
- other ballast exchange options approved by the port State.

9.2.2 Non-release or minimal release of ballast water

In cases where ballast exchange or other treatment options are not possible, ballast water may be retained in tanks or holds. Should this not be possible, the ship should only discharge the minimum essential amount of ballast water in accordance with port States' contingency strategies.

9.2.3 Discharge to reception facilities

If reception facilities for ballast water and/or sediments are provided by a port State, they should, where appropriate, be utilized.

9.2.4 Emergent and new technologies and treatments

9.2.4.1 If suitable new and emergent treatments and technologies prove viable, these may substitute for, or be used in conjunction with, current options. Such treatments could include thermal methods, filtration, disinfection including ultraviolet light, and other such means acceptable to the port State.

9.2.4.2 Results concerning the application and effectiveness of new ballast water management technologies and associated control equipment should be notified to the Organization with a view to evaluation and incorporation, as appropriate, into these Guidelines.

10. Port State considerations

The following is provided for the guidance of port State authorities in the implementation of their ballast water management programme, and to assess risks in relation to the ballast water containing harmful aquatic organisms and pathogens.

10.1 Highly disparate conditions between uptake and discharge ports

Significantly different conditions may exist between port(s) of origin and the port in which ballast water is discharged. Examples include freshwater ballast being released into highly saline ports. There may be organisms capable of surviving such extreme transfers; however, there is a lower probability of species establishment under such transport events.

10.2 Ballast water age

The length of time during which ballast water is within an enclosed ballast tank may also be a factor in determining the number of surviving organisms, because of the absence of light, decreasing nutrients and oxygen, changes of salinity and other factors. However, the maximum length of survival of organisms in ballast water

varies, and in many cases is not known. Water of an age of 100 days should be considered the minimum for applying this consideration. Ballast water and sediments may contain dinoflagellate cysts and other organisms capable of surviving for a much longer length of time.

10.3 Presence of target organisms

10.3.1 Under certain circumstances it may be possible to determine if one or more target species are present in the water of a specific port and have been ballasted in a ship. In these circumstances, the receiving port State authority may invoke management measures accordingly. Even if such target species are not present, however, it should be noted that the ship may still be carrying many untargetted species which, if released in new waters, could be potentially harmful.

10.3.2 Port States are encouraged to carry out biological baseline surveys in their ports and to disseminate the results of their investigations.

11. Enforcement and monitoring by port states

11.1 Consistent with the precautionary approach to environmental protection, these Guidelines can apply to all ships unless specifically exempted by a port State authority within its jurisdiction. In accordance with 5.2 above, port State authorities should inform the Organization on how the Guidelines are being applied

11.2 Member States have the right to manage ballast water by national legislation. However, any ballast discharge restrictions should be notified to the Organization.

11.3 In all cases, a port State authority should consider the overall effect of ballast water and sediment discharge procedures on the safety of ships and those on board. Guidelines will be ineffective if compliance is dependent upon the acceptance of operational measures that put a ship or its crew at risk. Port States should not require any action of the master which imperils the lives of seafarers or the safety of the ship.

11.4 It is essential that ballast water and sediment management procedures be effective as well as environmentally safe, practicable, designed to minimize costs and delays to the ship, and based upon these Guidelines whenever possible.

11.5 Any instructions or requirements of a ship should be provided in a timely manner and be clear and concise.

11.6 Port States should on request provide a visiting ship with any requested information relative to ballast water management and its potential effects with respect to harmful aquatic organisms and pathogens.

11.7 Any enforcement or monitoring activities should be undertaken in a fair, uniform and nationally consistent manner at all ports within the port State. Where there are compelling reasons whereby nationally consistent procedures cannot be followed, then deviations should be reported to the Organization.

11.8 Compliance monitoring should be undertaken by port State authorities by, for example, taking and analysing ballast water and sediment samples to test for the continued survival of harmful aquatic organisms and pathogens.

11.9 Where ballast water or sediment sampling for compliance or effectiveness monitoring is being undertaken, port State authorities should minimize delays to ships when taking such samples.

11.10 When sampling for research or compliance monitoring, the port State authority should give as much notice as possible to the ship that sampling will occur, to assist in planning staffing and operational resources.

11.11 The master has a general obligation to provide reasonable assistance for the above monitoring which may include provision of officers or crew, provision of the ship's plans, records pertaining to ballast arrangements and details concerning the location of sampling points.

11.12 Sampling methods for research and monitoring is the responsibility of the individual port State. The Organization welcomes information on new or innovative methods of sampling and/or analysis, and any relevant information should be provided to it.

11.13 Port State authorities should indicate to the master or responsible officer the purpose for which a sample is taken (i.e., monitoring, research or enforcement). Results of analyses of samples should be made available to ship's operators on request.

11.14 Port State authorities may sample or require samples to analyse ballast water and sediment, before permitting a ship to proceed to discharge its ballast water in environmentally sensitive locations. In the event that harmful aquatic organisms or pathogens are found to be present in the samples, a port State's contingency strategy may be applied.

12. Future considerations in relation to ballast water exchange

12.1 Research needs

Operational measures such as ballast water exchange may be appropriate in the short term; however, there is a clear need for further research. These Guidelines should be revised and adjusted in the light of results concerning new ballast water management options.

12.2 Long-term evaluation of safety aspects in relation to ballast water exchange

Recognizing the need to evaluate the hazards and potential consequences for various types of ships and operations, interested parties should carry out detailed studies and provide information relevant to:

- experience gained from carrying out ballast water exchange at sea, including any samples/model procedures;
- operational precautions and procedures implemented to avoid potential hazards and consequences that may arise during the ballast water exchange at sea;
- an evaluation of the safety margins between the actual metacentric height and stresses versus the allowable seagoing limits specified in the approved trim and stability booklet and loading manual, relevant to different types of ships and loading conditions;
- any hazards which may arise due to human element issues relative to the responsible execution of ballast water exchange at sea in a manner which may not be fully prudent;
- operational procedures carried out prior to initiating the ballast water exchange at sea and check-points during the exchange;
- the extent of training and management necessary to ensure that the process of ballast water exchange at sea is effectively monitored and controlled on board;
- plan of action to incorporate any unique procedures should an emergency occur which may affect the exchange of ballast water at sea; and

- the decision-making process, taking into account relevant safety matters, including ship's position, weather conditions, machinery performance, ballast system inspection and maintenance, crew safety and availability.

13. Ballast system design

Builders, owners and classification societies should take these Guidelines into consideration when designing new ships or modifying existing ships.

7. Resolution A.869 (20)

Guidelines for facilitation of response to an oil pollution incident pursuant to article 7 and the annex to the International Convention on Oil Pollution Preparedness, Response and Cooperation, 1990

The Assembly,

Recalling article 15(j) of the Convention on the International Maritime Organization concerning the functions of the Assembly in relation to guidelines concerning the prevention and control of marine pollution from ships,

Recalling also resolution A.625(15) concerning the arrangements for the entry and clearance of marine pollution response resources during emergency situations,

Being aware that the International Convention on Oil Pollution Preparedness, Response and Cooperation (OPRC Convention), 1990, and in particular article 7 thereof, stipulates, *inter alia*, that each Party to the OPRC Convention shall take the necessary legal or administrative measures to facilitate: the arrival and utilization in and departure from its territory of ships, aircraft and other modes of transport engaged in responding to an oil pollution incident or transporting personnel, cargoes, materials and equipment required to deal with such an incident; and the expeditious movement into, through, and out of its territory of such personnel, cargoes, materials and equipment,

Being aware also that the Annex to the OPRC Convention makes provision for the reimbursement of costs of assistance,

Being aware further that experience in responding to a major oil pollution incident requiring resources outside a country has clearly demonstrated the critical importance of administrative procedures to facilitate rapid provision of assistance and deployment of human resources and equipment,

Noting the decisions and recommendations made by the Marine Environment Protection Committee at its thirty-eighth session,

1. **Adopts** the Guidelines for Facilitation of Response to an Oil Pollution Incident set out in the Annex to the present resolution;
2. **Urges** Contracting Parties to the above-mentioned OPRC Convention to implement the Guidelines;
3. **Urges also** all member Governments to implement the Guidelines;
4. **Requests** the Marine Environment Protection Committee to keep the Guidelines under review taking into account experience gained in their use.

ANNEX

Guidelines for facilitation of response to an oil pollution incident pursuant to article 7 and the annex to the International Convention on Oil Pollution Preparedness, Response and Cooperation, 1990

1. If a State needs assistance in the event of an oil pollution incident, it may ask for assistance from other States, indicating the scope and type of assistance required. A State to which a request for assistance is directed should promptly decide and inform the requesting State whether it is in a position to render the assistance required and indicate the scope and terms of the assistance that might be rendered.
2. The States concerned should cooperate to facilitate the prompt provision of assistance agreed to under paragraph 1 of these Guidelines, including, where appropriate, action to minimize the consequences and effects of the oil pollution incident, and to provide general assistance. Where States do not have bilateral or multilateral agreements which cover their arrangements for providing mutual assistance, the assistance should be rendered in accordance with the following provisions, unless the States agree otherwise.
3. The requesting State is responsible for overall supervision, control and coordination of the response to the incident and of the assistance supplied. Personnel sent by the assisting State are normally in charge of the immediate operational supervision of its personnel and equipment. The personnel involved in the assisting operation should act in accordance with the relevant laws of the requesting State, which should endeavour to inform the assisting State of the relevant laws. The appropriate authorities of the requesting State shall cooperate with the authority designated by the assisting State.
4. The requesting State should, to the extent of its capabilities, provide local facilities and services for the proper and effective administration of the assistance, including decontamination activities, and should ensure the protection and return of personnel, equipment and materials brought into its territory by, or on behalf of, the assisting State for such a purpose.
5. The requesting State should use its best efforts to afford to the assisting State and persons acting on its behalf the privileges, immunities or facilities necessary for the expeditious performance of their assistance function. The requesting State should not be required to apply this provision to its own nationals or permanent residents or to afford them the privileges and immunities referred to above.
6. A State should, at the request of the requesting or assisting State, endeavour to facilitate the transit through its territory of duly notified personnel, equipment and property involved in the assistance to and from the requesting State.
7. The requesting State should facilitate the entry into, stay in and departure from its national territory of duly notified personnel and of equipment and property involved in the assistance.
8. With regard to actions resulting directly from the assistance provided, the requesting State should reimburse the assisting State for the loss or any damage to equipment or other property belonging to the assisting State. The requesting State should also reimburse the assisting State for expenses involved in such assistance arising from the death of, or injury to, persons, or the loss or damage to property, incurred by personnel acting on behalf of the assisting State. This would not prevent the requesting State from seeking reimbursement as part of its claim under the appropriate compensation convention.
9. The States concerned should cooperate closely in order to facilitate the settlement of legal proceedings and claims which could result from assistance operations.

10. The affected or requesting State may at any time, after appropriate consultations and by notification, request the termination of assistance received or provided under this Convention. Once such a request has been made, the States concerned should consult one another with a view to making arrangements for the proper termination for the assistance.
11. As the assistance should not be delayed for administrative or other reasons, the necessary legislation should be adopted during the preparedness phase, i.e. before the incident which would require assistance. This is particularly relevant to paragraphs 4 to 8 above.
12. Similar facilitation should be implemented by States concerned when personnel or equipment as provided on behalf of a shipowner, a cargo owner or other relevant entities.
13. In some oil pollution incidents, a shipowner, cargo owner or other private entity may be best placed to call upon dedicated equipment, materials and trained operators to assist with the clean-up response. In order to benefit from the availability of such resources and to ensure their rapid deployment, the State requesting or being offered assistance should facilitate the entry, clearance and subsequent return of the persons, materials and equipment provided. Public authorities should, in so far as it is possible, waive customs and excise duties and other taxes on any equipment and materials provided on a temporary basis for the purpose of assisting in the response to an oil pollution incident.

8. Resolution A.871(20)

Guidelines on the allocation of responsibilities to seek the successful resolution of stowaway cases

The Assembly,

Having considered the general purposes of the Convention on Facilitation of International Maritime Traffic, 1965, as amended and in particular article III thereof,

Noting with concern the number of incidents involving stowaways, the consequent potential for disruption of maritime traffic, the impact such incidents may have on the safe operation of ships and the considerable risks faced by stowaways, including loss of life,

Recalling that the International Convention relating to Stowaways, 1957, which attempted to establish an internationally acceptable regime for dealing with stowaways, has not yet come into force,

Agreeing that, for the purposes of this resolution, a stowaway is defined as a person who is secreted on a ship or in cargo which is subsequently loaded on the ship, without the consent of the shipowner or the master or any other responsible person, and who is detected on board after the ship has departed from a port and reported as a stowaway by the master to the appropriate authorities,

Taking into account that some stowaways may be asylum-seekers and refugees, which should entitle them to such relevant procedures as those provided by international instruments and national legislation,

Being aware that, in the absence of an internationally agreed procedure for dealing with stowaways, considerable difficulties are being encountered by shipmasters and shipping companies, shipowners and ship operators in disembarking stowaways from ships into the care of the appropriate authorities,

Appreciating member Governments' difficulties in accepting stowaways for examination pending repatriation and then allowing the vessels concerned to sail,

Recognizing, therefore, the need to establish practical and comprehensive guidance on procedures to be followed by all the authorities and persons concerned in order that the return or repatriation of a stowaway may be achieved in an acceptable and humane manner,

Agreeing that the existence of such guidance should in no way be regarded as condoning or encouraging the practice of stowing away and other illegal migration and should not undermine efforts to combat the separate problems of alien smuggling or human trafficking,

Believing that, at present, stowaway cases can best be resolved through close cooperation among all authorities and persons concerned,

Believing further that, in normal circumstances, through such cooperation, stowaways should, as soon as practicable, be removed from the ship concerned and returned to the country of nationality/citizenship or to the port of embarkation, or to any other country which would accept them,

Recognizing that stowaway incidents should be dealt with humanely by all parties involved, giving due consideration to the operational safety of the ship and its crew,

While urging national authorities, port authorities, shipowners and masters to take all reasonable precautions to prevent stowaways gaining access to vessels,

Having considered the recommendations made by the Facilitation Committee at its twenty-fifth session,

1. **Adopts the Guidelines on the allocation of responsibilities to seek the successful resolution of stowaway cases, set out in the Annex to the present resolution;**
2. **Urges Governments to implement in their national policies and practices the procedures recommended in the annexed Guidelines;**
3. **Urges also Governments to deal with stowaway cases in a spirit of cooperation with other parties concerned, on the basis of the allocation of responsibilities set out in the annexed Guidelines;**
4. **Invites shipping companies, shipowners and ship operators to take on the relevant responsibilities set out in the annexed Guidelines and to guide their masters and crews as to their respective responsibilities in stowaway cases;**
5. **Invites Governments to develop, in cooperation with the industry, comprehensive strategies to prevent intending stowaways from gaining access to ships;**
6. **Requests the Facilitation Committee to continue to monitor the effectiveness of the annexed Guidelines on the basis of information provided by Governments and the industry, to keep them under review and to take such further action, including the development of a relevant binding instrument, as may be considered necessary in the light of developments;**
7. **Revokes FAL.2/Circ.43.**

ANNEX

Guidelines on the allocation of responsibilities to seek the successful resolution of stowaway cases

1. **Masters, shipowners¹¹, port authorities, national administrations and other bodies including security operators all have a responsibility to cooperate to prevent illegal access to a vessel while it is in port. However, no matter how effective routine port and ship security is, there will still be occasions when stowaways gain access to vessels, either secreted in the cargo or by surreptitious boarding.**
2. **For the purposes of the Guidelines a stowaway is defined as a person who is secreted on a ship, or in cargo which is subsequently loaded on the ship, without the consent of the shipowner or the master or any other responsible person, and who is detected on board after the ship has departed from a port and reported as a stowaway by the master to the appropriate authorities.**
3. **The resolution of stowaway cases is difficult because of different national legislation in each of the potentially several countries involved: the country or embarkation, the country of disembarkation, the flag State of the vessel, the country of apparent, claimed or actual nationality/citizenship of the stowaway, and countries of transit during repatriation.**
4. **There are, however, some basic principles which can be applied generally. These are as follows:**
 1. **A recognition that stowaways arriving at or entering a country without the required documents are, in general, illegal entrants. Decisions on dealing with such situations are the prerogative of the countries where such arrival or entry occurs.**

¹¹ Including any persons or party acting on behalf of the owner of the vessel.

2. Stowaway asylum-seekers should be treated in compliance with international protection principles as set out in international instruments ¹² and relevant national legislation.
 3. The shipowner and his representative on the spot, the master, as well as port authorities and national administrations, should cooperate as far as possible in dealing with stowaway cases.
 4. Shipowners and their representatives on the spot, masters, port authorities and national administrations should have security arrangements in place which, as far as practicable, will prevent intending stowaways from getting aboard a ship or, if this fails, will detect them before a ship arrives at port. Where national legislation permits, national authorities should consider prosecution of stowaways for trespassing upon or damaging the property of the shipping company, or the cargo.
 5. All parties should be aware that an adequate search may minimize the risk of having to deal with a stowaway case and may also save the life of a stowaway who may, for example, be hiding in a place which is subsequently sealed and/or chemically treated.
 6. Countries should admit returned stowaways with full nationality/citizenship status of that country or a right of residence.
 7. The country of the original port of embarkation of a stowaway should normally accept the return of such a stowaway for examination pending final case disposition.
 8. Every effort should be made to avoid situations where a stowaway has to be detained on board a ship indefinitely. In this regard countries should cooperate with the shipowner in arranging the return of a stowaway to an appropriate country.
 9. Stowaway incidents should be dealt with humanely by all parties involved. Due consideration must always be given to the operational safety of the ship and to the well-being of the stowaway.
5. As a first step in addressing the issue, a framework of the various responsibilities, rights and liabilities of the parties involved needs to be identified and agreed. The following allocation of responsibility is suggested:
1. The master
 - 1.1 to make every effort to determine immediately the port of embarkation of the stowaway;
 - 1.2 to make every effort to establish the identity, including the nationality/citizenship of the stowaway;
 - 1.3 to prepare a statement containing all information relevant to the stowaway, in accordance with information specified in the standard document annexed to these Guidelines, for presentation to the appropriate authorities;
 - 1.4 to notify the existence of a stowaway and any relevant details to his shipowner and appropriate authorities at the port of embarkation, the next port of call and the flag State;

¹² Reference is made to the provisions of the United Nations Convention relating to the Status of Refugees of 28 July 1951 and of the Protocol relating to the Status of Refugees of 31 January 1967.

- 1.5 not to depart from his planned voyage to seek the disembarkation of a stowaway to any country unless repatriation has been arranged with sufficient documentation and permission given for disembarkation, or unless there are extenuating security or compassionate reasons;
 - 1.6 to ensure that the stowaway is presented to the appropriate authorities at the next port of call in accordance with their requirements;
 - 1.7 to take appropriate measures to ensure the security, general health, welfare and safety of the stowaway until disembarkation:
2. The shipowner or operator
 - 2.1 to ensure that the existence of, and any relevant information on, the stowaway has been notified to the appropriate authorities at the port of embarkation, the next port of call and the flag State;
 - 2.2 to comply with any removal directions made by the competent national authorities at the port of disembarkation,
3. Country of first scheduled port of call after discovery of the stowaway (port of disembarkation)
 - 3.1 to accept the stowaway for examination in accordance with the national laws of that country and, where the competent national authority considers that it would facilitate matters, to allow the shipowner and his named representative and the competent or appointed P&I Club correspondent to have access to the stowaway;
 - 3.2 to consider allowing disembarkation and provide, as necessary and in accordance with national law, secure accommodation which may be at the expense of the shipowner or agents, where:
 - 3.2.1 a case under 3.1 is unresolved at the time of sailing, or
 - 3.2.2 national authorities are satisfied that arrangements have been made and will be effected for the early return or repatriation of the stowaway by other means (which may be at the expense of the shipowner or agents), or
 - 3.2.3 a stowaway's presence on board would endanger the safe operation of the vessel;
 - 3.3 to assist, as necessary, in the identification of the stowaway and the establishment of his or her nationality/citizenship;
 - 3.4 to assist, as necessary, in establishing the validity and authenticity of a stowaway's documents;
 - 3.5 to give directions for the removal of the stowaway to the port of embarkation, country of nationality/citizenship or to some other country to which lawful directions may be made, in cooperation with the shipowner and his nominated representative;

- 3.6 in cooperation with the shipowner and his nominated representatives, to discuss repatriation or removal arrangements or directions with the master/shipowner or their appointed representatives, keeping them informed, as far as practicable, of the level of detention costs, while keeping these to a minimum;
 - 3.7 to consider mitigation of charges that might otherwise be applicable when shipowners have cooperated with the control authorities to the satisfaction of those authorities in measures designed to prevent the transportation of stowaways;
 - 3.8 to issue, if necessary, in the event that the stowaway has no identification and/or travel documents, a document attesting to the circumstances of embarkation and arrival to enable the return of the stowaway either to his country of origin, to the country of the port of embarkation, or to any other country to which lawful directions can be made, by any means of transport;
 - 3.9 to hand over the document to the transport operator effecting the removal of the stowaway;
 - 3.10 to take proper account of the interests of, and implications for, the shipowner or agent when directing detention and setting removal directions, so far as is consistent with the maintenance of control, their duties or obligations to the stowaway under the law, and the cost to public funds.
4. The country of the original port of embarkation of the stowaway (i.e. the country where the stowaway first boarded the ship)
- 4.1 to accept any returned stowaway having nationality/citizenship or right of residence;
 - 4.2 to accept, in normal circumstances, a stowaway back for examination where the port of embarkation is identified to the satisfaction of the authorities of the receiving country;
 - 4.3 to apprehend and detain the stowaway, where permitted by national legislation, if the stowaway is discovered before sailing either on the vessel or in cargo due to be loaded; to refer the intended stowaway to local authorities for prosecution and/or, where applicable, to the immigration authorities for examination and possible removal: no charge to be imposed on the shipowner in respect of detention or removal costs, and no penalty to be imposed;
 - 4.4 to apprehend and detain the stowaway, where permitted by national legislation, if the stowaway is discovered while the vessel is still in the territorial waters of the country of the port of his embarkation, or in another port in the same country (not having called at a port in another country in the meantime), no charge to be imposed on the shipowner in respect of detention or removal costs, and no penalty to be imposed.
5. The apparent or claimed country of nationality/citizenship of the stowaway
- 5.1 to make every effort to assist in determining the identity and nationality/citizenship of the stowaway and to document the stowaway, accordingly once satisfied that he or she holds the nationality/citizenship claimed;
 - 5.2 to accept the stowaway where nationality/citizenship is established.

6. The flag State of the vessel

- 6.1 To be willing, if practicable, to assist the master/shipowner or the appropriate authority at the port of disembarkation in identifying the stowaway and determining his or her nationality/citizenship;**
- 6.2 to be prepared to make representations to the relevant authority to assist in the removal of the stowaway from the vessel at the first available opportunity;**
- 6.3 to be prepared to assist the master/shipowner or the authority at the port of disembarkation in making arrangements for the removal or repatriation of the stowaway.**

7. Any countries of transit during repatriation

to allow, subject to normal visa requirements, the transit through their ports and airports of stowaways travelling under the removal instructions or directions of the country of the port of disembarkation.

APPENDIX

STOWAWAY DETAILS

SHIP DETAILS

Name of ship:
IMO number:
Flag:
Company:
Company address:
Agent in next port:
Agent address:
IRCS:
Inmarsat number:
Port of registry:
Name of master:

Photograph of stowaway

STOWAWAY DETAILS

Date/time found on board:
Place of boarding:
Country of boarding:
Time spent in country of boarding:
Date/time of boarding:
Intended port of destination:
Intended final destination (if different):
Stated reasons for boarding the ship:

Surname:
Given name:
Name by which known:
Religion:
Gender:
Date of birth:
Place of birth:
Claimed nationality:
ID document type:

Passport No.:
When issued:
Where issued:
Date of expiry:
Issued by:

Emergency passport No.:

When issued:
Where issued:
Date of expiry:
Issued by:

Home address:

Home town:
Country of domicile:
Profession(s):
Employer(s):[names and addresses]

Address in country of boarding:

Height (cm):
Weight (kg):
Complexion:
Colour of eyes:
Colour of hair:
Form of head/face:
Marks/characteristics:[e.g.scars, tattoos,etc.]

First language:
Spoken Read Written

ID Card No.:
When issued:
Where issued:
Date of expiry:
Issued by:

Other languages:
Spoken Read Written

Seaman's Book No.:
When issued:
Where issued:
Date of expiry:
Issued by:

Marital status:
Name of spouse:
Nationality of spouse:
Address of spouse:

Names of parents:
Nationality of parents:
Address of parents:

OTHER DETAILS

Method of boarding, including other persons involved (e.g. crew, port workers, etc.), and whether they were secreted in cargo/container or hidden in the vessel:

Inventory of stowaway's possessions:

Was the stowaway assisted in boarding the vessel, or assisted by any member of the crew? If so, was any payment made for this assistance?

Other information (e.g. names and addresses of colleagues, community leader, e.g. mayor, tribal chief, contacts in other parts of the world):

Statement made by stowaway:

Statement made by master (including any observations on the credibility of the information provided by the stowaway):

Date(s) of interview(s):

Stowaway's signature

Master's signature

Date:

Date:

9. Resolution A.872(20)

Guidelines for the prevention and suppression of the smuggling of drugs, psychotropic substances and precursor chemicals on ships engaged in international maritime traffic

The Assembly,

Having considered the general purpose of the Convention on Facilitation of International Maritime Traffic, 1965, as amended, and in particular article III thereof,

Recalling that the Facilitation Committee, conscious of the scourge of illicit drug trafficking, approved, at its seventeenth session in 1987, FAL.5/Circ. 1/Rev. 1 entitled "Prevention of drug smuggling on ships engaged in international traffic - Guidelines for use by shipowners, seafarers and others closely involved with the operation of ships",

Recalling further that, at its nineteenth regular session, it urged the Facilitation Committee to accelerate its work on the revision of the above Guidelines, which should also include measures to combat illicit trafficking in precursor materials,

Recognizing the urgent need for international cooperation to suppress illicit traffic by sea as envisaged by the 1988 United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances,

Recognizing further the relevant rights and obligations contained in the international law of the sea, including the principle of freedom of navigation and the right of innocent passage,

Being concerned that illicit drug trafficking and transport of precursor materials seriously affect legitimate maritime transport,

Noting with satisfaction the preparation of guidelines aiming at preventing and suppressing the unlawful acts which are addressed in the present resolution, developed by member Governments and international organizations concerned,

Acknowledging with appreciation the valuable contribution made by the International Chamber of Shipping (ICS) through its publication "Drug Trafficking and Drug Abuse - Guidelines for Owners and Masters on Prevention, Detection and Recognition", on which a considerable part of the annex to the present resolution has been based,

1. **Adopts** the Guidelines for the prevention and suppression of the smuggling of drugs, psychotropic substances and precursor chemicals on ships engaged in international maritime traffic, set out in the annex to the present resolution;
2. **Urges** member Governments to implement the annexed Guidelines without delay, in accordance with the international law of the sea, and to bring them to the attention of harbour masters, shipping companies, shipowners, ship operators, shipmasters and all other parties concerned;
3. **Requests** the Facilitation Committee to keep the Guidelines under continuous review and to update them, as appropriate, in the light of experience gained;
4. **Revokes** FAL.5/Circ. 1/Rev.1.

ANNEX

Guidelines for the prevention and suppression of the smuggling of drugs, psychotropic substances and precursor chemicals on ships engaged in international maritime traffic

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Preamble

1. These Guidelines contain general advice which may provide guidance to shipowners, seafarers and others closely involved with the operation of ships. They are standards whose aim is to assist shipping companies, ships' masters and officers in combating illicit drug trafficking and to recognize some of the symptoms of drug dependence among members of the crew. Based on these standards, shipowners may wish to examine the possibility of adopting or improving procedures aimed at preventing breaches of customs regulations in their ships, especially smuggling of illicit narcotic drugs, psychotropic substances and chemical products essential for drug manufacture. Such procedures will necessarily vary from one ship to another, depending on the routes they serve.
2. The International Maritime Organization agreed to contribute to the international effort aimed at combating illicit drug trafficking more effectively and the Facilitation Committee, at its seventeenth session in September 1987, prepared guidelines on the prevention of drug smuggling on ships engaged in international traffic which were approved by the Council at its fourteenth extraordinary session in November 1987. The following guidelines replace the interim guidelines issued in document FAL.5/Circ. 1, of 5 February 1987.
3. In certain cases a lack of concern or due diligence on the part of the master and crew may make vessels vulnerable to narcotic drugs, psychotropic substances or precursor chemicals being secreted aboard.
4. A high proportion of drug trafficking is undertaken by sea because of the opportunities offered by the large volume of shipping movements from producing to consuming countries as drug traffickers attempt to enter the most profitable illicit markets. Once a drug consignment has entered a region, drug traffickers and their agents have little difficulty in moving it within that area, taking advantage of the wish of Governments to facilitate the movement of persons and goods across frontiers.

5. Three principal factors should be borne in mind when considering the implications of illicit drug trafficking for commercial means of transport:

- (i) The very high value of drugs when smuggled in large quantities has attracted the major international criminal organizations and terrorist groups. The possibility of violent incidents, including armed assault, on discovering any sizeable quantity of drugs should not be overlooked and, consequently, due precautions should always be taken.
- (ii) The professional trafficker rarely carries the drugs himself and usually finds an accomplice to do so. Merchant seamen are frequently targeted by drug traffickers anxious to get their products from producing to consuming countries. Often the seafarers are not fully aware of the risks involved, which include long prison sentences and, in some countries, the death penalty.
- (iii) There are no "safe" shipping routes where operators can be quite certain that there are no illicit substances on their ships. Direct sailings from countries of supply to countries of consumption are clearly considered as a risk and receive special attention from customs authorities. However, increasing quantities of drugs are being moved by roundabout and circuitous routes, using ports in countries which are not drug producers which drug traffickers believe invite less risk of interception in countries of destination.

6. Shipping is vulnerable to drug trafficking on two fronts. First, the threat of drugs being concealed on vessels means that law enforcement efforts by customs authorities may result in long delays to the departure of ships, especially cargo ships. Secondly, the possible involvement of crew members in drug abuse threatens the safety of the vessel.
