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No. 62

2006

DIVISION FOR OCEAN AFFAIRS AND THE LAW OF THE SEA
OFFICE OF LEGAL AFFAIRS

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I. UNITED NATIONS CONVENTION ON THE LAW OF THE SEA

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

Table recapitulating the status of the Convention and of the related Agreements, as at 30 November 2006¹

State or entity	United Nations Convention on the Law of the Sea (in force as from 16 November 1994)	Agreement relating to the implementation of Part XI of the Convention (in force as from 28 July 1996)	Agreement of the Convention relating to the conservation and management of straddling fish stocks and highly migratory fish stocks (in force as from 11 December 2001)
<i>Italicized text</i> indicates non-members of the United Nations;			
<i>Shaded row</i> indicates landlocked States	Signature (☐ - declaration)	Signature	Signature (☐ - declaration or statement)
TOTALS	157 (☐35)	79	59 (☐5)
Afghanistan	152 (☐58)	126	62 (☐27)
Albania	☐		
Algeria	23 June 2003 (a)	23 June 2003 (p)	
Andorra	☐11 June 1996	11 June 1996 (p)	
Angola	☐		
Antigua and Barbuda	5 December 1990		
Argentina	☐		
Armenia	2 February 1989		
Australia	☐1 December 1995	1 December 1995	
Austria	9 December 2002 (a)	9 December 2002 (a)	23 December 1999
Azerbaijan	5 October 1994	5 October 1994	☐19 December 2003
	☐14 July 1995	14 July 1995	

¹ “This consolidated table, which provides unofficial, quick reference information related to the participation in UNCLOS and the two implementing Agreements, was prepared by the Division for Ocean Affairs and the Law of the Sea, Office of the Legal Affairs. For official information on the status of these treaties, please refer to the publication entitled “*Multilateral Treaties deposited with the Secretary-General*” (<http://untreaty.un.org/>).”

² States bound by the Agreement by having ratified, acceded or succeeded to the Convention under article 4, paragraph 1, of the Agreement.

³ States bound by the Agreement under the simplified procedure set out in article 5 of the Agreement.

⁴ In accordance with its article 40, the Agreement shall enter into force 30 days after the date of deposit of the thirtieth instrument of ratification or accession.

State or entity	United Nations Convention on the Law of the Sea (in force as from 16 November 1994)	Agreement relating to the implementation of Part XI of the Convention (in force as from 28 July 1996)	Agreement for the implementation of the provisions of the Convention relating to the conservation and management of straddling fish stocks and highly migratory fish stocks (in force as from 11 December 2001)
<i>Italicized text</i> indicates non-members of the United Nations; <i>Shaded row</i> indicates landlocked States			
Bahamas	Signature (☐ - declaration) ☐ 29 July 1983	Signature ☐ 28 July 1995	Signature (☐ - declaration or statement) ☐ 16 January 1997(a)
Bahrain	☐ 30 May 1985		
Bangladesh	☐ 27 July 2001	☐ 27 July 2001 (a)	☐
Barbados	☐ 12 October 1993	☐ 28 July 1995 (sp)	☐ 22 September 2000(a)
Belarus	☐ 30 August 2006	☐ 30 August 2006 (a)	
Belgium	☐ 13 November 1998	☐ 13 November 1998	☐ 19 December 2003
Belize	☐ 13 August 1983	☐ 21 October 1994 (ds)	☐ 14 July 2005
Benin	☐ 16 October 1997	☐ 16 October 1997 (p)	
Bhutan			
Bolivia	☐ 28 April 1995	☐ 28 April 1995 (p)	
Bosnia and Herzegovina	☐ 12 January 1994 (s)		
Botswana	☐ 2 May 1990	☐ 31 January 2005 (a)	☐ 8 March 2000
Brazil	☐ 22 December 1988		
Brunei Darussalam	☐ 5 November 1996	☐ 5 November 1996 (p)	
Bulgaria	☐ 15 May 1996	☐ 15 May 1996 (a)	
Burkina Faso	☐ 25 January 2005	☐ 25 January 2005 (p)	
Burundi			
Cambodia			
Cameroon	☐ 19 November 1985	☐ 28 August 2002	
Canada	☐ 7 November 2003	☐ 7 November 2003	☐ 3 August 1999
Cape Verde	☐ 10 August 1987		
Central African Republic			
Chad			
Chile	☐ 25 August 1997	☐ 25 August 1997 (a)	
China	☐ 7 June 1996	☐ 7 June 1996 (p)	☐
Colombia			
Comoros	☐ 21 June 1994		

State or entity	United Nations Convention on the Law of the Sea (in force as from 16 November 1994)	Agreement relating to the implementation of Part XI of the Convention (in force as from 28 July 1996)	Agreement for the implementation of the provisions of the Convention relating to the conservation and management of straddling fish stocks and highly migratory fish stocks (in force as from 11 December 2001)
<i>Italicized text</i> indicates non-members of the United Nations; <i>Shaded row</i> indicates landlocked States			
Congo	Signature (☐ - declaration)	Signature	Signature (☐ - declaration or statement)
Cook Islands	Ratification; formal confirmation(fc); accession(a); succession(s); (☐ - declaration)	Ratification; formal confirmation (fc); accession(a); definitive signature (ds); consent to be bound (p); ² simplified procedure (sp); ³	Ratification; accession(a) ⁴ (☐ - declaration)
Costa Rica	15 February 1995 21 September 1992	15 February 1995 (a) 20 September 2001 (a)	1 April 1999 (a) 18 June 2001 (a)
Côte d'Ivoire	26 March 1984	28 July 1995 (sp)	
Croatia	☐5 April 1995 (s)	5 April 1995 (p)	
Cuba	☐15 August 1984	17 October 2002 (a)	
Cyprus	12 December 1988	27 July 1995	25 September 2002 (a)
Czech Republic	☐21 June 1996	21 June 1996	
Democratic People's Republic of Korea			
Democratic Republic of the Congo	17 February 1989		
Denmark	☐16 November 2004	16 November 2004	☐19 December 2003
Djibouti	8 October 1991		
Dominica	24 October 1991		
Dominican Republic			
Ecuador			
Egypt	☐26 August 1983		
El Salvador			
Equatorial Guinea	21 July 1997	21 July 1997 (p)	
Eritrea			
Estonia	☐26 August 2005 (a)	26 August 2005 (a)	☐7 August 2006 (a)
Ethiopia			
European Community	☐1 April 1998 (fc)	1 April 1998(fc)	☐19 December 2003
Fiji	10 December 1982	28 July 1995	12 December 1996
Finland	☐21 June 1996	21 June 1996	☐19 December 2003
France	☐11 April 1996	11 April 1996	☐19 December 2003
Gabon	11 March 1998	11 March 1998 (p)	

State or entity	United Nations Convention on the Law of the Sea (in force as from 16 November 1994)	Agreement relating to the implementation of Part XI of the Convention (in force as from 28 July 1996)	Agreement for the implementation of the provisions of the Convention relating to the conservation and management of straddling fish stocks and highly migratory fish stocks (in force as from 11 December 2001)
<i>Italicized text</i> indicates non-members of the United Nations; <i>Shaded row</i> indicates landlocked States			
Gambia	Signature (☐ - declaration)	Signature	Signature (☐ - declaration or statement)
Georgia	Ratification; formal confirmation(fc); accession(a); succession(s); (☐ - declaration)	Ratification; formal confirmation (fc); accession(a); definitive signature (ds); consent to be bound (p); ² simplified procedure (sp); ³	Ratification; accession(a) ⁴ (☐ - declaration)
Germany	22 May 1984 ☐ 21 March 1996 (a) ☐ 14 October 1994 (a)	21 March 1996 (p) 14 October 1994	☐ 19 December 2003
Ghana	7 June 1983 ☐ 21 July 1995	21 July 1995	☐ 19 December 2003
Greece	☐ 25 April 1991	28 July 1995 (sp)	
Grenada	☐ 11 February 1997	11 February 1997 (p)	
Guatemala	☐ 6 September 1985	28 July 1995 (sp)	16 September 2005 (a)
Guinea	☐ 25 August 1986		
Guinea-Bissau	☐ 16 November 1993		
Guyana	☐ 31 July 1996	31 July 1996 (p)	
Haiti			
<i>Holy See</i>			
Honduras	☐ 5 October 1993	28 July 2003 (a)	
Hungary	☐ 5 February 2002	5 February 2002 (a)	
Iceland	☐ 21 June 1985	28 July 1995 (sp)	14 February 1997
India	☐ 29 June 1995	29 June 1995	☐ 19 August 2003 (a)
Indonesia	☐ 3 February 1986	2 June 2000	
Iran (Islamic Republic of)	☐		17 April 1998(a)
Iraq	☐ 30 July 1985		
Ireland	☐ 21 June 1996	21 June 1996	☐ 19 December 2003
Israel			
Italy	☐ 13 January 1995	13 January 1995	☐ 19 December 2003
Jamaica	☐ 21 March 1983	28 July 1995 (sp)	
Japan	☐ 20 June 1996	20 June 1996	7 August 2006
Jordan	☐ 27 November 1995 (a)	27 November 1995 (p)	
Kazakhstan			
Kenya	☐ 2 March 1989	29 July 1994 (ds)	13 July 2004(a)




State or entity	United Nations Convention on the Law of the Sea (in force as from 16 November 1994)	Agreement relating to the implementation of Part XI of the Convention (in force as from 28 July 1996)	Agreement for the implementation of the provisions of the Convention relating to the conservation and management of straddling fish stocks and highly migratory fish stocks (in force as from 11 December 2001)
<i>Italicized text</i> indicates non- members of the United Nations; <i>Shaded row</i> indicates landlocked States	Signature (☐ - declaration)	Signature (☐ - declaration or statement)	Signature (☐ - declaration or statement)
Kiribati	☐24 February 2003 (a)	☐24 February 2003 (p)	☐15 September 2005 (a)
Kuwait	☐2 May 1986	2 August 2002 (a)	
Kyrgyzstan			
Lao People's Democratic Republic	5 June 1998	5 June 1998 (p)	
Latvia	23 December 2004 (a)	23 December 2004 (a)	
Lebanon	5 January 1995	5 January 1995 (p)	
Lesotho			
Liberia			16 September 2005 (a)
Libyan Arab Jamahiriya			
Liechtenstein			
Lithuania	☐12 November 2003 (a)	12 November 2003 (a)	
Luxembourg	☐5 October 2000	5 October 2000	☐19 December 2003
Madagascar	☐22 August 2001	22 August 2001 (p)	
Malawi			
Malaysia	☐14 October 1996	14 October 1996 (p)	
Maldives	☐7 September 2000	7 September 2000	30 December 1998
Mali	☐16 July 1985		
Malta	☐20 May 1993	26 June 1996	☐11 November 2001(a)
Marshall Islands	☐9 August 1991 (a)		19 March 2003
Mauritania	☐17 July 1996	17 July 1996 (p)	
Mauritius	☐4 November 1994	4 November 1994 (p)	☐25 March 1997(a)
Mexico	18 March 1983	10 April 2003 (a)	
Micronesia (Federated States of)	29 April 1991 (a)	6 September 1995	23 May 1997
Monaco	20 March 1996	20 March 1996 (p)	9 June 1999(a)
Mongolia	☐13 August 1996	13 August 1996 (p)	
Montenegro	☐23 October 2006 (d)	23 October 2006 (d)	

State or entity	United Nations Convention on the Law of the Sea (in force as from 16 November 1994)	Agreement relating to the implementation of Part XI of the Convention (in force as from 28 July 1996)	Agreement for the implementation of the provisions of the Convention relating to the conservation and management of straddling fish stocks and highly migratory fish stocks (in force as from 11 December 2001)
<i>Italicized text</i> indicates non-members of the United Nations; <i>Shaded row</i> indicates landlocked States			
Morocco	Signature (☐ - declaration)	Signature	Signature (☐ - declaration or statement)
Mozambique	☐ 13 March 1997		
Myanmar	☐ 21 May 1996	☐ 13 March 1997 (a)	
Namibia	☐ 18 April 1983	☐ 21 May 1996 (a)	
Nauru	☐ 23 January 1996	☐ 28 July 1995 (sp)	☐ 8 April 1998
Nepal	☐ 2 November 1998	☐ 23 January 1996 (p)	☐ 10 January 1997(a)
Netherlands	☐ 28 June 1996	☐ 2 November 1998 (p)	
New Zealand	☐ 19 July 1996	☐ 28 June 1996	☐ 19 December 2003
Nicaragua	☐ 3 May 2000	☐ 19 July 1996	☐ 18 April 2001
Niger		☐ 3 May 2000 (p)	
Nigeria	☐ 14 August 1986		
<i>Miue</i>	☐ 11 October 2006	☐ 28 July 1995 (sp)	
Norway	☐ 24 June 1996	☐ 11 October 2006 (p)	☐ 11 October 2006
Oman	☐ 17 August 1989	☐ 24 June 1996 (a)	☐ 30 December 1996
Pakistan	☐ 26 February 1997	☐ 26 February 1997 (a)	
Palau	☐ 30 September 1996 (a)	☐ 26 February 1997 (p)	
Panama	☐ 1 July 1996	☐ 30 September 1996 (p)	
Papua New Guinea	☐ 14 January 1997	☐ 1 July 1996 (p)	
Paraguay	☐ 26 September 1986	☐ 14 January 1997 (p)	☐ 4 June 1999
Peru		☐ 10 July 1995	
Philippines	☐ 8 May 1984		
Poland	☐ 13 November 1998	☐ 23 July 1997	
Portugal	☐ 3 November 1997	☐ 13 November 1998	☐ 14 March 2006 (a)
Qatar	☐ 9 December 2002	☐ 3 November 1997	☐ 19 December 2003
Republic of Korea	☐ 29 January 1996	☐ 9 December 2002 (p)	
Republic of Moldova		☐ 29 January 1996	
Romania	☐ 17 December 1996	☐ 17 December 1996 (a)	

State or entity	United Nations Convention on the Law of the Sea (in force as from 16 November 1994)	Agreement relating to the implementation of Part XI of the Convention (in force as from 28 July 1996)	Agreement for the implementation of the provisions of the Convention relating to the conservation and management of straddling fish stocks and highly migratory fish stocks (in force as from 11 December 2001)
<i>Italicized text</i> indicates non-members of the United Nations; <i>Shaded row</i> indicates landlocked States	Signature (☐ - declaration)	Signature	Signature (☐ - declaration or statement)
Russian Federation	☐ 12 March 1997	☐ 12 March 1997 (a)	☐ 4 August 1997
Rwanda			
Saint Kitts and Nevis	7 January 1993		
Saint Lucia	27 March 1985		9 August 1996
Saint Vincent and the Grenadines	1 October 1993		
Samoa	14 August 1995	14 August 1995 (p)	25 October 1996
San Marino			
Sao Tome and Principe	3 November 1987		
Saudi Arabia	☐ 24 April 1996	24 April 1996 (p)	
Senegal		25 July 1995	30 January 1997
Serbia	☐ 12 March 2001 (s)	28 July 1995 (sp) ⁵	
Seychelles	16 September 1991	15 December 1994	20 March 1998
Sierra Leone	12 December 1994	12 December 1994 (p)	
Singapore	17 November 1994	17 November 1994 (p)	
Slovakia	8 May 1996	8 May 1996	
Slovenia	☐ 16 June 1995 (s)	16 June 1995	☐ 15 June 2006 (a)
Solomon Islands	23 June 1997	23 June 1997 (p)	13 February 1997 (a)
Somalia	24 July 1989		
South Africa	☐ 23 December 1997	23 December 1997	14 August 2003 (a)
Spain	☐ 15 January 1997	15 January 1997	19 December 2003
Sri Lanka	19 July 1994	28 July 1995 (sp)	24 October 1996
Sudan	☐ 23 January 1985		
Suriname	9 July 1998	9 July 1998 (p)	
Swaziland			

⁵ For further details, see Chapter XXI of the publication entitled "Multilateral Treaties deposited with the Secretary-General" (<http://untreaty.un.org/ENGLISH/bible/englishinternetbible/part1/chapterXXI/chapterXXI.asp>)

State or entity	United Nations Convention on the Law of the Sea (in force as from 16 November 1994)	Agreement relating to the implementation of Part XI of the Convention (in force as from 28 July 1996)	Agreement for the implementation of the provisions of the Convention relating to the conservation and management of straddling fish stocks and highly migratory fish stocks (in force as from 11 December 2001)
<i>Italicized text</i> indicates non-members of the United Nations; <i>Shaded row</i> indicates landlocked States	Signature (☐ - declaration)	Signature	Signature (☐ - declaration or statement)
Sweden	☐ 25 June 1996	☐ 25 June 1996	☐ 19 December 2003
Switzerland	☐	☐	☐
Syrian Arab Republic	☐	☐	☐
Tajikistan	☐	☐	☐
Thailand	☐	☐	☐
The former Yugoslav Republic of Macedonia	19 August 1994 (s)	19 August 1994 (p)	
Timor-Leste	☐	☐	☐
Togo	16 April 1985	28 July 1995 (sp)	☐ 31 July 1996
Tonga	2 August 1995 (a)	2 August 1995 (p)	☐ 13 September 2006 (a)
Trinidad and Tobago	25 April 1986	28 July 1995 (sp)	
Tunisia	☐ 24 April 1985	24 May 2002	
Turkey	☐	☐	☐
Turkmenistan	☐	☐	☐
Tuvalu	9 December 2002	9 December 2002 (p)	☐
Uganda	9 November 1990	28 July 1995 (sp)	☐ 27 February 2003
Ukraine	☐ 26 July 1999	26 July 1999	☐ 10 December 2001 ☐ 19 December 2003 ⁵
United Arab Emirates	☐	☐	☐
United Kingdom	☐ 25 July 1997 (a)	25 July 1997	☐ 21 August 1996
United Republic of Tanzania	☐ 30 September 1985	25 June 1998	☐ 10 September 1999
United States of America	☐	☐	☐
Uruguay	☐ 10 December 1992	☐	☐
Uzbekistan	☐	☐	☐
Vanuatu	☐ 10 August 1999	10 August 1999(p)	☐
Venezuela (Bolivarian Republic of)	☐	☐	☐

State or entity	United Nations Convention on the Law of the Sea (in force as from 16 November 1994)	Agreement relating to the implementation of Part XI of the Convention (in force as from 28 July 1996)	Agreement for the implementation of the provisions of the Convention relating to the conservation and management of straddling fish stocks and highly migratory fish stocks (in force as from 11 December 2001)
<i>Italicized text</i> indicates non-members of the United Nations; Shaded row indicates landlocked States	Signature  (<input type="checkbox"/> - declaration)	Signature 	Signature  (<input type="checkbox"/> - declaration or statement)
Viet Nam	<input type="checkbox"/> 25 July 1994	Ratification; formal confirmation (fc); accession(a); definitive signature (ds); consent to be bound (p); ² simplified procedure (sp); ³	Ratification; accession(a) ⁴ (<input type="checkbox"/> - declaration)
Yemen	<input type="checkbox"/> 21 July 1987	27 April 2006(a)	
Zambia	<input checked="" type="checkbox"/> 7 March 1983	28 July 1995 (sp)	
Zimbabwe	<input checked="" type="checkbox"/> 24 February 1993	28 July 1995 (sp)	
TOTALS	157 (<input type="checkbox"/> 35)	79 126	59 (<input type="checkbox"/> 5) 62 (<input type="checkbox"/> 27)

1. Chronological lists of ratifications of, accessions and successions to the Convention and the related Agreements, as at 30 November 2006

(a) The Convention

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

88. Saudi Arabia (24 April 1996)
89. Slovakia (8 May 1996)
90. Bulgaria (15 May 1996)
91. Myanmar (21 May 1996)
92. China (7 June 1996)
93. Algeria (11 June 1996)
94. Japan (20 June 1996)
95. Czech Republic (21 June 1996)
96. Finland (21 June 1996)
97. Ireland (21 June 1996)
98. Norway (24 June 1996)
99. Sweden (25 June 1996)
100. Netherlands (28 June 1996)
101. Panama (1 July 1996)
102. Mauritania (17 July 1996)
103. New Zealand (19 July 1996)
104. Haiti (31 July 1996)
105. Mongolia (13 August 1996)
106. Palau (30 September 1996)
107. Malaysia (14 October 1996)
108. Brunei Darussalam (5 November 1996)
109. Romania (17 December 1996)
110. Papua New Guinea (14 January 1997)
111. Spain (15 January 1997)
112. Guatemala (11 February 1997)
113. Pakistan (26 February 1997)
114. Russian Federation (12 March 1997)
115. Mozambique (13 March 1997)
116. Solomon Islands (23 June 1997)
117. Equatorial Guinea (21 July 1997)
118. United Kingdom of Great Britain and Northern Ireland (25 July 1997)
119. Chile (25 August 1997)
120. Benin (16 October 1997)
121. Portugal (3 November 1997)
122. South Africa (23 December 1997)
123. Gabon (11 March 1998)
124. European Community (1 April 1998)
125. Lao People's Democratic Republic (5 June 1998)
126. Suriname (9 July 1998)
127. Nepal (2 November 1998)
128. Belgium (13 November 1998)
129. Poland (13 November 1998)
130. Ukraine (26 July 1999)
131. Vanuatu (10 August 1999)
132. Nicaragua (3 May 2000)
133. Maldives (7 September 2000)
134. Luxembourg (5 October 2000)
135. Serbia (12 March 2001)
136. Bangladesh (27 July 2001)
137. Madagascar (22 August 2001)
138. Hungary (5 February 2002)
139. Armenia (9 December 2002)
140. Qatar (9 December 2002)
141. Tuvalu (9 December 2002)
142. Kiribati (24 February 2003)
143. Albania (23 June 2003)
144. Canada (7 November 2003)
145. Lithuania (12 November 2003)
146. Denmark (16 November 2004)
147. Latvia (23 December 2004)
148. Burkina Faso (25 January 2005)
149. Estonia (26 August 2005)
150. Belarus (30 August 2006)
151. Niue (11 October 2006)
152. Montenegro (23 October 2006)

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

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

36. Yugoslavia (28 July 1995)
37. Zambia (28 July 1995)
38. Zimbabwe (28 July 1995)
39. Tonga (2 August 1995)
40. Samoa (14 August 1995)
41. Micronesia (Federated States of)
(6 September 1995)
42. Jordan (27 November 1995)
43. Argentina (1 December 1995)
44. Nauru (23 January 1996)
45. Republic of Korea (29 January 1996)
46. Monaco (20 March 1996)
47. Georgia (21 March 1996)
48. France (11 April 1996)
49. Saudi Arabia (24 April 1996)
50. Slovakia (8 May 1996)
51. Bulgaria (15 May 1996)
52. Myanmar (21 May 1996)
53. China (7 June 1996)
54. Algeria (11 June 1996)
55. Japan (20 June 1996)
56. Czech Republic (21 June 1996)
57. Finland (21 June 1996)
58. Ireland (21 June 1996)
59. Norway (24 June 1996)
60. Sweden (25 June 1996)
61. Malta (26 June 1996)
62. Netherlands (28 June 1996)
63. Panama (1 July 1996)
64. Mauritania (17 July 1996)
65. New Zealand (19 July 1996)
66. Haiti (31 July 1996)
67. Mongolia (13 August 1996)
68. Palau (30 September 1996)
69. Malaysia (14 October 1996)
70. Brunei Darussalam (5 November 1996)
71. Romania (17 December 1996)
72. Papua New Guinea (14 January 1997)
73. Spain (15 January 1997)
74. Guatemala (11 February 1997)
75. Oman (26 February 1997)
76. Pakistan (26 February 1997)
77. Russian Federation (12 March 1997)
78. Mozambique (13 March 1997)
79. Solomon Islands (23 June 1997)
80. Equatorial Guinea (21 July 1997)
81. Philippines (23 July 1997)
82. United Kingdom of Great Britain
and Northern Ireland (25 July 1997)
83. Chile (25 August 1997)
84. Benin (16 October 1997)
85. Portugal (3 November 1997)
86. South Africa (23 December 1997)
87. Gabon (11 March 1998)
88. European Community (1 April 1998)
89. Lao People's Democratic Republic
(5 June 1998)
90. United Republic of Tanzania (25 June 1998)
91. Suriname (9 July 1998)
92. Nepal (2 November 1998)
93. Belgium (13 November 1998)
94. Poland (13 November 1998)
95. Ukraine (26 July 1999)
96. Vanuatu (10 August 1999)
97. Nicaragua (3 May 2000)
98. Indonesia (2 June 2000)
99. Maldives (7 September 2000)
100. Luxembourg (5 October 2000)
101. Bangladesh (27 July 2001)
102. Madagascar (22 August 2001)
103. Costa Rica (20 September 2001)
104. Hungary (5 February 2002)
105. Tunisia (24 May 2002)
106. Cameroon (28 August 2002)
107. Kuwait (2 August 2002)
108. Cuba (17 October 2002)
109. Armenia (9 December 2002)
110. Qatar (9 December 2002)
111. Tuvalu (9 December 2002)
112. Kiribati (24 February 2003)
113. Mexico (10 April 2003)
114. Albania (23 June 2003)
115. Honduras (28 July 2003)
116. Canada (7 November 2003)
117. Lithuania (12 November 2003)
118. Denmark (16 November 2004)
119. Latvia (23 December 2004)
120. Botswana (31 January 2005)
121. Burkina Faso (25 January 2005)
122. Estonia (26 August 2005)
123. Viet Nam (27 April 2006)
124. Belarus (30 August 2006)
125. Niue (11 October 2006)
126. Montenegro (23 October 2006)

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

1. Tonga (31 July 1996)
2. Saint Lucia (9 August 1996)
3. United States of America (21 August 1996)
4. Sri Lanka (24 October 1996)
5. Samoa (25 October 1996)
6. Fiji (12 December 1996)
7. Norway (30 December 1996)
8. Nauru (10 January 1997)
9. Bahamas (16 January 1997)
10. Senegal (30 January 1997)
11. Solomon Islands (13 February 1997)
12. Iceland (14 February 1997)
13. Mauritius (25 March 1997)
14. Micronesia (Federated States of) (23 May 1997)
15. Russian Federation (4 August 1997)
16. Seychelles (20 March 1998)
17. Namibia (8 April 1998)
18. Iran (Islamic Republic of) (17 April 1998)
19. Maldives (30 December 1998)
20. Cook Islands (1 April 1999)
21. Papua New Guinea (4 June 1999)
22. Monaco (9 June 1999)
23. Canada (3 August 1999)
24. Uruguay (10 September 1999)
25. Australia (23 December 1999)
26. Brazil (8 March 2000)
27. Barbados (22 September 2000)
28. New Zealand (18 April 2001)
29. Costa Rica (18 June 2001)
30. Malta (11 November 2001)
31. United Kingdom (10 December 2001), (19 December 2003)¹
32. Cyprus (25 September 2002)
33. Ukraine (27 February 2003)
34. Marshall Islands (19 March 2003)
35. South Africa (14 August 2003)
36. India (19 August 2003)
37. European Community (19 December 2003)
38. Austria (19 December 2003)
39. Belgium (19 December 2003)
40. Denmark (19 December 2003)
41. Finland (19 December 2003)
42. France (19 December 2003)
43. Germany (19 December 2003)
44. Greece (19 December 2003)
45. Ireland (19 December 2003)
46. Italy (19 December 2003)
47. Luxembourg (19 December 2003)
48. Netherlands (19 December 2003)
49. Portugal (19 December 2003)
50. Spain (19 December 2003)
51. Sweden (19 December 2003)
52. Kenya (13 July 2004)
53. Belize (14 July 2005)
54. Kiribati (15 September 2005)
55. Guinea (16 September 2005)
56. Liberia (16 September 2005)
57. Poland (14 March 2006)
58. Slovenia (15 June 2006)
59. Estonia (7 August 2006)
60. Japan (7 August 2006)
61. Trinidad & Tobago (13 September 2006)
62. Niue (11 October 2006)

¹ For further details, see Chapter XXI of the publication entitled "*Multilateral Treaties deposited with the Secretary-General*":
<http://untreaty.un.org/ENGLISH/bible/englishinternet/bible/partI/chapterXXI/treaty9.asp>

2. Declarations by States

Estonia

Declaration made upon accession to the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks

"1. As a member state of the European Community, the Republic of Estonia has transferred competence in certain matters governed by the Convention to the European Community according to the declaration made by the European Community on April 1, 1998 while acceding to the United Nations Convention on the Law of the Sea.

2. Pursuant to Article 287, paragraph 1 of the Convention the Republic of Estonia chooses the International Tribunal for the Law of the Sea established in accordance with Annex VI and the International Court of Justice as means for the settlement of disputes concerning the interpretation or application of this Convention."

China

*Declaration under article 298
25 August 2006*

"The Government of the People's Republic of China does not accept any of the procedures provided for in Section 2 of Part XV of the Convention with respect to all the categories of disputes referred to in paragraph 1 (a) (b) and (c) of Article 298 of the Convention."

Belarus

Declaration made upon ratification of the United Nations Convention on the Law of the Sea

"1. In accordance with article 287 of the Convention, the Republic of Belarus accepts as the basic means for the settlement of disputes concerning the interpretation or application of the Convention an arbitral tribunal constituted in accordance with Annex VII. For the settlement of disputes concerning fisheries, protection and preservation of the marine environment, marine scientific research or navigation, including pollution from vessels and by dumping, the Republic of Belarus will use a special arbitral tribunal constituted in accordance with Annex VIII. The Republic of Belarus recognizes the jurisdiction of the International Tribunal for the Law of the Sea over questions concerning the prompt release of detained vessels or their crews, as envisaged in article 292 of the Convention; 2. In accordance with article 298 of the Convention, the Republic of Belarus does not accept compulsory procedures entailing binding decisions for the consideration of disputes concerning military activities, including by government vessels and aircraft engaged in non-commercial service, or disputes concerning law enforcement activities in regard to the exercise of sovereign rights or jurisdiction, or disputes in respect of which the Security Council of the United Nations is exercising the functions assigned to it by the Charter of the United Nations. "

Montenegro

Declaration confirmed upon succession to the United Nations Convention on the Law of the Sea

"1. Proceeding from the right that State Parties have on the basis of article 310 of the United Nations Convention on the Law of the Sea, the [Government of Montenegro] considers that a coastal State may, by its laws and regulations, subject the passage of foreign warships to the requirement of previous notification to the respective coastal State and limit the number of ships simultaneously passing, on the basis of the international customary law and in compliance with the right of innocent passage (articles 17-32 of the Convention).

2. The [Government of Montenegro] also considers that it may, on the basis of article 38, para.1, and article 45, para. 1 (a) of the Convention, determine by its laws and regulations which of the straits used for international navigation in the territorial sea of [Montenegro] will retain the regime of innocent passage, as appropriate.

3. Due to the fact that the provisions of the Convention relating to the contiguous zone (article 33) do not provide rules on the delimitation of the contiguous zone between States with opposite or adjacent coasts, the [Government of Montenegro] considers that the principles of the customary international law, codified in article 24, para. 3, of the Convention on the Territorial Sea and the Contiguous Zone, signed in Geneva on 29 April 1958, will apply to the delimitation of the contiguous zone between the Parties to the United Nations Convention on the Law of the Sea."

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

National Legislation

1. Slovenia

Maritime Code (PZ), 2001¹

PART EIGHT - EXECUTION OF JUDGEMENTS AND INSURANCE OF CLAIMS ON SHIPS

Section I – COMMON PROVISIONS

Article 838

This part of the Act shall govern the process of the execution of judgements in civil matters and the insurance of claims on ships, on parts thereof and on ships under construction.

Where specific provisions are not given in this Act, the provisions of the Execution of Judgments in Civil Matters and Insurance of Claims Act shall apply *mutatis mutandis*.

The court with subject-matter jurisdiction in Koper shall decide on the proposal for and the process of the execution of judgements and insurance of claims on ships.

The court mentioned in the preceding paragraph shall also have jurisdiction in matters of the execution of judgements and insurance of claims on cargo on board ships subjected to the execution process.

Article 839

A court of the Republic of Slovenia shall have jurisdiction in matters of the execution of judgements and insurance of claims on ships in the territorial sea and internal waters of the Republic of Slovenia.

A court of the Republic of Slovenia shall also have jurisdiction in matters of the execution of judgements and insurance of claims on ships that are not in the territorial sea of the Republic of Slovenia if the register of ships in which such ships are entered is kept in the Republic of Slovenia.

Notwithstanding the provisions of the first paragraph of this Article, a court of the Republic of Slovenia shall not have jurisdiction in matters of the execution of judgements and insurance of claims on foreign military vessels and public carriers.

**Section II – EXECUTION OF JUDGEMENTS FOR THE COLLECTION OF PECUNIARY CLAIMS -
SALE OF SHIP**

1. Exemptions and limitations to execution of judgements

Article 840

The object of the process of execution of judgements or insurance of claims may not be:

1. a Slovenian military vessel and a ship indispensable for the performance of the tasks of the State or a local community;
2. a ship which is indispensable to the debtor for the performance of a public service;
3. a foreign ship enjoying the innocent passage through the territorial sea of the Republic of Slovenia;
4. a foreign ship which makes a halt in the territorial sea or ports of the Republic of Slovenia because of *force majeure* or navigational needs until the end of the *force majeure* or navigational needs.

¹ Original: Slovenian. English translation provided by Slovenia. Text transmitted through notes verbales dated 24 and 27 February 2006 from the Permanent Mission of Slovenia to the United Nations addressed to the Secretary-General of the United Nations. Parts I to IV of the Maritime Code were published in *Law of the Sea Bulletin* 60 and Parts V to VII were published in *Bulletin* 61. The Maritime Code was further amended by the Act amending the Maritime Code (PZ-C) of 26 April 2006. This Act will be published as soon as available, in one of the next issues of the *Law of the Sea Bulletin*.

A ship described in points 3 and 4 of the preceding paragraph may be the subject of the execution process or insurance if the reasons for that process are claims that have occurred during its transit through or stay in the territory of the Republic of Slovenia.

Article 841

A ship owned by a debtor who engages in an economic activity may not be subjected to the execution process if the ship is indispensable for the performance of that activity.

A ship referred to in the preceding paragraph shall not be exempt from the execution process if the process is undertaken to repay claims against a loan with which the ship was bought or a claim secured by a lien on that ship.

A ship referred to in the first paragraph of this Article shall not be exempt from the execution process if the process is undertaken to repay the following claims:

1. against damage caused by the collision of the ship being subjected to the execution process, or against damage caused in some other way;
2. against death or physical injury caused by the ship being subjected to the execution process;
3. against salvage or a salvage agreement including special rewards for salvaging activities in cases when there was a risk of a ship or its cargo polluting the environment;
4. arising from an agreement relating to the use or chartering of a ship and from an agreement relating to the carriage of goods or persons on a ship, irrespective of whether such agreements are included in the contract of exploitation of a ship being subjected to the execution process;
5. arising from the general average;
6. arising from pilotage and towage;
7. arising from the supply of a ship for the maintenance and use of the ship being subjected to the execution process;
8. arising from construction, conversion, repair, equipping and docking of the ship being subjected to the execution process;
9. arising from the rights of the crew to salaries, including the costs of the return voyage of seamen and social security;
10. against the expenses incurred in connection with the ship by its captain, shipper, client or agent of the vessel and/or owner of the ship or shipmaster;
11. arising from the insurance premiums that the owner or charterer of the ship subject to the execution process has with that ship;
12. arising from damage, or risk of causing damage, due to the pollution of the sea or the shore; measures for the prevention, reduction or removal of such damage; compensation for damage; costs of justified measures already carried out or to be carried out to remedy the damage caused; damages suffered or likely to be suffered by third parties due to pollution; damages, costs or loss of a similar nature specified in this point;
13. arising from the costs or expenditure relating to salvaging, removal, preservation, destruction or measures necessary for ensuring the harmlessness of sunken ships, wrecks, ships that have run aground or that were abandoned, including all the equipment on board such ships, and the costs and expenditure for the preservation of an abandoned ship and maintenance of its crew;
14. arising from the loss of or damage to the goods (including luggage) carried on a ship which is subjected to the execution process;
15. arising from port fees;
16. arising from disputes regarding ownership or possession of a ship, disputes between co-owners regarding the use and earnings of the ship and disputes arising from contracts on the sale of a ship which is subjected to the execution process;
17. arising from maritime liens, mortgages or similar encumbrances of a ship which is the subject of the execution process.

A ship owned by a legal entity not included in the first paragraph of this Article may only be subjected to the execution process if such a ship is not indispensable for the performance of that entity's activity.

Article 842

A ship which is the debtor's only or chief source of income may not be subjected to the execution procedure if the sale of that ship would jeopardise the subsistence of the debtor or those whom he is bound by law to support.

In determining whether the circumstances described the preceding paragraph exist, the court shall examine the possibilities for the debtor to find employment or earn his living in some other way, taking into consideration the age of the debtor, his state of health, his ability to work and the number of persons he is obliged to support.

A ship which, under a lifelong maintenance contract, becomes the property of the maintenance provider upon the death of the owner, may not be subjected to the execution process if the maintenance right is entered in the register of ships prior to the entry of the right on the basis of which the creditor is demanding the sale of the ship.

The first paragraph of this Article shall apply to the sale of foreign ships under conditions of reciprocity.

Article 843

Limitations under the preceding paragraph shall not apply to repayment of the claims referred to in the second and third paragraphs of Article 841 of this Act. Limitations under the first paragraph of the preceding Article shall not apply to the repayment of claims referred to in the third paragraph of Article 841 of this Act.

Article 844

The debtor may, within eight days of the execution order being served, propose that the court permit execution of judgements against another property of his or execution by the use of another means of execution.

The court shall serve the proposal on the creditor and allow him eight days to make a declaration on the matter.

After the creditor has made a declaration or after the deadline for this has expired, the court shall issue a decision on the proposal.

The court shall grant the proposal if the debtor demonstrates that it is probable that the debt can be recovered by execution of judgements against another property of his or by using another means of execution. In determining the matter, the court shall be guided by the proportion between the amount of the claim for which repayment is requested and the value of the ship to be subjected to the execution process.

If, by way of another means of execution, the debtor proposes encumbering his salary, pension, disability pension or other permanent incomes, the court shall grant the proposal only if the debtor shows that it is probable that the claim will be settled within one year of the issue of the decision concerning his proposal.

If the court grants permission for execution of judgements against another property or by another means after the decision on execution has been rendered, the book entry of the decision authorising the execution against the ship shall remain valid until the creditor's claim for which the execution was authorised has been satisfied.

2. Proposal for sale

Article 845

The proposal for sale shall contain, in particular:

1. the name or company, place of residence or registered office and citizenship of the creditor;
2. the name or company, place of residence or registered office and citizenship of the debtor;
3. the name, mark, type, port of registration and nationality of the ship;
4. the place in which the ship is to be found;
5. the amount of the claim for which the sale of the ship is requested;
6. documents on the basis of which the execution of a judgement is requested;
7. the list of known lien creditors;
8. a statement as to whether any insurance security regarding the ship for which the execution is requested was granted;
9. if possible, the quantity and kind of cargo on the ship and the number of crew members.

Article 846

The following enclosures shall be attached to the proposal referred to in the preceding paragraph:

1. the original or certified copy of the executory title;

2. the document testifying to the existence of mortgages, property encumbrances and pre-emptive rights recorded in the register of ships and data about the known maritime liens of the ship subjected to the execution process.

If the ship being subjected to the execution process is a Slovenian vessel, an extract from the register of ships proving that the debtor has the right of ownership of the ship shall be enclosed with the proposal; if the ship is not entered in the register of ships, the document proving that the ship being subjected to the execution process is in the possession of one or more debtors shall be enclosed with the proposal.

If, at the time the proposal for sale is submitted, a foreign ship for which an execution process is requested has already been stopped, a certified copy of the document providing evidence, in accordance with the law of that foreign country, on the ownership and country of domicile of the ship, as well as the translation of the document into the language in official use at the court shall be enclosed in the proposal for execution of a judgement.

If, at the time the proposal for sale is submitted, a foreign ship for which an execution process is requested has not yet been stopped, the creditor shall be obliged to prove the probability that the ship is owned by the debtor.

After a foreign ship subjected to an execution of a judgement by sale has been stopped, the court shall call on the creditor to submit the documents referred to in the third paragraph of this Article within three days.

If the creditor does not abide by the preceding paragraph, the court shall issue a decision to discontinue the execution procedure.

Article 847

If the ship for which execution by sale is requested is entered in the register of ships and the person entered in the register of ships as the owner of the ship is a person other than the debtor, the creditor shall submit to the court the appropriate documents for the entry of the ownership right of the debtor in the register of ships.

If the creditor does not have the documents mentioned in the preceding paragraph, the right to have the ownership right entered in the register of ships must be proven by a final judgement rendered in a civil procedure.

In the instances set out in the first and second paragraphs of this Article, the ownership right of the debtor shall be entered in the register of ships *ex officio*.

3. Decision on execution by sale

Article 848

The court shall decide on the proposal for execution of a judgement by sale of a ship by rendering a decision on execution.

In accordance with the civil procedure provisions which stipulate the personal serving of writs, the court shall serve the decision on execution by sale to the parties and to all those who, according to data in the documents on the ship subjected to the execution process, hold any lien, right to repayment or right of pre-emption.

The court shall advise all those who have their pre-emptive right to the ship registered that they cannot invoke that right in the course of the sale.

If the place of residence of the debtor is not known or the debtor is abroad, the court shall appoint the shipmaster as a temporary representative of the debtor and shall serve him with the decision on execution by sale of the ship. If the shipmaster has abandoned the ship, the court shall appoint some other person suitable for discharging the duties of a temporary representative of the debtor.

Article 849

Under the decision on execution by sale of a ship which is entered in the register of ships, the court shall order *ex officio* that the decision be noted in the register of ships.

Under the decision on execution by sale of a ship which is not entered in the register of ships, the court shall authorise the seizure of the ship.

The time the proposal for execution by sale was submitted shall be the element determining the order of precedence for the rights to repayment.

Article 850

In the event of the sale of a ship, creditors who have a lien on the ship being sold shall have the right to repayment even though they did not propose the sale.

Article 851

From the moment a note on the decision on execution by sale is entered in the register of ships and/or the record of seizure is made until the procedure of the sale is discontinued, it shall not be possible to subject the same ship to another execution by sale in order to satisfy some other claim from the same or another creditor.

If, in the case cited in the preceding paragraph, the court permits the seizure of the ship in order that another claim from the same or another creditor be satisfied, the court shall enter in the record of the seizure the data from the subsequently issued decision on execution.

The creditor whom the court, by a subsequent decision, permitted to satisfy a claim with the execution by sale of the same ship shall be included in the process as it is at the time he joins in.

All those on whom, under Article 848 of this Act, the court is obliged to serve the decision on execution shall be notified by the court of the admission of new creditors to the execution procedure.

4. Course of executionArticle 852

After issuing a decision on execution, the court shall immediately:

1. order that the ship be stopped (Article 946 of this Act) and ask the Maritime Directorate of the Republic of Slovenia to take from the ship the certificate of registration, the crew list and the certificate of seaworthiness, and in the case of a foreign ship, the equivalents of these Slovenian documents;
2. order that the ship be guarded, if necessary;
3. seize the ship and its appurtenances, whose value shall be determined separately according to Article 860 of this Act;
4. make a list of crew and passengers who remain on board and of the kinds and quantities of cargo.

Article 853

The court may give custody of the ship to the shipmaster and allow him to retain for that purpose the necessary crew, or it may order the shipmaster and the crew to disembark and appoint other guards instead.

In deciding whether to place the ship in the charge of the shipmaster or somebody else, the court shall take into consideration the suggestions of the creditors, the safety of the ship, the costs of guarding and other relevant circumstances.

Article 854

Upon the proposal of the parties, the shipmaster or the guard of the ship, the court may order that the ship be moved to another location if it finds that such removal is necessary for safety reasons or advisable for other important considerations, such as expenses for guarding and maintenance of the ship.

Article 855

If the person entitled to dispose of the cargo on the ship being subjected to the execution process does not appear in court within three days of the stopping of the ship, the court shall appoint a person to temporarily represent him.

While the cargo is on board the ship it shall be in the charge of the shipmaster or the person appointed by the court to guard it.

At the proposal of the person entitled to dispose of the cargo, his temporary representative, the debtor or the shipmaster, or where justified reasons exist at the proposal of the guard, the court shall allow the cargo to be unloaded and placed in a public warehouse or some other suitable place.

The court shall allow the person entitled to dispose of the cargo or his temporary representative to dispose freely of the cargo if the shipowner, shipmaster or other representative of the shipowner do not object thereto.

If, under a court order or of his own volition, the shipmaster disembarks, this shall have no effect on his authority to represent the shipowner or the person entitled to dispose of the cargo in matters concerning the cargo on board at the time the ship was stopped.

The provisions of the preceding paragraphs shall not encroach upon the rights and duties of the parties stemming from the contract of affreightment.

Article 856

Passengers must disembark with their baggage from the ship being subjected to the execution process.

Notwithstanding the preceding paragraph, the court shall, at the proposal of the debtor, allow the passengers and their baggage to remain on board if the creditor or the guard do not object thereto and if the debtor makes an advance payment for the passengers' catering expenses.

The provisions of the preceding paragraphs shall not encroach upon the rights and duties of the parties stemming from the contract of passage.

Article 857

The costs incurred due to the execution, guarding and maintenance of the ship shall be paid in advance by the creditor.

The court may order the creditor to make the necessary advance payment for expenses relating to execution.

If the creditor does not make an advance payment within the time limit set by the court, the court shall issue a decision to discontinue the execution process.

Article 858

Complaints against the decisions referred to in Articles 852, 853, 854 and 855 of this Act shall not delay their application.

Article 859

In the event of particularly valid reasons, the court may, at the proposal of an interested person and upon hearing the parties and creditors known to have a lien or a property encumbrance on the ship, allow the ship to make one or more voyages during the execution process.

The court shall disallow the voyage described in the preceding paragraph if no insurance contract under the terms deemed appropriate by the court has been concluded for the ship, and if the party who proposed the voyage does not provide adequate insurance for damages that might arise from the voyage.

The court may hear the parties and other creditors referred to in the first paragraph of this Article at a hearing, or it may advise them in writing of the proposal and conditions under which the permission for the voyage was requested, and ask them to make a declaration regarding the proposal within three (days of the notice being served).

Persons summoned who do not appear at the hearing or do not make a declaration regarding the proposal within the time limit cited in the preceding paragraph of this Article shall be considered to have agreed to the proposed voyage.

The person at whose proposal the voyage was allowed shall, upon the request of the court, make an advance payment for the costs of the voyage. Should he fail to do so within the time limit set by the court, the court shall withdraw permission for the voyage.

5. Seizure and appraisal of the ship

Article 860

After the decision on execution by sale has become final, the court shall establish the value of the ship and its appurtenances.

The appurtenances of higher value not normally found on a similar type of ship, as well as parts temporarily separated from the ship, shall be seized and appraised separately.

The value of the ship shall be its market price on the day of sale.

In determining the value of the ship, it shall be necessary to specify its value with the liens and property encumbrances, without the liens and property encumbrances and, separately, the value of the liens and property encumbrances combined.

If the ship being subjected to the execution process was appraised in an earlier execution or bankruptcy procedure and the value established at that time has not significantly changed, the court may take that value as the current value of the ship. The court shall decide thereon after hearing the parties.

In the case referred to in the preceding paragraph, the court shall, at the proposal of a party at the sale session, re-appraise the ship by a decision if the party demonstrates that it is probable that the value of the ship has changed considerably between the earlier appraisal and the day of sale.

Article 861

The court shall summon the parties to the seizure and appraisal session.

The court shall typically fix the venue of the seizure and appraisal session at the place where the ship is situated.

The court shall appoint one or more experts for the appraisal of the ship.

The court shall render a decision establishing the value of the ship at its discretion, taking into account expert opinion and other information obtained during the procedure.

No complaint shall be allowed against the decision on the appointment of experts referred to in the third paragraph of this Article.

The parties and any other persons entitled to repayment from the purchase price achieved by the sale of the ship shall be allowed to complain against a decision determining the value of the ship.

Article 862

A person who is entitled to repayment from the purchase price achieved by the sale of the ship and who, according to the order of precedence, comes before the creditor who proposed the execution of a judgement, may propose that the execution be discontinued if the established value of the ship does not cover his claims even in part.

The proposal referred to in the preceding paragraph may be submitted within eight days of the order on sale being served.

The court shall decide whether, in view of the circumstances and the probable amount of partial repayment of the creditor who proposed the discontinuation of the execution, the sale is worthwhile.

Article 863

The ship shall be sold at a public auction.

The parties and lien creditors may, at any time, agree to the ship being sold privately within a specific time period, as well as which mode of sale to adopt.

The private sale contract shall be made in writing.

The private sale contract shall be effective as of the day a decision awarding the ship to the highest bidder (Article 888 of this Act) becomes final.

6. Terms of sale

Article 864

After the decision determining the value of the ship has become final, the court shall call on the creditor to submit, within the set time, the draft terms of sale, unless he has already done so.

If the creditor fails to submit the draft terms of sale within the time period fixed in the preceding paragraph, he shall be deemed to have agreed to the sale under the conditions stipulated by this Act.

If the terms of sale as proposed by the creditor concord with the provisions of this Act on the terms of sale, the court shall confirm them without a prior hearing.

If the terms of sale as proposed by the creditor differ from the provisions of this Act the court shall fix the hearing to try the terms of sale.

The court shall summon to the hearing referred to in the preceding paragraph the parties and all those for whose benefit any liens or property encumbrances are recorded, according to documents, on the ship being subjected to the execution process.

The court shall appoint a temporary representative for parties on whom, in the opinion of the court, it will probably be impossible to serve a summons, and shall serve the representative with the summons for the hearing.

Article 865

All persons summoned to the hearing in which the proposed terms of sale are being considered may put forward proposals for changes therein.

On the basis of the results of the hearing, the court shall determine the terms of sale in accordance with the provisions of this Act.

If the discontinuation or suspension of the sale is proposed at the hearing for the determination of the terms of sale, the terms of sale may be discussed only after such a proposal has been rejected.

The court shall decide whether or not to postpone issuing a decision on the terms of sale until a decision rejecting the proposal mentioned in the preceding paragraph becomes final.

Article 866

The terms of sale shall include:

1. the name or company, place of residence or registered office and citizenship of the creditor;
2. the name or company, place of residence or registered office and citizenship of the debtor;
3. the name and/or marking, type, port of registration and nationality of the ship, its gross and net tonnage and/or displacement, load draft of the ship, data for the determination of the condition and usefulness of the ship, such as: purpose, year of construction, material that the ship is built from, type and power of the main propulsion engines and special-purpose devices; for ships under construction: data about the phase of construction and a list with the values of the unincorporated material included in the sale;
4. liens and property encumbrances which the buyer must assume and which are not included in the purchase price;
5. the established value of the ship;
6. the lowest acceptable bid;
7. provisions on the amount and method of deposit of the insurance by buyers;
8. provisions on the method of payment of the purchase price;
9. the time when the risks and benefits pass on to the buyer;
10. the time when, and the conditions under which, the ship will be delivered to the buyer, especially if the cargo is not to be unloaded until the decision on the award becomes final, and the conditions under which the ownership rights of the buyer will be recorded in the register of ships;
11. where relevant, the provisions on the sale of a co-owned part of the ship.

Article 867

The public auction may only be attended by those who have made the required security deposit.

In the event of a private sale, the buyer shall deposit the guarantee with the person with whom he is concluding the contract immediately before the conclusion thereof.

Unless the court, at the proposal of the parties, rules otherwise, the security deposit due from the bidders shall be one-tenth of the ascertained value of the ship.

The security shall be deposited in cash, securities or other property value.

The creditor who proposed the execution of a judgement and the lien creditors shall be exempt from the payment of the security deposit if their claims equal the amount thereof and if, in view of their order of precedence and the ascertained value of the ship subjected to the execution process, that sum could be paid out of the purchase price achieved by the sale.

Article 868

The security deposited by the bidder whose bid has been accepted shall remain with the court until the bidder meets all the obligations under the terms of sale, or until a court decision rejecting the award becomes final.

The court shall return their security deposit to other bidders after the sale session has been concluded.

The security deposit of the highest bidder shall constitute his lien for all claims arising against him from the sale.

Article 869

Unless the court, at the proposal of the parties and with the consent of rightful claimants, rules otherwise, the buyer shall take over the ship being subjected to the execution process free of all liens and property encumbrances.

Article 870

The lowest acceptable bid shall normally amount to half of the assessed value of the ship.

At the proposal of the creditor whose claim is secured by lien or at the proposal of the debtor, in agreement with the creditor who proposed the execution of a judgement, the court may rule that a higher amount be taken as the lowest acceptable bid.

Article 871

Unless the court, at the proposal of the parties, rules otherwise, the buyer shall be bound to prove, within 15 days of the award being delivered, that he has deposited with the court the purchase price for the ship awarded to him.

The buyer shall not be required to deposit in cash the purchase price or a part thereof if the creditors whose claims are secured by lien on the ship agree that the buyer shall assume those debts.

If the buyer has met all obligations under the terms of sale, the cash which he has deposited with the court as a security deposit may be used towards the purchase price.

Article 872

The risks for the ship sold shall pass to the buyer on the day the ship is finally awarded to him. As of that day, the buyer shall also assume all encumbrances connected with the ownership rights to the ship.

The awarded ship shall be delivered to the buyer, together with its appurtenances, and the ownership rights of the buyer shall be recorded only after he has fulfilled all the conditions of the sale.

7. Sale of the ship

Article 873

After the decision determining the value of the ship has become final and the terms of sale have been determined, the court shall announce the sale. In the announcement, the court shall indicate the method of sale and, in the event of an auction, the place and the time thereof.

The time period between the first announcement and the day of sale may not be less than 15 days or more than 30 days.

The sale may not take place before the decision on execution and the decision determining the terms of the sale become final.

Article 874

The announcement of the sale shall contain:

1. the name or marking of the ship and appurtenances put up for sale, and the value of the ship being subjected to the execution process;
2. the name or company, place of residence or registered office and citizenship of the parties;
3. the day of the sale and, in the event of an auction, the venue of the sale session;
4. the lowest acceptable bid and the amount of the security deposit;
5. information to the effect that the terms of sale and the documents relating to the ship being subjected to the execution process can be viewed at the court;
6. an invitation to lien creditors whose rights are not recorded in the register of ships to report their claims by the day of the sale, or on the day of the sale session at the latest, with a notice to the effect that their rights shall otherwise be taken into consideration in the procedure only insofar as they stem from the executory title;
7. an invitation to all those whose rights, if any, on the ship being subjected to the execution process might render the sale thereof unlawful to report their rights to the court by the day of sale, or on the day of the sale session at the latest, before the beginning of the public auction, with a notice to the effect that it will otherwise be impossible to exercise those rights to the detriment of a fair buyer;
8. a notice to the effect that a person having any right or encumbrance on the ship being subjected to the execution process will be served with information on the course of the process only if he is a permanent resident of the Republic of Slovenia, or has an authorised representative or a person authorised to be served with information in the Republic of Slovenia.

Article 875

The court shall serve the announcement of the sale to the parties and to all those who, according to data in the documents, have any lien, property encumbrance or right of pre-emption on the ship subjected to the execution process.

The court shall at the same time invite creditors who have claims secured by lien on the ship subjected to the execution process to state, not later than five days before the sale session, whether they want their claims paid in cash or whether they agree to the buyer assuming the debt and freeing the debtor thereof. If the creditors do not declare themselves by the fixed deadline, they shall be assumed to want their claims to be paid in cash.

If a mortgage on the ship subjected to the execution process is entered in the register of ships, the court shall invite creditors to report, before the beginning of the sale at the latest, the amounts of their claims under legal relationships secured by those liens.

The announcement of the sale shall be served to the parties according to the provisions relating to personal serving of notices contained in the Civil Procedure Act.

If the court assesses that it will probably be impossible to serve the announcement to a particular party, or if an attempt to serve the announcement has failed, the court shall appoint for that party a temporary representative to whom the announcement of the sale shall be served.

Article 876

The court shall publish the notice of sale in the Official Journal of the Republic of Slovenia, on the notice-board of the court, on the notice-board of the Maritime Directorate of the Republic of Slovenia in the port, or in some other appropriate manner.

The parties are entitled to request that the announcement of the sale be published at their expense in a manner proposed by them.

Article 877

If a Slovenian ship is to be put up for sale, the court shall order that the intended sale be noted in the register of ships in which the ship is entered.

Article 878

The debtor shall be bound, in the period between the announcement and the day of sale, to enable those who intend to attend the sale to inspect the ship subjected to the execution process and the documents relating thereto.

With the order concerning the inspection of the ship subjected to the execution process, the court shall fix the days and hours for inspection, taking care not to interfere with the operation of the ship.

Article 879

The sale session shall be public and shall be held, as a rule, in the court building.

The court may order that the sale session be held in the place where the ship subjected to the execution process is situated.

At the sale session the court shall allow the participants to inspect the terms of the sale and other documents relating thereto.

If the sale session is attended by only one bidder, the court shall decide whether to adjourn or continue.

Article 880

After establishing that there are no obstacles to holding the sale session, the court shall announce the terms of the sale, data about the claims of creditors entitled to repayment from the achieved purchase price, the statements of creditors concerning the payment or assumption of debts, data about the claims secured by mortgages, and other factors relevant to the sale session.

Article 881

The debtor, judge, court reporter and any other person attending the sale *ex officio* shall not be allowed to make bids on their own behalf or on behalf of others.

The representatives of bidders must prove their right to act as representatives at the hearing in question by means of a public document or a publicly certified authorisation.

Persons referred to in the preceding paragraph may not be buyers in the event of a private sale.

Article 882

The court may order that a foreign ship be sold in foreign currency and the purchase price obtained for it be paid in foreign currency.

The provisions of the preceding paragraph may also be applied when a Slovenian ship is being sold to pay debts to foreign creditors and when foreign persons attend a public auction as creditors.

At the request of a foreign mortgagee, the court shall be bound by law to allow the ship to be sold in foreign currency if the amount of the secured claim as entered in the register of ships is expressed in foreign currency.

Article 883

A bidder shall be bound by his bid until a higher bid is made (Article 884 of this Act).

Article 884

The court shall invite those present to make bids only after a lapse of half an hour from the time fixed for the beginning of the sale session.

The public auction shall go on for as long as higher bids are made.

If a bidder so requests, the court shall allow a brief time for reflection.

The public auction shall end if, five minutes after the second call, no higher bid has been made. The court shall specifically warn those present thereof.

Before closing the sale, the court shall once again announce the last bid and then declare the sale concluded.

Article 885

After the sale has been concluded, the court shall call on those present to immediately lodge any objections against the award at the same sale session.

Objections against the award to the best bidder may be lodged only for the following reasons:

1. if less than 15 days have elapsed between the day of the announcement and the sale (Article 866 of this Act);
2. if the announcement of the sale session was not made or published in the correct manner;
3. if not all those whom the court is bound to notify of the sale session were informed thereof;
4. if the sale continued although a decision to discontinue the procedure had been issued;
5. if the provisions of this law relating to public auctions were violated during the auction;
6. if the conditions under which the highest bid was made were not in accordance with the terms of sale;
7. if the best bidder or his representative were not able to attend the sale of a specific ship being subjected to the execution process;
8. if the highest bid was insufficient to satisfy in full the claim secured by the lien of a creditor who lodges an objection and whose claim has priority over the claim of the creditor who proposed the execution of a judgement.

Article 886

The court must, *ex officio*, be mindful of the irregularities set out in points 4, 6 and 7 of the second paragraph of the preceding Article. Other irregularities shall be considered by the court only if an objection against them is entered.

The court shall, *ex officio*, examine and establish the facts upon which the objections are based.

Article 887

The court shall, as a rule, deal with the lodged objections at the sale session itself.

If the court grants the lodged objections and rejects the award, it shall examine, after hearing those present whom it was bound to inform of the sale session, whether to resume the sale immediately or to fix a new sale session. If it decides to resume the sale immediately, the bidders who participated in the sale shall be considered bound by their previous bids, unless these have been rendered irrelevant by higher bids.

If the court does not dispose of the objections at the sale session itself, it shall serve a decision thereon on the best bidder, on the parties, and on all those entitled to file an objection against the award.

Article 888

If there are no objections and the court does not find any irregularities in accordance with points 4, 6 and 7 of the second paragraph of Article 885 of this Act, the court shall, in the same sale session, issue a decision awarding the ship to the best bidder whose bid it finds acceptable. The court shall announce the decision in the

same sale session and shall deliver it to the persons referred to in the first paragraph of Article 868 of this Act and other participants in the sale.

The court shall, within eight days, post the decision on the award on the notice board of the court and shall enter it in the register of ships. The consequence of the note made in the register shall be that later entries in the register of ships will create rights against the previous owner of the ship only if the decision on the award is annulled. In the published decision, the court shall cite the highest offered price and the deadline for entering a superbid, with an indication of the lowest amount thereof.

Those whom the court was bound to notify of the sale session shall be entitled to demand that the decision referred to in the preceding paragraph be published at their expense in the Official Journal of the Republic of Slovenia, or made public in some other way.

Article 889

In the event of the private sale of a ship, the court shall deliver a decision on the award of the ship to the highest bidder after establishing that the conditions of sale have been fulfilled.

The publication and the effects of the decision on the award shall be subject to the provisions of the second paragraph of Article 881 of this Act.

Article 890

The ship being subjected to the execution process may not be awarded if the price achieved at the sale is lower than the lowest acceptable bid (Article 870 of this Act).

The court shall issue a decision rejecting the award if it finds that the lodged objections are well-founded, that an irregularity of which it must be mindful *ex officio* has occurred, or if the sale had been executed before the decision on the execution by sale and the decision on the determination of the terms of the sale became final.

The decision rejecting the award shall be entered in the register of ships.

If, in deciding on an appeal against the decision referred to in the first and second paragraphs of this Article, the court of second instance delivers a verdict on the award, the entry of the award shall take effect as of the moment when it was registered that the award was rejected (first and second paragraphs of this Article).

Article 891

The decision on the award may be challenged with an objection for the reasons referred to in the second paragraph of Article 885 and the first paragraph of Article 890 of this Act, and because the decision does not concord with the substance of the court documents upon which it is based.

The person to whom the ship subjected to the execution process has been awarded may challenge the decision on the grounds that the court should either have rendered a decision rejecting the reward or have rendered a decision on the award under other conditions than those cited in it.

A decision rejecting the award may be challenged on the grounds of discrepancy with the substance of the court documents upon which it is based and/or because of the absence of a legitimate reason for rejecting the award.

Those who objected to the award at the sale session shall have no right to complain against the decision rejecting the award.

8. New sale

Article 892

If the award is finally rejected because of the failure to attain a price equalling the lowest acceptable bid, the court shall schedule a new sale session or set a new deadline for the private sale of the ship if, within eight days of the unsuccessful attempt to sell, the creditor who proposed the execution of a judgement so demands.

Before scheduling a new sale session or setting a new deadline for the private sale of the ship, the court may order a new appraisal of the ship subjected to the execution process and announce a hearing to discuss changes in the terms of sale.

The time period between the first and second sale sessions shall be at least 30 days.

If the creditor who proposed the execution of a judgement does not propose a new sale by the deadline set in the first paragraph of this Article, the court shall issue a decision to discontinue the execution and shall annul the accomplished execution acts.

Article 893

If the court rejects the award for reasons other than those referred to in the preceding Article and if there are no irregularities that might make a resumption of the procedure unlawful, the court shall schedule a new sale session or a new deadline for private sale *ex officio*.

The sale on the basis of the first paragraph of the preceding Article and the first paragraph of this Article shall be carried out according to the previously defined conditions.

9. Finality of the decision on the awardArticle 894

After the decision on the award has become final, the court shall return the security deposit to the highest bidder or to a buyer in a private sale.

Article 895

After the decision on the award of the ship becomes final, the court shall order, at the proposal of the buyer, the rightful claimant of the cargo or his temporary representative, that the cargo be unloaded, and/or at the proposal of the buyer, that the passengers disembark with their baggage.

The advance money for the expenses relating to unloading referred to in the first paragraph of this Article shall be deposited, at the request of the court, by the person who requests the unloading, unless the terms of sale stipulate otherwise.

If the person who had been the shipowner before the ship was sold, or his representative, object to the delivery of the cargo to the rightful claimant for the free disposal thereof, the court shall order that the cargo be placed in a public warehouse or some other suitable place at the expense of the shipowner.

The provisions of the first, second and third paragraphs of this Article shall not encroach upon the rights and duties of the parties stemming from the contract of affreightment.

Article 896

The owners of appurtenances included in the sale of the ship under the execution process shall be entitled to carry them away at their expense and risk after the decision on the award has become final.

Article 897

The rights the buyer has acquired with the final award of the ship may not be challenged on the grounds that the executory title upon which the decision on execution was based is changed or annulled after the decision on the award becomes final.

10. New sale in the event of annulment of the decision on the awardArticle 898

If the buyer does not prove that he has paid the purchase price referred to in the first paragraph of Article 871 of this Act, the court shall, at the proposal of a rightful claimant, annul the final decision on the award and order a new sale at the expense and risk of the buyer.

A new sale may be proposed by the parties, by creditors whose claims are secured by registered liens on the ship subjected to the execution process, and by creditors who have no executory title for their maritime liens.

A new sale shall be proposed not later than 10 days after the expiry of the deadline referred to in the first paragraph of Article 871 of this Act. If no proposals for a repeat sale are received by that time, the court shall issue a decision discontinuing execution and shall annul the execution acts performed.

The new sale shall be carried out in accordance with the provisions applying to the first sale and the terms of sale determined previously.

At the proposal of the rightful claimants, the court may allow that, in the new sale, the ship be sold at half the price determined for the first sale.

The court shall disallow a new sale if the buyer in arrears with the payment of the purchase price proves before expiry of the deadline for a complaint against the decision which authorised a new sale that he has paid the outstanding amount complete with interest and the damages incurred in the meantime.

Article 899

If the price achieved in the new sale is lower than that achieved in the previous sale, the buyer who is in arrears with the purchase price shall be bound to cover the difference in price, the costs of the new sale, as well as any damages caused by his delay in payment, by making use of his security deposit, part of the purchase money deposited in advance and any other assets and/or property he owns.

The court shall decide *ex officio* on the payment of the difference in price, the costs and the damage cited in the preceding paragraph.

On the basis of the final decision referred to in the preceding paragraph, the court shall seize the security deposit made and part of the purchase money and, if necessary, other assets and property of the debtor.

The execution of judgements shall be to the credit of distributable assets. The difference between the price achieved in the repeated and previous sale shall also make up part of the distributable assets.

The buyer in arrears with payment shall not be entitled to the amount of the purchase price above the purchase price achieved in the previous sale.

11. Discontinuation of saleArticle 900

In addition to the reasons for discontinuing execution stipulated by this Act and the Execution of Judgments in Civil Matters and Insurance of Claims Act, the sale shall also be discontinued if:

1. eight days before the sale session at the latest, a person gives adequate security and states that he is prepared to take over the ship subjected to the execution process for a price that exceeds its established value by a minimum of one-quarter and states that he will pay all the expenses that would otherwise be charged to the debtor;

2. discontinuation is requested by a lien creditor who, before the start of bidding at the sale session, buys out the debts because of which the sale was authorised and refunds the expenses that would otherwise be charged to the debtor;

3. a creditor withdraws from the sale before the beginning of the sale; such a creditor shall not be allowed to propose execution by sale in order to satisfy the same claim on the ship until six months after the discontinuation of the sale have elapsed;

4. before the beginning of the sale, a creditor deposits with the court the amount necessary to pay in full the claims of all creditors who proposed the execution of a judgement and to pay the costs of the procedure;

5. at the second sale session or in the second attempt to sell (first paragraph of Article 892 and first paragraph of Article 893 of this Act), the ship could not be sold at a price equal to the lowest acceptable bid.

Article 901

If the court grants the proposal described in point 1 of the preceding Article, the court shall postpone the execution.

If, within the time period set for it, the proposer mentioned in point 1 of the preceding Article does not provide the appropriate security, the court shall resume the postponed execution *ex officio*.

In the case referred to in the preceding paragraph, the security deposit deposited by the proposer shall accrue to the distributable assets.

As regards the payment of the price for which the proposer agreed to buy the ship subjected to the execution process, the third and fourth paragraphs of Article 899 of this Act shall apply *mutatis mutandis*.

When the proposer has paid the amount referred to in point 1 of the preceding Article, the court shall discontinue the execution process.

Article 902

The court shall notify the postponement and discontinuation of execution referred to in the preceding Article to all parties upon whom it is bound to serve the order of sale under the first paragraph of Article 875 of this Act.

The court shall at the same time inform the creditor who proposed the execution of his right as referred to in Article 903 of this Act.

When 15 days have elapsed after the final decision to discontinue the process, the court shall order that all notes relating to the sale be deleted from the register of ships or that the executed seizure of the ship be annulled.

Article 903

The creditor in whose favour the permission for sale was entered in the register of ships may, within 15 days of the final decision to discontinue the execution, propose that the court order that a lien on a ship subjected to the execution process be recorded in favour of his claim in the order of precedence of the aforesaid entry.

The fact that the debtor has meanwhile alienated or encumbered the ship subjected to the execution process shall not prevent the recording of the lien in the register of ships.

The proposal referred to in the first paragraph of this Article shall not be granted if the sale was discontinued because the execution was not permissible at all, because the executory title was annulled, changed or abolished, because the claim on account of which the execution was undertaken had been settled, or because it was finally determined that the claim did not belong to the creditor.

12. Distribution of purchase moneyArticle 904

After the purchase price has been paid and the decision on the award has become final, the court shall schedule a hearing for the distribution of the purchase price.

The court shall summon to the session the persons referred to in the first paragraph of Article 875 of this Article and shall notify the buyer that he may also attend it.

In the summons referred to in the first paragraph of this Article, the court shall advise the creditors that the claims of those who do not attend the hearing will be taken into consideration according to their standing based on the register of ships and the executory titles, and that the hearing for the distribution of the purchase price is the last opportunity for creditors to challenge the existence, amounts and order of repayment of the claims of others.

The order scheduling the hearing shall be published on the notice board of the court.

Article 905

The hearing shall consider the claims to be taken into consideration in the distribution of the purchase price and the order of payment thereof.

The debtor shall be bound to give the court all the necessary explanations for verifying the regularity of the order of precedence of claims to be repaid from the purchase price.

A creditor whose claim could be taken into consideration in the distribution of the purchase money if a contested claim were eliminated may be the last to complain at the hearing for the distribution of the purchase price against the reported claims or those arising from executory documents. The objection may be as to the existence of a claim, amount or order of precedence of repayment.

The debtor shall only be entitled to object to those claims which he deems to be totally unwarranted.

Claims that would not be satisfied from the purchase price, even if the contested claims with a more favourable order of precedence were eliminated, shall not be dealt with.

Article 906

Distributable assets shall consist of:

1. the purchase price;
2. the security deposit and part of the purchase price deposited by the buyer in arrears with the purchase money, and other amounts paid by such a buyer;
3. such earnings and incomes of the ship subjected to the execution process which the buyer must return;
4. income from voyages made during the sale;
5. the amounts referred to in the second and third paragraphs of this Article.

The purchase price of the ship subjected to the execution process, claims held by the ship subjected to the execution process, and freight or fares shall make up a separate amount of distributable assets, depending on which of the aforesaid items relate to the mortgages of the creditors who proposed the execution of a judgement.

Freight, fares and the amounts owed to the ship that were paid before the end of the hearing for the division of the purchase price shall be distributed together with the purchase price achieved by the sale of the ship subjected to the execution process.

Article 907

The creditors shall be paid out of the distributable assets in the following order of precedence:

1. privileged creditors;
2. mortgage creditors;
3. other creditors.

The determination, within individual payment classes, of the order of precedence for creditors under points 1 and 2 of the preceding paragraph shall be subject to the provisions of this Act relating to maritime liens and mortgages on ships.

The expenses incurred during the sale procedure shall be settled before the division of the purchase price and before the claims of lien creditors.

Article 908

The order of precedence applying to the principal shall also apply to that interest on the principal which, on the day of the award, was less than three years overdue, and to the expenses incurred by civil and executive actions to enforce such claims.

Recurring payments which, on the day of the award were less than three years overdue, shall have the same order of precedence as the right on which they are based.

If distributable assets are insufficient to pay all the creditors, the costs and accessory claims shall be settled before the principal.

Article 909

If the distributable assets are insufficient to pay the creditors of the same payment class (first and second paragraphs of Article 907 of this Act), their claims, together with the costs and accessory claims, shall be settled in proportion to the total amount of those claims.

Article 910

Surplus distributable assets after all the claims cited in Article 907 of this Act have been settled shall be delivered to the debtor by the court.

Article 911

If, at the proposal and with the consent of the participants, the court does not rule otherwise, the recurring payments shall be settled by first paying the amounts overdue until the day of the award and then depositing, against interest, as much of the principal as is needed to settle with interest the payments which become due after the day of the award.

The principal which, by reason of the termination of the right to payment will remain free, shall, if possible, be assigned by the court in advance to those claimants who have not been repaid in full from the distributable assets, in the order corresponding to the order of precedence of their claims. If there are no such claimants, the court shall assign it to the debtor.

Article 912

Claims conditional on a termination clause shall be paid in cash only if the creditor posts security that he will return the cash thus received if the conditional event occurs.

If the creditor does not post the security within 15 days of receiving the decision on payment, the amount needed to settle his claim shall be delivered to the bank as a savings deposit.

The creditor's claim shall be settled when it becomes certain that the event will not occur.

If the conditional event occurs, the amount returned by the creditor or delivered to the bank shall be used to settle the claims of creditors who have not been paid in full from the proceeds of the sale. If there are no such creditors, the amount shall be delivered to the debtor.

Article 913

If the payment of a claim is conditional on a deferment clause, the claim shall be settled by appropriating the necessary amount and delivering it to the bank as a savings deposit to be paid to the creditor when the conditional event occurs.

If the event does not occur, the deposited amount shall be paid to creditors who have not been paid in full from the proceeds of the sale. If there are no such creditors, the amount shall be delivered to the debtor.

Article 914

If, in connection with a lien or with encumbrances under the law of property upon a ship subjected to execution, a note on a dispute or on an action brought for the removal of such a right is entered in the register of ships, the claim or compensation for that right shall be settled in the manner applying to the settling of claims conditional on a termination clause.

If a preliminary note of a lien or encumbrance under the law of property upon a ship subjected to execution is entered in the register of ships and the beneficiary proves that a procedure to validate the note is pending or the deadline for commencing the procedure has not yet expired, the claim or compensation for that right shall be settled in the manner applying to claims conditional on a deferment clause.

Article 915

Claims secured by a consolidated mortgage shall be settled from the distributable assets in cash.

If all the ships that are jointly and separately liable for a claim are sold in the sale procedure, the distributable assets of each individual ship shall contribute to the settling of claims secured by a consolidated mortgage only in that amount which stands in the same proportion to that claim, including incidental dues and costs, as does the remainder of the distributable assets of each individual ship subjected to execution, to the sum total of the remainders of all distributable assets combined. That remainder shall be obtained after deducting the amount of the claims which, in order of precedence, come before the claim secured by a consolidated mortgage.

If the creditor whose claim is secured by a consolidated mortgage demands that payment be made in some other proportion, the creditors whose claims come after his in the order of precedence and who therefore receive less than they would if the creditor was paid as stipulated by the preceding paragraph may, where necessary for covering the deficit, demand to be paid from individual distributable assets the amount that would appertain to the claim secured by a consolidated mortgage if the distribution were carried out as stipulated by the preceding paragraph.

If not all jointly and severally liable ships are sold in the sale procedure, the basis for the calculation of payments to creditors who come after the creditor whose claims are secured by a consolidated mortgage shall not be the individual distributable assets, but the value of individual ships encumbered with a consolidated mortgage. The claim of these creditors shall be entered in their favour against unsold ships in the same order of precedence as the fully or partly settled claim of the creditor that has been secured by a consolidated mortgage. The court shall cancel the consolidated mortgage on unsold ships *ex officio*.

Article 916

Beneficiaries of easement not assumed by the buyer shall be paid out by acquiring compensation for their rights from the proceeds of the sale.

If easement beneficiaries and the creditors who come after them in the order of precedence do not come to an agreement as to the payment referred to in the preceding paragraph, the amount of compensation due to easement beneficiaries shall be assessed by the court by taking into account, above all, the possible duration of easement, its value and benefits for the beneficiary and the age of the beneficiary.

The buyer, the easement beneficiary and the creditors who, in the order of precedence, come after them, may agree for the buyer to assume easement and, consequently, for the assessed compensation for assuming easement to be deducted from the purchase price.

Article 917

The claim of a lien creditor that has not become due prior to the issue of the decision on settlement shall be paid before maturity, together with the agreed interest calculated until the day of the decision on the distribution of the purchase price.

If no interest was agreed upon for such a claim, the claim shall be diminished by the equivalent of the statutory interest from the day the decision on settlement was issued until maturity.

Article 918

If the identity or a place of residence of the current creditor of a contractual lien which according to the order of precedence would be covered from the distributable assets is unknown, the court shall deposit the amount due under that claim at a bank as a savings deposit and shall determine in the decision on the distribution of the purchase price who the amount shall devolve upon if the creditor does not withdraw it.

If the creditor for whom the amount from the preceding paragraph was deposited at a bank does not withdraw it within three years of the day of the deposit being made, each creditor entitled to that amount or a

part thereof may demand the payment of the amount equivalent to his claim. If there are no such creditors, the payment may be requested by the debtor.

Article 919

If lien creditors claiming payment from the purchase price cannot be paid in full, the court shall, at the proposal of one of them or of the creditor who proposed the execution, order those to whose debts a maritime lien or a mortgage extends to deposit the amounts due with the court within a fixed time limit, if this is necessary to compensate the proposer and those with liens of a higher order of precedence.

The proposal referred to in the preceding paragraph shall be made during the execution procedure, at the hearing for the distribution of the purchase price at the latest.

The consequence of the orders issued to debtors of the debtor under the first paragraph of this Article is that no payment to a debtor or another person which would contravene the court decision shall have a legal effect against lien creditors.

If the amounts referred to in the first paragraph of this Article are not deposited by the deadline fixed by the court, the court shall, at the proposal of the creditor to whom the payment refers, act in accordance with the provisions on the enforcement of pecuniary claims and, in so doing, shall determine the claims and the amounts thereof pertaining to individual lien creditors.

13. Sale of parts of a ship

Article 920

Execution by sale of parts of a ship shall be subject to the provisions of this Act relating to sale, with the following exceptions:

1. the stoppage of a ship may be authorised only if the execution requested is for the parts of ship whose value exceeds half of the value of the entire ship subjected to the execution process and/or if the creditor who proposed the execution proves the probability that without the stoppage the collection of the claim would be impossible, or made much more difficult;

2. if more than half the ship is subjected to the execution process, the creditor who proposed the execution may demand that the whole ship be sold and that his claim be paid from that part of the purchase price alone which relates to the share of the debtor;

3. each co-owner of a ship subjected to the execution process shall have the right, before the opening of the sale session, to settle the claim, together with accessory claims, of the creditor who proposed the execution, and thereby to take his place;

4. in respect to the award of the ship subjected to the execution process, the co-owners shall, all other conditions being equal, take priority over other participants in the auction;

5. if several co-owners offer the same terms of sale, the court shall award them equal shares of the part of the ship being sold.

14. Decision on the distribution of the purchase price

Article 921

Upon the conclusion of the hearing for the distribution of the purchase money, the court shall render a decision on the payment of creditors and other persons enforcing their right to payment, taking into consideration the situation as it derives from the register of ships, the documents of the execution process and the hearing for the distribution of the purchase price.

In the decision on the distribution of the purchase price, the court shall rule on the objections enforced by individual creditors and other participants in the execution process, if the objections refer to a question of law.

If the decision on an objection depends on the determination of disputed facts, the court shall instruct the party to initiate, within 15 days, a civil suit or an administrative procedure to establish the justifiability of the objection. If the person who is objecting does not act in accordance with the court order, it shall be considered that the objection has not been made.

The court shall postpone a decision on the payment of a creditor whose claim is being tried in a civil suit or administrative procedure, and shall place the amount of the distributable assets pertaining to the contested claim in a bank as a savings deposit.

The court shall deliver the decision on the distribution of the purchase price to all those who should be summoned to the hearing for the distribution of the purchase price (second paragraph of Article 904 of this Act).

The provision of the third paragraph of this Article shall not impinge on the right of the person who contested a particular claim but did not start a civil suit within the set time period to start legal action against the person whose claim he contested.

Article 922

The decision in the dispute on objections of creditors raised during the procedure for the distribution of purchase money shall have effect against all creditors and rightful claimants to whom the distribution refers, as well as against the debtor.

Article 923

After the decision on the distribution of the purchase price becomes final, the court shall order that all the registered rights and encumbrances on the sold ship be removed from the register of ships, except for those which remain after the sale.

Article 924

After the decision on the distribution of the purchase price becomes final, the court shall deliver to individual creditors the amounts payable in cash, provided no civil suit or administrative procedure against them is pending and the deadline for bringing a lawsuit or starting an administrative procedure has expired unsuccessfully.

The court shall issue the necessary orders in respect of the amounts which, under a court ruling, should be placed with a bank as a savings deposit, unless the persons to whom these amounts or the interest thereon are destined agree otherwise.

If the decision on the distribution of the purchase price cannot be enforced because a civil suit or administrative procedure is pending, the amount relating to that part of the decision shall be placed and kept at a bank as a savings deposit until the decision on the distribution of the purchase price becomes final.

Section III - EXECUTION OF JUDGEMENTS TO COLLECT NON-MONETARY CLAIMS - DELIVERY OF THE SHIP

Article 925

Provisions of Articles 847, 849, 855 and 856 of this Act shall apply *mutatis mutandis* to the execution procedure for the delivery of a ship entered in the Slovenian register of ships.

The proposal for execution by delivery of a ship shall contain all the data under Article 845 of this Act, except for the data under point 5 of the same Article.

Article 926

Execution by delivery of a ship held by the debtor is effected by an official person taking the ship from the debtor and delivering it to the creditor against a certificate of receipt.

Execution by delivery of a ship shall also be conducted as stipulated by the preceding paragraph in cases where the ship is held by a person other than the debtor, if that person agrees to deliver it to the official person.

If that person refuses to deliver the ship to the official person, the creditor may propose to the executive court that the liability of the debtor for the delivery of the ship be transferred to him.

Article 927

Creditors whose claims are secured by liens entered in the register of ships, and creditors about whom the court can find information in the execution procedure documents, shall be notified by the court of the completion of the execution procedure for delivery of the ship.

Article 928

Where, in an execution by delivery, a foreign ship is involved, the court shall not act as stipulated by Article 849 of this Act but shall take the necessary steps for the foreign authority in charge of the register of ships in which the foreign ship subjected to execution is entered to be informed of the start of the procedure for delivery, unless stipulated otherwise by a treaty.

Section IV - SECURING OF CLAIMS**1. Establishing liens on ships**Article 929

A creditor may propose that the court establish a lien on the ship of a Slovenian debtor as a way of securing pecuniary claims on the basis of an executory title.

Article 930

The establishment of the lien referred to in the preceding Article on ships that are entered in the register of ships shall be performed by way of book entry.

The establishment of the lien referred to in the preceding Article on ships that are not entered in the register of ships shall be performed by way of seizure.

The establishment of a lien by the seizure referred to in the preceding paragraph shall be recorded in the appropriate ship document.

Article 931

The enforceability of a claim in favour of which a lien is entered should be recorded in the register of ships in which entries of liens are recorded.

If a lien on a claim has already been entered, or if only a preliminary entry thereof has been made, the court shall order the enforceability of the claim to be entered in the register of ships.

For ships not entered in the register of ships, the enforceability of a claim shall be noted in the record of seizure.

Article 932

For ships not entered in the register of ships, the court may order that, in addition to the entry in the record of seizure as under the third paragraph of Article 931 of this Act, the enforceability of a claim also be entered in the appropriate ship document.

Article 933

The seizure of a ship may only be performed if the ship is in the possession or co-possession of the debtor. If facts about possession are not known to the court and the available documents give rise to doubts, the court shall examine the debtor before ordering the seizure.

Article 934

The court shall notify the debtor that it has ordered the seizure and shall notify him of the place and date thereof.

The seizure of a ship shall be carried out on the spot by entering a description of the object seized in the record.

If a document upon which the ownership right of the debtor is based or which testifies thereto is found in the course of seizure, the court shall enter that the seizure has been performed in a document. When the lien on the ship subjected to seizure terminates, the court shall make a note thereon in the document.

The court shall notify the parties of the seizure.

Article 935

Until irregularities are established in the execution of a seizure, the securing of another claim of the same or some other creditor, for which the establishment of a lien on the same ship is afterwards requested, shall not be performed by a new seizure but only by entering a note of the lien in the existing record of seizure.

Article 936

A complaint against a decision authorising the securing of a claim by the establishment of a lien shall not delay its application.

2. Preliminary entry of liens

Article 937

A creditor may request the securing of pecuniary claims by the preliminary entry of a lien as a preliminary order based on a Slovenian court decision that has not yet become final or enforceable, or on a judicial settlement whose term for a voluntary execution of an action has not expired, if he makes it probable that without that security the recovery of his claim would be rendered impossible or much more difficult.

Article 938

The securing, under the preceding Article, on ships entered in the register of ships shall be made by a preliminary entry in the register of ships in which the ship is entered.

The securing, under the preceding Article, on ships not entered in the register of ships shall be made by the seizure of the ship.

Article 939

In a decision by which it issues a preliminary order as per Article 937 of this Act, the court shall specify *inter alia* the amount of the claims secured, together with the interest and costs, and the duration of that security.

If the deadline referred to in the preceding paragraph expires before the decision or judicial settlement on the basis of which the temporary order was issued becomes enforceable, the court shall, at the proposal of the creditor, extend the security, provided that the circumstances in which the preliminary order was issued have not changed.

The court shall discontinue the procedure and annul the acts performed if, within 15 days of the expiry of the period for which the preliminary order was issued, the conditions for execution by settling the claim of the creditor or for securing the claim by entering the lien (Article 929 of this Act) have not been met.

The court shall discontinue the procedure and annul the acts performed before the expiry of the deadline for the securing of claims authorised by its order, if:

1. the debtor deposits with the court the amount of the secured claim, together with the interest and costs;
2. the debtor demonstrates that it is probable that the claim had already been paid or secured adequately when the decision referred to in the first paragraph of this Article was issued;
3. it is finally ascertained that the claim did not occur or was terminated;
4. within 15 days of the enforceability of the decision or judicial settlement on the basis of which the preliminary order was issued, the proposer does not propose to secure his claim by entering a lien (Article 929 of this Act) and/or the execution by the sale of the ship for the repayment of his claim.

Article 940

In the procedure to secure claims by the preliminary entry of a lien as a preliminary order, the provisions on the securing of claims by establishing a lien as set out in the third paragraph of Article 930 and provisions of Articles 932 to 936 of this Act shall apply *mutatis mutandis*.

3. Lien on a ship on the basis of an agreement between parties

Article 941

The creditor and debtor may agree and request the court to authorise and register a lien on the ship of the debtor which is entered in the register of ships and/or, in the case of an unregistered ship, to authorise and execute the seizure of the ship in order to secure the pecuniary claim of the creditor by a lien on the ship of the debtor.

Claims may also be secured by a lien on a ship which is the property of a third person. In this case, this person is also a party to the agreement as the pledger.

Article 942

At the proposal of the parties, the court shall schedule a hearing at which it enters in the record the agreement of the parties as to the existence of a claim, its date of maturity and the consent of the parties as to the securing of the claim by registering the lien on the ship or by seizing it.

Future and conditional claims may also be secured in the manner described in the preceding paragraph.

The signed record of the agreement of the parties referred to in the first paragraph of this Article shall have the effect of a judicial settlement.

Article 943

On the basis of the agreement referred to in the preceding Article, the court shall authorise the entry by an order and carry out all the necessary acts for the registration of the lien on the ship, or shall authorise and execute the seizure of the ship.

The provisions of Articles 931, 932 and 933 of this Act shall apply *mutatis mutandis* to the securing of a pecuniary claim of the creditor by lien on a ship.

The decision referred to in the first paragraph of this Article shall have the character of a decision on the securing of claims.

Article 944

On establishing that the agreement between the parties referred to in Article 942 of this Act has become enforceable, the court shall, at the proposal of the creditor, authorise by means of a decision and carry out the execution of a judgement on the debtor's ship for the repayment of the secured pecuniary claim of the creditor. The authorisation and execution shall be subject to the application of the provisions on execution by sale of the ship.

The decision referred to in the preceding paragraph shall have the nature of a decision on execution.

The entry in the register of ships of the decision on the sale of the ship (first paragraph of Article 849 of this Act) shall take legal effect from the day the lien on the ship is registered within the claim-securing procedure.

The court shall not repeat the seizure of the ship, and the executed seizure of the ship shall have legal effect from the day the lien is acquired within the claim-securing procedure.

4. Temporary order

Article 945

Prior to and during a civil, executive or administrative procedure, the court may, at the proposal of a creditor, authorise as a temporary order a ban on the alienation, encumbering or disposal of a ship, the stoppage of a ship and the custody of a ship as security for the pecuniary claim of a creditor, if the latter demonstrates as probable the existence of his claim and the danger that the debtor might otherwise alienate the ship, hide it, move it to another place, or prevent or make it much more difficult to recover his claim at a later date.

Temporary orders shall also be authorised to secure the non-monetary claims of a creditor, when such measures are necessary to preclude violence or irreparable damage.

Article 946

The temporary stoppage of a ship shall be understood to mean the prohibition on its leaving a Slovenian port if reciprocity for carrying out such an act exists between the Republic of Slovenia and the flag state of the foreign ship.

Article 947

The court shall authorise the temporary stopping of a ship at the proposal of the creditor only for the claims referred to in the second and third paragraphs of Article 841 of this Act.

Article 948

Any ship owned by the same individual debtors or which, by virtue of the claim for which its stoppage is requested, is encumbered with a maritime lien or mortgage or any other foreign law lien, as well as with other claims cited in the third paragraph of Article 841 of this Act relating to that ship, may be stopped.

Where the debtor is the charterer of a ship or a client who, under the law applying to contractual relations between him and the owner of the ship or the shipowner, is individually liable to others, such a ship or any other ship owned by the debtor may be stopped.

The provision of the preceding paragraph shall also apply to all other instances where the shipowner or client, who is the individual debtor but not the owner of the ship, is individually liable for the claim for which the stoppage of the ship is requested.

At the request relating to ownership rights, co-ownership rights and lien on a ship, only the ship to which that particular request refers may be stopped.

Article 949

Where the temporary order of stoppage and/or custody is issued in order to secure a pecuniary claim, the court may release the ship and permit it to leave the port if the debtor posts security in the amount of the claim, the interest and the anticipated expenses of a civil suit.

The security shall be of such a nature as to enable the creditor to realise his claim, either in the Republic of Slovenia or abroad.

In the event of claims against which the debtor may limit his liability, the amount of the deposit or other security from the first paragraph of this Article shall not be required to exceed the amount of limited liability.

Once the court has released the ship, it may not authorise the stoppage of any other ship for the same claim of the same creditor if that creditor has already posted adequate security in accordance with the first paragraph of this Article.

Article 950

The court shall not authorise stoppage and shall cancel an already-authorized stoppage if the debtor proves that he has already posted the security for the same claim of the same creditor in another country.

Article 951

The posted security should not be understood to be an acknowledgement of liability for claims against which it was given, nor as a waiving of the possibility of limited liability.

Article 952

The court shall specify the duration of an temporary order in the decision by means of which the order is issued.

If the court authorises the stoppage of a ship before the opening of a civil, executive or administrative procedure, the creditor shall be bound to prove, within 15 days, that he has instituted the civil, executive or administrative procedure.

If, within the time period referred to in the preceding paragraph, the creditor does not prove that he has instituted the civil, executive or administrative procedure, the court shall, at the proposal of the debtor, cancel the authorised temporary order.

If the time period referred to in the first paragraph of this Article expires before the conditions for execution of judgements or for the securing of claims by the book entry or preliminary entry of a lien have been fulfilled, the court shall extend, at the proposal of the creditor, the duration of the temporary order, provided that the circumstances in which the order was issued have not changed.

If the time period referred to in the first paragraph of this Article expires and the conditions for extending the temporary order stated in the preceding paragraph have not been met, the court shall, at the proposal of the debtor, discontinue the procedure and annul the acts performed.

Article 953

The costs of the maintenance of the ship and crew during the stoppage shall be borne by the owner of the ship or the shipowner.

If the resources for the maintenance of the crew are inadequate, the court shall order the creditor to give an advance in the amount needed for the maintenance of the crew.

The expenses for custody of the ship shall be advanced by the creditor.

The provisions of the first and third paragraphs of this Article shall have no bearing upon who will be bound to eventually pay the aforesaid costs.

Article 954

The temporary stoppage of a ship shall be without prejudice to the rights and obligations of the parties stemming from the contract of affreightment or contract of passage.

Article 955

When authorising an temporary order for a ship, the court shall immediately apply *mutatis mutandis* the provisions of Article 852 of this Act with respect to the nature of the order authorised.

Article 956

When authorising a ban on the alienation, encumbering or disposal of a ship, the court shall, at the same time, order the entry of a temporary order in the register of ships.

When finally cancelling the temporary order referred to in the preceding paragraph, or when such an order has lost its effect in law, the court shall order the removal of the entry referred to in the preceding paragraph.

Article 957

In securing the pecuniary and non-monetary claims of creditors against the person entitled to dispose of the cargo on the ship, the court may authorise a temporary order to unload the cargo and place it in a public warehouse or some other suitable place, if the person who requests the temporary order pays the shipowner the full amount of the outstanding freight and reimburses him all the costs incurred and not included in the freight.

If the unloading of the cargo under the preceding paragraph is carried out in a port in which, under the contract of carriage, it should not have been unloaded, the court shall authorise the temporary order solely on condition that the cargo be unloaded without any risk to the ship and the remaining cargo, that the unloading causes no delay in the departure of the ship or interference with the navigation timetable, that no damage is done to other persons entitled to dispose of the cargo, and that there are no other convincing reasons that make unloading unacceptable.

Article 958

In the procedure for issuing a temporary order of stoppage of a ship directly encumbered with a maritime claim or a claim on account of sea pollution, the interlocutory order shall be served on the master of the ship in question. If the shipmaster refuses to accept it, delivery of the order shall be effected by pasting the order on the hull of the ship against which it is issued, on the notice board of the Maritime Directorate of the Republic of Slovenia and on the notice board of the court.

Article 959

On receiving an objection from the debtor against the decision issuing the temporary order to stop a ship, the court shall, without delay, schedule a hearing to consider the facts and evidence on the basis of which the interlocutory order was issued.

If evidence in a foreign language is not submitted in the form of a certified translation, a sworn court interpreter, who is hired and whose expenses are paid by the submitter of evidence, shall perform the interpreting at the hearing.

Upon completion of the hearing, the judge shall deliver a decision forthwith.

PART NINE - CONFLICT OF LAWS

Article 960

Where this Act stipulates that the law of a foreign country is to be applied, the rules of this Act that determine which law shall be applied shall be disregarded.

Article 961

The following shall be judged according to the law of the country of nationality of a ship:

1. the duties and rights of the shipmaster in operating the ship and in exercising rights and assuming obligations on behalf of the owner of the ship or the shipowner;
2. rights *in rem* on ships;
3. the legal consequences of events on ships for which the law of the place in which the event occurred should be applied.

Article 962

The law of the country in which the ship is being built shall apply to rights *in rem* to a ship under construction.

Article 963

The law of the country of nationality of a ship shall apply to the liability of the shipowner or person assimilated to the shipowner under this law.

Notwithstanding the preceding paragraph, this Act shall apply in instances where its provisions on the limitation of the liability of the responsible person are more rigorous than the corresponding regulations of the country of nationality of the ship.

Article 964

The law chosen by the parties to the contract shall apply to marine contracts.

Article 965

Notwithstanding the provisions of the preceding Article, this Act shall apply in respect of contracts for the exploitation of ships:

1. to the shipowner's liability for damage to, deficit or loss of cargo, as stipulated by the provisions of this Act, whose application may not be excluded by an agreement between the parties when the port of loading or destination is in the Republic of Slovenia;
2. in cases where the application of some other law would place a passenger in a less favourable position than he would otherwise be in were this Act applied.

Any agreement signed contrary to the preceding paragraph shall be null and void.

Article 966

If it is impossible in cases of contracts for the exploitation of ships to apply the law the parties have chosen to an entire contract or a relationship arising therefrom, or if the parties have not explicitly indicated which law should apply and their intentions as to the application of a particular law cannot be ascertained from the circumstances of the case, the law with which they have the closest relation shall apply to the contract or to the contractual relationship.

Unless the specific circumstances of a particular case command the application of some other law, it shall be considered that the closest relation is with the law of the country in which the shipowner has permanent residence or a registered office.

In line with the preceding paragraph, the provisions of this Act shall be applied to contracts of towage.

In cases referred to in the second paragraph of this Article, the law of the place where individual acts were or should have been performed shall apply to the way in which the secondary rights and duties of the contractual parties are exercised (loading or delivery of cargo, calculation of the time for demurrage and exceptional demurrage, method of payment of freight, etc.).

Article 967

If it is impossible to apply the law the parties have chosen for a salvage agreement to the entire contract or a relationship arising therefrom, or if the parties have not explicitly indicated which law should apply and their intentions as to the application of a particular law cannot be ascertained from the circumstances of the case, the law with which they have the closest relation shall apply.

Unless the specific circumstances of a particular case command the application of some other law, it shall be considered that the closest relation is with the law of the country in whose port the salvage was completed or with the law of the first port in which the ship arrived after salvage.

In all other instances, the provisions of this Act shall apply.

Article 968

Notwithstanding the provisions of the preceding Article, the following shall apply:

1. the provisions of this Act - in cases where only persons and not ships and goods on board were salvaged and all such persons were citizens of the Republic of Slovenia, and in cases where the rescue ship or salvaged ship or one of several ships involved is a Slovenian military vessel or public ship;

2. the provisions of the first and second paragraphs of Article 627, Articles 759 to 765, and Articles 770 and 773 of this Act;

3. the provisions of the statute of limitations relating to the limitations for claims and provision of this Act relating to the statutes of limitations (Article 774 of this Act);

4. the law of the country of nationality of the salvage ship - to the division of the reward for salvage between the owner or shipowner of the salvage ship and its crew.

Any agreement signed contrary to the preceding paragraph shall be null and void.

Article 969

The following shall apply to the recovery of damage caused by the collision of ships:

1. the law of the country in whose territorial sea or internal waters the collision occurred;

2. the provisions of this Act - if the collision occurred on the high seas.

Notwithstanding the preceding paragraph, the following shall apply for the recovery of damage caused by collision of ships:

1. where all the ships that collided are of the same nationality - the law of that country;

2. where the ships which collided are of different nationalities and the law of all those countries is identical - the law of those countries.

Article 970

Notwithstanding the provisions of the preceding paragraph which refer to the application of a foreign law, the following shall apply:

1. the provisions of this Act - if all the persons concerned are citizens of the Republic of Slovenia or Slovenian legal entities, or if one of the ships involved in the collision is a Slovenian military vessel or publicly owned ship;

2. the provisions of the second paragraph of Article 745, the first paragraph of Article 746, and Articles 747 to 752 of this Act;

3. the provisions of the law governing the statute of limitations relating to the limitations for claims and provision of this Act relating to the statutes of limitations (Article 754 of this Act).

Any agreement signed contrary to the preceding paragraph shall be null and void.

Article 971

If it is impossible in the event of a general average to apply the law the parties have chosen to the entire contract or a relationship arising therefrom, or if the parties have not explicitly indicated which law should apply and their intentions as to the application of a particular law cannot be ascertained from the circumstances of the case, the law of the port of unloading of the last part of the cargo that was on board the ship at the time of the general average shall apply.

If all the parties to a general average are citizens of the Republic of Slovenia or Slovenian legal entities, Slovenian law shall apply to the instances referred to in the preceding paragraph.

Article 972

If it is impossible in the case of the contract for the building, conversion or repair of ships to apply the law the parties have chosen to the entire contract or a relationship arising therefrom, or if the parties have not explicitly indicated which law should apply and their intentions as to the application of a particular law cannot be ascertained from the circumstances of the case, the law with which they have the closest relation shall apply to the contract or contractual relationship.

Unless the specific circumstances of a particular case command the application of some other law, it shall be considered that the closest relationship is with the law of the country in which the shipyard is situated.

Article 973

The law of the registered office of the insurance company shall apply to a marine insurance contract and the relations arising therefrom, if:

1. the parties have not explicitly indicated which law should apply to the contract and their intentions as to the application of a particular law cannot be ascertained from the circumstances of the case;
2. the law which the parties have chosen cannot be applied to a particular part of the contract or a legal relationship arising from the contract, but only insofar as that part of the contract or that legal relationship is concerned.

Notwithstanding the preceding paragraph, Slovenian law shall apply to relations arising from a marine insurance contract if all the persons concerned are citizens of the Republic of Slovenia with permanent residence in the Republic of Slovenia, or Slovenian legal entities with registered offices in the Republic of Slovenia, and the insured objects are exposed to risks covered only in the territory of the Republic of Slovenia.

Article 974

The provisions of this Act relating to the salvaging of sunken goods shall apply *mutatis mutandis* to the salvaging of goods sunk beyond the territorial sea and internal waters of the Republic of Slovenia, if the holder of ownership rights on the object is held by legal entity or a natural person with a registered office and/or permanent residence in the Republic of Slovenia and the ship is being salvaged by another such person.

Article 975

A Slovenian court shall have exclusive jurisdiction in:

1. disputes over rewards for the salvage of Slovenian military vessels and public ships, and the recovery of damage from the collision of ships in which a Slovenian military vessel or public ship were involved;
2. disputes referred to in Articles 406 to 408 of this Act occurring in the course or on account of the proceedings for the limitation of shipowner's liability conducted by a Slovenian court;
3. disputes referred to in Article 820 of this Act occurring in the course or on account of the general average adjustment procedure, if the authority to decide on objections against the final distribution basis is vested in a Slovenian court;
4. disputes occurring in the course or by reason of judicial execution proceedings conducted by a Slovenian court.

PART TEN - OFFENCES

Article 976

A legal person shall be fined an amount between SIT 800 000 and SIT 9 000 000 for the following offences:

1. if it does not organise monitoring of the implementation of tasks related to the safety of navigation (point 1 of Article 25 of this Act);
2. if it does not effect continual monitoring of the safety of navigation (point 2 of Article 25 of this Act);
3. if a ship does not, upon the order of the competent authority, immediately head for the location of the fire and/or accident (Article 68);
4. if an action which might endanger the safety of people or vessels, pollute the sea or damage the shore or navigation safety facilities and installations or an action which violating the regulations on order in ports and in other parts of the territorial sea and internal waters is carried out (Article 69);
5. if it does not abide by the order of the competent body concerning the removal from the sea lanes of a damaged, stranded or submerged vessel which obstructs or endangers navigational safety (Article 75).

The responsible person of the legal person which commits an offence mentioned in the preceding paragraph shall be fined an amount between SIT 100 000 and SIT 500 000.

The individual responsible for the offence referred to in points 4 or 5 of the first paragraph of this Article shall be fined an amount between SIT 70 000 and SIT 100 000.

Article 977

A legal person shall be fined an amount between SIT 750 000 and SIT 8,500 000 for the following offences:

1. if it does not manage the obligatory information of importance for the safety of navigation (point 3 of Article 25);
2. if it does not manage documents and gather information on seafarers on board vessels, their experience, training, medical fitness and abilities to perform their assigned duties and work on ships (point 4 of Article 25);
3. if it does not organise the operation of the port in such a way as to guarantee safe navigation (Article 41).

The responsible person of the legal person which commits an offence under the preceding paragraph shall be fined an amount between SIT 75 000 and SIT 400 000.

Article 978

A legal person shall be fined an amount between SIT 500 000 000 and SIT 6 000 000 000 000 for the following offences:

1. if a person operating a vessel or performing other work in connection with safety of navigation is under the influence of alcohol, drugs, psychoactive medicines or other psychoactive substances (Article 63);
2. if a company performing embarkation, transshipment or disembarkation of oils or other liquid chemicals does not implement the safety measures necessary to prevent pollution of the sea or the spread of spilt liquids into the sea (Article 71);
3. if a ship, boat and other floating objects navigating in the coastal waters do not observe the regulation on the minimum distance of vessels from the shore (Article 77);
4. if pilotage is performed in contravention of the provisions of Article 78;
5. if it does not request, immediately upon the arrival of the ship at the first Slovenian port, the measuring of a Slovenian ship which had been built, purchased or converted abroad for a Slovenian client and was not measured abroad according to the provisions of this Act (Article 111);
6. if it does not request the measuring of a Slovenian ship built in a Slovenian or foreign shipyard immediately after the hull, decks and bulkheads have been fitted (Article 112);
7. if it does not request a repeat measurement of a Slovenian ship before the end of a conversion which changes its gross or net tonnage or maximum displacement or dead-weight, or does not request it upon the arrival of

the ship at the first Slovenian port in the event of the ship being converted abroad, and its measurement abroad was not performed according to the provisions of this Act (third and fourth paragraphs of Article 113);

8. if it delivers a ship for navigation or has it navigating without any of the ship documents or logbooks prescribed by this Act (Articles 118, 120 to 133 and Articles 135 to 138);

9. if the person operating the boat does not, during navigation, act in accordance with regulations and technical rules on safety of navigation, the protection of human life and the environment;

10. if it registers a crew member without a seaman's book or boarding permit and a written contract of employment (first paragraph of Article 153);

11. if the crew member omits a duty to inform the officer on duty or the shipmaster of the events stipulated in Article 158;

12. if the shipmaster acts in contravention of the provisions of Articles 162, 163 and 164;

13. if the position of the load line or the freeboard does not correspond to the data in the documents mentioned in Article 183 of this Act or if a ship is not loaded in accordance with the established load line or freeboard line or if the cargo is not correctly distributed (Article 184);

14. if a ship has no name and port of registration (Articles 204 and 205);

15. if it salvages sunken goods without authorisation (first paragraph of Article 777).

The responsible person of the legal person who commits an offence mentioned in the preceding paragraph shall be fined an amount between SIT 70 000 and SIT 350 000.

An individual who commits an offence mentioned in the first paragraph of this Article shall be fined an amount between SIT 50 000 and SIT 150 000.

Article 979

A master of a foreign merchant ship or his deputy shall be fined at least SIT 90 000 for the following offences if a foreign person or a person not authorised for pilotage pilots the ship in the territorial sea or internal waters of the Republic of Slovenia (Article 79).

A fine of at least SIT 85 000 shall be imposed for the following offences:

1. on the captain, or his deputy, of a foreign ship carrying more than 2 000 tonnes of oil, if the ship does not have a certificate of insurance or other financial security in respect of civil liability for oil pollution damage caused while entering or leaving a Slovenian port or while loading or unloading oil in that port (first paragraph of Article 67);

2. on the captain of a Slovenian ship or his deputy:

if a ship which must be equipped with a radio station does not organise a round-the-clock watch service in accordance with the regulations on radio communication (third paragraph of Article 31);

if his ship leaves the port without the appropriate number of crew members with prescribed professional qualifications (Article 151);

if he does not personally take charge of the ship every time this is required for its safety when entering or departing from a port, channel, canal or river (second paragraph of Article 163);

if, in conditions of imminent danger of war or of war between the Republic of Slovenia and another country, he does not take every necessary action to save the ship, persons and cargo on board (first and second paragraphs of Article 169);

if, in the event of war between other countries while which the Republic of Slovenia remains neutral and a Slovenian ship is in a port belonging to a warring countries or is bound for such a port or has to pass through the territorial sea or internal waters of a such a country, he does not request instructions from the shipowner or, if this is not possible, from the competent Slovenian authorities (third paragraph of Article 169);

if he does not take all necessary action to deal with a crew member, passenger or another person on board who commits a criminal offence during the voyage in order to prevent or mitigate any adverse effects arising from the criminal act and call the perpetrator to answer for his actions (first, second and fourth paragraphs of Article 175).

Article 980

A crew member shall be fined at least SIT 80 000 for violating the rules of his duty prescribed by this Act if he does not act in accordance with navigational rules, thereby endangering the safety of traffic, damages the ship or cargo, endangers the safety of passengers or other crew, or endangers the environment with dangerous and noxious substances (oil, waste liquid fuels and mixtures thereof, other waste matter from the ship, and radioactive and similar waste) from the ship (Article 157).

Article 981

A captain or his deputy shall be fined at least SIT 75 000 for an offence if a ship coming from abroad conducts traffic with other ships, bodies and persons on shore before receiving free pratique from the Maritime Directorate of the Republic of Slovenia (second paragraph of Article 65).

A shipmaster or his deputy shall be fined at least SIT 70 000 for the following offences:

1. if a ship, while in port, does not hand over the ship-generated waste to the person in charge of the reception of waste from ships (Article 72);
2. if the ship sails beyond the permitted navigational limits or contrary to the specified purpose of the voyage, or if it undertakes a voyage for which it has not been declared seaworthy (Articles 91 and 101);
3. if, in contravention of this Act (Article 102), he carries passengers on board a ship which is not a passenger ship;
4. if, in contravention of this Act (Article 104), he takes on board more passengers than is permitted;
5. if he takes and arranges cargo on board in contravention of Article 105;
6. if, in contravention of this Act, the ship does not have any one of the required ship's documents and books (first paragraph of Article 116);
7. if he does not produce the ship's papers or logbooks when so requested by authorised bodies (second paragraph of Article 116);
8. if he does not organise practice exercises with rescue boats and other rescue equipment, and with fire detection, prevention and extinguishing equipment within the set time limits (second paragraph of Article 162);
9. if he does not take due care with regard to the ship supplies, ship administration and maintenance, the safety of the ship's equipment, the correct loading, stacking, transfer and unloading of cargo, the correct embarkation, care and disembarkation of passengers, and the execution of all duties in connection with the work process (first paragraph of Article 162).

Article 982

A shipmaster or his deputy shall be fined at least SIT 60 000 for the following offences:

1. if, when all action taken to save a ship in distress has failed and it is inevitable that the ship will sink, he does not make every possible effort to save the ship's logbook and, circumstances permitting, other ship's logbooks, documents, nautical charts for the voyage in question and cash in the ship's cashbox (second paragraph of Article 165);
2. if he does not submit to the competent authority at home or abroad a report, with a transcript from the logbook, on the events referred to in Article 170 of this Act;
3. if he does not send a telecommunications message regarding an immediate danger to the safety of navigation encountered by him (first paragraph of Article 167);
4. if he does not record, in the prescribed manner, the birth, death or last will and testament of a person and does not deliver the record to the competent body in the first Slovenian port or to the nearest diplomatic or consular mission of the Republic of Slovenia abroad (Article 168);
5. if he does not report the committing of a criminal offence on board the ship while it was abroad to the diplomatic or consular mission of the Republic of Slovenia in the country in which the ship first puts to shore after the criminal offence was committed, or if he does not treat the perpetrator in accordance with the instructions issued by that diplomatic or consular mission (third paragraph of Article 175);

6. if he fails to inform the competent body if a crew member who is a citizen of the Republic of Slovenia abandons ship abroad in an unauthorised manner (first paragraph of Article 176);

7. if he does not, in the manner and by the deadline specified, record in the logbook the events, acts and measures which he is obliged to record (first paragraph of Article 166; second paragraph of Article 167; second paragraph of Article 172; second paragraph of Article 174; fifth paragraph of Article 175; third paragraph of Article 176);

8. if he does not record in the logbook the reasons why he did not set out to rescue people in distress and initiate the rescue of these people or the reasons why he did not salvage the ship or goods on board that ship (second paragraph of Article 179 and third paragraph of Article 180);

9. if, while being in a position to do so, he did not inform the ship with which his ship had collided of the name of the last port from which his ship put to sea and the name of the port for which it was bound (second paragraph of Article 753).

Article 983

A member of a ship's crew shall be fined at least SIT 60 000 for an offence if he discharges into the sea lane objects or substances which may obstruct or endanger navigational safety or pollute the sea or shore (Article 76).

Article 984

A legal entity shall be fined at least SIT 400 000 for the following offences:

1. if he permits the use of a boat that has no navigation licence (Article 142);
2. if he permits an untrained person to operate a boat;
3. if he permits the use of a boat that has not been entered in the register of boats (Article 218).

An individual sole trader who commits an offence mentioned in the preceding paragraph shall be fined at least SIT 200 000 on the spot.

The responsible person of the legal person who commits an offence mentioned in the preceding paragraph of this Article shall be fined with a fine of SIT 40 000 on the spot.

Article 985

A fine of at least SIT 40 000 shall be imposed on individuals for the following offences:

1. if they refuse a test by means, devices or an expert examination to establish whether they are under the influence of alcohol, drugs, psychoactive medications or other psychoactive substances (Article 63);
2. if they operate boats and are not qualified to do so (Article 144);
3. if they operate a boat that has not been entered in the register of boats (Article 218).

Article 986

A fine of at least SIT 20 000 shall be imposed on individuals operating a boat for offences whereby:

1. the number of persons or quantity of cargo on board a boat is more than is allowed (Article 60);
2. they do not observe the rules of navigation, as set out by the Regulations for Preventing Collisions at Sea or other regulations on the safety of navigation (Article 61);
3. the boat does not have the prescribed equipment (Article 142).

Article 987

A person bathing in a port or fishing in a cargo port shall be fined at least SIT 5 000 (Article 74).

Article 988

If, during navigation by boat, an accident which results in property damage or physical injury occurs, a legal entity or sole trader shall be fined at least SIT 800 000, and a natural person at least SIT 150 000. In addition,

protection and safety measures for the prohibition of navigation and deprivation of the navigational license for the duration of two years may be passed.

A natural person who caused the accident and failed to provide the data to the other participant for the enforcement of compensation and other claims, or who left the site of the accident before the arrival of the competent body, except in cases where staying would hinder safety of navigation or in order to rescue or to provide assistance, shall be fined in the same manner.

Article 989

A fine of at least SIT 5 000 shall be imposed on individuals operating a boat for offences whereby:

1. they do not have a valid document on the entry of the boat in the register of boats or a navigational licence (third paragraph of Article 141);
2. during navigation by boat, they do not have a valid document on their qualifications to operate a boat (Article 144);
3. the boat does not have a marking (Article 204).

PART ELEVEN – TRANSITIONAL AND FINAL PROVISIONS

Article 990

Papers issued on the basis of the Maritime and Inland Waterways Navigation Act before this Act enters into force shall apply under the conditions and for the period laid down by regulations in force until now, but for no more than two years after this Act enters into force.

Article 991

Unless they contradict the Constitution and this Act, the regulations and other acts listed below shall be applied *mutatis mutandis* until the enactment of regulations which, under this Act, fall within the competence of the Government of the Republic of Slovenia or the minister:

- Rules on the minimum number of crew members for the safe navigation of the merchant marine ships of the Socialist Federal Republic of Yugoslavia (Official Journal of the SFRY, Nos. 29/81, 32/81),
- Rules on the minimum number of crew members for the safe navigation of inland navigational ships of the merchant marine of the SFRY (Official Journal of the SFRY, No. 32/82),
- Rules on the special powers of crew members on ocean-going vessels and on the examination programme for the acquisition of special powers (Official Journal of the Republic of Slovenia, Nos. 20/86, 33/98),
- Rules on the maritime and boat books, and embarkation books for crew (Official Journal of the SFRY, No. 13/81),
- Rules on the uniforms of crew on Slovenian ocean-going vessels on inland waterways (Official Journal of the SFRY, No. 37/66),
- Instructions on procedures in the event of the desertion of a crew member who is a Yugoslav citizen from a Yugoslav merchant marine ship abroad, and in the event of the desertion of a foreign ship by a foreigner in a Yugoslav port (Official Journal of the SFRY, No. 19/66),
- Rules on the content, form and method of keeping ship's documents and books on board ships of the merchant marine of the SFRY (Official Journal of the SFRY, Nos. 16/80, 25/88),
- Order on the navigational categories of ocean-going vessels (Official Journal of the SFRY, No 59/78),
- Rules on the determination of the name, mark and distinctive markings of ships, and on the keeping of records of names of ships (Official Journal of the SFRY, No. 77/82),
- Rules on the flying of the flag of the merchant marine of the SFRY and on the markings on ships of the merchant marine of the SFRY (Official Journal of the SFRY, No 2/81),
- Rules on the determination of the freeboard for ships of the merchant marine of the FPRY which do not engage in international voyages (Official Journal of the SFRY, Nos. 32/51, 29/61),

- Rules on ranks, conditions for acquiring ranks, and powers of crew members on inland navigational ships of the merchant marine of the SFRY (Official Journal of the SFRY, Nos. 32/82, 30/83, 30/87),
- Rules on ranks, conditions for acquiring ranks, and powers of crew members on inland navigational ships of the merchant marine of the SFRY (Official Journal of the Republic of Slovenia, Nos. 33/98, 65/99),
- Order on compulsory coastal pilotage at specific sections of the coastal waters of the SFRY (Official Journal of the SFRY, No. 22/88),
- Rules on trial voyages of ships (Official Journal of the SFRY, No. 22/88),
- Ordinance on safety devices for engine-room hatchways on the freeboard deck of tankers of the merchant marine of the Federal People's Republic of Yugoslavia (Official Journal of the FPRY, No. 45/57),
- Ordinance on the use of covers and movable beams on hawsers or exposed parts of the main and upper decks on ships of the merchant marine of the FPRY (Official Journal of the FPRY, No. 39/59),
- Ordinance on the closure of measurement openings on ships of the Yugoslav merchant marine (Official Journal of the SFRY, No. 25/69),
- Rules on determining the stability of passenger ships of the merchant marine of the FPRY (Official Journal of the FPRY, No. 31/59),
- Instructions on the programme and method of work of weather stations on ocean-going vessels of the Yugoslav merchant marine (Official Journal of the SFRY, No. 15/80),
- Rules on the navigational equipment on merchant marine ships of the FPRY (Official Journal of the FPRY, No. 15/55),
- Rules on ship's lights and equipment for sending optical and sound signals on ships of the Yugoslav merchant marine (Official Journal of the SFRY, Nos. 51/66, 7/67),
- Rules on electrical installations and fire protection of merchant marine ships (Official Journal of the FPRY, Nos. 22/60, 24/60, 28/60),
- Rules on the determination of transactions on merchant marine ships (Official Journal of the FPRY, No. 5/50),
- Rules on the entry of ships in specific registers, on the data to be entered in the insert of the main book of the register of ships, on the collection of certificates, on auxiliary books kept in addition to ship's records, and on forms, certificates and books (Official Journal of the SFRY, No. 68/78),
- Rules on the determination of load lines for ocean-going vessels (Official Journal of the SFRY, No. 20/70);
- Rules on the prevention of collisions at sea (Official Journal of the SFRY, Nos. 4/79, 25/85, 84/89),
- Rules on the investigation of ship accidents (Official Journal of the SFRY, No. 24/89),
- Rules on sea lane markers on the coastal waters of the SFRY (Official Journal of the SFRY, No. 13/81),
- Order on the access, passage and stay of foreign military vessels and research ships in the coastal waters of the SFRY (Official Journal of the SFRY, No. 74/89),
- Order on the access, passage and stay of foreign yachts, sports and pleasure boats in the coastal waters, rivers and lakes of the SFRY (Official Journal of the SFRY, Nos. 38/87, 33/88),
- Decision on the determination of ports in which pest control certificates and pest control exemption certificates are issued (Official Journal of the SFRY, Nos. 8/76, 21/77),
- Decree on the conditions that have to be met by ports relating to international traffic and sea lanes on which international or intergovernmental rules of navigation apply (Official Journal of the SFRY, No. 37/83),
- Act on the determination of ports intended for international traffic (Official Journal of the SFRY, Nos. 28/84, 36/89),
- Act on the determination of sea lanes for international traffic (Official Journal of the SFRY, Nos. 21/65, 32/74, 39/75, 58/76),
- Rules on the investigation of marine accidents (Official Journal of the SFRY, No. 24/89),
- Instruction on the professional part of the examination programme for the acquisition of the title of seafarers (Official Journal of the Republic of Slovenia, No. 33/98),

- Decision on the temporary determination of organisations for the performance of professional work regarding safety and capabilities of the ship and navigational objects (Official Journal of the Republic of Slovenia, No. 16/96),
- Decision on the temporary determination of organisations for the performance of professional technical work in the area of maritime safety and inland navigation (Official Journal of the Republic of Slovenia, No. 37/95),
- Decision on the determination of organisations for the performance of professional technical work for the determination of fulfilment of conditions for marketing recreational vessels (Official Journal of the Republic of Slovenia, No. 2/99),
- Decision on the temporary determination of organisations for the performance of professional work regarding safety and capabilities of fishing ships and boats for navigation and fishing (Official Journal of the Republic of Slovenia, No. 76/99),
- Rules on the records compiled by the shipmaster on the birth, death or last will and testament on a merchant marine ship (Official Journal of the Republic of Slovenia, No. 17/80),
- Rules on the composition of examination commissions and professional examinations for the acquisition of the title of seaman (Official Journal of the Republic of Slovenia, Nos. 33/98, 87/99),
- Instructions for keeping trainees' record books and for a training programme carried out on board merchant ships (Official Journal of the Republic of Slovenia, No. 33/98),
- Rules on boats and floating objects (Official Journal of the Republic of Slovenia, Nos. 13/89, 90/98, 100/00)
- Order on the amount of expenses for the determination of seaworthiness of boats and their measuring, and the amount of expenses for the performance of examinations for boat operators and tests for the operation of boats (Official Journal of the Republic of Slovenia, No. 5/92),
- Order on the determination of organisations for the performance of inspections of boats for inland navigation (Official Journal of the Republic of Slovenia, No. 9/91-I),
- Rules on the order in ports and other areas of coastal sea (Official Journal of the Republic of Slovenia, Nos. 14/89, 16/94),
- Rules on professional qualifications, number of years in navigation, professional examination and manner of passing the professional examination for a pilot of coastal pilotage (Official Journal of the SFRY, No. 20/67),
- Instructions for sea-pilot identity cards (Official Journal of the SFRY, No. 46/65),
- Order on the marking of piloted ships and call signs for piloting (Official Journal of the SFRY, No. 49/65),
- Order on the maximum allowed draft of the ship for navigation in pool III of the Port of Koper (Official Journal of the Republic of Slovenia, No. 11/98),
- Order on the fee for the use of navigation safety facilities on sea lanes (Official Journal of the Republic of Slovenia, Nos. 73/98, 77/98 – correction, 26/00, 1/01),
- Order on the fee for the use of navigation safety facilities on sea lanes which must be paid by boats and yachts (Official Journal of the Republic of Slovenia, No. 98/99),
- Act on the health inspection of merchant ship crews (Official Journal of the SRS, No. 45/73, 42/86),
- Rules on the assessment of medical fitness of ship crew members (Official Journal of the SRS, Nos. 38/84, 22/89),
- Order on the determination of medical organisations which perform medical examinations and immunisation of the crew members on ships (Official Journal of the SRS, No. 38/84),
- Order on the reduction of port fee rates for segregated ballast oil tankers (Official Journal of the Republic of Slovenia, Nos. 1/00, 23/00)
- Rules on the boatmaster's examination and testing of skills for operating a boat (Official Journal of the Republic of Slovenia, Nos. 42/00, 87/00)
- Order on the fixing of remuneration and reimbursement of costs related to the work in examination boards (Official Journal of the Republic of Slovenia, No. 2/01).

Article 992

On the day this Act enters into force, the following shall cease to be in force:

- Article 103 of the Courts Act, insofar as it has a bearing on the keeping of registers of ships (Official Journal of the Republic of Slovenia, Nos. 19/94, 45/95, 38/99);
- the Maritime and Inland Waterways Navigation Safety Act (Official Journal of the Republic of Slovenia, No. 17/88), insofar as it has a bearing on navigation;
- the Ports Act (Official Journal of the SRS, Nos. 7/77, 21/78, 29/86);
- the Maritime and Inland Waterways Navigation Act (Official Journal of the SFRY, Nos. 22/77, 13/82, 30/85, 80/89, 29/90), insofar as it has a bearing on sea navigation;
- the Act on the coastal waters and continental shelf of the SFRY (Official Journal of the SFRY, No. 49/87);
- the Act on the Yugoslav Register of Ships (Official Journal of the SFRY, No. 6/89);
- Institution for the Maintenance of Sea Lanes Act (Official Journal of the SFRY, Nos. 50/74, 22/77, 17/81).

Article 993

Relations created before the entry into force of this Act shall be governed by the regulations or legal rules in force at the time of their creation.

Article 994

Operators of existing ports must, within the period of six months of the day the regulation mentioned in Article 39 of this Act enters into force, lodge with the Maritime Directorate of the Republic of Slovenia an application for the issuing of a permit for opening a port to public traffic (operating licence).

Article 995

The Government and individual ministers shall issue regulations foreseen by this Act within the period of one year of the day of entry into force of this Act.

Article 996

Procedures for entering in the register of ships in respect of which no final decision has been adopted by the day when this Act enters into force shall continue to be carried out according to the regulations in force at the beginning of the procedure.

Article 997

The first concession contract for the operation, management, development and regular maintenance of port infrastructure in the cargo port of Koper shall be concluded by the Republic of Slovenia with the private-law legal person who performs these activities on the day when this Act enters into force.

The concession contract from the preceding paragraph must be concluded within six (6) months of the entry into force of this Act.

Article 998

The provisions of the second paragraph of Article 90 of this Act shall not apply to members of the European Union as of the day when the Republic of Slovenia becomes a member of the European Union.

The condition of reciprocity referred to in Article 7 of this Act shall not apply to members of the European Union as of the day when the Republic of Slovenia becomes a member of the European Union.

Article 999

This Act shall enter into force 30 days after its publication in the Official Journal of the Republic of Slovenia.

No. 326-04/94-6/5
Ljubljana, 23 March 2001.

President of the National Assembly of the Republic of
Slovenia
Borut Pahor,
[signed]

2. MauritiusMaritime Zone Act 2005¹Act No. 2 of 2005

I assent

SIR ANEROOD JUGNAUTH
President of the Republic
28th February 2005

ARRANGEMENT OF SECTIONS

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¹ Transmitted through note verbale dated 26 July 2006 from the Permanent Mission of Mauritius to the United Nations addressed to the Secretary-General of the United Nations.

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AN ACT

To provide for the United Nations Convention on the Law of the Sea to have force of law in Mauritius
ENACTED by the Parliament of Mauritius, as follows -

PART I – PRELIMINARY

1. Short title

This Act may be cited as the Maritime Zones Act 2005.

2. Interpretation

(1) In this Act, unless otherwise expressly provided-

"archipelagic baselines" means straight archipelagic baselines referred to in section 4(2)(a);

"archipelagic waters" means any waters, other than internal waters, enclosed by archipelagic baselines;

"baselines" means baselines prescribed in accordance with section 4;

"closing lines" means the lines prescribed in accordance with section 5(1);

"contiguous zone" means the area of sea specified in section 12;

"continental shelf" means the continental shelf of Mauritius, as defined in section 18(1);

"EEZ" means the exclusive economic zone of Mauritius, as defined in section 14;

"historic waters" means the historic waters of Mauritius prescribed under section 11;

"innocent passage" has the same meaning as in Article 19 of UNCLOS;

"internal waters" means-

- (a) in respect of archipelagic waters, all waters landward of the closing lines; and
- (b) in any other case, all waters landward of any baselines;

"low-water line" means the lowest astronomical tide level on the coast of Mauritius that can be predicted to occur under average meteorological conditions and under any combination of astronomical conditions;

"maritime cultural zone" means the area of sea referred to in section 25;

"maritime zones" means the –

- (a) archipelagic waters;
- (b) contiguous zone;
- (c) continental shelf;
- (d) EEZ;
- (e) historic waters;

- (f) internal waters;
- (g) maritime cultural zone; and
- (h) territorial sea;

"nautical mile" means a distance of 1.85200 kilometres;

"outer limit", in relation to a maritime zone, means a geodesic line of the geodetic datum joining the geographical co-ordinates of points on the datum in a clockwise direction;

"territorial sea" means the territorial sea of Mauritius, as defined in section 7;

"UNCLOS" means the United Nations Convention on the Law of the Sea of 10 December 1982.

(2) Unless otherwise expressly provided, words and expressions defined in UNCLOS and used in this Act shall have the same meaning as in UNCLOS.

PART II - UNCLOS TO HAVE FORCE OF LAW IN MAURITIUS

3. UNCLOS to have force of law in Mauritius

Notwithstanding any other enactment, UNCLOS shall have force of law in Mauritius.

PART III - BASELINES

4. Baselines

- (1) The Prime Minister may, by regulations, prescribe the baselines from which the maritime zones of Mauritius shall be determined.
- (2) The baselines may be -
 - (a) straight archipelagic baselines determined in the manner referred to in Article 47 of UNCLOS;
 - (b) normal baselines, being the low-water line as specified in Article 5 of UNCLOS;
 - (c) the seaward low-water line of reefs as specified in Article 6 of UNCLOS; or
 - (d) straight baselines determined in the manner referred to in Article 7 of UNCLOS; or
 - (e) a combination of the methods for determining baselines specified in paragraphs (a), (b), (c) and (d).

5. Closing lines for internal waters

- (1) The Prime Minister may, by regulations, prescribe closing lines to delimit internal waters.
- (2) The closing lines may be determined by using all or any of the methods specified in Articles 9, 10 and 11 of UNCLOS.

PART IV - TERRITORIAL SEA, INTERNAL WATERS, ARCHIPELAGIC WATERS AND HISTORIC WATERS

6. Legal status of territorial sea and internal, historic and archipelagic waters

- (1) The sovereignty of Mauritius-
 - (a) extends and has always extended to –
 - (i) the territorial sea;
 - (ii) its internal waters;
 - (iii) its archipelagic waters;
 - (iv) its historic waters;
 - (b) also extends to the air space over the archipelagic waters, the historic waters, the internal waters and the territorial sea as well as to their beds and subsoil, and the resources contained in them.
- (2) Unless otherwise expressly provided, any law in force in Mauritius shall extend to its maritime zones.

7. Territorial sea

The territorial sea of Mauritius is and has always been the sea between the baselines and a line of which every point is at a distance of 12 nautical miles from the nearest point of the baselines.

8. Limits on exercise of sovereignty in internal waters

Any right of innocent passage existing in internal waters delimited by closing lines prescribed under section 5 shall continue to exist to the extent that it existed immediately before the closing lines were prescribed.

9. Limits on exercise of sovereignty in archipelagic waters

The exercise by Mauritius of its sovereignty in archipelagic waters shall be subject to -

- (a) any rights set out in any agreement between Mauritius and any other State;
- (b) rights in respect of submarine cables existing at the time the archipelagic baselines are prescribed; and
- (c) the right of innocent passage.

10. Limits on exercise of right of innocent passage

- (1) The Prime Minister may make regulations-
 - (a) to designate the sea lanes and air routes to be used by foreign ships and aircraft in passage through or over any archipelagic waters, internal waters and territorial sea; and
 - (b) to prescribe traffic separation schemes to be observed by ships in passage through narrow channels in the sea lanes.
- (2) Subject to subsection (3), the Prime Minister may make regulations to regulate the passage of ships carrying hazardous waste, nuclear materials or radioactive materials through all or any part of the archipelagic waters, internal waters and territorial sea.
- (3) No ship carrying radioactive materials shall pass through any part of the archipelagic waters, internal waters or territorial sea unless prior notification of the intended passage of the ship through those waters or sea has been given, and prior authorisation and consent for the passage, specifying the route to be taken by the ship, has been given, in accordance with regulations made under this section.
- (4) The Prime Minister may, by notice in the Gazette, suspend temporarily the innocent passage of foreign ships in a specified area of any archipelagic waters, internal waters or territorial sea where he is satisfied that the suspension is essential for the protection of the security of Mauritius.
- (5) Regulations made under this section shall provide for such action as may be taken, including stopping and boarding of ships, to ensure compliance with the regulations.
- (6) In this section, "radioactive materials" means waste that, as a result of being radioactive, is subject to an international control system, or international instrument, applying specifically to radioactive materials.

11. Historic waters

The Prime Minister may, by regulations, prescribe the limits of the historic waters of Mauritius.

PART V - CONTIGUOUS ZONE

12. Contiguous zone

The contiguous zone of Mauritius is and has always been the area of sea between the territorial sea and a line of which every point is at a distance of 24 nautical miles from the nearest point of the baselines.

13. Controls in the contiguous zone

The Prime Minister may make regulations for the exercise of controls necessary in the contiguous zone to prevent and punish infringement of the customs, fiscal, immigration or sanitary laws within Mauritius, its archipelagic waters, internal waters and territorial sea.

PART VI - EXCLUSIVE ECONOMIC ZONE

14. Exclusive economic zone

- (1) The exclusive economic zone of Mauritius is the area beyond and adjacent to the territorial sea of Mauritius that extends to the EEZ outer limit line.
- (2) The Prime Minister may, by regulations, prescribe the EEZ outer limit line.
- (3) For the purposes of this Part, "EEZ outer limit line" means a line of which every point is at a distance of 200 nautical miles from the nearest point of the baselines.

15. Rights, jurisdiction and duties of Mauritius in the EEZ

- (1) In accordance with international law and in particular Article 56 of UNCLOS, Mauritius has in the EEZ -
 - (a) sovereign rights -
 - (i) to explore and exploit, conserve and manage the natural resources, whether living or non-living, of the waters superjacent to the seabed and of the seabed and its subsoil; and
 - (ii) with regard to other activities for the economic exploitation and exploration of the EEZ, such as the production of energy from the water, currents and winds;
 - (b) jurisdiction as provided for by international law with regard to -
 - (i) the establishment and use of artificial islands, installations and structures;
 - (ii) marine scientific research;
 - (iii) the protection and preservation of the marine environment; and
 - (c) such other rights and duties as may be provided for by international law.
- (2) The rights specified in this section with respect to the seabed and subsoil shall be exercised in accordance with international law and, in particular, Part VI of UNCLOS.

16. Exercise of jurisdiction by Mauritius in the EEZ

- (1) To enable Mauritius to exercise the sovereign rights and jurisdiction which it has in the EEZ, there is extended to that zone, to the extent recognised by international law, the law in force in Mauritius.
- (2) In particular, the law of Mauritius shall apply to artificial islands, installations and structures in the EEZ as if they were in the territorial sea.

17. Authority to explore and exploit the EEZ

The Prime Minister may make regulations to –

- (a) provide for the authorisation of persons to explore for natural resources in the EEZ, or to recover or attempt to recover any such resources, in accordance with such terms and conditions as may be determined by the Prime Minister;
- (b) regulate the laying of pipelines or cables in the EEZ;
- (c) provide for the authorisation and regulation of any drilling in the EEZ; and
- (d) regulate the construction, operation and use of –
 - (i) artificial islands;
 - (ii) installations and structures for the purposes provided for in Article 56 of UNCLOS; and
 - (iii) installations and structures which may interfere with the exercise of the rights of Mauritius in its EEZ.

PART VII - CONTINENTAL SHELF

18. Continental shelf

- (1) The continental shelf of Mauritius comprises the seabed and subsoil of the submarine areas that extend beyond its territorial sea throughout the natural prolongation of its land territory -
 - (a) subject to paragraph 2 of Article 76 of UNCLOS, to the outer edge of the continental margin; or
 - (b) where the outer edge of the continental margin does not extend up to that distance, a distance of 200 nautical miles from the baselines from which the breadth of the territorial sea is measured.
- (2) Where, by virtue of paragraph 2 of Article 76 of UNCLOS, the outer limits of the continental shelf require to be determined in accordance with paragraphs 4 to 6 of UNCLOS, the Prime Minister may make regulations to provide for the outer limit to be determined by any method specified in paragraph 4 of Article 76 of UNCLOS.

19. Rights of Mauritius over the continental shelf

- (1) In accordance with international law and in particular Article 77 of UNCLOS, Mauritius shall exercise sovereign rights over the continental shelf to explore it and exploit its natural resources.

(2) The rights referred to in subsection (1) shall be exclusive in that, if Mauritius does not explore the continental shelf or exploit its natural resources, no one may undertake these activities without the express consent of Mauritius.

(3) In accordance with Article 80 of UNCLOS, Mauritius has in the continental shelf the exclusive right to construct and to authorize and regulate the construction, operation and use of –

- (a) artificial islands;
- (b) installations and structures for the purposes provided for in Article 56 of UNCLOS and other economic purposes; and
- (c) installations and structures which may interfere with the exercise of the rights of Mauritius in the continental shelf.

(4) Mauritius has exclusive jurisdiction over such artificial islands, installations and structures, including jurisdiction with regard to customs, fiscal, health, safety and immigration laws and regulations.

20. Exercise of jurisdiction by Mauritius on the continental shelf

(1) To enable Mauritius to exercise the sovereign rights and jurisdiction it has in the continental shelf, there is extended to the continental shelf, to the extent recognised by international law, the law in force in Mauritius.

(2) In particular, the law of Mauritius shall apply to artificial islands, installations and structures on the continental shelf as if they were in the territorial sea.

21. Authority to explore and exploit the continental shelf

(1) The Prime Minister may make regulations to-

- (a) provide for the authorisation of persons to explore for natural resources on the continental shelf, or to recover or attempt to recover any such resources, in accordance with such terms and conditions as may be determined by the Prime Minister;
- (b) regulate the laying of pipelines or cables in the continental shelf;
- (c) provide for the authorisation and regulation of any drilling in the continental shelf; and
- (d) regulate the construction, operation and use of –
 - (i) artificial islands;
 - (ii) installations and structures for the purposes provided for in Article 77 of UNCLOS; and
 - (iii) installations and structures which may interfere with the exercise of the rights of Mauritius in the continental shelf.

(2) For the purposes of this Part –

"natural resources" means -

- (a) the mineral and other non-living resources of the seabed and subsoil; and
- (b) the living organisms belonging to sedentary species;

"sedentary species" means organisms which, at their harvestable stage -

- (i) are immobile on or under the seabed; or
- (ii) are unable to move except in constant physical contact with the seabed or the subsoil.

PART VIII - MARINE SCIENTIFIC RESEARCH

22. Marine scientific research in the maritime zones

(1) As provided by international law and in particular Article 245 of UNCLOS, Mauritius, in the exercise of its sovereignty, has the exclusive right to regulate, authorise and conduct marine scientific research in its territorial sea.

(2) As provided by international law and in particular Article 246 of UNCLOS, Mauritius, in the exercise of its jurisdiction, has the right to regulate, authorise and conduct marine scientific research in its EEZ and on its continental shelf.

23. Regulation of marine scientific research in the maritime zones

(1) Marine scientific research shall not be conducted in any maritime zone except with the express consent of the Prime Minister and in accordance with such regulations as may be made by the Prime Minister.

- (2) Regulations made under subsection (1) shall-
- (a) establish procedures to ensure that consent for marine scientific research is not delayed or denied unreasonably;
 - (b) ensure that any person who is given consent for marine scientific research under this section makes the results of his work available to the Government of Mauritius; and
 - (c) ensure that, in appropriate cases, intellectual property rights that Mauritius has in the use of any living or non-living resource, are recognised and vested in Mauritius.

PART IX - UNDERWATER CULTURAL HERITAGE

24. Underwater cultural heritage in internal waters, archipelagic waters and territorial sea

- (1) Mauritius, in the exercise of its sovereignty, has the exclusive right to regulate and authorise activities directed at underwater cultural heritage in its archipelagic waters, internal waters and territorial sea.
- (2) The Prime Minister may, notwithstanding any other enactment, make regulations for the purpose of regulating activities specified in subsection (1).

25. Maritime cultural zone

- (1) The maritime cultural zone of Mauritius is an area of sea coincident with the contiguous zone.
- (2) The Prime Minister may make regulations to regulate and authorise activities directed at underwater cultural heritage within the maritime cultural zone.

26. Underwater cultural heritage in the EEZ and continental shelf

The Prime Minister may, notwithstanding any other enactment, make regulations to prohibit or authorise any activity directed at underwater cultural heritage in the EEZ or the continental shelf to prevent interference with the sovereign rights and jurisdiction of Mauritius.

PART X - MISCELLANEOUS

27. Regulations

- (1) The Prime Minister may make such regulations as he thinks fit for the purposes of this Act.
- (2) Regulations made under this Act may provide for baselines and lines delineating maritime zones to be prescribed -
 - (a) as lists of geographical coordinates of points, specifying the geodetic datum;
 - (b) by reference to charts of a scale or scales adequate for ascertaining the position of the baselines and other limits; or
 - (c) where it is appropriate or necessary to do so, by using both the methods specified in paragraphs (a) and (b).
- (3) Without prejudice to the generality of subsection (1), regulations made by the Prime Minister under this section may, in particular -
 - (a) provide that any enactment that extends to a maritime zone shall extend to that zone with such amendment as may be prescribed by the regulations;
 - (b) prescribe fees, forms and procedures;
 - (c) provide for the payment of royalties and other charges, and the manner in which they shall be calculated;
 - (d) provide for the confiscation of property in respect of an offence committed in a maritime zone;
 - (e) provide for the appointment of officers necessary for the administration of the regulations and prescribe their powers and duties.

28. Offences

- (1) Any person who contravenes this Act or any regulations made under this Act shall commit an offence and shall be liable -
 - (a) in the case of an individual, to a fine not exceeding 30,000,000 rupees or to imprisonment for a term not exceeding 5 years;

- (b) in the case of a body corporate, to a fine not exceeding 150,000,000 rupees.
- (2) Where an offence committed by a body corporate under this Act is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of -
- (a) a director, manager, secretary or other similar officer of the body corporate; or
- (b) person who was purporting to act in any such capacity,
- that person specified in paragraph (a) or (b) as well as the body corporate, shall commit an offence and be punished accordingly.
- (3) Where the affairs of a body corporate are managed by its members, subsection (2) shall apply in relation to the acts and defaults of a member in connection with the member's functions of management as if the member were a director of the body corporate.

29. Repeal

The following enactments are repealed –

- (a) the Maritime Zones Act;
- (b) the Continental Shelf Act; and
- (c) the Territorial Sea Act.

30. Consequential amendments

- (1) The Environment Protection Act 2002 is amended -
- (a) in section 49, by deleting the definition of "maritime zone" and replacing it by the following definition-
- "maritime zone" has the same meaning as in the Maritime Zones Act.2005;
- (b) in section 51 (2), by adding immediately after paragraph (f), the following new paragraph -
- (g) the control and prevention of pollution from or through the atmosphere, applicable to the air space under its sovereignty and to vessels flying its flag or vessels or aircraft of its registry .
- (2) The Fisheries and Marine Resources Act is amended -
- (a) in section 2 -
- (i) by deleting the definition of "Mauritius waters" and by inserting the following new definition in its appropriate alphabetical place –
- "maritime zone" has the same meaning as in the Maritime Zones Act 2005;
- (ii) by deleting the definition of "territorial waters" and by inserting the following new definition in its appropriate alphabetical place -
- "territorial sea" has the same meaning as in the Maritime Zones Act 2005;
- (b) in section 7(1), by deleting paragraph (a) and replacing it by the following paragraph -
- (a) a maritime zone including, where appropriate, the seabed underlying the maritime zone;
- (c) by deleting the words "Mauritius waters" and "territorial waters" wherever they appear and replacing them by the words "any maritime zone" and "territorial sea" respectively.
- (3) The Interpretation and General Clauses Act is amended in section 2 -
- (a) by adding immediately after paragraph (b) the following new paragraph -
- (c) "archipelagic waters", "continental shelf", "EEZ", "historic waters", "internal waters", "maritime zone" and "territorial sea" have the same meaning as in the Maritime Zones Act 2005;
- (b) by deleting the definition of "continental shelf",
- (c) by inserting the following definition in its appropriate alphabetical place -
- "Mauritius waters" means the territorial sea, internal waters, archipelagic waters, historic waters, the EEZ of Mauritius, and the water superjacent to its continental shelf;

(4) The Merchant Shipping Act is amended in section 2, by inserting immediately after the definition of "Superintendent", the following definition -

"territorial waters of Mauritius" includes archipelagic waters;

(5) The National Coast Guard Act is amended in section 2, by deleting the definition of "Maritime Zones" and replacing it by the following new definition -

"maritime zone" has the same meaning as in the Maritime Zones Act 2005;

(6) The Petroleum Act is amended in section 2, by deleting the definition of "territorial sea".

31. Transitional and savings provisions

(1) Pending the determination of baselines in accordance with this Act, the baselines, territorial sea, EEZ and continental shelf shall, for the purposes of this Act, be deemed to be those that existed under the enactments repealed under section 29 immediately before their repeal.

(2) Any area of sea designated by the Prime Minister as historic waters under the Maritime Zones Act repealed by section 29 shall, on the coming into operation of this Act, be deemed to have been designated to be, and always to have been, historic waters of Mauritius in accordance with this Act.

(3) Any agreement made for the purposes of the enactments repealed under section 29 and in force immediately before the coming into operation of this Act -

(a) shall remain in force to the extent that it is not inconsistent with this Act; and

(b) shall be deemed to have been made under this Act.

(4) The Prime Minister may make regulations making such further transitional, saving, consequential, incidental or supplementary provisions as may be necessary or expedient to bring this Act into effect.

32. Commencement

This Act shall come into operation on a day to be fixed by Proclamation.

Passed by the National Assembly on the fifteenth day of February two thousand and five.

Ram Ramjit Dowlutta

Clerk of the National Assembly

3. Ireland

- (a) Sea-Fisheries and Maritime Jurisdiction Act 2006¹
4 April 2006

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¹ Transmitted through note verbale dated 25 August 2006 from the Permanent Mission of Ireland to the United Nations addressed to the Secretary-General.

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Number 8 of 2006

SEA-FISHERIES AND MARITIME JURISDICTION ACT 2006

AN ACT TO REVISE WITH AMENDMENTS PART XIII OF THE FISHERIES (CONSOLIDATION) ACT 1959 AND THE MARITIME JURISDICTION ACTS 1959 TO 1988, TO PROVIDE FOR THE ESTABLISHMENT OF A BODY TO BE KNOWN IN THE IRISH LANGUAGE AS AN T-ÚDARÁS UM CHOSAINT IASCAIGH MHARA, OR IN THE ENGLISH LANGUAGE AS THE SEA-FISHERIES PROTECTION AUTHORITY, AND TO DEFINE ITS FUNCTIONS, TO AMEND AND EXTEND THE FISHERIES ACTS 1959 TO 2003, THE MERCANTILE MARINE ACT 1955, THE FISHERY HARBOUR CENTRES ACT 1968, THE DUMPING AT SEA ACT 1996 AND THE MARITIME SAFETY ACT 2005, TO AMEND OR REPEAL CERTAIN ENACTMENTS AND TO PROVIDE FOR CONNECTED MATTERS.

[4th April, 2006]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

PART 1

PRELIMINARY AND GENERAL

1.—(1) This Act may be cited as the Sea-Fisheries and Maritime Jurisdiction Act 2006.

Short title,
collective citation
and construction.

(2) The Act of 2003 (other than Part 5), *Part 2* and *Chapter 2* of *Part 4* may be cited together as the Sea-Fisheries Acts 2003 and 2006 and shall be construed together as one.

(3) The Fisheries (Amendment) Act 1997, sections 2, 3 and 4 of the Fisheries and Foreshore (Amendment) Act 1998, the Fisheries (Amendment) Act 2001 and *section 101* may be cited together as the Aquaculture Acts 1997 to 2006 and shall be construed together as one.

(4) The Fisheries Acts 1959 to 2003 and this Act (other than *Part 3* and *sections 100, 102, 103* and *104*) may be cited together as the Fisheries Acts 1959 to 2006 and shall be construed together as one.

(5) The Act of 1955 and *section 100* may be cited together as the Mercantile Marine Acts 1955 and 2006.

(6) The Fishery Harbour Centres Acts 1968 to 2005 and *section 102* may be cited together as the Fishery Harbour Centres Acts 1968 to 2006.

(7) The Dumping at Sea Acts 1996 and 2004 and *section 103* may be cited together as the Dumping at Sea Acts 1996 to 2006.

(8) The Maritime Safety Acts 1992 to 2005 and *section 104* may be cited together as the Maritime Safety Acts 1992 to 2006.

Definitions.

2.—In this Act—

“Act of 1894” means Merchant Shipping Act 1894;

“Act of 1955” means Mercantile Marine Act 1955;

“Act of 2003” means Fisheries (Amendment) Act 2003;

“Community law” means an act adopted by an institution of the European Communities;

“Department” means Department of Communications, Marine and Natural Resources;

“foreign sea-fishing boat” means a sea-fishing boat which is not an Irish sea-fishing boat;

“Irish sea-fishing boat” means a sea-fishing boat which is—

(a) entered in the Register of Fishing Boats,

(b) required by regulations under *section 76* to be so entered,
or

(c) exempt from such registration by regulations under that section;

“Minister” means Minister for Communications, Marine and Natural Resources;

“Principal Act” means Fisheries (Consolidation) Act 1959;

“Register of Fishing Boats” means the register maintained under *section 74*.

Regulations.

3.—(1) The Minister may make regulations in relation to any matter referred to in *Part 2* as prescribed.

(2) Every regulation made under *Part 2* or *section 25* of the Act of 2003 shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the regulation is passed by either such House within the next 21 days on which that House has sat after the regulation is laid before it, the regulation shall be annulled accordingly, but without prejudice to the validity of anything previously done under it.

Repeals and Revocations.

4.—(1) Each enactment specified in *column (2)* of *Schedule 1* is repealed to the extent specified in *column (3)* of that Schedule.

(2) Subject to *sections 78, 85(3), 92(2) and 97(2)*, every order or regulation or licence, permit or authorisation made or granted under an enactment or a provision of an enactment repealed by *subsection (1)* is revoked.

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

PART 2

SEA-FISHERIES

CHAPTER 1

Preliminary

6.—In this Part—

“Act of 1967” means Criminal Procedure Act 1967;

“Act of 1972” means European Communities Act 1972;

“Act of 1994” means Fisheries (Amendment) Act 1994;

“Act of 1999” means Criminal Justice Act 1999;

“common fisheries policy” means the common fisheries policy of the European Communities;

“Community Regulation” means a Regulation of an institution of the European Communities on the conservation and sustainable exploitation of fisheries resources under the common fisheries policy or the matters related thereto, and includes a reference to a Regulation of an institution of the European Communities amending or replacing the Regulation;

“equipment” includes any thing, instrument or machinery (other than fishing gear) used or capable of being used for handling, weighing, transporting, processing or storing fish;

“exclusive fishery limits” means exclusive fishery limits of the State;

“exclusive fishery limits of the State” has the meaning given to it by *section 88*;

“fish” and “sea-fish” include anadromous and catadromous species and all crustaceans and molluscs found in the sea and the brood and spawn of fish, and references to a fish are to be read as including references to part of that fish;

“fishing effort” and “fishing opportunities” have the meaning assigned to them, respectively, in Council Regulation (EC) No. 2371/2002 of 20 December 2002¹ and any Community regulations made under it on the conservation and sustainable exploitation of fisheries resources under the common fisheries policy;

“fishing gear” includes any net, pot, trap, line, pole, dredge or other apparatus of any kind and any attachment of any kind thereto used or capable of being used for catching fish;

“ICES” means the International Council for the Exploration of the Sea;

¹OJ No. L358, 31.12.2002, p.59

Definitions (*Part 2*).

“master”, when used in relation to a sea-fishing boat, means the master, skipper or other person for the time being in charge of the boat;

“net” means an implement comprised mainly of netting wherever found, stored or used for the capture of fish in the sea whether static or towed or hauled or intended to be towed or hauled;

“owner” in relation to a sea-fishing boat, means the person registered as its owner or, if no person is so registered, the person who owns the boat, and includes any part owner, charterer, hirer, manager or operator of the boat;

“prescribed” means prescribed by regulations made by the Minister and “prescribe” is to be read accordingly;

“prosecutor” means the Attorney General and, in lieu of him or her, from the day appointed by an order made under *section 39*, the Director of Public Prosecutions;

“records” means any logbook, document or any other written or printed material in any form including any information stored, maintained or preserved by means of any mechanical or electronic device, whether or not stored, maintained or preserved in a legible form;

“relevant provision” means *Chapter 2* or Part 4 of the Act of 2003;

“sea-fishing” means fishing for or taking fish or sea-fish;

“sea-fishing boat” means any ship, boat or other vessel of whatsoever kind used for sea-fishing and includes any vessel or boat used for the treatment of fish or partly or wholly for the transport of fish;

“sea-fisheries protection officer” means a person declared by *section 16* to be a sea-fisheries protection officer;

“Secretary General” means Secretary General of the Department;

“specified area” means waters falling within the ICES sub-areas and divisions as described in Communication (85/C347/05) from the Commission of the European Communities on the description of the ICES sub-areas and divisions used for the purposes of fishing statistics and regulations in the North East Atlantic;

“State’s fishing quota” means the State’s share of the total allowable catch fixed by a Regulation of the Council of the European Communities relating to certain species of fish in respect of a particular period;

“Table” means a Table to *section 28*.

Moville and Louth areas.

7.—This Part extends to the Moville Area (within the meaning of the Foyle Fisheries Act 1952) and the Louth Area (within the meaning of section 31 of the British-Irish Agreement Act 1999).

CHAPTER 2

Regulation of Sea-Fishing

Restriction on foreign sea-fishing boats entering exclusive fishery limits.

8.—(1) It is not lawful for any foreign sea-fishing boat to enter within the exclusive fishery limits except for—

(a) a purpose or purposes recognised by—

(i) Community law,

- (ii) international law, or
- (iii) any convention, treaty or arrangement for the time being in force between the State and the country to which the boat belongs,

or

(b) any other lawful purpose or purposes.

(2) If a foreign sea-fishing boat enters within the exclusive fishery limits in contravention of *subsection (1)* the master of the boat commits an offence.

9.—(1) If a foreign sea-fishing boat enters within the exclusive fishery limits for—

Provisions in relation to foreign sea-fishing boats lawfully entering exclusive fishery limits.

(a) a purpose or purposes recognised by—

- (i) Community law,
- (ii) international law, or
- (iii) any convention, treaty or arrangement for the time being in force between the State and the country to which the boat belongs,

or

(b) any other lawful purpose or purposes,

then—

- (I) the boat must leave the exclusive fishery limits as soon as the purpose for which the boat so entered has been answered, and
- (II) any regulations made under *subsection (2)* and for the time being in force shall be duly observed.

(2) The Minister may make regulations in relation to the maintenance of good order amongst foreign sea-fishing boats for the time being within the territorial seas of the State and the persons on board such boats.

(3) If there has been in relation to a foreign sea-fishing boat which has lawfully entered within the exclusive fishery limits or in relation to the persons on board that boat, a contravention (whether by commission or omission) of *subsection (1)*, the master of the boat commits an offence.

10.—(1) A person on board a foreign sea-fishing boat shall not fish or attempt to fish while the boat is within the exclusive fishery limits unless he or she is authorised by law to do so.

Unauthorised fishing while on board foreign sea-fishing boat within exclusive fishery limits.

(2) A person who contravenes *subsection (1)* commits an offence.

Contravention of
EC Regulation
(common fisheries
policy).

11.—(1) Unless otherwise provided by law, a person who contravenes or fails to comply with an obligation imposed on the person by a Community Regulation commits an offence.

(2) *Subsection (1)* does not apply to an obligation imposed on the State by a Community Regulation.

(3) This section applies to—

- (a) sea-fishing boats within the exclusive fishery limits,
- (b) an Irish sea-fishing boat in waters, wherever it may be, and
- (c) any person engaged in landing, trans-shipping, buying, handling, weighing, transporting, processing, storing, documenting or selling fish within the State or the exclusive fishery limits.

(4) Where there is a contravention of or a failure to comply with an obligation imposed by a Community Regulation on, or by, a sea-fishing boat and where a person is not specified in the Community Regulation to have contravened or failed to comply with the obligation, the master and the owner of the boat each commits an offence.

(5) Where there is a contravention of or a failure to comply with an obligation imposed by a Community Regulation by a person involved in landing, trans-shipping, buying, handling, weighing, transporting, processing, storing, documenting or selling fish, the person contravening or failing to comply with such obligation commits an offence.

Management of
State's fishing quota
— notices.

12.—(1) The Minister may, for the proper management and conservation and rational exploitation of the State's fishing quota and fishing effort under the common fisheries policy, issue notices to be complied with by the owners or masters of Irish sea-fishing boats and persons on board them with regard to prohibitions or restrictions on the catching of fish or the quantity of fish which may be caught in a specified area.

(2) A notice may restrict or prohibit for a specified period the catching, retention on board or landing of a specified fish stock or group of fish stocks or a quantity of such in a specified area and may be addressed to all or certain types, lengths, sizes or classes of sea-fishing boats.

(3) The master of an Irish sea-fishing boat shall not engage in or cause or permit any person on board to engage in fishing for fish in a specified area in which the catching, retention on board or landing of such fish is prohibited by a notice.

(4) An Irish sea-fishing boat shall not have or retain, and the master of the boat shall not cause or permit the boat or any person on board to have or retain, any fish on board which is prohibited by a notice.

(5) An Irish sea-fishing boat or a person on board the boat shall not have or retain on board in a specified area or specified period—

- (a) more than the quantity of fish, or

- (b) such quantities of fish which are more than the catch composition,

permitted by a notice in respect of the area nor land more than that quantity.

(6) The master of an Irish sea-fishing boat shall not, unless permitted by a notice, during the specified period in a notice cause or permit the boat to be used, in a specified area mentioned in the notice, for the trans-shipment of fish specified in the notice or cause or permit such boat to engage in trans-shipment operations at sea.

(7) The master of an Irish sea-fishing boat—

- (a) before setting out on a voyage to fish for fish specified in a notice the fishing of which is restricted by the notice, shall, if required by the notice, inform a sea-fisheries protection officer of the expected port at which the fish is intended to be landed from the boat on completion of the voyage,
- (b) in a specified area mentioned in a notice before any entry into port or trans-shipment of fish from the boat, shall if required by the notice, inform a sea-fisheries protection officer of the time and location of the entry or trans-shipment, as the case may be, whether inside or outside the State and the quantity of fish concerned, and
- (c) shall if required by the notice not land the fish at any port or place, unless on each occasion a sea-fisheries protection officer has given prior approval of the landing.

(8) A notice, specifying the date and time of its issue and the date from which it comes into force, not being a day earlier than the day after its first publication, shall be published, in such manner as the Minister considers appropriate and expedient in the circumstances (including electronic means, whether by electronic-mail, facsimile, the internet, or otherwise, or by publication in a newspaper published and circulating in the State or to organisations the Minister considers representative of the interests of persons engaged in sea-fishing).

(9) Without prejudice to *subsection (8)*, notice of the publication of a notice shall be made by publishing the notice in the *Iris Oifigiúil*.

(10) A copy of the *Iris Oifigiúil* purporting to contain a notice may be produced in every court and in all legal proceedings and is evidence, unless the contrary is shown, of the notice.

(11) A copy of a notice, which has endorsed on it a certificate purporting to be signed by an officer of the Department (authorised in that behalf by the Secretary General) stating that the copy is a true copy of the notice may, without proof of signature of that officer, be produced in every court and in all legal proceedings and is evidence, unless the contrary is shown, of the notice.

(12) The master of an Irish sea-fishing boat who contravenes *subsection (3), (4) or (6)* commits an offence.

(13) Where there is a contravention of *subsection (5)* the master of the Irish sea-fishing boat upon which the contravention occurred commits an offence.

(14) The master of an Irish sea-fishing boat who fails to comply with *subsection (7)* commits an offence.

(15) It is the duty of the master of an Irish sea-fishing boat to keep himself or herself informed of notices relating to fishing from his or her boat.

(16) The Minister may authorise in writing an officer of the Department to issue a notice on his or her behalf.

(17) In this section “notice” means a notice issued under *subsection (1)*.

Management and Regulation of State’s fishing opportunities and fishing effort — authorisations.

13.—(1) The Minister may, for the proper and effective management and conservation and rational exploitation of fishing opportunities and fishing effort for Irish sea-fishing boats under the common fisheries policy, at his or her discretion—

(a) upon—

(i) the application from, in such form as the Minister decides, or

(ii) the Minister’s own initiative in respect of any person who—

(I) is the owner of an Irish sea-fishing boat which is entered in the Register of Fishing Boats, and

(II) to whom a sea-fishing boat licence has been granted,

and

(b) upon the person giving to the Minister such information as the Minister may reasonably require in relation to the application or the fishing capacity or operation of the boat concerned,

grant to the person an authorisation (“authorisation”) in respect of the boat, authorising, subject to this section, the utilisation of the boat’s fishing effort for the capture and retention on board of a specified fish stock (“stock”) or group of fish stocks (“stocks”) from the boat in a specified area mentioned in the authorisation and the landing or trans-shipment of the specified stock or stocks taken in that area during such period as is specified in the authorisation.

(2) The Minister may renew, subject to this section, without application, at his or her discretion, an authorisation for such period as may be stated in the renewed authorisation, where the Minister is satisfied that—

(a) the holder of the authorisation upon its expiration continues to be the owner, charterer or hirer, as the case may be, of the boat in respect of which the authorisation was granted, and

(b) the boat concerned upon the expiration of the authorisation continues to be—

(i) the subject of a sea-fishing boat licence, and

(ii) entered in the Register of Fishing Boats.

(3) Without prejudice to the Minister's discretion to refuse to grant or renew an authorisation, the Minister may refuse to grant or renew an authorisation where the applicant for or holder of an authorisation, as the case may be, has previously had such an authorisation held by him or her revoked.

(4) An authorisation shall not authorise the fishing for a specified stock or stocks in the area, or the divisions, or sub-areas specified in the authorisation, or the landing or trans-shipment of a specified stock or stocks taken on board a boat or caught in that area, or in those divisions or sub-areas, in contravention of a Community Regulation or a notice issued under *section 12(1)*.

(5) The Minister may attach to an authorisation conditions—

- (a) specifying the quantities and types of fishing gear which may be kept on board the boat or used for the purposes of fishing for the specified stock or stocks, and the manner in which such gear may be used or stored,
- (b) specifying conditions for the use of fishing effort,
- (c) prohibiting the trans-shipment or landing of the specified stock or stocks other than at specified places and within specified hours,
- (d) requiring the giving of specified advance notice of entry into port, and any other information as may be specified in the authorisation,
- (e) requiring the authorisation by a sea-fisheries protection officer for the landing of the specified stock or stocks,
- (f) requiring the separate storage of specified stocks,
- (g) requiring the collection, collation and submission of all specified data considered necessary in relation to fishing, trans-shipment or landing for the specified stocks,
- (h) requiring the provision of assistance to and co-operation with sea-fisheries protection officers in carrying out their duties,
- (i) requiring the keeping of such records in relation to the activities of the boat as may be specified in the authorisation,
- (j) requiring the facilitation of the placing of any person appointed by the Department or its agencies on board the boat for the purposes of ensuring compliance with the requirements of the authorisation, fisheries legislation, scientific observation, and requiring the provision of assistance and co-operation to that person in carrying out his or her duties or otherwise,
- (k) requiring the keeping of the authorisation on the boat concerned.

(6) The Minister may, as a condition of the authorisation, from time to time, restrict the quantity of fish, during such period as he or she decides—

- (a) that may be taken or retained, on board a particular authorised boat in any specified area or part of it, or
 - (b) in respect of fish so taken or retained, that may be landed or trans-shipped from the boat.
- (7)
 - (a) Conditions under *subsection (5)* or *(6)* may be attached to an authorisation at the time it is granted or at any time while it is in force.
 - (b) A condition may be altered at any time while the authorisation is in force and further conditions may be added.
 - (c) Notification of any condition or alteration shall be made in writing (including writing in electronic form) to the holder of the authorisation and to any organisation which the Minister considers to be representative of the holder.
 - (d) Any condition attached or altered, after the authorisation is granted, comes into force as specified in the notification to the holder of the authorisation, being a period not earlier than 24 hours after the notification is sent.
 - (e) It is the duty of the holder of the authorisation to inform the master of the sea-fishing boat to which the authorisation relates of any condition or alteration of a condition notified to the holder under this subsection.
- (8) The Minister may, as a condition of the authorisation, from time to time, restrict the fishing effort by a particular authorised boat in any specified area or specified time period on any specified stock or stocks or types of fishing gear.
- (9) Where an authorised boat is engaged with another authorised boat in pair fishing for a specified stock or stocks in an area specified in an authorisation, the boat may, notwithstanding any restriction under *subsection (6)*, take on board such quantity allowed to the other boat under *subsection (6)(a)*, or land or trans-ship the other boat's share of the specified stock or stocks so taken, subject to such conditions as may be specified in the authorisation relating to the other boat.
- (10) Any restriction under *subsection (6)* or *(8)* is deemed a condition of the authorisation to which it relates and the holder of the authorisation and the master of the authorised boat concerned shall comply with it.
- (11) The master of a licensed boat who contravenes or fails to comply with any condition of an authorisation relating to the boat or causes or permits such a contravention or failure commits an offence.
- (12) If the Minister is satisfied that there has been a failure to comply with a Community Regulation or this Act or with a condition specified in an authorisation, the Minister may revoke or withdraw for a period the authorisation.
- (13)
 - (a) Where the Minister proposes to revoke, or withdraw for a period, an authorisation he or she shall notify in writing (including writing in electronic form) the holder of the authorisation of the proposal and the reasons for it.

- (b) The holder may within 14 days of being sent the notification make representations to the Minister about the proposal.
- (c) The Minister shall consider such representations before making a decision to revoke or withdraw the authorisation.
- (d) The decision takes effect 24 hours after notification of it in writing is sent to the holder.
- (e) It is the duty of the holder to inform immediately the master of the sea-fishing boat to which the authorisation relates of the revocation or withdrawal.

(14) An authorisation stands revoked if—

- (a) the holder of the authorisation ceases to be the owner of the boat in respect of which the authorisation was granted,
- (b) a sea-fishing boat licence in relation to the boat is revoked or has expired, or
- (c) the boat ceases to be registered in the Register of Fishing Boats.

(15) A person shall not, other than pursuant to an authorisation, fish for, retain on board, or trans-ship or land from, an Irish sea-fishing boat, a specified stock or stocks where the Minister has determined that, for that stock or stocks and for that boat or type of boat, an authorisation is required.

(16) The owner or master of an Irish sea-fishing boat, shall not, other than pursuant to an authorisation, cause or permit—

- (a) the boat or any person on board the boat to fish for the specified stock or stocks in the specified area, or
- (b) the landing or trans-shipment from, or retention on board, the boat of the specified stock or stocks taken in the specified area.

(17) A person who contravenes *subsection (15)* or *(16)* commits an offence.

(18) The Minister may authorise such officers of the Department as he or she considers necessary to grant authorisations on behalf of the Minister and to add or alter conditions to authorisations.

(19) In this section—

“authorisation” means an authorisation granted under *subsection (1)*;

“authorised boat” means an Irish sea-fishing boat in respect of which an authorisation, which is in force, has been granted;

“pair fishing” means, in relation to an authorised boat, the towing or trawling of a trawl, seine or other net in the sea by the boat jointly with another authorised boat for the purpose of catching fish;

“sea-fishing boat licence” means a licence granted under section 4 (inserted by *section 97*) of the Act of 2003.

Regulations to give effect to common fisheries policy.

14.—(1) Without prejudice to the generality of section 3(1) of the Act of 1972, the Minister may by regulations prescribe measures to give effect to any provision either of the treaties governing the European Communities or Community law which authorises any or all of the Member States of the European Communities to restrict, or otherwise regulate in respect of the common fisheries policy in a manner specified in the provision, fishing or fishing gear or equipment or buying, handling, weighing, trans-shipping, transporting, landing, processing, storing, documenting or selling fish. Such regulations may apply to any or all of the following:

- (a) sea-fishing boats within the exclusive fishery limits;
- (b) an Irish sea-fishing boat, wherever it may be; and
- (c) any person engaged in buying, handling, weighing, trans-shipping, transporting, landing, processing, storing, documenting or selling fish within the State or the exclusive fishery limits.

(2) Regulations under this section may, in particular—

- (a) prescribe measures such as—
 - (i) prohibitions of or restrictions on areas or times or methods of fishing or use of fishing boats or fishing gear or equipment on them,
 - (ii) prohibitions of or restrictions on fishing effort,
 - (iii) prohibitions of or restrictions on or requirements as regards the equipment of fishing boats or fishing gear, or the use, modification or maintenance or storage thereof or interference therewith,
 - (iv) prohibitions of or restrictions on the catching, handling, composition of catch, retention and storage on board, trans-shipment and landing of fish, including permitted—
 - (I) size and type of fish which may be caught, and
 - (II) times, locations and conditions of landings,
 or such other measures as may be prescribed,
- (b) impose obligations on the holder of a sea-fishing boat licence including, in particular, obligations in relation to—
 - (i) the catching, handling, composition of catch, retention and storage on board, trans-shipment and landing of fish, and
 - (ii) the taking, making and keeping of records and assisting and co-operating with any person appointed by the Department or its agencies to be on that boat,

and

- (c) include such incidental, supplementary and consequential provisions as appear to the Minister to be necessary for the purposes of the regulations (including provisions repealing, amending or applying, with or without modification, other law, exclusive of this Act).

(3) Where there is a contravention of a regulation under this section—

- (a) in relation to a sea-fishing boat or to fishing gear or equipment on board the boat, the master and owner of the boat and the owner of the fishing gear or equipment each commits an offence, or
- (b) in relation to fish, the master and owner of the boat concerned and the buyer, handler, weigher, transporter, processor, person storing or documenting and seller of the fish each commits an offence.

(4) In any proceedings for an offence under this section it shall be for the accused to show (as the case may be)—

- (a) entitlement to any exemption or relief from any prohibition or restriction or requirement alleged to have been contravened, or
- (b) that in the circumstances it was not possible to know or not reasonable to ascertain that a regulation was being contravened.

15.—(1) The Minister may to supplement the common fisheries policy, as he or she thinks proper, by regulations prescribe measures for the purpose of protecting, conserving or allowing the sustainable exploitation of fish or the rational management of fisheries that restrict, or otherwise regulate, fishing or fishing gear or equipment or the buying, handling, weighing, trans-shipping, transporting, landing, processing, storing, documenting or selling of fish. Such regulations may apply to any or all of the following:

National regulatory measures to supplement common fisheries policy.

- (a) fishing boats within the exclusive fishery limits or internal waters;
- (b) an Irish sea-fishing boat, wherever it may be;
- (c) any person engaged in buying, handling, weighing, trans-shipping, transporting, landing, processing, storing, documenting or selling of fish; and
- (d) nets and their usage during any time or season or at any place within the exclusive fishery limits or internal waters.

(2) Regulations under this section may, in particular—

- (a) prescribe such measures as—
 - (i) prohibitions of or restrictions on areas or times or methods of fishing or use of sea-fishing boats or equipment on them,
 - (ii) prohibitions of or restrictions on fishing effort,

- (iii) prohibitions of or restrictions on or requirements as regards the equipment of fishing boats or fishing gear, or the use, modification or maintenance or storage thereof or interference therewith,
- (iv) prohibitions of or restrictions on the catching, handling, composition of catch, retention and storage on board, trans-shipment and landing of fish, including permitted—
 - (I) size and type of species which may be caught, and
 - (II) times, locations and conditions of landings,
- (v) permitted by a Community Regulation which the State may take in relation to an Irish sea-fishing boat or to a sea-fishing boat within the exclusive fishery limits or may apply to a buyer, handler, seller, weigher, transporter or processor of fish which supplement or go beyond a Community Regulation or other European Community law, but are compatible with Community law and in conformity with the common fisheries policy,

or

- (b) impose obligations on the holder of a sea-fishing boat licence including, in particular, obligations in relation to—
 - (i) the catching, handling, composition of catch, retention and storage on board, trans-shipment and landing of fish, and
 - (ii) the taking, making and keeping of records and assisting or co-operating with any person appointed by the Department or its agencies to be on that boat,

or

- (c) include such incidental, supplementary and consequential provisions as appear to the Minister to be necessary for the purposes of the regulations.

(3) Where there is a contravention of a regulation under this section—

- (a) in relation to a fishing boat or to fishing gear or equipment on board the boat, the master and owner of the boat and the owner of the fishing gear or equipment each commits an offence, or
- (b) in relation to fish, the master and owner of the boat concerned and the buyer, handler, weigher, transporter, processor, person storing or documenting and seller of the fish each commits an offence.

(4) In any proceedings for an offence under this section it shall be for the accused to show (as the case may be)—

- (a) entitlement to any exemption or relief from any prohibition or restriction or requirement alleged to have been contravened, or

- (b) that in the circumstances it was not possible to know or not reasonable to ascertain that a regulation was being contravened.

(5) In this section “internal waters” means the internal waters of the State (within the meaning of *section 86*).

CHAPTER 3

Sea-Fisheries Protection Officers — Detention of boats — Related offences

16.—(1) Each of the following persons is, for the purposes of the *Sea-Fisheries Acts 2003 and 2006*, a sea-fisheries protection officer— Sea-fisheries protection officers.

- (a) an officer of the Department authorised in that behalf by the Minister,
- (b) a person appointed under *subsection (1)*, or authorised under *subsection (2)(a)*, of *section 51*,
- (c) a member of the Permanent Defence Forces (not below the rank of leading seaman or corporal) for the time being serving on board any ship, vessel or aircraft belonging to or employed in the service of the State,
- (d) a member of the Garda Síochána, and
- (e) an officer of Customs and Excise authorised in that behalf by the Revenue Commissioners.

(2) The Minister may, in agreement with any body established by or under statute, authorise persons who are officers of that body to—

- (a) perform such functions of a sea-fisheries protection officer under this Act, or
- (b) assist a sea-fisheries protection officer in exercising such functions,

in such circumstances or area, to such extent and subject to such conditions as he or she may specify in the authorisation.

17.—(1) A sea-fisheries protection officer is authorised and empowered to do all or any of the following things, that is to say: Powers of sea-fisheries protection officer related to the inspection, examination and detention of sea-fish, etc.

- (a) to stop any person conveying or believed to be conveying sea-fish of any kind and to inspect any sea-fish which the person is found to be conveying and for that purpose to open, search and examine any vehicle, equipment or package in which such sea-fish is or may be or is believed to be conveyed;
- (b) at all reasonable times, to enter upon or stop, as appropriate and have free access to the interior of—
 - (i) any premises in which sea-fish is or is believed to be sold, or kept, exposed for sale, stored, processed or disposed of,

- (ii) the premises of any person engaged in the business of carrying goods which relate to the common fisheries policy,
 - (iii) any pier, quay, wharf, jetty, dock or dock premises, seafood factory or processing facility or warehouse,
 - (iv) any ship, boat, railway wagon, lorry, tanker, trailer or other vessel or vehicle used for the conveyance of goods,
 - (v) the premises of any person engaged in the business of retaining documents containing information on activities relating to the common fisheries policy;
- (c) to examine all sea-fish found in any place which he or she is authorised by this section to enter and for that purpose to open any package found in such place and containing or believed to contain sea-fish;
 - (d) to verify the accuracy of the information in any document or record which relates to the common fisheries policy;
 - (e) to check the size, weight, characteristics and condition of sea-fish and the operation of any equipment used for the measurement, weighing, handling, storage, trans-shipment, transportation and processing of sea-fish;
 - (f) to stop, board and examine or search, on any part of the sea or the sea shore, any boat used or believed to be used for fishing or containing illegally caught or retained sea-fish, and to examine all fish and all fishing gear and other equipment found on or in it, or used from it and for that purpose to open any package, hold, tank, container or other article which contains or is suspected of containing any fish, fishing gear or other such equipment;
 - (g) to take, remove, and detain in his or her custody any sea-fish (either together with or without any package or container in which the fish may be contained) found in the course of the exercise of any of the powers conferred by this section in respect of which an offence under this Part is being or is suspected of being or to have been committed;
 - (h) to take, remove, and detain in his or her custody any fishing gear or other equipment used in fishing or capable of being used for fishing or any article which is liable or is believed to be liable to forfeiture under this Part;
 - (i) to request and take the name and address of the person having custody of any sea-fish or other article which he or she is authorised under this section to examine, and also to request and take from such person the name and address of the owner of such sea-fish or other article;
 - (j) to require the owner of or any person connected with—
 - (i) any premises referred to in *paragraph (b)(i)* and *(ii)* and *(v)*,

- (ii) any pier, quay, wharf, jetty, dock or dock premises, seafood factory or processing facility or warehouse referred to in *paragraph (b)(iii)*, or
- (iii) any ship, boat, railway wagon, lorry, tanker, trailer or other vessel or vehicle referred to in *paragraph (b)(iv)*,

to give to him or her such information and to produce to him or her such records within the power or procurement of that person as he or she may reasonably require relating to the common fisheries policy;

- (k) to examine and take the documents or records or copies of, or extracts from, such documents or records relating to the common fisheries policy;
- (l) take evidence, including photographic evidence or electronically recorded evidence, of anything relating to an offence under this Part which is being committed or suspected of being or having been committed.

(2) When a sea-fisheries protection officer detains in his or her custody under this section any sea-fish or other article, he or she shall, as soon as conveniently may be, take such steps as may be proper to have the person accused of the alleged offence committed in relation to such sea-fish or other article dealt with according to law.

(3) Where a sea-fisheries protection officer detains in his or her custody under this section any sea-fish and the sea-fish is likely to become unfit for human food before the matter can conveniently be dealt with by any court, he or she may produce the sea-fish to a designated officer (where he or she is not a designated officer), and, if authorised so to do by the designated officer, shall sell or otherwise dispose properly of the sea-fish.

(4) Where a sea-fisheries protection officer detains in his or her custody under this section any live sea-fish, he or she may produce the sea-fish to a designated officer (where he or she is not a designated officer) and, if authorised so to do by the designated officer, shall return the sea-fish to the sea.

(5) A designated officer to whom any sea-fish is produced under this section or which he or she has detained in his or her authority as a sea-fisheries protection officer shall, if he or she is of opinion that the sea-fish ought in the circumstances to be destroyed or returned to the sea, give to the sea-fisheries protection officer producing the sea-fish or create for himself or herself, as the case may be, a certificate in writing describing the sea-fish and any marks, peculiarities or other particulars thereof pointed out to him or her by the sea-fisheries protection officer and authorising the officer to destroy the sea-fish or return the sea-fish to the sea, as the case may be. The certificate shall be conclusive evidence in every court of all such matters of fact stated in it.

(6) A sea-fisheries protection officer shall avoid the use of force except when and to the degree necessary to ensure the safety of the officer and where the officer is threatened, obstructed, intimidated or interfered with in exercising his or her duties. The degree of force shall not exceed that reasonably required in the circumstances.

(7) A sea-fisheries protection officer, who is not in uniform, shall if requested by a person affected produce evidence of his or her authority.

(8) A sea-fisheries protection officer when exercising any powers under this section may be accompanied by other persons and may take with him or her, or those persons may take with them, any equipment or materials to assist the officer in the exercise of those powers.

(9) In this section “designated officer” means an officer of the Department or such other person designated by the Minister to whom a sea-fisheries protection officer produces sea-fish for the purposes of this section.

Powers of sea-fisheries protection officer relating to fishing boats.

18.—(1) A sea-fisheries protection officer, for the purposes of enforcing the *Sea-Fisheries Acts 2003 and 2006* or a Community Regulation with respect to any sea-fishing boat within a port in the State, the exclusive fishery limits or (subject to Community law or international law) outside those limits, may—

- (a) if the boat is underway, order it to be stopped or be manoeuvred as directed for the purposes of identification or of allowing the officer to go on board it,
- (b) board the boat,
- (c) require the owner, master or member of the crew of the boat to produce the certificates of registry, licences, authorisations, logbooks or other records relating to the boat or any fishing gear or equipment thereon, the crew or any member of the crew, which are in his or her possession or control, and inspect and take extracts from or copies of them,
- (d) require the master of the boat to give an explanation concerning the boat or any fishing gear or equipment on it or concerning the boat’s fishing activity and the certificates, licences, authorisations, logbooks, or other records relating to it,
- (e) inspect the satellite-tracking device and any other positioning equipment on the boat and require the owner, master or member of the crew of the boat to demonstrate the operation of that equipment, for the purposes of verifying whether that equipment is operated properly, has not been tampered with or otherwise modified or interfered with and is protected against improper use,
- (f) search the boat (including any package, hold, tank, container or boat or other craft on board),
- (g) request and take the name and address of any person on board the boat,
- (h) request co-operation and assistance from the master or crew of the boat in relation to the inspection, examination and detention of the boat or any fishing gear, equipment or sea-fish on it,

- (i) if he or she reasonably suspects that there has been a contravention by any person on board the boat of this Part, without summons, warrant or other process—
 - (i) if the boat is not in a port, take or instruct that the boat and all persons on board be taken to port or order the master of the boat to take the boat directly to a specified port, and pending the taking of the steps required by *section 20* or *21*, as may be appropriate, detain the boat and the persons on board, or
 - (ii) if the boat is in a port, detain the boat and the persons on board at the port or take it and them to a more convenient port and there detain it and them, pending (in either case) the taking of those steps.

(2) A sea-fisheries protection officer shall avoid the use of force except when and to the degree necessary to ensure the safety of the officer and where the officer is threatened, obstructed, intimidated or interfered with in exercising his or her duties. The degree of force shall not exceed that reasonably required in the circumstances.

(3) A sea-fisheries protection officer, who is not in uniform, shall if requested by a person affected produce evidence of his or her authority.

(4) A sea-fisheries protection officer when exercising any powers under this section may be accompanied by other persons and may take with him or her, or those persons may take with them, any equipment or materials (including firearms or other weapons (where he or she or any of those other persons is a member of the Defence Forces or the Garda Síochána)) to assist the officer in the exercise of those powers.

(5) The master of a boat who fails to obey—

- (a) an order for the boat to be stopped or to be manoeuvred in accordance with directions, or
- (b) an instruction for the boat to be taken to a specified port,

given by a sea-fisheries protection officer under this section commits an offence and is liable—

- (i) on summary conviction, to a fine not exceeding €5,000 or to imprisonment for a term not exceeding 3 months, or to both, or
- (ii) on conviction on indictment, to a fine not exceeding €50,000 or to imprisonment for a term not exceeding 2 years, or to both.

19.—(1) Where a sea-fisheries protection officer has, in the exercise of the powers conferred on him or her by *section 18* or by *section 26(2)(e)* of the Act of 2003, detained a boat and the persons on board the boat at a port, any sea-fisheries protection officer who suspects that a person on board the boat has committed an offence under a relevant provision shall (unless he or she is proceeding under *section 21*), as soon as may be, apply to a judge of the District Court for an order authorising the continued detention of the boat and those persons, and the judge may grant an order authorising such detention

Detention of boats and persons on board when offences suspected.

for a period of 48 hours if he or she is satisfied that the applicant sea-fisheries protection officer has such suspicion and it is reasonable.

(2) Upon the expiration of the period of 48 hours—

- (a) the boat shall be released, unless an order or an application for an order providing for its further detention has been made under this section before the expiration of that period of 48 hours, and
- (b) each person on board the boat shall be released, unless an order providing for his or her further detention has been made under this section before the expiration of that period.

(3) In this section “application for an order” includes mentioning to the court that an application will be made to the court.

Detention of boats and persons charged or to be charged pending prosecution.

20.—(1) Where a sea-fisheries protection officer has in exercise of the powers conferred on him or her by *section 18* or by *section 26(2)(e)* of the Act of 2003 detained a boat and the persons on board the boat at a port, any sea-fisheries protection officer shall, as soon as may be, bring the master of the boat and any other persons on board the boat against whom proceedings for an offence under a relevant provision have been or are about to be instituted before a judge of the District Court.

(2) Subject to *subsection (3)*, the judge shall, if he or she is satisfied that such proceedings have been or are about to be instituted against the master and those other persons or any one or more of them, by order, directed to a sea-fisheries protection officer, require the officer to detain at a specified port in the State the boat and each such person (including the master) in respect of whom he or she is satisfied that proceedings have been or are about to be instituted, until the proceedings have been determined.

(3) The judge may order the release on bail of a person against whom such proceedings have been instituted before the proceedings have been determined.

Detention of boats pending determination of any proceeding (including appeals) under relevant provision.

21.—(1) (a) Where—

- (i) a person is convicted by a judge of the District Court of an offence under a relevant provision or proceedings in relation to such an offence are dismissed by a judge of the District Court, and
- (ii) the boat, on which the person committed the offence or to which the proceedings related, has been detained under *section 18* or *section 26(2)(e)* of the Act of 2003,

the judge shall, by order directed to a sea-fisheries protection officer, require the officer in the event of an appeal from, or any other proceedings in relation to the order of the District Court or the order of any other court to which the case is brought, whether by way of appeal or otherwise, to detain the boat further pending the determination of the appeal or other proceedings (and any proceedings consequent upon the appeal or the other proceedings) at a specified port in the State.

(b) Where—

- (i) a person is sent forward for trial or for sentence by a judge of the District Court to a court other than the District Court, charged with an offence under a relevant provision, and
- (ii) the boat on which the person committed, or is alleged to have committed, the offence has been detained under *section 18* or *section 26(2)(e)* of the Act of 2003,

the judge shall, by order directed to a sea-fisheries protection officer, require the officer—

- (I) to detain the boat further at a specified port in the State pending the determination of the case in that other court, and
 - (II) in the event of an appeal from, or other proceedings in relation to the order of the District Court or of the other court to which the person is sent forward under this paragraph or of any other court to which the case is brought, whether by way of appeal or otherwise, to detain the boat further pending the determination of the appeal or the other proceedings (and any proceedings consequent upon the appeal or the other proceedings) at a specified port in the State.
- (2) (a) Where, in respect of an offence under a relevant provision, an order is made under *section 20* or *subsection (1)* in relation to a boat, a judge of the District Court may, at his or her discretion, by order directed to a sea-fisheries protection officer, require the boat to be released if security, which in the opinion of the judge is satisfactory, is given for payment, in the event of conviction of the defendant in respect of the offence or in the event of his or her failure to attend before any court when such attendance is required, in relation to the offence or any trials, appeals or other proceedings in relation to the offence, of a sum that, in the opinion of the judge, is sufficient to provide for—
- (i) payment of the maximum fine ordered, or which may be ordered, to be paid in respect of the offence,
 - (ii) the estimated amount of the costs (if any) of any trials, appeals or other proceedings in relation to the offence awarded, or which may be awarded, against the defendant concerned, and
 - (iii) the estimated value of any forfeitures ordered, or which may be ordered, to be made upon the final determination of any trials, appeals or other proceedings in relation to the offence.
- (b) The security provided for in *paragraph (a)* is in addition to and not in substitution for any other bond or recognisance which the defendant concerned may be required to enter into by the judge of the District Court concerned in relation to any trials, appeals or other proceedings in respect of the offence concerned.

(3) Where an order is made under this section for the detention or release of a boat, the boat shall be detained or released, as the case may be, in accordance with its terms.

Recovery of fine for offence under relevant provision and possession by sea-fisheries protection officer of articles forfeited.

22.—(1) The following provisions have effect in relation to the recovery of a fine for an offence under a relevant provision and the costs (if any) ordered to be paid by the person convicted of the offence:

- (a) the Court shall fix a time within which such costs and fine (if any) are to be paid;
- (b) where the boat to which such person belongs is, at the time of the hearing of the proceedings for such offence, detained under this Chapter, the Court shall by order directed to a sea-fisheries protection officer or officers require such officer or officers to detain further, until such fine and costs (if any) are paid, at a specified port in the State such boat, and such boat shall be detained accordingly;
- (c) in the event of such fine and costs (if any) not being paid within the said time, such fine and costs (if any) may be recovered by distress and the sale of such boat (including the capacity thereof);
- (d) nothing in the foregoing paragraphs of this subsection shall prevent such fine and costs (if any) being recovered from such person by ordinary process of law.

(2) Where—

- (a) any article on board a boat is ordered under *Chapter 4*, by a court to be forfeited or, as a statutory consequence of conviction by a court, stands, under *Chapter 4*, forfeited, and
- (b) the boat is detained under *section 19* or *section 26(2)(e)* of the Act of 2003,

the Court may, on the application of the prosecutor, by order directed to a sea-fisheries protection officer, authorise such officer to detain such boat until possession has been taken of the article forfeited, and such boat may be detained accordingly.

(3) Where an article on board a boat is forfeited under a relevant provision, a sea-fisheries protection officer may request the master of such boat to make available such facilities (including the moving of the boat from place to place and the doing of things upon, to or with such boat, its equipment or machinery) as such sea-fisheries protection officer may reasonably require for the purpose of enabling him or her to take possession of the article.

(4) Where the master of a boat fails or refuses to comply with a request made to him or her under *subsection (3)*, he or she commits an offence and is liable on summary conviction to a fine not exceeding €5,000.

23.—(1) Where—

- (a) a sea-fisheries protection officer has in exercise of the powers conferred on him or her by *section 18* or by *section 26(2)(e)* of the Act of 2003 detained a boat and the persons on board it at a port in the State, and
- (b) a person (being one of those persons) is alleged to have committed an offence under this Part,

Trial in District Court of person charged with offence on boat detained by sea-fisheries protection officer.

the person may be brought before the appropriate judge of the District Court and—

- (i) if the offence is not an offence under a section specified in a Table, that judge may hear and determine the case, or
- (ii) if the offence is an offence under a section specified in that Table, that judge has jurisdiction to deal with the case under *section 28(2)* or *(3)*, as may be appropriate.

(2) In this section “appropriate judge of the District Court” means the judge for the time being assigned to the district court district in which is situated the port in which the boat and persons concerned are detained.

(3) *Subsection (1)* shall not be read as affecting *section 79* of the Courts of Justice Act 1924.

24.—(1) A person who—

- (a) obstructs or impedes any sea-fisheries protection officer in the exercise of any of the powers conferred on such officer by this Part,
- (b) refuses or fails to comply with any requirement or direction lawfully made or given by such officer under this Part (other than *section 18*),
- (c) fails to answer any question lawfully asked by such officer under this Part, or
- (d) where—
 - (i) his or her name and address is requested of him or her by a sea-fisheries protection officer under *section 17(1)(i)* or *18(1)(g)*, refuses or fails to give his or her name and address or gives a name or address which is false or misleading, or
 - (ii) the name and address of any other person is lawfully requested of him or her by a sea-fisheries protection officer under *section 17(1)(i)*, refuses or fails, knowing such name and address, to give the name or address or gives a name or address which is false or misleading,

Offence — obstruction, etc., of sea-fisheries protection officer.

commits an offence and is liable on summary conviction, to a fine not exceeding €5,000 or to imprisonment for a term not exceeding 2 months, or to both.

(2) If a person—

- (a) obstructs or impedes a sea-fisheries protection officer so as to prevent or to attempt to prevent the officer exercise any of his or her powers under this Part, or
- (b) whose name and address is lawfully required by a sea-fisheries protection officer under this section refuses to give his or her name and address or gives, as his or her name or address, a name or address which is reasonably believed by such officer to be false or misleading,

the officer or another sea-fisheries protection officer may (being a member of the Defence Forces or Garda Síochána or an officer of Customs and Excise) arrest, without warrant, the person and, if that officer is not a member of the Garda Síochána, shall, as soon as practicable, deliver the person into the custody of a member of the Garda Síochána to be dealt with according to law.

Offence —
assaulting sea-
fisheries protection
officer.

25.—(1) A person who assaults a sea-fisheries protection officer in exercise of any power conferred on a sea-fisheries protection officer under this Part or Part 4 of the Act of 2003 commits an offence and is liable—

- (a) on summary conviction, to a fine not exceeding €5,000 or to imprisonment for a term not exceeding 12 months, or to both, or
- (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding 5 years, or to both.

(2) If a person assaults a sea-fisheries protection officer in the exercise of his or her powers under this Part or the Act of 2003 the officer or another sea-fisheries protection officer may (being a member of the Defence Forces or Garda Síochána or an officer of Customs and Excise) arrest, without warrant, the person and, if that officer is not a member of the Garda Síochána, shall, as soon as practicable, deliver the person into the custody of a member of the Garda Síochána to be dealt with according to law.

(3) Section 15(1) of the Act of 1994 is amended by deleting “sea-fisheries protection officer”.

Immunity of sea-
fisheries protection
officer.

26.—A sea-fisheries protection officer or a person acting under the orders of a sea-fisheries protection officer is not liable in any proceedings for anything done in the purported exercise of the powers of a sea-fisheries protection officer under this Part if the court is satisfied that the act was done in good faith and that there were reasonable grounds for doing it.

CHAPTER 4

Matters relating to indictable fishery offences, proceedings, forfeiture

- 27.—(1) (a) A person charged with an indictable offence under *Chapter 2* or the Act of 2003 may, with the consent of the prosecutor, elect to be sent forward for trial in the Circuit Court on a plea of not guilty. Option for accused persons as regards proceedings in relation to indictable offences under *Sea-Fisheries Acts 2003 and 2006*.
- (b) In that event, the prosecutor shall cause to be served on the accused person or the solicitor (if any) for that person, within 42 days after the not guilty plea is entered (or such longer period as the District Court may determine under *subsection (2)(a)*), any documents that under section 4B or 4C (inserted by section 9 of the Act of 1999) of the Act of 1967 are required to be served and have not already been served and a copy of those documents to be furnished to the District Court.
- (2) (a) The District Court may, on the application of the prosecutor, extend the period within which any documents required under section 4B of the Act of 1967 are to be served, if satisfied that—
- (i) there is good reason for doing so, and
- (ii) it would be in the interests of justice to do so.
- (b) An application may be made and an extension may be granted under *paragraph (a)* before or after the expiry of—
- (i) the period of 42 days mentioned in *subsection (1)*, or
- (ii) any extension of that period granted under *paragraph (a)*.
- (c) Where it refuses to grant an extension, the District Court shall strike out the proceedings against the accused in relation to the offence.
- (d) The striking out of proceedings under *paragraph (c)* does not prejudice the institution of any further proceedings against the accused by the prosecutor.
- 28.—(1) A person guilty of an offence under a provision of— Penalties and forfeiture for certain indictable fishery offences.
- (a) *Chapter 2* specified in *Table 1*, or
- (b) Part 2 of the Act of 2003 specified in *Table 2*,

is liable, on conviction on indictment, to the fine specified in *column (3)* of that Table at the reference number at which that provision is specified in respect of the category of sea-fishing boat mentioned in that column and to the forfeiture specified in *subsection (5)*.

(2) A judge of the District Court has jurisdiction to try summarily any offence referred to in *subsection (1)* if—

- (a) the judge is of opinion that the facts proved or alleged against a defendant charged with such an offence constitute a minor offence fit to be tried summarily,

- (b) the prosecutor consents, and
- (c) the defendant (on being informed by the judge of his or her right to be tried by a jury) does not object to being tried summarily,

and, upon conviction under this subsection, the defendant is liable to a fine not exceeding €5,000 and to the forfeiture specified in *subsection (6)*.

(3) If at any time a judge of the District Court ascertains that a person charged with an offence referred to in *subsection (1)* wishes to plead guilty and the judge is satisfied that the person understands the nature of the offence and the facts charged, he or she may—

- (a) with the consent of the prosecutor, deal with the offence summarily, in which case the accused is liable to a fine not exceeding €5,000 and to the forfeiture specified in *subsection (6)*, or
- (b) if the accused signs a plea of guilty, send him or her, with the consent of the prosecutor, forward for sentence with that plea to a court to which, if he or she had not pleaded guilty, he or she could lawfully have been sent forward for trial.

(4) Section 13(1) to (3) of the Act of 1967 does not apply in relation to an offence referred to in *subsection (1)*. In subsection 13(4) (as amended by section 10 of the Act of 1999) of the Act of 1967 a reference to a person sent forward for trial under paragraph (a) of that section shall be read as including a reference to a person sent forward for trial under *subsection (3)(b)* of this section.

(5) Where a person is convicted on indictment of an offence specified in a Table, in addition to any fine the court may impose under this section—

- (a) in the case of a conviction under *section 8* or *9*, it may order the forfeiture of all or any fish and fishing gear found on the boat to which the offence relates, or
- (b) in the case of a conviction under any other provision mentioned in a Table, any fish and fishing gear found on the boat to which the offence relates or in any other place where they may be are, as a statutory consequence of the conviction, forfeited.

(6) Where a person is convicted summarily of an offence specified in a Table, in addition to any fine the court may impose under this section—

- (a) in the case of a conviction under *section 8* or *9*, or a first conviction under any other provision mentioned in a Table, it may order the forfeiture of all or any of the following found on the boat to which the offence relates, namely—
 - (i) any fish unlawfully caught, and
 - (ii) any fishing gear used in the commission of the offence or to which the offence relates, or

(b) in the case of a second or subsequent conviction under any provision (other than *section 8* or *9*) mentioned in a Table, all or any of the following found on the boat to which the offence relates, namely—

- (i) any fish unlawfully caught, and
- (ii) any fishing gear used in the commission of the offence or to which the offence relates,

are as a statutory consequence of the conviction, forfeited.

Where the Court decides under *paragraph (a)* not to order the forfeiture of all or any of the above it shall give reasons for not doing so.

(7) (a) The court may, in addition to any fine and forfeiture which it may impose or is as a statutory consequence of conviction imposed under this section, revoke or suspend, for such period as it sees fit, the sea-fishing boat licence granted in relation to the boat concerned.

(b) A licence revoked or suspended under this subsection shall be delivered as soon as practicable to the licensing authority after it is revoked or suspended.

(c) A person who fails to comply with *paragraph (b)* commits an offence and is liable on summary conviction to a fine not exceeding €500.

TABLE 1 — Fines - Provisions of *Chapter 2*

Reference Number	Provision	Fine on conviction on indictment not exceeding amount specified below		
(1)	(2)	(3)		
		Category 1 - sea-fishing boat of less than 12 metres in length overall	Category 2 - sea-fishing boat of 12 metres or more but not exceeding 18 metres in length overall	Category 3 - sea-fishing boat of more than 18 metres in length overall
1.	Section 11, 14 or 15 in so far as it relates to—			
	(a) a contravention relating to fish storage capacity of a sea-fishing boat,	€20,000	€50,000	€100,000
	(b) illegal nets or other equipment, or	€20,000	€40,000	€80,000
	(c) any other contravention or failure of compliance.	€10,000	€20,000	€35,000
2.	Section 8(2), 9(3) or 10(2).	€20,000	€50,000	€75,000
3.	Section 12 or 13.	€10,000	€20,000	€35,000

TABLE 2 — Fines - Provisions of Act of 2003

Reference Number	Provision	Fine on conviction on indictment not exceeding amount specified below		
(1)	(2)	(3)		
		Category 1 - sea-fishing boat of less than 12 metres in length overall	Category 2 - sea-fishing boat of 12 metres or more but not exceeding 18 metres in length overall	Category 3 - sea-fishing boat of more than 18 metres in length overall
1.	Section 4(12) (fishing without or in contravention of sea-fishing boat licence).	€20,000	€50,000	€75,000
2.	Section 25(3) (fishing in contravention of conservation regulations).	€20,000	€50,000	€100,000
3.	Section 27(5) (failure to return to port immediately on order of sea-fisheries protection officer).	€20,000	€50,000	€100,000

Non-obligation of Court to pronounce or record forfeiture where forfeiture falls as a statutory consequence of conviction.

29.—Where a person is convicted by a court of an offence specified in a Table and any fishing gear or fish under *section 28* is, as a statutory consequence of the conviction, forfeited, then, notwithstanding any rule of law, it is not necessary for the court—

- (a) to pronounce the fact of such forfeiture at the time of adjudication, or
- (b) to record the fact of such forfeiture in the judge's minute book, the charge sheet or in the order of conviction.

Disposal of forfeitures.

30.—Where any thing which, either as a statutory consequence of conviction or by an order of a court, is forfeited under *section 28*, is lawfully seized, the Secretary General may direct that such thing shall be sold or otherwise disposed of in such manner as he or she thinks fit for the benefit of the Exchequer.

Forfeiture of proceeds from disposal of illegally-caught fish.

31.—(1) Where it is shown to the satisfaction of the court on the balance of probability that fish were caught in contravention of any law of the State or of Community law or in contravention of any international agreement to which the State is a party, the appropriate market value from disposal of that fish shall be forfeited to the State and may be recovered, in accordance with this section, from—

- (a) in the case of an Irish sea-fishing boat, the owner or owners of that boat as recorded in the Register of Fishing Boats if the boat is registered in that register or the holder of the sea-fishing boat licence for the boat concerned, or

(b) in the case of any other sea-fishing boat, the owner or owners of the boat concerned.

(2) A forfeiture under *subsection (1)*—

(a) shall be in addition to and not in substitution for any fine or other forfeiture which a court may impose in relation to the sea-fishing boat or sea-fishing concerned and shall be paid into or disposed of for the benefit of the Exchequer in such manner as the Minister for Finance directs, and

(b) may be imposed where there were no proceedings for an offence in relation to the sea-fishing boat or sea-fishing concerned.

(3) *Prima facie* evidence that fish were caught illegally may be adduced by a sea-fisheries protection officer from the logbook or other records relating to the sea-fishing boat or sea-fishing concerned.

(4) In order to establish an appropriate valuation of the proceeds to be forfeited so as to reflect the economic effects of the illegal sea-fishing concerned, the court shall have regard to the greater of the following amounts—

(a) the amount of the proceeds of disposal according to any documentary evidence submitted by the owner of the sea-fishing boat concerned, within such period as the court may specify, or

(b) the appropriate market value of the sea-fish concerned involving a willing seller and a willing buyer operating at arms' length, in so far as that value could reasonably be established:

Provided that where the sea-fish concerned were first disposed of for storage and were subsequently disposed of otherwise at a different value, the appropriate market value of the sea-fish concerned shall be taken to be the value of the disposal with the greater value.

(5) Proceedings under *subsection (1)* may be brought by or at the suit of the Minister.

(6) In this section—

“disposal” includes sale, exchange, barter or other transaction based on a valuation of the fish concerned;

“sea-fishing boat concerned” includes an Irish sea-fishing boat wherever it may be and any other sea-fishing boat which disposes of fish within the exclusive fishery limits or in a port or other landing place in the State.

32.—(1) Where any proceedings tried summarily in the District Court for an offence under the *Sea-Fisheries Acts 2003 and 2006* are dismissed, whether on the merits or without prejudice, the prosecutor may appeal against the order of dismissal to the judge of the Circuit Court within whose Circuit the courthouse where the order was made is situated.

Prosecutor may appeal dismissal of proceedings in District Court.

(2) The judge of the Circuit Court on an appeal under *subsection (1)* may vary, confirm or reverse the order and his or her decision is final and conclusive and not appealable.

Proof that boat is foreign sea-fishing boat.

33.—(1) Where in any proceedings for an offence under this Part or the Act of 2003 there is evidence from which it appears to the court that the sea-fishing boat to which the alleged offence relates, or on board which such offence is alleged to have been committed, is either of a foreign character or of foreign origin or that at or about the time of the alleged offence such boat—

- (a) wore no flag or wore a flag other than the national flag,
- (b) had marked on its stern the name of any place other than a port mentioned in the Second Schedule to the Act of 1955, or
- (c) had on board any books, papers or other documents from which it so appears that the boat was not an Irish ship (within the meaning of section 9 of that Act),

then, until the contrary is shown, such evidence shall be sufficient to prove that such boat is a foreign sea-fishing boat.

(2) Where in proceedings for an offence under this Part or the Act of 2003 it is proved that the sea-fishing boat to which the alleged offence relates, or on board which such offence is alleged to have been committed, wore at or about the time of the alleged offence a flag other than the national flag, the presumption raised by *subsection (1)*, insofar as it depends on that proof, may be rebutted by the defendant proving that the flag so worn was not a flag distinctive of nationality.

Offence by body corporate, etc.

34.—Where an offence under the *Sea-Fisheries Acts 2003 and 2006* is committed by a body corporate or by a person purporting to act on behalf of a body corporate or on behalf of an unincorporated body of persons and it is proved to have been so committed with the consent or connivance of or to be attributable to any neglect on the part of any other person who, when the offence was committed, was, or purported to act as, a director, manager, secretary or other officer (including a member of such body), such other person as well as the body, or the person so purporting to act on behalf of the body, commits an offence and is liable to be proceeded against and punished as if he or she were guilty of the first-mentioned offence.

Service of trial documents — persons resident outside State.

35.—(1) Where a judge of the District Court proposes to make an order for the release on bail of a defendant before him or her, charged with an offence under the *Sea-Fisheries Acts 2003 and 2006*, who is ordinarily resident outside the State, he or she shall, unless he or she is satisfied that the following documents can be duly served on the defendant in the State, direct that all documents (including an indictment) required by law to be served on the defendant in connection with or for the purpose of the charge or of any proceedings arising out of or connected with the charge may, in lieu of being served on the defendant, be served on a person specified in the direction who is ordinarily resident in the State.

(2) Where a judge of the District Court who has given a direction under *subsection (1)* or another judge of the District Court acting in his or her place is satisfied that, owing to the death or absence from

the State of a person specified in the direction or for any other reason a document referred to in *subsection (1)* cannot be served on that person, the judge shall direct that the document may be served on another person specified in the direction who is ordinarily resident in the State.

(3) Service of a document referred to in this section on a person specified in a direction under this section is deemed for all purposes to be service on the defendant concerned.

36.—Where an offence under a relevant provision has been committed by any person on board a sea-fishing boat, and where the master or owner of the boat is charged with having committed the offence, it is a defence for him or her to show that—

- (a) he or she used due diligence to prevent the commission of the acts alleged to constitute the offence and they were done without his or her consent, connivance or default, or
- (b) the acts were necessary to secure the safety of the boat or any other vessel or person in peril on the sea.

37.—In a prosecution of an offence in relation to the catching, retention, storage on board, trans-shipment or landing of the fish concerned in contravention of *Chapter 2* or section 25 of the Act of 2003, it shall be presumed, unless the contrary is shown, that the sea-fishing boat concerned was, at the time of the alleged offence, used for the catching, retention, storage on board, trans-shipment or landing of the fish concerned in contravention of the provision concerned, from—

- (a) any fish relevant to the offence on board such sea-fishing boat,
- (b) any nets or other equipment or articles on board such sea-fishing boat indicating use of the boat for fishing, the retention, storage on board, trans-shipment or landing of fish relevant to the offence,
- (c) evidence that such sea-fishing boat had on board any records from which it appears to the court that on the day on which the offence is alleged to have been committed fish relevant to the offence were caught, retained, stored on board, trans-shipped or landed contrary to the provision concerned,
- (d) any admission by any person who is for the time being the master or another member of the crew, of such sea-fishing boat that at such time it was so used,
- (e) any photographic evidence from which it so appears that the sea-fishing boat was so used or which in the opinion of the court suggests, or tends to suggest, that the sea-fishing boat was so used, or
- (f) any data received by a Fisheries Monitoring Centre (within the meaning of Commission Regulation (EC) No. 2244/2003 of 18 December 2003² laying down detailed provisions regarding satellite-based vessel monitoring systems) monitoring the fishing activities of the boat from

²OJ No. L333, 20.12.2003, p.17

which it so appears that the sea-fishing boat was so used or which in the opinion of the court suggests, or tends to suggest, that the boat was so used.

Prosecution of summary offences — *Sea-Fisheries Acts 2003 and 2006*.

38.—(1) Proceedings for an offence under the *Sea-Fisheries Acts 2003 and 2006* (other than a section specified in a Table) may be prosecuted summarily by the Minister.

(2) Notwithstanding anything contained in any other enactment, an offence under the *Sea-Fisheries Acts 2003 and 2006*, other than an offence specified in a Table, may be determined in a summary way by a judge of the District Court upon the complaint, verbal or otherwise, of a sea-fisheries protection officer.

(3) For the purpose of giving jurisdiction under the *Sea-Fisheries Acts 2003 and 2006* any act which is an offence under those Acts and triable summarily shall, if committed by or on board a sea-fishing boat—

- (a) be deemed to have been committed in any place in which the accused person may be, or
- (b) which was within the exclusive fishery limits when the act was committed or when the accused person was arrested, be deemed to have been committed in a district court district abutting on that portion of those limits in which the boat was when the act was committed or the accused person arrested, as the case may be.

Prosecution of sea-fisheries offences by DPP and saver.

39.—(1) The Government, on the request of the Attorney General, may by order appoint a day from which the Director, subject to *subsection (2)*, is the prosecutor in lieu of the Attorney General, of an offence under a section specified in a Table. That Order shall be laid before each House of the Oireachtas as soon as may be after it is made.

(2) Any proceedings in respect of an offence under a section specified in a Table or a Table to section 2 of the Act of 1978 which have been instituted in the name of the Attorney General before the commencement of an order under *subsection (1)* and are still pending and have not been determined before that commencement continue in the name of the Attorney General after that commencement.

(3) Any proceedings for an offence under a section specified in a Table to section 2 of the Act of 1978 which have not been instituted on the commencement of an order under *subsection (1)* shall be taken in the name of the Director. Accordingly, for the purposes of those proceedings, the reference to the Attorney General in section 2 of the Act of 1978 is to be read as a reference to the Director and section 18 of the Act of 1978 does not apply.

(4) Until the commencement of an order made under *subsection (1)*—

- (a) section 3 of the Prosecution of Offences Act 1974 does not apply to the prosecution of an offence under a section specified in a Table or a Table to section 2 of the Act of 1978 or to any functions in relation to that matter to which, but for this subsection, it would apply, and

(b) references in section 62 of the Courts of Justice Act 1936 and section 6 of the Courts Act 1964 to the Director are, in so far as those sections apply in relation to the offences referred to in *paragraph (a)* or to any functions referred to in that paragraph, to be construed as references to the Attorney General.

(5) *Subsection (4)* stands repealed upon the commencement of an order made under *subsection (1)*.

(6) In this section—

“Act of 1978” means Fisheries (Amendment) Act 1978;

“Director” means Director of Public Prosecutions.

CHAPTER 5

Sea-Fisheries Protection Authority

40.—The Minister shall by order appoint a day to be the establishment day for the purposes of this Chapter. That order shall be laid before each House of the Oireachtas as soon as may be after it is made. Establishment day.

41.—(1) There shall stand established, on the establishment day, a body to be known in the Irish language as An t-Údarás um Chosaint Iascaigh Mhara, or, in the English language, the Sea-Fisheries Protection Authority, in this Act referred to as the “Authority”, to perform the functions assigned to it by or under this Chapter. Establishment of Sea-Fisheries Protection Authority.

(2) The Authority shall be a body corporate with perpetual succession and shall have a seal and power to sue and be sued in its corporate name and to acquire, hold and dispose of land or an interest in land, and to acquire, hold and dispose of any other property.

(3) The Authority shall have all such powers as are necessary for or incidental to the performance of its functions under this Chapter.

42.—Subject to this Chapter, the Authority shall be independent in the exercise of its functions. Independence of Authority.

43.—(1) The principal functions of the Authority are— Functions of Authority.

(a) to secure efficient and effective enforcement of sea-fisheries law and food safety law,

(b) to promote compliance with and deter contraventions of sea-fisheries law and food safety law,

(c) to detect contraventions of sea-fisheries law and food safety law,

(d) to provide information to the sea-fisheries and seafood sectors on sea-fisheries law and food safety law and relevant matters within the remit of the Authority, through the Consultative Committee established under *section 48* or by any other means it considers appropriate,

- (e) to advise the Minister in relation to policy on effective implementation of sea-fisheries law and food safety law: the Minister shall consider any such advice for the purposes of *Chapter 2*,
- (f) to provide assistance and information to the Minister in relation to the remit of the Authority,
- (g) to collect and report data in relation to sea-fisheries and food safety as required by the Minister and under Community law,
- (h) to represent or assist in the representation of the State at national, Community and international fora as requested by the Minister, and
- (i) to engage in any other activities relating to the functions of the Authority as may be approved of by the Minister.

(2) The Authority, subject to the approval of the Minister given with the consent of the Minister for Finance, may—

- (a) for the purpose of carrying out its functions under *subsection (1)* make arrangements with or enter into agreements including Service Level Agreements or contracts with the Minister for Defence or, with the consent of the Minister for Defence, the Naval Service and the Air Corps of the Permanent Defence Forces, in respect of those functions for which they were responsible immediately before the establishment day or other functions of the Authority as may be appropriate,
- (b) enter into agreements or make arrangements with any other Minister of the Government, or any other person, for that other Minister or person to perform on behalf of the Authority (with or without payment) any of its functions,
- (c) enter into agreements or make arrangements with any other Minister of the Government or the Food Safety Authority of Ireland for the Authority to perform on behalf of that Minister or that other Authority (with or without payment) such functions as may appropriately be performed by it in connection with its functions under this Chapter.

Transfer of functions.

44.—(1) The administration and business in connection with the performance of any of the functions transferred by *subsection (2)* are transferred, on the establishment day, to the Authority.

(2) The functions vested in the Minister or Secretary General by or under—

- (a) sections 28(3) and 33(3) of the Radiological Protection Act 1991,
- (b) *sections 16(1), 17(9), 30, 31(5) and 38*, and
- (c) the regulations mentioned in *Schedule 3*,

are, on the establishment day, transferred to the Authority.

(3) The Minister shall consult the Authority before making regulations under subsection (1), or an order under subsection (2), of section 32 of the Radiological Protection Act 1991.

(4) The Authority is an official agency, in lieu of the Minister, in respect of the enforcement of food safety law, for the purposes of the Food Safety Authority of Ireland Act 1998.

(5) Anything commenced before the establishment day by or under the authority of the Minister may, in so far as it relates to functions transferred by this section, be carried on or completed on or after that day by the Authority.

(6) Where, immediately before the establishment day, any legal proceedings are pending to which the Minister is the plaintiff or the prosecutor and the proceedings have reference to functions transferred by this section to the Authority, the name of the Authority shall, in so far as the proceedings relate to any functions transferred by this section, be substituted in those proceedings for that of the Minister or added in those proceedings as may be appropriate and those proceedings shall not abate by reason of such substitution or addition.

(7) Where, immediately before the establishment day, any legal proceedings are pending to which the Minister is a defendant and the proceedings have reference to any functions transferred to the Authority by this section, the Authority shall not be substituted for the Minister in those proceedings notwithstanding the transfer of functions under this Chapter.

(8) Every document (including any certificate or licence) granted or made in the exercise of a function transferred by this section shall, if and in so far as it was operative immediately before the establishment day, have effect on and after that day as if it had been granted or made by the Authority.

45.—(1) The following are transferred to the Authority on the establishment day—

Transfer of assets and liabilities of staff, etc., transferred.

- (a) all property and rights relating to such property held or enjoyed immediately before that day by the staff, administration or business transferred to the Authority under *section 44* or *section 52*, as the case may be, or any trustee or agent acting on their behalf, and
- (b) all liabilities incurred before that day by the staff, administration or business so transferred, or any trustee or agent acting on their behalf, that had not been discharged before that day,

and, accordingly, without any further conveyance, transfer or assignment—

- (i) that property, real and personal, shall, on that day, vest in the Authority for all the estate, term or interest for which, immediately before that day, it was so vested in the staff, the administration or business so transferred, as the case may be, but subject to all trusts and equities affecting the property subsisting and capable of being performed,

- (ii) those rights shall, as on and from that day, be enjoyed by the Authority, and
- (iii) those liabilities shall, as on and from that day, be liabilities of the Authority.

(2) Every right and liability transferred to the Authority by this section may, on or after the establishment day, be sued on, recovered or enforced by or against the Authority in its own name and it shall not be necessary for the Authority to give notice to the person whose right or liability is transferred by this section of the transfer.

Policy directions by Minister to Authority.

46.—(1) Subject to *subsection (3)*, the Minister may give such general policy directions in writing to the Authority in relation to its functions as he or she considers appropriate.

(2) The Authority shall, subject to the performance of the functions specified in *section 43(1)*, implement any direction given under *subsection (1)*.

(3) Nothing in this section shall be construed as enabling the Minister to exercise any power or control in relation to individual cases or groups of cases with which the Authority is or may be concerned or in relation to the performance in particular circumstances by the Authority of a function assigned to it by or under this Chapter.

(4) A copy of any direction given by the Minister under *subsection (1)*, along with a statement of the reasons for giving the direction, shall be laid before each House of the Oireachtas and published in the *Iris Oifigiúil* as soon as may be after it is given.

Members of Authority.

47.—(1) The Authority shall consist of at least one but not more than 3 members.

(2) (a) The person who holds, immediately before the establishment day, the position of Seafood Control Manager in the Department, is deemed to be appointed as a member of the Authority, with effect on and from the establishment day for a period of not less than 5 years, subject to such terms and conditions, including remuneration and superannuation arrangements, as the Minister with the consent of the Minister for Finance may fix.

(b) The person referred to in *paragraph (a)* shall be eligible to apply for re-appointment as a member.

(c) In the event that the person—

(i) fails to be re-appointed as a member, or

(ii) resigns or is removed from office under *subsection (10)* other than for stated misbehaviour,

he will be deemed to be the Seafood Control Manager in the employment of the Authority, subject to the same terms and conditions as regards grading, remuneration and superannuation arrangements as applied to him immediately prior to his appointment as a member of the Authority under *subsection (2)(a)*.

(3) A member of the Authority (other than as provided for in *subsection (2)(a)*) shall be appointed by the Minister.

(4) A member of the Authority shall be appointed to hold office in a full-time capacity for a period of not less than 3 years and not more than 7 years on such terms and conditions, including remuneration, as the Minister, with the consent of the Minister for Finance, may fix.

(5) Where there is more than one member of the Authority, the Minister shall appoint one of them to be chairperson of the Authority on such terms and conditions, including remuneration, as the Minister may fix, with the consent of the Minister for Finance, to hold office in a full-time capacity for a period of not less than 3 years and not more than 7 years.

(6) The chairperson of the Authority shall have a casting vote in the case of decisions to be taken by the Authority in the event of a tied vote.

(7) Where the chairperson of the Authority is unavailable to perform his or her duties, he or she, or if he or she is unable to do so, the Minister, shall appoint a member of the Authority to be an acting chairperson to assume the duties of the chairperson for a defined period not exceeding 12 months.

(8) With the exception of the person appointed under *subsection (2)(a)*, a person shall not be appointed as a member of the Authority unless the Public Appointments Service, after holding a competition on behalf of the Authority, has selected him or her for appointment as a member.

(9) With the exception of the person appointed under *subsection (2)(a)*, a member of the Authority, including the chairperson, whose term of office expires by effluxion of time shall be eligible for re-appointment to serve a second term, subject to a limit of serving not more than 14 years on the Authority.

(10) A member of the Authority may—

- (a) at any time resign his or her office by letter addressed to the Minister and the resignation shall take effect from the date specified therein or upon the date of receipt of the letter, whichever is the later, and
- (b) be removed from office by the Minister if, in his or her opinion, the member has become incapable through ill-health of effectively performing his or her duties or for stated misbehaviour and the Minister shall cause to be laid before each House of the Oireachtas a statement of the reasons for such removal.

(11) The Authority may act notwithstanding a vacancy or vacancies in its membership.

(12) A member of the Authority shall not hold any other office or employment in respect of which emoluments are payable.

(13) A member of the Authority shall not, for a period of two years following his or her resignation, removal or retirement from the office of member of the Authority, accept any office, consultancy

or employment, where he or she could or might use or disclose information of a confidential or commercially sensitive nature acquired by him or her in the exercise of the functions of the Authority.

(14) Notwithstanding *subsection (13)*, a person who was a member of the Authority shall not be precluded from holding office or engagement in any employment in the Civil Service or any statutory regulatory body or from acting as a consultant to the Authority, the Minister or any other Minister of the Government on the basis that the period referred to in that subsection has not expired.

Consultative
Committee.

48.—(1) The Minister shall, for the purposes of consultations and liaison with the sea-fisheries and seafood sectors and other relevant interests on matters relating to the functions of the Authority, establish a body to be known in the Irish language as *An Coiste Sainchomhairleach um Chosaint Iascaigh Mhara* or, in the English language, the Sea-Fisheries Protection Consultative Committee (referred to in this Chapter as the “Consultative Committee”) and appoint the members of the Consultative Committee.

(2) The Consultative Committee shall have the following functions—

- (a) to inform the Authority of concerns and views of the sea-fisheries and seafood sectors regarding the functions of the Authority,
- (b) to seek to keep the sea-fisheries and seafood sectors generally informed of the applicable sea-fisheries law and food safety law, as well as of the standards, guidelines, practices and procedures operated by the Authority in relation to the enforcement of that law,
- (c) to advise the Authority on keeping the burden on the sea-fisheries and seafood sectors generally of compliance with that law to the minimum possible consistent with the essential purposes and the effective enforcement of that law,
- (d) to advise the Authority of its views on the fairness and consistency of the operations of the Authority,
- (e) to seek the delivery of a high standard of service by the Authority.

(3) The Consultative Committee shall have no function in relation to detailed operational matters or individual cases or groups of cases with which the Authority is or may be concerned.

(4) The Minister or the Authority may consult the Consultative Committee on any matters arising in relation to the functions of the Authority.

(5) The Consultative Committee shall consist of not more than 14 members comprising—

- (a) representatives of the following sectors:
 - (i) sea-fishing catching;
 - (ii) inshore fishing;

(iii) seafood processing;

(iv) aquaculture;

and

(b) other persons with particular expertise or experience in relation to marine matters (including marine environment and marine research) of relevance to the functions of the Authority.

(6) A member may resign from office by written notice given to the Minister and the resignation shall take effect on the date specified in the notice or on the date on which the Minister receives the notice whichever is the later.

(7) The Consultative Committee may act notwithstanding a vacancy or vacancies in its membership.

(8) The Minister may appoint a person to fill a casual vacancy which arises in the membership of the Consultative Committee due to the death, resignation or removal of a member and the person so appointed shall be appointed in the same manner as the member who occasioned the casual vacancy.

(9) The Minister in appointing members of the Consultative Committee, shall ensure, in as far as is practicable, an equitable balance between men and women in the composition of the Consultative Committee.

(10) The Minister shall appoint the chairperson and deputy chairperson of the Consultative Committee from among the members of the Consultative Committee for such period as is specified in the appointment and may reappoint a chairperson and deputy chairperson for a further specified period or further specified periods. The chairperson or deputy chairperson ceases to be the chairperson or deputy chairperson on ceasing to be a member of the Consultative Committee.

(11) The Minister may remove from office a member of the Consultative Committee in the following circumstances—

(a) where, in the opinion of the Minister, the member has become incapable through ill-health of being a member of the Consultative Committee,

(b) for stated misbehaviour,

(c) in the case of a person appointed to represent a sector referred to in *paragraph (a) of subsection (5)*, where the person is no longer a representative, or

(d) where removal of the member appears to the Minister to be necessary or desirable for effective performance by the Consultative Committee of its functions.

(12) The Consultative Committee shall arrange its business as it sees fit.

(13) Members of the Consultative Committee shall be paid by the Authority such allowances for expenses as the Minister, with the consent of the Minister for Finance, may from time to time determine.

(14) The Authority shall provide all reasonable facilities and services as may be required by the Consultative Committee for the performance of its functions.

Complaints
procedures.

49.—(1) The Authority shall appoint one or more persons from outside the Authority (“Complaints Officer”) to—

- (a) duly consider, and
- (b) furnish a report to the Authority on,

any complaint duly made under this section by or on behalf of a member of the public in relation to the enforcement of sea-fisheries law or food safety law.

(2) The Authority shall have regard to the report of the Complaints Officer under *subsection (1)* and shall advise the complainant and the Complaints Officer of its decision in the matter.

(3) A complaint shall not be considered under this section if—

- (a) it relates to any matter the subject of proceedings before a court or other tribunal,
- (b) it is the subject of a complaint to the Ombudsman or an appeal to the Information Commissioner, or
- (c) it is not made to a Complaints Officer within 28 days after the subject matter of the complaint arose.

Staff of Authority.

50.—(1) The Authority may, with the approval of the Minister given with the consent of the Minister for Finance, appoint such and so many persons to be members of its staff as it considers necessary to assist it in the performance of its functions.

(2) The terms and conditions, including terms and conditions as to remuneration and grading, of persons appointed under *subsection (1)* shall be determined by the Minister with the consent of the Minister for Finance.

(3) The Authority may perform such of its functions as it may deem proper through or by any member of its staff (including any person who is made available to it under *section 61(1)*).

Sea-fisheries
protection officers.

51.—(1) The Authority may appoint members of staff of the Authority to be sea-fisheries protection officers for the purposes of enforcing sea-fisheries law and food safety law for such period as it sees fit.

(2) The Authority may, in agreement with any body established by or under statute, authorise persons who are officers of that body, to—

- (a) perform such functions of a sea-fisheries protection officer under sea-fisheries and food safety law, or
- (b) assist a sea-fisheries protection officer in exercising such functions,

for such period and in such circumstances or area, to such extent and subject to such conditions as it may specify in the authorisation.

52.—(1) The Minister shall designate officers of the Minister who are sea-fisheries protection officers immediately before the establishment day to be transferred to the Authority on the establishment day. Transfer of staff from Minister to Authority.

(2) The Minister may designate such and so many of his or her other officers to be transferred to the Authority.

(3) Staff transferred in accordance with *subsection (1)* or *(2)* are deemed to be in the employment of the Authority.

(4) Save in accordance with a collective agreement negotiated with any recognized trade unions and staff associations concerned, an officer of the Minister transferred to the staff of the Authority under *subsection (1)* or *(2)* shall not, while he or she is in the service of the Authority, receive a lesser scale of pay or be made subject to less beneficial terms and conditions of service (including those relating to tenure of office) than the scale of pay to which he or she was entitled or the terms and conditions of service (including those relating to tenure of office) to which he or she was subject immediately before his or her transfer.

(5) In relation to persons transferred in accordance with *subsection (1)* or *(2)* to the staff of the Authority, previous service in the Civil Service shall be reckonable for the purposes of, but subject to any exceptions or exclusions in—

- (a) the Redundancy Payments Acts 1967 to 2003,
- (b) the Minimum Notice and Terms of Employment Acts 1973 to 2005,
- (c) the Unfair Dismissals Acts 1977 to 2005,
- (d) the Terms of Employment (Information) Acts 1994 and 2001,
- (e) the Organisation of Working Time Act 1997,
- (f) the Parental Leave Act 1998,
- (g) the Carer's Leave Act 2001,
- (h) the Protection of Employees (Part-Time Work) Act 2001, and
- (i) the Protection of Employees (Fixed-Term Work) Act 2003.

53.—The Authority may, from time to time, engage such consultants or advisers as it may consider necessary to assist it in the discharge of its functions and any fees due to a consultant or adviser engaged under this section shall form part of the expenses of the Authority. Consultants and advisers.

54.—No action or other proceedings shall lie or be maintainable (except in the case of wilful neglect or default) against— Indemnity.

- (a) a member of the Authority or a member of the staff of the Authority,
- (b) a person authorised by the Authority under *section 51(2)(a)*,
- (c) a person engaged by the Authority under *section 53*, or
- (d) a person made available to the Authority under *section 61*,

arising from a failure to perform or to comply with any of the functions conferred or obligations imposed on the Authority by or under this Chapter.

Membership of House of Oireachtas, European Parliament and local authorities.

55.—(1) Where a member of the Authority—

- (a) accepts nomination as a member of Seanad Éireann,
- (b) is elected as a member of either House of the Oireachtas or as a representative in the European Parliament,
- (c) is regarded pursuant to Part XIII of the Second Schedule to the European Parliament Elections Act 1997 as having been elected to the European Parliament to fill a vacancy, or
- (d) becomes a member of a local authority,

he or she shall thereupon cease to be a member of the Authority.

(2) Where a member of the staff of the Authority—

- (a) accepts nomination as a member of Seanad Éireann,
- (b) is elected as a member of either House of the Oireachtas or as a representative in the European Parliament, or
- (c) is regarded pursuant to Part XIII of the Second Schedule to the European Parliament Elections Act 1997 as having been elected to the European Parliament to fill a vacancy,

he or she shall thereupon stand seconded from his or her employment by the Authority and shall not be paid by, or be entitled to receive from, the Authority remuneration or allowances in respect of the period commencing on such nomination or election or when he or she is so regarded as having been elected, as the case may be, and ending when he or she ceases to be a member of either such House or such Parliament.

(3) A person who is, for the time being, entitled under the Standing Orders of either House of the Oireachtas to sit therein or who is a member of the European Parliament shall, while he or she is so entitled or is such a member, be disqualified from becoming a member of the Authority or a member of the staff of the Authority.

(4) A person who is a member of a local authority shall be disqualified from becoming a member of the Authority while he or she is a member of such local authority.

(5) The Authority shall not employ or otherwise retain in any capacity a person who would otherwise be disqualified under this

section from becoming a member of the Authority while that person would be so disqualified.

(6) Without prejudice to the generality of *subsection (2)*, that subsection shall be construed as prohibiting, among other things, the reckoning of a period mentioned in that subsection as service with the Authority for the purposes of any superannuation benefits.

56.—The Authority shall, following consultation with the Minister and the Minister for Finance, draw up a code of conduct in respect of controls on interests and ethical behavior to apply to all members of the Authority and all members of the staff of the Authority. Code of Conduct.

57.—(1) Where a member of the Authority, a member of the staff of the Authority, or a consultant, adviser or other person engaged by the Authority, has a beneficial interest in, or material to, any matter which falls to be considered by the Authority, he or she shall— Disclosure of interests.

- (a) disclose to the Authority, and in the case of disclosure by a member of the Authority where there is only one member, that member shall disclose to the Minister, the nature of his or her interest in advance of any consideration of the matter,
- (b) neither influence nor seek to influence a decision in relation to the matter,
- (c) take no part in any consideration of the matter, unless there are compelling reasons requiring him or her to do so,
- (d) if he or she is a member of the Authority, withdraw from a meeting of the Authority for so long as the matter is being discussed or considered by the Authority, and unless there are compelling reasons requiring him or her to do so, shall not vote or otherwise act in relation to the matter, and
- (e) prepare and furnish in advance to the Authority or Minister, as appropriate, a statement in writing of the compelling reasons aforesaid.

(2) For the purposes of this section, but without prejudice to the generality of *subsection (1)*, a person shall be regarded as having a beneficial interest if—

- (a) he or she or any connected relative, or any nominee of his or her or any connected relative, is a member of an undertaking or any other body which has a beneficial interest in, or material to, a matter referred to in that subsection,
- (b) he or she or any connected relative is in partnership with or is in the employment of a person who has a beneficial interest in, or material to, such a matter,
- (c) he or she or any connected relative is a party to any arrangement or agreement (whether or not enforceable) concerning land to which such a matter relates, or

(d) any connected relative has a beneficial interest in, or material to, such a matter.

(3) In *subsection (2)*, “connected relative” means, in relation to a person to whom that subsection applies, the person’s spouse or partner, parent, brother, sister, child or a child of a spouse or partner.

(4) For the purposes of this section, a person shall not be regarded as having a beneficial interest in, or material to, any matter, by reason only of an interest of his or her or of any undertaking or of any other body or person mentioned in *subsection (2)* which is so remote or insignificant that it cannot reasonably be regarded as likely to influence a person in considering, discussing or in voting on, any question with respect to the matter, or in performing any function in relation to that matter.

(5) Where a question arises as to whether or not a course of conduct, if pursued by a person, would be a failure by him or her to comply with the requirements of *subsection (1)*, the question shall be determined by the Authority or, where there is only one member of the Authority, in the case of that member, by the Minister.

(6) Particulars of the determination under *subsection (5)* shall be recorded by the Authority in the minutes of the meeting concerned or by the Minister by letter addressed to the Authority.

(7) Where a disclosure is made to the Authority or the Minister pursuant to *subsection (1)*, particulars of the disclosure shall be recorded in the minutes of any meeting concerned or by the Minister by letter addressed to the Authority.

(8) Where a person referred to in this section, other than a member of the Authority, fails to make a disclosure in accordance with this section, the Authority shall decide the appropriate action (including removal from office or termination of contract) to be taken.

(9) Where a member of the Authority fails to make a disclosure in accordance with this section, the Minister shall decide the appropriate action (including removal from office) to be taken.

Disclosure of confidential information.

58.—(1) Save as otherwise provided by law, a person shall not disclose confidential information obtained by him or her while performing duties as a member of the Authority, member of the staff of the Authority or a consultant, adviser or other person engaged by the Authority, unless he or she is duly authorised to do so.

(2) In this section, “duly authorised” means authorised by the Authority or by some person authorised in that behalf by the Authority for the purposes of this section.

(3) A person who contravenes *subsection (1)* is guilty of an offence and is liable on summary conviction to a fine not exceeding €5,000 or imprisonment for a term not exceeding 3 months, or to both.

(4) (a) In this section, “confidential information” means that which is expressed by the Authority to be confidential either as regards particular information or as regards information of a particular class or description.

- (b) In expressing information to be confidential, the Authority shall have regard to the requirement to protect information of a confidential commercial nature.

(5) Nothing in *subsection (1)* shall prevent the disclosure of information in a report made by or on behalf of the Authority to the Minister.

(6) The Third Schedule to the Freedom of Information Act 1997 is amended by the insertion in Part I at the end thereof—

(a) in column (2) of “*Sea-Fisheries and Maritime Jurisdiction Act 2006*”, and

(b) in column (3) of “*Section 58*”.

59.—(1) The Minister shall, with the consent of the Minister for Finance, make a scheme or schemes for the granting of superannuation benefits to or in respect of a member of the Authority ceasing to hold office. Superannuation of members of Authority.

(2) Every scheme made under this section shall fix the time and conditions of retirement for all persons to or in respect of whom superannuation benefits are payable under the scheme and different times and conditions may be fixed in respect of different classes of persons.

(3) The Minister may, with the consent of the Minister for Finance, make a scheme amending or revoking a scheme under this section, including a scheme under this subsection.

(4) If any dispute arises as to the claim of a member of the Authority to, or the amount of, any superannuation benefit payable in pursuance of a scheme under this section, such dispute shall be submitted to the Minister who shall refer it to the Minister for Finance for determination by him or her.

(5) A scheme under this section shall be carried out by the Minister in accordance with its terms.

(6) No superannuation benefit shall be granted by the Minister to or in respect of any member of the Authority ceasing to hold office otherwise than in accordance with a scheme under this section or as otherwise may be approved of by the Minister with the consent of the Minister for Finance.

(7) A scheme under this section shall be laid before each House of the Oireachtas by the Minister as soon as may be after it is made and, if a resolution annulling the scheme is passed by either such House within the next 21 days on which that House has sat after the scheme is laid before it, the scheme shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.

60.—(1) The Authority shall prepare and submit to the Minister a scheme or schemes for the granting of superannuation benefits to or in respect of such members of the staff of the Authority as it may think fit. Superannuation of staff of Authority.

(2) Every scheme made under this section shall fix the time and conditions of retirement for all persons to or in respect of whom

superannuation benefits are payable under the scheme and different times and conditions may be fixed in respect of different classes of persons.

(3) Every scheme made under *subsection (1)* may, with the consent of the Minister for Finance, be amended or revoked by a subsequent scheme prepared, submitted and approved under *subsection (1)*.

(4) A scheme made under *subsection (1)* submitted by the Authority to the Minister shall, if approved by the Minister with the consent of the Minister for Finance, be carried out by the Authority in accordance with its terms.

(5) No superannuation benefits shall be granted by the Authority nor shall any other arrangements be entered into by the Authority for the provision of such a benefit to or in respect of a member of the staff of the Authority otherwise than in accordance with a scheme under *subsection (1)* or otherwise as may be approved of by the Minister with the consent of the Minister for Finance.

(6) If any dispute arises as to the claim of any person to, or the amount of, any superannuation benefit payable in pursuance of a scheme or schemes under this section, such dispute shall be submitted to the Minister who shall refer it to the Minister for Finance for determination by him or her.

(7) A scheme under this section shall be laid before each House of the Oireachtas by the Authority as soon as may be after it is made and, if a resolution annulling the scheme is passed by either such House within the next 21 days on which that House has sat after the scheme is laid before it, the scheme shall be annulled accordingly but without prejudice to the validity of anything previously done thereunder.

(8) Superannuation benefits granted under schemes under this section to persons who, immediately before the establishment day, were officers of the Minister and the terms and conditions relating to those benefits shall not be less favourable to those persons than those to which they were entitled immediately before that day.

(9) Where, in the period beginning on the establishment day and ending immediately before the commencement of a scheme under this section, a superannuation benefit falls due for payment to or in respect of a person who was transferred to the staff of the Authority under *section 52*, the benefit shall be calculated by the Authority in accordance with such scheme, or such enactments in relation to superannuation, as applied to the person immediately before the establishment day and, for that purpose, his or her pensionable service with the Authority shall be aggregated with his or her previous pensionable service and shall be paid by the Authority.

Resources made available by Minister to Authority.

61.—(1) The Minister may make available to the Authority, on a request being made by the Authority, such staff, premises, equipment, services and other resources as the Minister may determine from time to time in consultation with the Minister for Finance.

(2) The Authority shall, on request from the Minister, pay to the Minister such sum or sums as the Minister may specify to be the expenses incurred by the Minister in making available to the Authority such staff, premises, equipment, services and other resources under *subsection (1)*.

62.—(1) In each financial year there shall be paid to the Authority out of moneys provided by the Oireachtas a grant of such amount as the Minister, with the consent of the Minister for Finance and after consultation with the Authority in relation to its likely work programme and expenditure for the financial year (and after taking into account any other resources including monies available to the Authority), may sanction towards the expenses of the Authority in the due performance of its functions. Grants to Authority.

(2) In determining the grant payable to the Authority under *subsection (1)*, the Minister shall have regard to the obligations of the State under the common fisheries policy or other international agreement in so far as the due performance of the functions of the Authority is concerned.

63.—(1) Subject to *subsection (2)*, for the purpose of meeting expenses properly incurred by the Authority in the due performance of its functions under this Chapter, the Authority, with the consent of the Minister and the Minister for Finance, may make regulations imposing fees to be paid by such classes of persons as may be specified by the Authority in the regulations. Fees.

(2) Regulations under *subsection (1)* may provide for the following—

- (a) rates of fee payable,
- (b) the keeping of records and the making of returns by persons liable to pay fees,
- (c) the collection and recovery of fees, and
- (d) such other matters as are necessary or incidental to the procurement of the payment of fees.

(3) Fees shall be payable to the Authority at such time and at such rates as may be prescribed in regulations made by the Authority under *subsection (1)* and different rates may be prescribed in respect of different classes of persons liable to pay fees.

(4) Fees payable under the regulations mentioned in *Schedule 3* shall, on the establishment day, be payable to the Authority and may be altered by regulations under this section.

(5) The Minister may, with the consent of the Minister for Finance, direct the Authority to pay into the Central Fund or the growing produce thereof, such sum as he or she may specify, being a sum that represents the amount by which the gross income received by the Authority in each financial year exceeds the gross expenditure incurred in the administration of its office in that year.

(6) The Authority may recover, as a simple contract debt in any court of competent jurisdiction, from any person by whom it is payable any amount due and owing to it under this section (including fees payable under regulations mentioned in *Schedule 3*).

(7) The Public Offices Fees Act 1879 does not apply to any fees payable under this section.

64.—The Authority may, for the purpose of the performance of its functions, borrow money (whether on the security of its assets or Borrowings.

otherwise), including money in a currency other than the currency of the State, but shall not do so without the consent of the Minister and the Minister for Finance.

Accounts and
annual report of
Authority.

65.—(1) The Authority shall keep in such form and in respect of such accounting periods as may be approved of by the Minister, with the consent of the Minister for Finance, all proper and usual accounts of moneys received or expended by it, including an income and expenditure account and a balance sheet.

(2) Accounts kept in pursuance of this section shall be submitted, not later than three months after the end of the financial year to which they relate, by the Authority to the Comptroller and Auditor General for audit and, immediately after the receipt of the Comptroller and Auditor General's report on the accounts, a copy of the income and expenditure account, the balance sheet and of such other (if any) accounts kept pursuant to this section as the Minister, after consultation with the Minister for Finance, may direct and a copy of the Comptroller and Auditor General's report on the accounts shall be presented to the Minister who shall cause copies thereof to be laid before each House of the Oireachtas.

(3) As soon as practicable, but not later than 3 months after the end of each financial year, the Authority shall, in writing, report to the Minister in relation to the performance of its functions in that year and the Minister shall cause copies of the report to be laid before each House of the Oireachtas within 3 months of its receipt by him or her.

(4) The report under *subsection (3)* shall, in particular, indicate—

- (a) the extent to which the Strategy Statement of the Authority was implemented in that year,
- (b) the number of complaints made under *section 49* in that year and the decision of the Authority in relation to the complaints, and
- (c) the results of any review by or on behalf of the Authority of the cost-effectiveness of its operations.

(5) The Minister may give directions in writing to the Authority in regard to the format and content of a report under *subsection (3)*, but such directions shall not require the Authority to include in such report details which could, in the opinion of the Authority, be prejudicial to the performance of its functions.

(6) The Authority shall give to the Minister such information relating to the performance of its functions as the Minister may request provided that such information would not, in the opinion of the Authority, be prejudicial to the performance of its functions.

(7) The financial year of the Authority shall be the period of 12 months ending on 31 December in any year and, for the purposes of this section and *section 62*, the period commencing on the establishment day and ending on the following 31 December shall be deemed to be a financial year.

Strategy Statement
of Authority.

66.—(1) The Authority shall adopt and submit to the Minister a statement of strategy within 6 months after the establishment day

and at least every 3 years from the submission date of the first statement.

(2) The statement of strategy shall—

- (a) comprise the key objectives, outputs and related strategies, including use of resources, of the Authority,
- (b) be prepared in a form and manner in accordance with any directions issued from time to time by the Minister, and
- (c) have regard to the need to ensure the most beneficial, effective and efficient use of the resources of the Authority.

(3) The Authority shall publish a statement of strategy adopted by it and shall lay a copy before each House of the Oireachtas.

67.—Subject to *section 65*, the Authority may publish any reports on matters related to its functions.

Publication of reports of Authority.

68.—(1) The member of the Authority, or where there is more than one member of the Authority, the chairperson of the Authority, shall, whenever required by the Committee of Dáil Éireann established under the Standing Orders of Dáil Éireann to examine and report to Dáil Éireann on the appropriation accounts and reports of the Comptroller and Auditor General, attend before and give evidence to that Committee on—

Accountability of Authority to Committees of Oireachtas.

- (a) the regularity and propriety of the transactions recorded or required to be recorded in any book or other record of account subject to audit by the Comptroller and Auditor General which the Authority is required by or under statute to prepare,
- (b) the economy and efficiency of the Authority in the use of its resources,
- (c) the systems, procedures and practices employed by the Authority for the purpose of evaluating the effectiveness of its operations, and
- (d) any matter affecting the Authority referred to in a special report of the Comptroller and Auditor General under section 11(2) of the Comptroller and Auditor General (Amendment) Act 1993, or in any other report of the Comptroller and Auditor General (in so far as it relates to a matter specified in *paragraph (a), (b) or (c)*) that is laid before Dáil Éireann.

(2) From time to time, and whenever so requested, the Authority shall account for the performance of the functions of the Authority to a Committee of one or both Houses of the Oireachtas and shall have regard to any recommendations of such Committee relevant to its functions.

(3) In carrying out its duties under this section, the Authority shall not—

- (a) question or express an opinion on the merits of any policy of the Government or a Minister of the Government or on the merits of the objectives of such a policy,
- (b) provide information that might facilitate the commission of an offence, prejudice a criminal investigation or jeopardise the safety of any person, or
- (c) be required to account to a Committee for any matter which is or has been or may at a future time be the subject of proceedings before a court or tribunal in the State.

Premises of Authority.

69.—The Authority may, for the purposes of providing premises necessary for the performance of its functions, purchase, lease, equip and maintain offices and other premises with the consent of the Minister and the Minister for Finance.

Seal of Authority.

70.—(1) The Authority shall, as soon as may be after its establishment, provide itself with a seal.

(2) The seal shall be authenticated by the signature of—

- (a) a member of the Authority, or
- (b) a member of the staff of the Authority, authorised by the Authority to act in that behalf.

(3) Judicial notice shall be taken of the seal of the Authority and every document purporting to be an instrument made by and to be sealed with the seal of the Authority (purporting to be authenticated in accordance with this section) shall be received in evidence and be deemed to be such instrument without proof unless the contrary is shown.

Authority to keep itself informed on certain matters.

71.—(1) The Authority shall keep itself informed of the policies, objectives, resolutions and guidelines of any public authority the functions of which have, or may have, a bearing on the matters with which the Authority is concerned.

(2) In this section, “public authority” means the Minister, the Council and Commission of the European Communities and any other public authority inside or outside the State which, in the opinion of the Authority, has functions that have, or may have, a bearing on matters with which the Authority is concerned.

Provision of services by Authority.

72.—The Authority may provide services (including services of staff) to the Minister or to another person on such terms and conditions (including payment for such services) as may be agreed and the Minister or the other person concerned may avail of such services.

Definitions (Chapter 5).

73.—In this Chapter—

“food safety law” means—

- (a) food legislation (within the meaning of section 2(1) of the Food Safety Authority of Ireland Act 1998) relating to the safety and hygiene of fish or fishery products, and

- (b) the legal obligations of the State in relation to fish or fishery products arising under any law of an institution of the European Communities or other international agreement which is binding on the State (whether or not such legal obligation is the subject of regulations under the Act of 1972 or any other enactment);

“local authority” has the meaning assigned to it by the Local Government Act 2001;

“sea-fisheries law” means—

- (a) the *Sea-Fisheries Acts 2003 and 2006* and instruments made by the Minister under the Acts, and
- (b) the legal obligations of the State in relation to sea-fisheries arising under any law of an institution of the European Communities to give effect to the common fisheries policy or other international agreement which is binding on the State (whether or not such legal obligation is the subject of regulations under the Act of 1972 or any other enactment).

CHAPTER 6

Registration of sea-fishing boats and miscellaneous offences involving sea-fishing boats

74.—(1) The Register of Fishing Boats continues in existence as the Register of Fishing Boats (“Register”) for the purposes of this section and shall continue to be maintained by the Registrar General of Fishing Boats in such form as he or she considers appropriate (including in an electronic or other non-documentary form) and shall be revised or amended as he or she considers necessary from time to time. Register of Fishing Boats.

(2) There continues to be a registrar of fishing boats known as the Registrar General of Fishing Boats (“Registrar General”).

(3) The Registrar General shall be appointed by the Minister who may remove him or her from office for stated reasons.

(4) The Minister may appoint, and terminate for stated reasons the appointment of, a Deputy Registrar General of Fishing Boats (“Deputy Registrar General”) to act for or perform the functions of the Registrar General during any absence from duty or inability to act of the Registrar General or as the Registrar General may from time to time direct. References in this Chapter to the Registrar General shall be read as including references to the Deputy Registrar General.

(5) The persons who immediately before the passing of this Act hold the position of Registrar General and Deputy Registrar General shall be the first Registrar General and Deputy Registrar General under this section.

(6) There continue to be local registrars of sea-fishing boats for such ports as provided for in the Regulations of 2005 unless otherwise provided for in regulations under *section 76*.

Registration,
lettering and
numbering of sea-
fishing boats.

75.—(1) Subject to *subsections (2) and (3)*, every Irish sea-fishing boat shall be entered in the Register and shall be lettered and numbered in accordance with regulations under *section 76* and with any Community law, or other international obligations which are binding on the State, for the time being in force.

(2) In the interests of the proper management of the capacity of Irish sea-fishing boats, in accordance with—

- (a) the requirements of the Community law, or other international obligations which are binding on the State, or
- (b) any regulations under *section 76*,

the Registrar General may enter a sea-fishing boat in the Register or remove it from the Register.

(3) (a) A sea-fishing boat shall not be entered in the Register unless at the time of the entry there is in relation to the boat a sea-fishing boat licence and which is for the time being in force or, if it is not so in force, is to come into force on the boat's being so registered.

(b) A ship which is a sea-fishing boat shall not be registered under the Act of 1955 unless, at the time of registration, there is in relation to the ship a sea-fishing boat licence and which is for the time being in force or, if it is not so in force, is to come into force on the ship's being so registered.

(4) (a) A certificate of registration shall be issued in respect of a boat entered in the Register.

(b) The certificate of registration shall be carried on board the boat in respect of which it is issued.

(c) A certificate of registration issued in respect of a particular boat, or a certificate signed by the Registrar General that a boat specified in the certificate is not entered in the Register, is sufficient evidence that the boat is or is not registered, as the case may be.

(5) (a) In any proceedings against the owner or skipper of or any person belonging to any boat entered in the Register, or for the recovery of damages for injury or loss caused by such boat, the Register shall be evidence (unless the contrary is shown) that the person entered in the Register at any date as the owner or owners of the boat was or were the owner or owners of the boat at that date and that the boat is an Irish sea-fishing boat.

(b) *Paragraph (a)* does not—

(i) prevent any proceedings being instituted against any person not so entered who is beneficially interested in the boat,

(ii) affect the rights of the owners among themselves, or affect the rights of any owner entered in the Register against any person not so entered who is beneficially interested in the boat, or

(iii) otherwise confer, take away or affect any title to or interest in any boat.

(6) If an Irish sea-fishing boat is used for sea-fishing and—

- (a) is not entered in the Register, but is required to be so entered,
- (b) is entered in the Register, but there is not on board the boat the certificate of registration issued in respect of that boat (or a copy of that certificate), or
- (c) is not lettered and numbered in accordance with regulations under *section 76* and Community law, or other international obligations which are binding on the State, applicable to the lettering and numbering of that boat,

the master and the owner of the boat each commits an offence and is liable on summary conviction to a fine not exceeding €5,000.

(7) If a sea-fishing boat required to be entered in the Register is not so entered, it shall not be entitled to any of the privileges or advantages of an Irish sea-fishing boat, but all obligations, liabilities and penalties with reference to that boat and the punishment of offences committed on board the boat, or by any persons belonging to it, and the jurisdiction of sea-fisheries protection officers or other officers and courts shall be the same as if the boat were entered in the Register.

(8) For so long as a ship which but for *subsection (3)* would be required to be registered under the Act of 1955 is not so registered, section 18(3) of that Act applies to that ship as if it were required by section 18(1) of that Act to be so registered.

76.—The Minister may make regulations for the registration, lettering and numbering of sea-fishing boats so as to— Regulations.

- (a) provide for a system of registry, lettering and numbering of sea-fishing boats and the making of details of registration available to the public,
- (b) define the boats or classes of boats to which the regulations or any of them are to apply and the exemption of any boats or classes of boats from the regulations or any of them,
- (c) provide further for the appointment, functions and removal of local registrars,
- (d) specify procedures for application for registration and for entry of a sea-fishing boat in the Register,
- (e) specify procedures and methods for determining the dimensions and tonnage of sea-fishing boats,
- (f) specify procedures for the removal of a sea-fishing boat from the Register,
- (g) make such provision as is necessary to ensure compliance with an obligation relating to the registration of sea-fishing boats, the marking and numbering of sea-fishing boats, the measurement of sea-fishing boats and the

determination of the tonnage and engine power of sea-fishing boats imposed by or under Community law or other international obligations which are binding on the State,

- (h) require (with the consent of the Minister for Finance) the payment of such fee before an application for registration or removal of a sea-fishing boat from the Register can be considered, or
- (i) provide for any other necessary matters relating to the registration of sea-fishing boats and the removal of sea-fishing boats from the Register.

Fees.

77.—(1) Every fee received by the Department under *section 76* shall be disposed of for the benefit of the Exchequer in such manner as the Minister for Finance directs.

(2) The Public Offices Fees Act 1879 does not apply to a fee required under *section 76*.

Continuance of Regulations of 2005.

78.—The Regulations of 2005, if in operation on the passing of this Act, continue in force as if made under *section 76*.

Miscellaneous offences involving sea-fishing boats.

79.—(1) If a foreign sea-fishing boat is found within the exclusive fishery limits without having on board official papers evidencing the nationality of the boat, the master of the boat commits an offence.

(2) If any sea-fishing boat within the exclusive fishery limits fails to observe the provisions, relating to lights to be carried and exhibited, of the regulations for the prevention of collisions at sea made under section 418 of the Act of 1894, and applicable to the boat, the master and the owner of the boat each commits an offence.

(3) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding €5,000.

Definitions (*Chapter 6*).

80.—In this Chapter—

“certificate of registration” means a certificate signed by the Registrar General stating that the Irish sea-fishing boat to which it relates is entered in the Register;

“Regulations of 2005” means Merchant Shipping (Registry, Lettering and Numbering of Fishing Boats) Regulations 2005 (S.I. No. 261 of 2005);

“sea-fishing boat licence” means a licence granted under section 4 (inserted by *section 97*) of the Act of 2003.

PART 3

MARITIME JURISDICTION (INCLUDING EXCLUSIVE ECONOMIC ZONE AND EXCLUSIVE FISHERY LIMITS) OF THE STATE

81.—In this Part—

Definitions (*Part 3*).

“exclusive economic zone” has the meaning given to it by or under *section 87*;

“exclusive fishery limits” has the meaning given to it by *section 88*;

“foreign ship” means a ship which is not an Irish ship (within the meaning of section 9 of the Act of 1955);

“internal waters” has the meaning given to it by *section 86*;

“island” means a naturally formed area of land surrounded by water which is above water at high water;

“low-tide elevation” means a naturally formed area of land which is surrounded by and above water at low water but submerged at high water;

“nautical mile” means the length of one minute of an arc of a meridian of longitude;

“ship” includes every description of vessel used in navigation whether on or under the surface of the water, howsoever propelled, and also includes a seaplane while it is in contact with the water;

“territorial seas” has the meaning given to it by *section 82*.

82.—The territorial seas of the State is that portion of the sea which lies between the baseline and the outer limit of the territorial seas. Territorial seas.

83.—The outer limit of the territorial seas is the line every point of which is at a distance of 12 nautical miles from the nearest point of the baseline. Outer limit of territorial seas.

84.—(1) The contiguous zone of the State is that portion of the sea not included in the territorial seas of the State which lies between the baseline and the outer limit of the contiguous zone. Contiguous zone.

(2) The outer limit of the contiguous zone is the line every point of which is at a distance of 24 nautical miles from the nearest point of the baseline.

(3) The State may exercise in the contiguous zone such rights and duties as are provided for in international law.

85.—(1) Save as otherwise provided, the baseline is low-water mark— Baseline.

(a) on the coast of the mainland or of any island, or

(b) on any low-tide elevation situated wholly or partly at a distance not exceeding 12 nautical miles from the mainland or an island.

(2) The Government may by order (which they may by order revoke or amend) prescribe straight baselines in relation to any part of the State and the closing line of any bay or mouth of a river, and any line so prescribed shall be taken as the baseline.

(3) The Maritime Jurisdiction Act 1959 (Straight Baselines) Order 1959 (S.I. No. 173 of 1959), if in operation on the passing of this Act, continues in force as if made under this section.

Internal waters. **86.**—The internal or inland waters of the State extend to all sea areas which lie on the landward side of the baseline of the territorial seas and all such sea areas shall be subject to the jurisdiction of the State to the same extent in all respects as its ports and harbours, bays, lakes and rivers, subject to any right of innocent passage for foreign ships in those sea areas which previously had been considered as part of the territorial seas or of the high seas.

Exclusive economic zone of State. **87.**—(1) The exclusive economic zone of the State is the area beyond and adjacent to the territorial seas subject to the specific legal regime established in Part V of the United Nations Convention on the Law of the Sea (“Convention”), done at Montego Bay on 10 December 1982, the text of which, in the English language, is, for convenience of reference, set out in *Schedule 2*.

(2) Subject to *subsection (3)*, the outer limit of the exclusive economic zone is the line every point of which lies at a distance of 200 nautical miles from the nearest point of the baseline.

(3) Where because of the proximity of a similar maritime zone of another state the outer limit of the exclusive economic zone specified in *subsection (2)* cannot be applied, the boundary of the exclusive economic zone is the equitable equidistant line between the State and the other state. The Government may by order (which they may by order revoke or amend) prescribe the co-ordinates of latitude and longitude of the appropriate equitable equidistant line or lines.

(4) In the exclusive economic zone the State has—

- (a) sovereign rights for the purpose of exploring and exploiting, conserving and managing the natural resources, whether living or non-living, of the waters superjacent to the seabed and of the seabed and its subsoil, and with regard to other activities for the economic exploitation and exploration of the zone, such as the production of energy from the water, currents and winds,
- (b) jurisdiction as provided for in the relevant provisions of the Convention with regard to—
 - (i) the establishment and use of artificial islands, installations and structures,
 - (ii) marine scientific research, and
 - (iii) the protection and preservation of the marine environment,

and
- (c) other rights and duties provided for in international law.

Exclusive fishery limits of State. **88.**—For the purposes of *Part 2*, the exclusive fishery limits of the State comprise all seas that lie inside the outer limit of the exclusive economic zone.

Jurisdiction in case of offence. **89.**—(1) Every offence committed within the territorial seas or internal waters is an offence within the jurisdiction of the State and may be dealt with by a court of competent jurisdiction although committed on board or by means of a foreign ship and a person who

commits such offence may be arrested, tried and punished accordingly.

(2) For the purpose of arresting any person charged with an offence declared by this section to be within the jurisdiction of the State, the territorial seas and internal waters shall be deemed to be within the jurisdiction of any court or judge having power within the State to issue warrants for the arrest of persons charged with offences committed within the jurisdiction of such court or judge.

90.—(1) Proceedings (other than the taking of depositions) for the prosecution of a non-national for an offence alleged to have been committed in the territorial seas on board or by means of a foreign ship shall not be instituted without the certificate of the Minister for Foreign Affairs that the institution of the proceedings is in his or her opinion expedient.

Prosecution of non-national for offence on foreign ship.

(2) This section does not apply to an offence under—

- (a) the *Dumping at Sea Acts 1996 to 2006*,
- (b) the *Maritime Security Act 2004*,
- (c) the *Sea-Fisheries Acts 2003 and 2006*, or
- (d) the *Sea Pollution Acts 1991 to 1999*.

91.—Nothing in this Part shall be read to be in derogation of any jurisdiction enjoyed by the State under international law or conferred on it by Community law, or to affect or prejudice such jurisdiction or any jurisdiction conferred upon it by any other enactment or now by law existing.

Saving as to jurisdiction.

92.—(1) The Government may by order (which they may by order revoke or amend) prescribe the charts which may be used for the purpose of establishing low-water mark, or the existence and position of any low-tide elevation, or any other matter in reference to the internal waters, the territorial seas, the exclusive economic zone or the exclusive fishery limits, and any chart purporting to be a copy of a chart of a kind or description so prescribed shall, unless the contrary is proved, be received in evidence as being a prescribed chart without further proof.

Evidence as to extent of internal waters, territorial seas, exclusive economic zone and exclusive fishery limits.

(2) The *Maritime Jurisdiction Act 1959 (Charts) Order 1959 (S.I. No. 174 of 1959)*, if in operation on the passing of this Act, continues in force as if made under this section.

93.—(1) References in any enactment to sea areas and waters within 3 miles, 3 nautical miles, or one league of the coast or shore and cognate expressions shall be construed as references to sea areas and waters lying within the outer limit of the territorial seas.

Adaptation of enactments.

(2) For the purposes of any other enactment the territorial seas shall be taken to comprise the sea area to which *section 82* applies.

(3) Section 2 of the *Wildlife Act 1976* is amended by substituting for the definition of “the territorial seas of the State” the following:

“ ‘territorial seas of the State’ means the portion of the sea which is defined by *section 82* of the *Sea-Fisheries and Maritime Jurisdiction Act 2006* as the territorial seas of the State;”.

(4) Section 3 of the Sea Pollution Act 1991 is amended by substituting for subsection (2A) (inserted by section 13 of the Sea Pollution (Amendment) Act 1999) the following:

“(2A) A reference in this Act to the State includes a reference to—

- (a) the inland waters of the State,
- (b) the territorial seas of the State, and the seabed and subsoil beneath those seas, and
- (c) the exclusive economic zone of the State (within the meaning of *section 87* of the *Sea-Fisheries and Maritime Jurisdiction Act 2006*).”.

(5) Section 117 of the Patents Act 1992 is amended by substituting “*section 86* of the *Sea-Fisheries and Maritime Jurisdiction Act 2006*” for “section 5 of the Maritime Jurisdiction Act 1959”.

(6) Section 36(4) of the Criminal Justice Act 1994 is amended by substituting “*Section 90* of the *Sea-Fisheries and Maritime Jurisdiction Act 2006*” for “Section 11 of the Maritime Jurisdiction Act 1959”.

(7) Section 1 of the Sea Pollution (Amendment) Act 1999 is amended by substituting for subsection (2) the following:

“(2) A reference in this Act to the State includes a reference to—

- (a) the inland waters of the State,
- (b) the territorial seas of the State, and the seabed and subsoil beneath those seas, and
- (c) the exclusive economic zone of the State (within the meaning of *section 87* of the *Sea-Fisheries and Maritime Jurisdiction Act 2006*).”.

(8) Sections 185 and 290 of the Copyright and Related Rights Act 2000 are each amended, in paragraph (a)(ii), by substituting “*section 86* of the *Sea-Fisheries and Maritime Jurisdiction Act 2006*” for “section 5 of the Maritime Jurisdiction Act 1959”.

(9) Section 2 of the Sea Pollution (Hazardous Substances) (Compensation) Act 2005 is amended by substituting for subsection (2) the following:

“(2) A reference in this Act to the State includes a reference to—

- (a) the inland waters of the State,
- (b) the territorial seas of the State, and the seabed and subsoil beneath those seas, and

- (c) the exclusive economic zone of the State (within the meaning of *section 87 of the Sea-Fisheries and Maritime Jurisdiction Act 2006*).”.

94.—Every order made by the Government under this Part shall be laid before each House of the Oireachtas as soon as may be after it is made and (except in the case of an order made under *section 92(1)*), if a resolution annulling the order is passed by either House within the next 21 days on which that House has sat after the order has been laid before it, the order shall be annulled accordingly, but without prejudice to the validity of anything previously done under it.

Laying of orders before Houses of Oireachtas.

PART 4

AMENDMENTS TO FISHERIES ACTS 1959 TO 2003, MERCANTILE MARINE ACT 1955, FISHERY HARBOUR CENTRES ACT 1968, DUMPING AT SEA ACT 1996 AND MARITIME SAFETY ACT 2005

CHAPTER 1

Trial of Offences

95.—Section 309 of the Principal Act is amended by substituting for subsection (1) (inserted by section 49 of the Fisheries Act 1980) the following:

Provisions in relation to cases in District Court.

“(1) Notwithstanding anything contained in any other enactment, an offence under the *Fisheries Acts 1959 to 2006*, other than the *Sea-Fisheries Acts 2003 and 2006*, may be heard and determined in a summary way by a judge of the District Court upon the complaint, verbal or otherwise, of a member of the Garda Síochána, the Central Board, a regional board, an officer or employee of a board, a private waterkeeper (within the meaning of Part XVIII) or any other person.”.

96.—(1) Proceedings for an offence under the *Fisheries Acts 1959 to 2006* may be prosecuted summarily by the Minister.

Prosecution of summary offences — *Fisheries Acts 1959 to 2006*.

(2) This section does not apply to the *Sea-Fisheries Acts 2003 and 2006*.

CHAPTER 2

Licensing of sea-fishing boats and miscellaneous amendments to Act of 2003

97.—(1) The following section is substituted for section 4 of the Act of 2003:

Sea-fishing boat licences.

“4.—(1) This section applies to any Irish sea-fishing boat.

(2) A sea-fishing boat to which this section applies shall not be used for sea-fishing (whether within the exclusive fishery limits of the State or otherwise) nor shall a person on board such a boat fish for sea-fish or attempt so to fish, save under and in accordance with a licence (‘sea-fishing boat licence’)

granted or renewed for the purposes of this section and in relation to the boat by the licensing authority.

- (3) (a) The licensing authority may grant sea-fishing boat licences for such period as is specified in the licence.
- (b) An application for a sea-fishing boat licence shall be—
- (i) made to the licensing authority,
 - (ii) in such form and contain such particulars as the licensing authority may specify, and
 - (iii) made by or on behalf of the owner of the boat in respect of which the application is made.
- (c) Where an application is made for a sea-fishing boat licence, the licensing authority may, subject to subsection (5), allow or refuse the application.
- (d) In deciding on the grant or refusal of a sea-fishing boat licence or the attachment of terms and conditions to licences the licensing authority may take account of economic and social benefits which the operation of a boat would be likely to contribute to the coastal communities and regions which the quotas within the meaning of Council Regulation No. 2371/2002 of 20 December 2002³ are designed to benefit, including—
- (i) the projected annual number of landings at ports in the State,
 - (ii) the projected annual tonnage and value of fish landed in the State,
 - (iii) the projected annual level of expenditure in the State on wages, fuel, supplies, equipment and services, and
 - (iv) the projected annual level of social security and tax payments in the State in respect of employees and the operation of the boat, and the protection, conservation and sustainable exploitation of living marine aquatic species and requirements of the Common Fisheries Policy of the European Communities.
- (4) (a) The licensing authority may renew a sea-fishing boat licence, without the holder or the licensee making an application under subsection 3(b), for such period or periods as he or she may consider appropriate.
- (b) Section 7 of this Act does not apply to the renewal of a licence under paragraph (a).

(5) The licensing authority shall not grant a sea-fishing boat licence unless the sea-fishing boat in relation to which the licence is granted is wholly owned by a national of a Member State or a state belonging to the European Economic Area or a body corporate established under and subject to the law of a

³OJ No. L358, 31.12.2002, p.59

Member State and having its principal place of business in a Member State or a state belonging to the European Economic Area.

(6) Where a sea-fishing boat is owned by a body corporate, the name, address and nationality of the beneficial owner or owners of the shares in, or of the person or persons who otherwise controls or control, the body corporate, shall be given to the licensing authority—

- (a) on application for a sea-fishing boat licence in respect of the boat, or
- (b) where a sea-fishing boat licence is in force in respect of the boat, if there is any change in such ownership or control.

(7) (a) A body corporate which is applying for a sea-fishing boat licence or holds a sea-fishing boat licence must have an agent in the State and give the licensing authority the name and address of the agent and details of contacting the agent at any time by or on behalf of the licensing authority.

(b) The licensing authority may, as the case may be, refuse to grant or suspend (for such period as he or she sees fit) or revoke a sea-fishing boat licence where he or she considers that a body corporate is not complying with paragraph (a) to the satisfaction of the authority.

(8) (a) The licensing authority may attach to a sea-fishing boat licence such terms (including terms specifying an event or other circumstances on the occurrence of which the licence is to come into force or cease to be in force) and conditions (including conditions precedent to the licence's becoming operative) as he or she shall think fit and he or she may also attach further terms or conditions to or vary the terms or conditions already attached to such a licence or remove any such terms or conditions.

(b) Without prejudice to the generality of paragraph (a), a term or condition attached to a sea-fishing boat licence may—

(i) restrict sea-fishing by the boat to which the licence relates in a manner specified in the term or condition,

(ii) require that for so long as the licence is in force the members of the crew of such boat, or of any proportion of such members specified in the condition, shall be of a nationality specified in the term or condition, or

(iii) specify an event or other circumstance on the occurrence of which the licence shall cease to be in force.

(c) Where the licensing authority is satisfied that a person has fished in contravention of a term or condition attached to a sea-fishing boat licence or that a person

has attempted so to fish, the licensing authority may, if he or she thinks fit, revoke or suspend (for such period as he or she sees fit) the licence.

- (9) (a) It is a condition of a sea-fishing boat licence that the licensee shall ensure that the licensed boat complies with requirements specified by or under the Merchant Shipping Acts 1894 to 2005.
- (b) Where by or under the Merchant Shipping Acts 1894 to 2005 a survey is required to be carried out of a sea-fishing boat for the purpose of establishing whether or not such boat complies with the requirements specified by or under those Acts, the licensing authority shall not grant or renew a sea-fishing boat licence in respect of the boat unless the licensing authority is satisfied that the boat complies with such requirements.
- (c) Where a code of practice published by the Minister for Transport relating to the safety and sea-worthiness of sea-fishing boats of a class to which paragraph (b) does not apply requires a survey to be carried out of a sea-fishing boat of such class for the purpose of establishing whether or not such boat complies with the requirements specified in the code of practice, the licensing authority shall not grant or renew a sea-fishing boat licence in respect of the boat unless a declaration of compliance with the code of practice has been provided to the licensing authority.
- (10) (a) The holder of a sea-fishing boat licence suspended or revoked under subsection (7)(b) or (8)(c) shall, as soon as practicable, surrender the licence to the licensing authority.
- (b) A person who fails to comply with paragraph (a) of this subsection commits an offence and is liable on summary conviction to a fine not exceeding €500.
- (c) Where a licence has been suspended under subsection (7)(b) or (8)(c) the District Court may, upon application to it, direct the licensing authority to re-issue and return the licence or it may reduce the period of suspension.
- (11) Without prejudice to the generality of subsection (3)(c) where the licensing authority receives an application for a sea-fishing boat licence and—
- (a) the application relates to a sea-fishing boat which is owned by a body corporate and the licensing authority is not satisfied that the body corporate is under the control of, beneficially owned by or under the control of and beneficially owned by a person or persons who, or, as may be appropriate, each of whom, is either a qualified individual or a qualified body, or
- (b) the licensing authority is satisfied that the applicant has previously used or attempted to use a sea-fishing boat for sea-fishing in contravention of, or that the

applicant has fished for sea-fish or has attempted so to fish contrary to, subsection (2),

he or she may refuse the application.

(12) (a) Where the holder of a sea-fishing boat licence—

- (i) ceases to be the owner of the sea-fishing boat to which the licence relates, or
- (ii) is a body corporate which ceases to be under the control of or beneficially owned by or under the control of and beneficially owned by a person or persons who, or, as may be appropriate, each of whom, is either a qualified individual or a qualified body,

the licence ceases to have effect and the holder of the licence shall, as soon as practicable, deliver the licence to the licensing authority.

(b) A person who fails to comply with paragraph (a) commits an offence and is liable on summary conviction to a fine not exceeding €500.

(13) (a) A person who uses or attempts to use a sea-fishing boat in contravention of subsection (2) commits an offence.

(b) A person who, while on board a sea-fishing boat, fishes for sea-fish or attempts to so fish in contravention of subsection (2) commits an offence.

(14) In this section—

‘Irish sea-fishing boat’ means a sea-fishing boat which is—

- (a) entered in the Register of Fishing Boats maintained under *section 74* of the *Sea-Fisheries and Maritime Jurisdiction Act 2006*,
- (b) required by regulations under *section 76* of that Act to be so entered, or
- (c) exempt from such registration by regulations under that section;

‘qualified body’ means a body corporate in which all of the shares are beneficially owned, or the body is otherwise controlled, by one or more individuals who, or, as may be appropriate, each of whom is, a qualified individual;

‘qualified individual’ means an individual person who is a national of a Member State or a state belonging to the European Economic Area;

‘licensing authority’ has the meaning assigned to it by section 3;

‘Member State’ means a Member State of the European Communities.”.

(2) A sea-fishing boat licence granted or renewed under section 222B of the Principal Act which is in force immediately before the

passing of this Act continues in force as if made or renewed under the corresponding provision of section 4 (inserted by this section) of the Act of 2003.

Tax clearance certification requirement for applicants for sea-fishing boat licences.

98.—(1) The following section is inserted after section 5 of the Act of 2003:

“5A.—(1) A sea-fishing boat licence shall not be granted by the licensing authority unless the applicant produces to the licensing authority a tax clearance certificate.

(2) In this section ‘tax clearance certificate’ means a tax clearance certificate issued under section 1095 (inserted by section 127 of the Finance Act 2002) of the Taxes Consolidation Act 1997.”.

(2) This section comes into operation on such day as the Minister may appoint by order. That order shall be laid before each House of the Oireachtas as soon as may be after it is made.

Miscellaneous amendments to Act of 2003.

99.—The Act of 2003 is amended—

(a) in section 2(1) by substituting “section 4(3)” for “section 222B(3) of the Principal Act”,

(b) in section 3—

(i) by substituting for subsection (3) the following:

“(3) A policy directive given under subsection 2(b) may provide for measures to control and regulate the capacity, structure, equipment, use and operation of sea-fishing boats for the purpose of protecting, conserving or allowing the sustainable exploitation of living marine aquatic species or the rational management of fisheries, in furtherance of national policy objectives and to comply with requirements of the common fisheries policy of the European Communities or other international obligations which are binding on the State.”,

(ii) in subsection (6), by substituting “section 4” for “section 222B of the Principal Act”,

(iii) in subsection (9)(a), by substituting “section 4(3)” for “section 222B(3) of the Principal Act”,

(iv) in subsection (9)(b), by substituting “section 4(3)” for “section 222B(3) (inserted by section 4)”,

(v) by inserting after subsection (9) the following:

“(9A) The licensing authority is not liable in any proceedings for anything done in good faith in the purported exercise of his or her powers in relation to granting or renewing sea-fishing boat licences or maintaining the Register of Fishing Boats.”,

and

- (vi) in section 3(10), by substituting “*section 74 of the Sea-Fisheries and Maritime Jurisdiction Act 2006*” for “Regulation 5 of the Merchant Shipping (Registry, Lettering and Numbering of Fishing Boats) Regulations 1997 (S.I. No. 294 of 1997)”,
- (c) in section 5—
- (i) by substituting for paragraph (b) of subsection (1) the following:
- “(b) an authorisation under section 13 or a licence, authorisation or permit under any regulation made under *section 14 or 15 of the Sea-Fisheries and Maritime Jurisdiction Act 2006* or section 25 of the 2003 Act,”
- (ii) by substituting for paragraph (b) of subsection (2) the following:
- “(b) an authorisation under section 13 or a licence, authorisation or permit under any regulation made under *section 14 or 15 of the Sea-Fisheries and Maritime Jurisdiction Act 2006* or section 25 of the 2003 Act,”
- (iii) in subsection (4), by substituting “licensing authority, the Minister or an appeals officer” for “licensing authority or the Minister”, and
- (iv) by inserting after subsection (6) the following:
- “(7) The Public Offices Fees Act 1879 does not apply to a fee prescribed under this section.”
- (d) in section 6, by substituting for subsection (4) the following:
- “(4) A policy directive given under subsection 3(b) may provide for measures to control and regulate the capacity, structure, equipment, use and operation of sea-fishing boats for the purpose of protecting, conserving or allowing the sustainable exploitation of living marine aquatic species or the rational management of fisheries, in furtherance of national policy objectives and to comply with requirements of the common fisheries policy of the European Communities or other international obligations which are binding to the State.”
- (e) in section 7(1), by substituting for paragraph (b) the following:
- “(b) A person other than the applicant for or holder of the licence concerned may only appeal under paragraph (a) if he or she made representations in writing to the licensing authority before the expiration of a period of one month beginning on the date on which the application for the licence concerned was published by the licensing authority in accordance with section 3(8).”

- (f) in section 9(2)(a), by substituting “section 4” for “section 222B of the Principal Act”,
- (g) in section 25, by substituting for subsection (3) the following:
 “(3) A person who fishes or attempts to fish in contravention of any conservation regulation commits an offence.”,
- (h) in section 27, by substituting for subsection (5) the following:
 “(5) A person who fails to comply with subsection (3)(a) commits an offence.”,
- (i) in section 29(1), by substituting “under a section specified in a Table to section 28 of the *Sea-Fisheries and Maritime Jurisdiction Act 2006*” for “under section 221, 222, 222A, 222B, 222C, 223, 223A, 224B, 226 or 227 of the Principal Act, a conservation regulation or section 27(5)”,
- (j) in section 32, by inserting after subsection (6) the following:
 “(6A) The Public Offices Fees Act 1879 does not apply to a fee prescribed under this section.”,
- and
- (k) in paragraph 7(d) of Schedule 1, by substituting “section 4” for “section 222B of the Principal Act”.

CHAPTER 3

Mercantile Marine

Amendment of Act
of 1955.

100.—The Act of 1955 is amended—

- (a) by inserting after section 16 the following:

“Persons
qualified to
own registered
sea-fishing
ships.

16A.—(1) Section 16 of this Act does not apply to sea-fishing ships.

(2) Subject to section 19 of this Act respecting reciprocating states, the following shall alone be qualified to own a registered sea-fishing ship or a share in it—

- (a) the Government,
- (b) a Minister of the Government,
- (c) a national of a Member State, or
- (d) a body corporate established under and subject to the law of a Member State and having its principal place of business in a Member State.

(3) Every ship to which the provisions of subsection (2) apply shall be registered under this Act unless the ship is exempt under section 18(2) of this Act from the obligation to so register.

(4) In this section, ‘Member State’ means a Member State of the European Communities.”,

(b) in section 18(2), by inserting after paragraph (d) the following:

“(e) a sea-fishing boat of less than 15 metres in length overall and required to be registered in the Register of Fishing Boats maintained under section 74 of the *Sea-Fisheries and Maritime Jurisdiction Act 2006* or exempt from such registration by regulations under section 76 of that Act.”,

and

(c) in section 19—

(i) by inserting after subsection (2) the following:

“(2A) Notwithstanding subsection (2) of this section, the Government may by order provide that the citizens, subjects or nationals of a state declared under subsection (1) of this section to be a reciprocating state or bodies corporate established under and subject to the laws of that state shall—

- (a) be qualified to own only a registered ship (or a share in it) which is of a particular class or description specified in the order, or
- (b) not be qualified to own a registered ship (or a share in it) which is of a class or description so specified,

and subsection (2) of this section is to be construed and have effect subject to the terms of the order.”,

and

(ii) subsection (3), by deleting “subsection (1) of”.

CHAPTER 4

Aquaculture

101.—The Fisheries (Amendment) Act 1997 is amended—

(a) in section 6(2), by substituting—

- (i) “€300” for “£200”, and
- (ii) “€2,000” for “£1,000”,

Miscellaneous
amendments to
Fisheries
(Amendment) Act
1997— aquaculture.

- (b) in section 10, by substituting for subsection (4) (inserted by Regulation 17 of the European Communities (Environmental Impact Assessment) (Amendment) Regulations 1999 (S.I. No. 93 of 1999)) the following:

“(4) Where the submission to the Minister of an environmental impact statement is required under regulations made under subsection (3)(d) in respect of an application for a licence, the Minister, if requested by the applicant, shall, after consultation with such persons as the Minister considers appropriate, give a written opinion to the applicant of the information to be contained in the statement, before the applicant submits the statement.”,

- (c) by inserting after section 19 the following:

“Renewal of licence after its expiration.

19A.—(1) The power of the licensing authority to renew or to further renew an aquaculture licence under section 19 is exercisable notwithstanding the expiration of the period for which the licence was granted or renewed.

(2) Where, prior to the passing of the *Sea-Fisheries and Maritime Jurisdiction Act 2006*, an aquaculture licence has been renewed or further renewed after the expiration of the period for which the licence was granted or renewed, such renewal shall be and be deemed always to have been as valid and effectual as if the licence had been renewed or further renewed on the expiration of the period in question.

(3) If, because of the validation expressed to be effected by subsection (2), that subsection would, but for this subsection, conflict with a constitutional right of any person, the validation shall be subject to such limitation as is necessary to secure that it does not so conflict but shall be otherwise of full force and effect.

(4) A licensee who has applied for the renewal or further renewal of an aquaculture licence shall, notwithstanding the expiration of the period for which the licence was granted or renewed but subject otherwise to the terms and conditions of the licence, be entitled to continue the aquaculture or operations in relation to aquaculture authorised by the licence pending the decision on the said application.”,

- (d) in section 34, by substituting for subsection (6) the following:

“(6) Where the Minister is satisfied that a member of the Board has failed to comply with subsection (1), the Minister may, if he or she thinks fit, remove that member from office or take such other action as he or she considers appropriate and, in case a person is removed from office

pursuant to this subsection, he or she shall thereafter be disqualified from membership of the Board.

(7) Where the Board is satisfied that a person who is not a member of the Board has failed to comply with subsection (1), the Board shall decide the appropriate action (including removal from office or termination of contract) to be taken.

(8) For the purposes of this section a person shall not be regarded as having an interest in any matter by reason only of an interest of that person, or of any company in which he or she has an interest, which is so remote or insignificant that it cannot reasonably be regarded as likely to influence a person in considering, discussing or in voting on, any question relating to the matter, or in performing any function in relation to that matter.”

(e) in section 57(6), by substituting “€600” for “£500”,

(f) in section 65—

(i) by substituting for subsection (2) the following:

“(2) A person guilty of an offence under subsection (1), section 6(1), 20 or 67(2) is liable—

(a) on summary conviction, to a fine not exceeding €5,000, or

(b) on conviction on indictment, to a fine not exceeding €250,000.

(2A) A person guilty of an offence (other than an offence under a provision mentioned in subsection (2) or under section 6(2) or 57(6)) is liable on summary conviction to a fine not exceeding €2,000.”

and

(ii) by inserting after subsection (3) the following:

“(4) Notwithstanding section 10(4) of the Petty Sessions (Ireland) Act 1851, summary proceedings for an offence under subsection (1) or section 6(1) may be instituted within 12 months from the date on which the offence was committed.”

(g) by inserting after section 65 the following:

“Offence by body corporate, etc. 65A.—Where an offence under this Act is committed by a body corporate or by a person purporting to act on behalf of a body corporate or on behalf of an unincorporated body of persons and it is proved to have been so committed with the consent or connivance of or to be attributable to any neglect on the part of any other person who, when the offence was committed, was, or purported to act as, a director, manager, secretary or other officer (including a member of such body) such other person as

well as the body, or the person so purporting to act on behalf of the body, is guilty of an offence and is liable to be proceeded against and punished as if he or she were guilty of the first-mentioned offence.

Prosecutor may appeal dismissal of proceedings in District Court.

65B.—(1) Where any proceedings tried summarily in the District Court for an offence under this Act are dismissed, whether on the merits or without prejudice, the prosecutor may appeal against the order of dismissal to the judge of the Circuit Court within whose Circuit the courthouse in which the order was made is situated.

(2) The judge of the Circuit Court on an appeal under subsection (1) may vary, confirm or reverse the order and his or her decision is final and conclusive and not appealable.”,

(h) by inserting after section 67 the following:

“Reduction in licensed area, etc.

67A.—The Minister may, on the application of a licensee and subject to such conditions (if any) as the Minister may consider appropriate in the circumstances and specifies in writing, reduce the area or permitted aquaculture or both to which the licensee’s licence relates, absolutely or for such period as the Minister specifies in writing and the licence shall have effect and be noted accordingly in the register of licences maintained under section 78.

Permission of use of novel or experimental equipment by licensee.

67B.—The Minister may, on the application of a licensee and subject to such conditions (if any) as the Minister may consider appropriate in the circumstances and specifies in writing, permit the licensee to use novel or experimental equipment within the licensed area for such period as the Minister specifies in writing. Such permission shall be granted only if the Minister is satisfied that the use of the novel or experimental equipment will have no greater environmental or visual impact than that which existed prior to the introduction and use of such equipment and shall be noted in the register of licences maintained under section 78.”,

(i) in section 68(1) and (2), by deleting “and section 69(2)”, and

(j) by substituting for section 69 the following:

“Cesser of aquaculture licences in certain circumstances.

69.—(1) (a) Subject to paragraph (b), where aquaculture in respect of which a licence has been granted has not commenced within 2 years after the date on

which the licence was granted, the licence ceases to have effect.

- (b) A licensee, who considers that there are exceptional reasons why aquaculture, in respect of which a licence has been granted to the licensee, has not been commenced or cannot commence within the period specified in paragraph (a), may apply to the Minister, giving those reasons, for a determination that the licence concerned shall not cease to have effect.
 - (c) The Minister may, at his or her discretion, having considered the reasons given by the licensee under paragraph (b), determine whether or not the licence shall cease to have effect. The determination of the Minister is final.
- (2) (a) Subject to paragraph (b), where aquaculture in respect of which a licence has been granted has ceased for a continuous period of 2 years, the Minister shall, without compensation to the licensee, revoke the licence.
- (b) A licensee, who considers that there are exceptional reasons why aquaculture, in respect of which a licence has been granted to the licensee, has ceased or is likely to cease for the period referred to in paragraph (a), may apply to the Minister, giving those reasons, for a determination not to revoke the licence.
 - (c) The Minister may, in his or her discretion, having considered the reasons given by the licensee under paragraph (b), determine whether or not to revoke the licence. The determination of the Minister is final.
 - (d) This subsection is deemed to have come into operation on 30 June 1998.”.

CHAPTER 5

Fishery Harbour Centres

Amendment of
section 4 of Fishery
Harbour Centres
Act 1968.

102.—Section 4 of the Fishery Harbour Centres Act 1968 is amended by—

(a) inserting the following subsection after subsection (2):

“(2A) (a) Any ship or boat in respect of which any rate, toll or other charge payable pursuant to an order under subsection (2)(b) is in arrears may not be disposed of without the consent of the Minister.

(b) A reference in this subsection and in subsection (2) to a ship or boat includes the capacity of it.”,

and

(b) deleting subsection (8).

CHAPTER 6

Dumping at Sea

Amendment of
Dumping at Sea
Act 1996.

103.—The Dumping at Sea Act 1996 is amended—

(a) in section 1—

(i) by inserting the following definitions:

“ ‘exclusive economic zone of the State’ and ‘inland waters and territorial seas of the State’ have the meanings assigned by *Part 3* of the *Sea-Fisheries and Maritime Jurisdiction Act 2006*;”,

(ii) by substituting for the definition of “the maritime area” the following:

“ ‘the maritime area’ comprises—

(I) the inland waters and territorial seas of the State, and the seabed and subsoil beneath them,

(II) any area for the time being standing designated by order under section 2 of the Continental Shelf Act 1968 for the purposes of that Act, and the waters above it, and

(III) the exclusive economic zone of the State;”,

and

(iii) by deleting the definition of “territorial seas of the State”,

(b) in section 6(1), by substituting for paragraph (f) the following:

“(f) Every member of the Permanent Defence Forces (not below the rank of leading seaman or corporal) for the time being serving on board any ship, vessel or aircraft belonging to or employed in the service of the State shall be an authorised officer for the purposes of this Act.”,

(c) in section 10(2)(b), by inserting after “Attorney General” the following:

“or the Director of Public Prosecutions, from the day appointed by an order made under section 12 (inserted by *section 103* of the *Sea-Fisheries and Maritime Jurisdiction Act 2006*) of this Act,”,

and

(d) by inserting the following section after section 11:

“Prosecution of offences by DPP.

12.—(1) The Government, on the request of the Attorney General, may by order appoint a day from which the Director of Public Prosecutions, subject to subsection (2), is the prosecutor, in lieu of the Attorney General, of offences under this Act. That order shall be laid before each House of the Oireachtas as soon as may be after it is made.

(2) Any proceedings which have been instituted in the name of the Attorney General before the commencement of an order under subsection (1) are still pending and have not been determined before that commencement continue in the name of the Attorney General after that commencement.

(3) Section 11 of this Act stands repealed upon the commencement of an order made under subsection (1).”.

CHAPTER 7

Maritime Safety

104.—The Maritime Safety Act 2005 is amended—

Amendment of Maritime Safety Act 2005.

(a) in section 2(1), by substituting “*Part 3* of the *Sea-Fisheries and Maritime Jurisdiction Act 2006*” for “the Maritime Jurisdiction Act 1959 (as amended by the Maritime Jurisdiction (Amendment) Act 1988)”,

(b) in section 17(1), by substituting “Part” for “Act”,

(c) in section 36(1)(a), by substituting “any of the matters referred to in section 35(1)” for “the safe operation, or any of the matters referred to in subsection (1)”,

(d) in section 38—

(i) in subsection (1), by substituting the following paragraphs for paragraph (c):

“(c) securing safe navigable routes,

(cc) securing that search and rescue and search and recovery operations can be conducted safely, or”,

and

(ii) in subsection (3), by substituting the following paragraph for paragraph (d):

“(d) the temporary prevention of or restriction on the navigation of vessels within a specified area or specified areas, or the establishment and maintenance of a temporary exclusion zone around a vessel, structure or other thing that is sunk, wrecked, damaged or in distress, for the purposes of allowing any directions or actions under this section to be carried out safely, and”,

and

(e) in section 46(2), by substituting “sections 23, 24, 37 and 38” for “sections 23 and 24”.

Section 4.

SCHEDULE 1

ENACTMENTS REPEALED

Session and Chapter or Number and Year	Short Title or Subject	Extent of Repeal
(1)	(2)	(3)
33 Hen. 6, c.9	Ships guarding sea between Ireland and England to have certain tolls (1455)	The whole Act
38 Hen. 6, c.14	Payments by fishermen and for boats protected at sea (1460)	The whole Act
10 Edw. 4, c.10	Protection for herring fishery at Dublin (1470)	The whole Act
8 & 9 Hen. 8 [c.9]	Foreigners fishing off coast to land one-third of catch in Ireland (1516)	The whole Act
8 & 9 Vic. 1845, c.108	Fisheries (Ireland) Act 1845	Sections 7 and 8
9 Vic. 1846, c.3	Fisheries (Ireland) Act 1846	The whole Act
57 & 58 Vic., c.60	Merchant Shipping Act 1894	Sections 371 to 374
9 Edw. 7, 1909, c.8	Trawling in Prohibited Areas Prevention Act 1909	The whole Act
No. 33 of 1931	Fisheries (Revision of Loans) Act 1931	The whole Act

Session and Chapter or Number and Year (1)	Short Title or Subject (2)	Extent of Repeal (3)
No. 21 of 1951	Freshwater Fisheries (Prohibition of Netting) Act 1951	The whole Act
No. 25 of 1951	Fishing Licences (Moville District) Act 1951	The whole Act
No. 14 of 1959	Fisheries (Consolidation) Act 1959	Part XIII, sections 309(2) and 314(4)
No. 22 of 1959	Maritime Jurisdiction Act 1959	The whole Act
No. 31 of 1962	Fisheries (Amendment) Act 1962	Sections 19 to 23, 32(3), (4) and (5) and 34 and in the Table to section 32 at Ref. No. 1 "237, 238, 239, 240, 241, 242, 243," and at Ref. No. 10 "233, 236,"
No. 32 of 1964	Maritime Jurisdiction (Amendment) Act 1964	The whole Act
No. 25 of 1974	Fisheries (Amendment) Act 1974	The whole Act
No. 18 of 1978	Fisheries (Amendment) Act 1978	The whole Act
No. 1 of 1980	Fisheries Act 1980	Sections 48, 49, 72, 73 and 75 and in the Table to section 50 at Ref. No. 2 "240, 241, 242, 243," and at Ref. No. 3 "237, 238, 239,"
No. 27 of 1983	Fisheries (Amendment) Act 1983	The whole Act
No. 9 of 1988	Maritime Jurisdiction (Amendment) Act 1988	The whole Act
No. 23 of 1994	Fisheries (Amendment) Act 1994	Sections 1(4) and (5), 3 to 14 and 16
No. 21 of 2003	Fisheries (Amendment) Act 2003	Sections 26(1) and (9), 28 and 30
No. 11 of 2005	Maritime Safety Act 2005	Section 53

SCHEDULE 2

Section 87.

UNITED NATIONS CONVENTION ON THE LAW OF THE SEA 1982

Part V - Exclusive Economic Zone

Article 55*Specific Legal Regime of the Exclusive Economic Zone*

The exclusive economic zone is an area beyond and adjacent to the territorial sea, subject to the specific legal regime established in this

Part, under which the rights and jurisdiction of the coastal State and the rights and freedoms of other States are governed by the relevant provisions of this Convention.

Article 56

Rights, Jurisdiction and Duties of the Coastal State in the Exclusive Economic Zone

1. In the exclusive economic zone, the coastal State has:
 - (a) sovereign rights for the purpose of exploring and exploiting, conserving and managing the natural resources, whether living or non-living, of the waters superjacent to the seabed and of the seabed and its subsoil, and with regard to other activities for the economic exploitation and exploration of the zone, such as the production of energy from the water, currents and winds;
 - (b) jurisdiction as provided for in the relevant provisions of this Convention with regard to:
 - (i) the establishment and use of artificial islands, installations and structures;
 - (ii) marine scientific research;
 - (iii) the protection and preservation of the marine environment;
 - (c) other rights and duties provided for in this Convention.
2. In exercising its rights and performing its duties under this Convention in the exclusive economic zone, the coastal State shall have due regard to the rights and duties of other States and shall act in a manner compatible with the provisions of this Convention.
3. The rights set out in this article with respect to the seabed and subsoil shall be exercised in accordance with Part VI.

Article 57

Breadth of the Exclusive Economic Zone

The exclusive economic zone shall not extend beyond 200 nautical miles from the baselines from which the breadth of the territorial sea is measured.

Article 58

Rights and duties of other States in the Exclusive Economic Zone

1. In the exclusive economic zone, all States, whether coastal or land-locked, enjoy, subject to the relevant provisions of this Convention, the freedoms referred to in article 87 of navigation and overflight and of the laying of submarine cables and pipelines, and other internationally lawful uses of the sea related to these freedoms, such as those associated with the operation of ships, aircraft and submarine cables and pipelines, and compatible with the other provisions of this Convention.

2. Articles 88 to 115 and other pertinent rules of international law apply to the exclusive economic zone in so far as they are not incompatible with this Part.

3. In exercising their rights and performing their duties under this Convention in the exclusive economic zone, States shall have due regard to the rights and duties of the coastal State and shall comply with the laws and regulations adopted by the coastal State in accordance with the provisions of this Convention and other rules of international law in so far as they are not incompatible with this Part.

Article 59

Basis for the resolution of conflicts regarding the attribution of rights and jurisdiction in the Exclusive Economic Zone

In cases where this Convention does not attribute rights or jurisdiction to the coastal State or to other States within the exclusive economic zone, and a conflict arises between the interests of the coastal State and any other State or States, the conflict should be resolved on the basis of equity and in the light of all the relevant circumstances, taking into account the respective importance of the interests involved to the parties as well as to the international community as a whole.

Article 60

Artificial Islands, Installations and Structures in the Exclusive Economic Zone

1. In the exclusive economic zone, the coastal State shall have the exclusive right to construct and to authorize and regulate the construction, operation and use of:

- (a) artificial islands;
- (b) installations and structures for the purposes provided for in article 56 and other economic purposes;
- (c) installations and structures which may interfere with the exercise of the rights of the coastal State in the zone.

2. The coastal State shall have exclusive jurisdiction over such artificial islands, installations and structures, including jurisdiction with regard to customs, fiscal, health, safety and immigration laws and regulations.

3. Due notice must be given of the construction of such artificial islands, installations or structures, and permanent means for giving warning of their presence must be maintained. Any installations or structures which are abandoned or disused shall be removed to ensure safety of navigation, taking into account any generally accepted international standards established in this regard by the competent international organization. Such removal shall also have due regard to fishing, the protection of the marine environment and the rights and duties of other States. Appropriate publicity shall be given to the depth, position and dimensions of any installations or structures not entirely removed.

4. The coastal State may, where necessary, establish reasonable safety zones around such artificial islands, installations and structures in which it may take appropriate measures to ensure the safety both of navigation and of the artificial islands, installations and structures.

5. The breadth of the safety zones shall be determined by the coastal State, taking into account applicable international standards. Such zones shall be designed to ensure that they are reasonably related to the nature and function of the artificial islands, installations or structures, and shall not exceed a distance of 500 metres around them, measured from each point of their outer edge, except as authorized by generally accepted international standards or as recommended by the competent international organization. Due notice shall be given of the extent of safety zones.

6. All ships must respect these safety zones and shall comply with generally accepted international standards regarding navigation in the vicinity of artificial islands, installations, structures and safety zones.

7. Artificial islands, installations and structures and the safety zones around them may not be established where interference may be caused to the use of recognized sea lanes essential to international navigation.

8. Artificial islands, installations and structures do not possess the status of islands. They have no territorial sea of their own, and their presence does not affect the delimitation of the territorial sea, the exclusive economic zone or the continental shelf.

Article 61

Conservation of the Living Resources

1. The coastal State shall determine the allowable catch of the living resources in its exclusive economic zone.

2. The coastal State, taking into account the best scientific evidence available to it, shall ensure through proper conservation and management measures that the maintenance of the living resources in the exclusive economic zone is not endangered by over-exploitation. As appropriate, the coastal State and competent international organizations, whether subregional, regional or global, shall cooperate to this end.

3. Such measures shall also be designed to maintain or restore populations of harvested species at levels which can produce the maximum sustainable yield, as qualified by relevant environmental and economic factors, including the economic needs of coastal fishing communities and the special requirements of developing States, and taking into account fishing patterns, the interdependence of stocks and any generally recommended international minimum standards, whether subregional, regional or global.

4. In taking such measures the coastal State shall take into consideration the effects on species associated with or dependent upon harvested species with a view to maintaining or restoring populations of such associated or dependent species above levels at which their reproduction may become seriously threatened.

5. Available scientific information, catch and fishing effort statistics, and other data relevant to the conservation of fish stocks shall be contributed and exchanged on a regular basis through competent international organizations, whether subregional, regional or global, where appropriate and with participation by all States concerned, including States whose nationals are allowed to fish in the exclusive economic zone.

Article 62

Utilization of the Living Resources

1. The coastal State shall promote the objective of optimum utilization of the living resources in the exclusive economic zone without prejudice to article 61.

2. The coastal State shall determine its capacity to harvest the living resources of the exclusive economic zone. Where the coastal State does not have the capacity to harvest the entire allowable catch, it shall, through agreements or other arrangements and pursuant to the terms, conditions, laws and regulations referred to in paragraph 4, give other States access to the surplus of the allowable catch, having particular regard to the provisions of articles 69 and 70, especially in relation to the developing States mentioned therein.

3. In giving access to other States to its exclusive economic zone under this article, the coastal State shall take into account all relevant factors, including, *inter alia*, the significance of the living resources of the area to the economy of the coastal State concerned and its other national interests, the provisions of articles 69 and 70, the requirements of developing States in the subregion or region in harvesting part of the surplus and the need to minimize economic dislocation in States whose nationals have habitually fished in the zone or which have made substantial efforts in research and identification of stocks.

4. Nationals of other States fishing in the exclusive economic zone shall comply with the conservation measures and with the other terms and conditions established in the laws and regulations of the coastal State. These laws and regulations shall be consistent with this Convention and may relate, *inter alia*, to the following:

- (a) licensing of fishermen, fishing vessels and equipment, including payment of fees and other forms of remuneration, which, in the case of developing coastal States, may consist of adequate compensation in the field of financing, equipment and technology relating to the fishing industry;
- (b) determining the species which may be caught, and fixing quotas of catch, whether in relation to particular stocks or groups of stocks or catch per vessel over a period of time or to the catch by nationals of any State during a specified period;
- (c) regulating seasons and areas of fishing, the types, sizes and amount of gear, and the types, sizes and number of fishing vessels that may be used;
- (d) fixing the age and size of fish and other species that may be caught;
- (e) specifying information required of fishing vessels, including catch and effort statistics and vessel position reports;
- (f) requiring, under the authorization and control of the coastal State, the conduct of specified fisheries research programmes and regulating the conduct of such research, including the sampling of catches, disposition of samples and reporting of associated scientific data;

- (g) the placing of observers or trainees on board such vessels by the coastal State;
- (h) the landing of all or any part of the catch by such vessels in the ports of the coastal State;
- (i) terms and conditions relating to joint ventures or other cooperative arrangements;
- (j) requirements for the training of personnel and the transfer of fisheries technology, including enhancement of the coastal State's capability of undertaking fisheries research;
- (k) enforcement procedures.

5. Coastal States shall give due notice of conservation and management laws and regulations.

Article 63

Stocks occurring within the Exclusive Economic Zones of two or more Coastal States or both within the Exclusive Economic Zone and in an area beyond and adjacent to it

1. Where the same stock or stocks of associated species occur within the exclusive economic zones of two or more coastal States, these States shall seek, either directly or through appropriate subregional or regional organizations, to agree upon the measures necessary to coordinate and ensure the conservation and development of such stocks without prejudice to the other provisions of this Part.

2. Where the same stock or stocks of associated species occur both within the exclusive economic zone and in an area beyond and adjacent to the zone, the coastal State and the States fishing for such stocks in the adjacent area shall seek, either directly or through appropriate subregional or regional organizations, to agree upon the measures necessary for the conservation of these stocks in the adjacent area.

Article 64

Highly Migratory Species

1. The coastal State and other States whose nationals fish in the region for the highly migratory species listed in Annex I shall cooperate directly or through appropriate international organizations with a view to ensuring conservation and promoting the objective of optimum utilization of such species throughout the region, both within and beyond the exclusive economic zone. In regions for which no appropriate international organization exists, the coastal State and other States whose nationals harvest these species in the region shall cooperate to establish such an organization and participate in its work.

2. The provisions of paragraph 1 apply in addition to the other provisions of this Part.

Article 65

Marine Mammals

Nothing in this Part restricts the right of a coastal State or the competence of an international organization, as appropriate, to prohibit, limit or regulate the exploitation of marine mammals more strictly than provided for in this Part. States shall cooperate with a view to the conservation of marine mammals and in the case of cetaceans shall in particular work through the appropriate international organizations for their conservation, management and study.

Article 66

Anadromous Stocks

1. States in whose rivers anadromous stocks originate shall have the primary interest in and responsibility for such stocks.

2. The State of origin of anadromous stocks shall ensure their conservation by the establishment of appropriate regulatory measures for fishing in all waters landward of the outer limits of its exclusive economic zone and for fishing provided for in paragraph 3(b). The State of origin may, after consultations with the other States referred to in paragraphs 3 and 4 fishing these stocks, establish total allowable catches for stocks originating in its rivers.

3. (a) Fisheries for anadromous stocks shall be conducted only in waters landward of the outer limits of exclusive economic zones, except in cases where this provision would result in economic dislocation for a State other than the State of origin. With respect to such fishing beyond the outer limits of the exclusive economic zone, States concerned shall maintain consultations with a view to achieving agreement on terms and conditions of such fishing giving due regard to the conservation requirements and the needs of the State of origin in respect of these stocks.

(b) The State of origin shall cooperate in minimizing economic dislocation in such other States fishing these stocks, taking into account the normal catch and the mode of operations of such States, and all the areas in which such fishing has occurred.

(c) States referred to in subparagraph (b), participating by agreement with the State of origin in measures to renew anadromous stocks, particularly by expenditures for that purpose, shall be given special consideration by the State of origin in the harvesting of stocks originating in its rivers.

(d) Enforcement of regulations regarding anadromous stocks beyond the exclusive economic zone shall be by agreement between the State of origin and the other States concerned.

4. In cases where anadromous stocks migrate into or through the waters landward of the outer limits of the exclusive economic zone of a State other than the State of origin, such State shall cooperate with the State of origin with regard to the conservation and management of such stocks.

5. The State of origin of anadromous stocks and other States fishing these stocks shall make arrangements for the implementation of the provisions of this article, where appropriate, through regional organizations.

Article 67

Catadromous Species

1. A coastal State in whose waters catadromous species spend the greater part of their life cycle shall have responsibility for the management of these species and shall ensure the ingress and egress of migrating fish.

2. Harvesting of catadromous species shall be conducted only in waters landward of the outer limits of exclusive economic zones. When conducted in exclusive economic zones, harvesting shall be subject to this article and the other provisions of this Convention concerning fishing in these zones.

3. In cases where catadromous fish migrate through the exclusive economic zone of another State, whether as juvenile or maturing fish, the management, including harvesting, of such fish shall be regulated by agreement between the State mentioned in paragraph 1 and the other State concerned. Such agreement shall ensure the rational management of the species and take into account the responsibilities of the State mentioned in paragraph 1 for the maintenance of these species.

Article 68

Sedentary Species

This Part does not apply to sedentary species as defined in article 77, paragraph 4.

Article 69

Right of Land-Locked States

1. Land-locked States shall have the right to participate, on an equitable basis, in the exploitation of an appropriate part of the surplus of the living resources of the exclusive economic zones of coastal States of the same subregion or region, taking into account the relevant economic and geographical circumstances of all the States concerned and in conformity with the provisions of this article and of articles 61 and 62.

2. The terms and modalities of such participation shall be established by the States concerned through bilateral, subregional or regional agreements taking into account, *inter alia*:

- (a) the need to avoid effects detrimental to fishing communities or fishing industries of the coastal State;
- (b) the extent to which the land-locked State, in accordance with the provisions of this article, is participating or is entitled to participate under existing bilateral, subregional or regional agreements in the exploitation of living resources of the exclusive economic zones of other coastal States;

- (c) the extent to which other land-locked States and geographically disadvantaged States are participating in the exploitation of the living resources of the exclusive economic zone of the coastal State and the consequent need to avoid a particular burden for any single coastal State or a part of it;
- (d) the nutritional needs of the populations of the respective States.

3. When the harvesting capacity of a coastal State approaches a point which would enable it to harvest the entire allowable catch of the living resources in its exclusive economic zone, the coastal State and other States concerned shall cooperate in the establishment of equitable arrangements on a bilateral, subregional or regional basis to allow for participation of developing land-locked States of the same subregion or region in the exploitation of the living resources of the exclusive economic zones of coastal States of the subregion or region, as may be appropriate in the circumstances and on terms satisfactory to all parties. In the implementation of this provision the factors mentioned in paragraph 2 shall also be taken into account.

4. Developed land-locked States shall, under the provisions of this article, be entitled to participate in the exploitation of living resources only in the exclusive economic zones of developed coastal States of the same subregion or region having regard to the extent to which the coastal State, in giving access to other States to the living resources of its exclusive economic zone, has taken into account the need to minimize detrimental effects on fishing communities and economic dislocation in States whose nationals have habitually fished in the zone.

5. The above provisions are without prejudice to arrangements agreed upon in subregions or regions where the coastal States may grant to land-locked States of the same subregion or region equal or preferential rights for the exploitation of the living resources in the exclusive economic zones.

Article 70

Right of Geographically Disadvantaged States

1. Geographically disadvantaged States shall have the right to participate, on an equitable basis, in the exploitation of an appropriate part of the surplus of the living resources of the exclusive economic zones of coastal States of the same subregion or region, taking into account the relevant economic and geographical circumstances of all the States concerned and in conformity with the provisions of this article and of articles 61 and 62.

2. For the purposes of this Part, "geographically disadvantaged States" means coastal States, including States bordering enclosed or semi-enclosed seas, whose geographical situation makes them dependent upon the exploitation of the living resources of the exclusive economic zones of other States in the subregion or region for adequate supplies of fish for the nutritional purposes of their populations or parts thereof, and coastal States which can claim no exclusive economic zones of their own.

3. The terms and modalities of such participation shall be established by the States concerned through bilateral, subregional or regional agreements taking into account, *inter alia*:

- (a) the need to avoid effects detrimental to fishing communities or fishing industries of the coastal State;
- (b) the extent to which the geographically disadvantaged State, in accordance with the provisions of this article, is participating or is entitled to participate under existing bilateral, subregional or regional agreements in the exploitation of living resources of the exclusive economic zones of other coastal States;
- (c) the extent to which other geographically disadvantaged States and land-locked States are participating in the exploitation of the living resources of the exclusive economic zone of the coastal State and the consequent need to avoid a particular burden for any single coastal State or a part of it;
- (d) the nutritional needs of the populations of the respective States.

4. When the harvesting capacity of a coastal State approaches a point which would enable it to harvest the entire allowable catch of the living resources in its exclusive economic zone, the coastal State and other States concerned shall cooperate in the establishment of equitable arrangements on a bilateral, subregional or regional basis to allow for participation of developing geographically disadvantaged States of the same subregion or region in the exploitation of the living resources of the exclusive economic zones of coastal States of the subregion or region, as may be appropriate in the circumstances and on terms satisfactory to all parties. In the implementation of this provision the factors mentioned in paragraph 3 shall also be taken into account.

5. Developed geographically disadvantaged States shall, under the provisions of this article, be entitled to participate in the exploitation of living resources only in the exclusive economic zones of developed coastal States of the same subregion or region having regard to the extent to which the coastal State, in giving access to other States to the living resources of its exclusive economic zone, has taken into account the need to minimize detrimental effects on fishing communities and economic dislocation in States whose nationals have habitually fished in the zone.

6. The above provisions are without prejudice to arrangements agreed upon in subregions or regions where the coastal States may grant to geographically disadvantaged States of the same subregion or region equal or preferential rights for the exploitation of the living resources in the exclusive economic zones.

Article 71

Non-Applicability of Articles 69 and 70

The provisions of articles 69 and 70 do not apply in the case of a coastal State whose economy is overwhelmingly dependent on the exploitation of the living resources of its exclusive economic zone.

Article 72

Restrictions on Transfer of Rights

1. Rights provided under articles 69 and 70 to exploit living resources shall not be directly or indirectly transferred to third States

or their nationals by lease or licence, by establishing joint ventures or in any other manner which has the effect of such transfer unless otherwise agreed by the States concerned.

2. The foregoing provision does not preclude the States concerned from obtaining technical or financial assistance from third States or international organizations in order to facilitate the exercise of the rights pursuant to articles 69 and 70, provided that it does not have the effect referred to in paragraph 1.

Article 73

Enforcement of Laws and Regulations of the Coastal State

1. The coastal State may, in the exercise of its sovereign rights to explore, exploit, conserve and manage the living resources in the exclusive economic zone, take such measures, including boarding, inspection, arrest and judicial proceedings, as may be necessary to ensure compliance with the laws and regulations adopted by it in conformity with this Convention.

2. Arrested vessels and their crews shall be promptly released upon the posting of reasonable bond or other security.

3. Coastal State penalties for violations of fisheries laws and regulations in the exclusive economic zone may not include imprisonment, in the absence of agreements to the contrary by the States concerned, or any other form of corporal punishment.

4. In cases of arrest or detention of foreign vessels the coastal State shall promptly notify the flag State, through appropriate channels, of the action taken and of any penalties subsequently imposed.

Article 74

Delimitation of the Exclusive Economic Zone between States with opposite or Adjacent Coasts

1. The delimitation of the exclusive economic zone between States with opposite or adjacent coasts shall be effected by agreement on the basis of international law, as referred to in Article 38 of the Statute of the International Court of Justice, in order to achieve an equitable solution.

2. If no agreement can be reached within a reasonable period of time, the States concerned shall resort to the procedures provided for in Part XV.

3. Pending agreement as provided for in paragraph 1, the States concerned, in a spirit of understanding and cooperation, shall make every effort to enter into provisional arrangements of a practical nature and, during this transitional period, not to jeopardize or hamper the reaching of the final agreement. Such arrangements shall be without prejudice to the final delimitation.

4. Where there is an agreement in force between the States concerned, questions relating to the delimitation of the exclusive economic zone shall be determined in accordance with the provisions of that agreement.

Article 75*Charts and Lists of Geographical Coordinates*

1. Subject to this Part, the outer limit lines of the exclusive economic zone and the lines of delimitation drawn in accordance with article 74 shall be shown on charts of a scale or scales adequate for ascertaining their position. Where appropriate, lists of geographical coordinates of points, specifying the geodetic datum, may be substituted for such outer limit lines or lines of delimitation.

2. The coastal State shall give due publicity to such charts or lists of geographical coordinates and shall deposit a copy of each such chart or list with the Secretary-General of the United Nations.

Section 44(2).

SCHEDULE 3**FUNCTIONS UNDER REGULATIONS WHICH ARE TRANSFERRED**

European Communities (Aquaculture Animals and Fish) (Placing on the Market and Control of Certain Diseases) Regulations 1996	(S.I. No. 253 of 1996)
European Communities (Trade in Fish) Regulations 1997	(S.I. No. 191 of 1997)
European Communities (Minimum measures for the control of certain diseases affecting bivalve molluscs) Regulations 1999	(S.I. No. 26 of 1999)
European Communities (Animal By-products) Regulations 2003	(S.I. No. 248 of 2003)
European Communities (Labelling of Fishery and Aquaculture Products) Regulations 2003	(S.I. No. 320 of 2003)
European Communities (Financing of Veterinary Inspections and Controls on Fish and Fishery Products at Approved Establishments and on Factory Vessels) Regulations 2003	(S.I. No. 544 of 2003)
European Communities (Financing of Veterinary Inspections and Controls on Fish and Fishery Products on Irish Fishing Vessels) Regulations 2003	(S.I. No. 545 of 2003)
European Communities (Financing of Veterinary Inspections and Controls on Fish and Fishery Products at Border Inspection Posts) Regulations 2003	(S.I. No. 546 of 2003)
European Communities (Financing of Veterinary Inspections and Controls on Fresh Fish landed by Third Country Vessels) Regulations 2003	(S.I. No. 547 of 2003)
European Communities (Veterinary Checks on Fish and Fishery Products Imported from Third Countries) Regulations 2003	(S.I. No. 548 of 2003)
European Communities (Common Organisation of Markets in Fishery and Aquaculture Products) (Financial Compensation for Withdrawal and Carry-over Aid) Regulations 2004	(S.I. No. 398 of 2004)

(b) Economic Exclusive Zone: list of coordinates in WGS84¹

Reference	Latitude	Longitude
1	55 24.951 N	6 44.101 W
2	55 30.451 N	6 42.101 W
3	55 35.451 N	6 41.601 W
4	55 37.951 N	6 40.601 W
5	55 39.951 N	6 43.101 W
6	55 47.951 N	6 54.602 W
7	55 50.451 N	6 58.602 W
8	55 54.952 N	7 04.602 W
9	55 57.952 N	7 12.603 W
10	56 07.951 N	7 44.604 W
11	56 23.951 N	8 34.106 W
12	56 34.951 N	9 00.107 W
13	56 37.951 N	9 18.107 W
14	57 14.921 N	12 59.843 W
15	57 10.912 N	13 05.641 W
16	57 06.820 N	13 11.228 W
17	57 04.032 N	13 18.894 W
18	57 01.134 N	13 26.411 W
19	56 58.126 N	13 33.772 W
20	56 55.01 1 N	13 40.972 W
21	56 51.791 N	13 48.006 W
22	56 48.469 N	13 54.870 W
23	56 45.048 N	14 01.560 W
24	56 41.530 N	14 08.070 W
25	56 37.917 N	14 14.398 W
26	56 34.213 N	14 20.539 W
27	56 30.420 N	14 26.489 W
28	56 26.541 N	14 32.245 W
29	56 22.579 N	14 37.804 W
30	56 18.537 N	14 43.163 W
31	56 14.418 N	14 48.31 9 W
32	56 10.225 N	14 53.268 W
33	56 05.960 N	14 58.010 W
34	56 01.628 N	15 02.541 W
35	55 57.230 N	15 6.860 W
36	55 52.873 N	15 11.691 W
37	55 48.445 N	15 16.303 W
38	55 43.948 N	15 20.695 W
39	55 39.388 N	15 24.864 W
40	55 34.765 N	15 28.808 W
41	55 30.086 N	15 32.526 W
42	55 25.351 N	15 36.018 W
43	55 20.566 N	15 39.280 W
44	55 15.733 N	15 42.313 W
45	55 10.857 N	15 45.116 W
46	55 05.939 N	15 47.688 W
47	55 00.985 N	15 50.029 W

¹ This list of geographical coordinates of points showing the outer limits of the exclusive economic zone of Ireland was deposited with the Secretary-General in accordance with article 75(2) of the United Nations Convention on the Law of the Sea, through a note verbale dated 25 August 2006, from the Permanent Mission of Ireland to the United Nations.

48	54 55.997 N	15 52.139 W
49	54 50.979 N	15 54.017 W
50	54 45.934 N	15 55.663 W
51	54 40.866 N	15 57.079 W
52	54 35.779 N	15 58.264 W
53	54 30.675 N	15 59.220 W
54	54 25.559 N	15 59.946 W
55	54 20.433 N	16 00.444 W
56	54 15.302 N	16 00.715 W
57	54 10.168 N	16 00.760 W
58	54 05.035 N	16 00.581 W
59	53 59.906 N	16 00.179 W
60	53 54.785 N	15 59.555 W
61	53 49.675 N	15 58.712 W
62	53 44.579 N	15 57.651 W
63	53 39.500 N	15 56.375 W
64	53 34.443 N	15 54.885 W
65	53 29.728 N	15 54.406 W
66	53 25.021 N	15 53.744 W
67	53 20.325 N	15 52.898 W
68	53 15.641 N	15 51.870 W
69	53 10.973 N	15 50.662 W
70	53 06.170 N	15 53.045 W
71	53 01.331 N	15 55.218 W
72	52 56.460 N	15 57.182 W
73	52 51.561 N	15 58.936 W
74	52 46.636 N	16 00.480 W
75	52 41.689 N	16 01.815 W
76	52 36.722 N	16 02.941 W
77	52 31.740 N	16 03.857 W
78	52 26.746 N	16 04.566 W
79	52 21.742 N	16 05.067 W
80	52 16.732 N	16 05.362 W
81	52 11.718 N	16 05.451 W
82	52 06.705 N	16 05.335 W
83	52 01.577 N	16 05.144 W
84	51 56.453 N	16 04.741 W
85	51 51.337 N	16 04.127 W
86	51 46.232 N	16 03.305 W
87	51 41.142 N	16 02.275 W
88	51 36.070 N	16 01.039 W
89	51 31.018 N	15 59.600 W
90	51 25.991 N	15 57.959 W
91	51 20.992 N	15 56.119 W
92	51 16.023 N	15 54.082 W
93	51 11.087 N	15 51.849 W
94	51 06.188 N	15 49.425 W
95	51 01.329 N	15 46.810 W
96	50 56.513 N	15 44.008 W
97	50 51.742 N	15 41.021 W
98	50 47.020 N	15 37.852 W
99	50 42.350 N	15 34.504 W
100	50 37.639 N	15 31.633 W
101	50 32.974 N	15 28.586 W
102	50 28.358 N	15 25.366 W
103	50 23.794 N	15 21.974 W

104	50 19.285 N	15 18.414 W
105	50 14.832 N	15 14.689 W
106	50 10.439 N	15 10.801 W
107	50 06.108 N	15 06.753 W
108	50 01.841 N	15 02.550 W
109	49 57.641 N	14 58.192 W
110	49 53.511 N	14 53.685 W
111	49 49.452 N	14 49.030 W
112	49 45.468 N	14 44.231 W
113	49 41.559 N	14 39.291 W
114	49 37.730 N	14 34.214 W
115	49 33.980 N	14 29.003 W
116	49 30.313 N	14 23.662 W
117	49 26.731 N	14 18.193 W
118	49 23.120 N	14 13.153 W
119	49 19.586 N	14 07.992 W
120	49 16.131 N	14 02.713 W
121	49 12.757 N	13 57.319 W
122	49 09.467 N	13 51.813 W
123	49 06.261 N	13 46.198 W
124	49 03.141 N	13 40.477 W
125	49 00.108 N	13 34.654 W
126	48 57.166 N	13 28.732 W
127	48 54.314 N	13 22.713 W
128	48 51.554 N	13 16.603 W
129	48 48.888 N	13 10.403 W
130	48 46.317 N	13 04.117 W
131	48 43.842 N	12 57.748 W
132	48 41.465 N	12 51.300 W
133	48 39.186 N	12 44.776 W
134	48 37.069 N	12 38.584 W
135	48 35.042 N	12 32.327 W
136	48 33.105 N	12 26.010 W
137	48 31.260 N	12 19.635 W
138	48 29.507 N	12 13.205 W
139	48 27.847 N	12 06.723 W
140	48 25.694 N	11 59.717 W
141	48 23.653 N	11 52.639 W
142	48 21.727 N	11 45.494 W
143	48 19.916 N	11 38.287 W
144	48 18.222 N	11 31.019 W
145	48 16.644 N	11 23.697 W
146	48 15.185 N	11 16.324 W
147	48 13.844 N	11 08.903 W
148	48 12.623 N	11 01.440 W
149	48 11.523 N	10 53.937 W
150	48 10.543 N	10 46.400 W
151	48 09.684 N	10 38.832 W
152	48 08.948 N	10 31.237 W
153	48 08.333 N	10 23.620 W
154	48 07.549 N	10 16.085 W
155	48 06.886 N	10 08.526 W
156	48 06.343 N	10 00.946 W
157	48 05.922 N	9 53.351 W
158	48 16.436 N	9 43.590 W
159	48 49.937 N	9 18.090 W

160	49 33.939 N	8 38.591 W
161	49 52.939 N	8 20.591 W
162	50 01.940 N	8 11.091 W
163	50 10.940 N	8 00.091 W
164	50 19.441 N	7 48.591 W
165	50 38.942 N	7 23.091 W
166	50 45.442 N	7 15.091 W
167	50 57.942 N	6 53.091 W
168	51 02.943 N	6 42.091 W
169	51 04.443 N	6 35.591 W
170	51 18.943 N	6 27.091 W
171	51 20.943 N	6 25.091 W
172	51 38.444 N	6 08.092 W
173	51 53.945 N	5 55.592 W
174	52 06.445 N	5 47.592 W
175	52 18.446 N	5 37.092 W
176	52 28.946 N	5 23.092 W
177	52 33.946 N	5 25.593 W
178	52 38.947 N	5 26.093 W
179	52 45.447 N	5 25.093 W
180	52 48.447 N	5 24.593 W
181	52 57.947 N	5 21.093 W
182	53 08.448 N	5 17.594 W
183	53 14.948 N	5 19.594 W
184	53 20.448 N	5 18.594 W
185	53 31.948 N	5 19.095 W
186	53 44.449 N	5 14.595 W
187	53 46.449 N	5 32.595 W
188	53 47.448 N	5 41.096 W
189	53 49.948 N	5 51.096 W
190	53 50.948 N	5 52.596 W

4. The Netherlands¹Kingdom Act of 28 April 2005 (Contiguous Zone (Establishment) Act)
and Decree of 14 June 2006 (Contiguous Zone (Outer Limits) Decree)Kingdom Act of 28 April 2005 establishing a contiguous zone for the Kingdom
(Contiguous Zone (Establishment) Act)

We, Beatrix, by the grace of God Queen of the Netherlands, Princess of Orange-Nassau, etc., etc., etc.
Greetings to all who see or hear these presents! Be it known:

Whereas We have considered that, mainly in order to prevent the infringement of regulations governing customs, taxation, immigration, public health or historic objects, and to punish any such infringements as do occur, it is desirable to extend the Kingdom's jurisdiction and, to that end, to establish a contiguous zone;

We, therefore, having heard the Council of State of the Kingdom, and in consultation with the States General, taking into account the provisions of the Charter for the Kingdom, have approved and decreed as We hereby approve and decree:

Section 1

1. The Kingdom has a contiguous zone.
2. The contiguous zone of the Kingdom is the territory beyond and adjacent to the territorial sea of the Kingdom, extending no further than 24 nautical miles from the baselines from which the breadth of the territorial sea is measured.

Section 2

The outer limits of the contiguous zone will be determined by Royal Decree for the Kingdom.

Section 3

This Act will enter into force on a date to be determined by Royal Decree, which may differ for each of the countries of the Kingdom.

Section 4

This Act may be cited as: Contiguous Zone (Establishment) Act.

We order and command that this Act be published in the Bulletin of Acts and Decrees, the Official Bulletin of the Netherlands Antilles and the Official Bulletin of Aruba, and that all ministries, authorities, bodies and officials whom it may concern diligently implement it.

Done at The Hague on 28 April 2005

Beatrix

B.R. Bot

Minister of Foreign Affairs

Published on the second of August 2005

M.C.F. Verdonk Minister of Justice (interim)

Decree of 14 June 2006 implementing sections 2 and 3 of the Contiguous Zone (Establishment) Act
(Contiguous Zone (Outer Limits) Decree)

We Beatrix, by the grace of God Queen of the Netherlands, Princess of Orange-Nassau, etc., etc., etc.
On the recommendation of Our Minister of Foreign Affairs of 5 January 2006, no. DJZ/IR 2005/246;
Having regard to sections 2 and 4 of the Contiguous Zone (Establishment) Act;

¹ Bulletin of Acts and Decrees of the Kingdom of the Netherlands, 2005, 387. Text transmitted through a note verbale dated 14 November 2006 from the Permanent Mission of the Kingdom of the Netherlands to the United Nations to the Division for Ocean Affairs and the Law of the Sea, Office of Legal Affairs, of the United Nations.

Having heard the Council of State (advisory opinion no. W.02.06.0002/II/k);
 Having seen the further report of Our Minister of Foreign Affairs of 25 May 2006, no. DJZ/IR 2006/46;
 Taking into account the provisions of the Charter for the Kingdom of the Netherlands;
 Have approved and decreed:

Article 1

Without prejudice to article 2, the outer limits of the contiguous zone of the Kingdom are formed by the line each point of which lies at a distance of 24 international nautical miles (i.e. 44 kilometres and 448 metres) measured seawards from the baselines from which the breadth of the territorial sea is measured.

Article 2

1. Wherever a boundary line has been agreed with other States which lies entirely or partially landwards of the line referred to in article 1, this boundary line is the outer limit of the contiguous zone.
2. If no boundary line has been agreed with other States, the outer limit of the contiguous zone are the median line, each point of which is equidistant from the nearest point of the baseline from which the breadth of the territorial sea of each of the two States is measured.

Article 3

1. The Contiguous Zone (Establishment) Act will enter into force with effect from the date of the entry into force of this Decree.
2. This Decree will enter into force with effect from the first day of the second calendar month after the date of publication of the Bulletin of Acts and Decrees in which it appears.

Article 4

This Decree may be cited as: Contiguous Zone (Outer Limits) Decree.

We order and command that this Decree and the explanatory memorandum pertaining to it be published in the Bulletin of Acts and Decrees, the Official Bulletin of the Netherlands Antilles and the Official Bulletin of Aruba.

The Hague, 14 June 2006

Beatrix

B. R. Bot

Minister of Foreign Affairs

Published on the twentieth of July 2006

J.P.H. Donner Minister of Justice

Decree of 14 June 2006, implementing sections 2 and 3 of the Contiguous Zone (Establishment) Act
(Contiguous Zone (Outer Limits) Decree)
Explanatory Memorandum

GENERAL

This Decree provides for the establishment of the outer limit of the contiguous zone and the entry into force of the Contiguous Zone (Establishment) Act for the Netherlands, Aruba and the Netherlands Antilles. It implements sections 2 and 3 of the Act.

The Contiguous Zone (Establishment) Act seeks to fulfil the desire of all countries of the Kingdom to make optimal use of the powers granted to coastal states under international law, including the United Nations Convention on the Law of the Sea, and its annexes, signed at Montego Bay on 10 December 1982 (Dutch Treaty Series 1983, 83; 'UNCLOS'). Article 33 of UNCLOS grants the coastal state the right to exercise necessary control in a limited maritime zone bordering its territorial sea (contiguous zone), in order to (a) prevent infringement of its customs, fiscal, immigration or sanitary law and regulations within its territory or territorial sea and (b) punish infringement of the above laws and regulations committed within its territory or territorial sea. Furthermore, article 303 (2) of UNCLOS grants the coastal state the right to take measures to protect 'objects of an archaeological and historical nature found at sea' in the contiguous zone.

The Act provides solely for the establishment of the contiguous zone. As such, the entry into force of the Act does not entail an intensification of the enforcement of or an extension of the territorial effect of legislation

relating to objects of an archaeological or historical nature. This will require the relevant legislation in the Netherlands, the Netherlands Antilles and Aruba to be amended. If it is decided to use the establishment of the contiguous zone for customs, taxation, immigration or public health, the applicable laws and regulations in those areas will have to be amended to create the power to apply them in that zone. If it is decided to use the establishment of the contiguous zone for objects of a historical or archaeological nature, the territorial scope of the relevant legislation will have to be extended. The reader is referred to the explanatory memorandum accompanying the Bill establishing a contiguous zone for the Kingdom (Parliamentary Papers, House of Representatives, 2003/04, 29 533, no. 3, p. 5).

In the case of the Netherlands, the second memorandum of amendment to the Bill amending the Monuments and Historic Buildings Act 1988 and a number of other Acts relating to conservation of objects of archaeological interest proposes extending the territorial scope of the Monuments and Historic Buildings Act 1988 to the contiguous zone of the Netherlands, partly in connection with the implementation of the Valletta Convention (Archaeological Heritage (Protection) Act) (Parliamentary Papers, House of Representatives, 2005/06, 29259, no. 17). In order to excavate objects of this type -whether submerged or not -the Bill requires an excavation permit. Suspected objects of archaeological interest, whether found by chance or 'observed' in the context of exploration, must be reported to the Dutch Minister of Education, Culture and Science. The regulations concerned will also apply in the Netherlands' contiguous zone. Infringement of the statutory ban on excavations or the requirement to report any 'chance discovery' is a criminal offence. Extending the excavation ban and the reporting requirement to the contiguous zone is plainly advisable. Particularly in the summer months, an increasing number of unregulated activities are being organised from Dutch seaports, which have led to the discovery, examination or careless degradation of submerged objects of cultural heritage. Until this point it has not been possible to regulate such activities or take action against undesirable treasure hunting beyond territorial waters.

In the case of the Netherlands, the Ministry of Finance is preparing legislation that will lead to an overhaul of current customs legislation in order to address developments affecting customs and shortcomings identified in the current legislation. Under the Bill in question, the geographical scope of the revised customs legislation will, *inter alia*, be extended to the Dutch contiguous zone.

In the case of the Netherlands Antilles, the Council of Ministers of the Netherlands Antilles agreed to a draft national ordinance on maritime management on 21 September 2005. This draft includes provisions implementing article 303 (2) of UNCLOS concerning the protection of underwater cultural heritage in the contiguous zone of the Netherlands Antilles. For the policy areas of customs, taxation, immigration and public health, the necessary amendments to existing legislation are still in preparation.

Except where otherwise noted above, for the present, the countries of the Kingdom are not preparing any legislation that would authorise the use of the power to exercise jurisdiction in the Kingdom's contiguous zone.

Article 33 of UNCLOS sets the maximum size of the contiguous zone. Pursuant to paragraph 1, its boundary is formed on the coastal side by the outer limit of the territorial sea. This boundary is calculated from the baselines from which the breadth of the territorial sea is measured (see the explanatory note to article 1 of this Decree). Pursuant to paragraph 2, a contiguous zone may not extend beyond 24 nautical miles from these baselines (see also section 1 (2) of the Contiguous Zone (Establishment) Act).

The Kingdom's contiguous zone is described in the next section of this memorandum and indicated on the appended charts, which depict the situation at the time this Decree was drafted. A change in the baselines, perhaps caused by geological developments, can be indicated on official charts without necessitating an amendment to the relevant legislation.

ARTICLE-BY-ARTICLE EXPLANATION

Article 1

This article establishes the outer limit of the Kingdom's contiguous zone. As far as possible, the contiguous zone will have the maximum size allowable under UNCLOS and section 1 (2) of the Contiguous Zone (Establishment) Act. The states whose baselines lie opposite those of the Kingdom at a minimum distance of over 48 nautical miles do not border the Kingdom's contiguous zone. The states in question are: the Dominican Republic opposite Aruba and the Netherlands Antilles (Curaçao), Venezuela (Aves Island) opposite the Netherlands Antilles (Saba and Sint Eustatius), Venezuela (mainland) opposite the Netherlands Antilles (part of Bonaire), the United Kingdom (Anguilla) opposite the Netherlands Antilles (Saba), the United Kingdom (England) opposite the Netherlands, and the United States (US Virgin Islands (Saint Croix)) opposite the Netherlands Antilles (Saba). The

maximum size is not attained in maritime zones where other states have a right or a title to a right derived from UNCLOS or bilateral treaties (see also the explanation of article 2).

The baselines from which the breadth of the territorial sea is measured are established for the Netherlands by section 1 (1) of the Dutch Territorial Sea (Limits) Act, and for Aruba and the Netherlands Antilles by article 1 of the Decree of 23 October 1985, implementing section 1 of the Territorial Sea of the Kingdom (Extension in the Netherlands Antilles) Act (Bulletin of Acts and Decrees 559). For the Netherlands the baselines are the low-water line along the coast (normal baseline) or the edge of the low-tide elevations which lie seawards of that (seaward low-water line of the low-tide elevation). For Aruba and the Netherlands Antilles these are the same lines, or the straight baselines or the closing lines of bays which are drawn seawards of that. The low-water line is the zero-metre isobath, as indicated on official charts or, where these isobaths are absent, the coastline or the edge of the drying reefs (seaward low-water line of the reef).

Article 2

This article establishes the outer limit of the Kingdom's contiguous zone in relation to maritime zones where other States have a right or a title to a right derived from UNCLOS or another treaty. If a treaty establishing sea borders has been concluded with another state, the borderline agreed in that document is the outer limit of the contiguous zone (paragraph 1). If a treaty on establishing sea borders has not yet been concluded with another State, the outer limit is unilaterally established in this Decree on the basis of equidistance (paragraph 2). This applies to both (a) States whose baselines lie opposite those of the Kingdom at a distance of 48 nautical miles or less and (b) States whose baselines border those of the Kingdom.

The States whose baselines lie opposite those of the Kingdom at a minimum distance of less than 48 nautical miles border the Kingdom's contiguous zone up to a distance of less than 24 nautical miles from the baselines. The States in question are: France (Departement Guadeloupe (Saint Barthelemy)) opposite the Netherlands Antilles (Saba, Sint Eustatius and Sint Maarten), Saint Kitts and Nevis (Saint Kitts) opposite the Netherlands Antilles (Sint Eustatius), and Venezuela opposite Aruba and the Netherlands Antilles (Bonaire and Curaçao). The baselines of these States lie, in part, at a distance of less than 24 nautical miles from the baselines of the Kingdom. This applies to the baselines of Aruba and the Netherlands Antilles (Sint Eustatius and Sint Maarten). In these cases the Kingdom makes no claim to a contiguous zone, but exclusively to a territorial sea. The outer limit of the territorial sea is, in those instances, established in article 5 of the Decree of 23 October 1985, implementing section 1 of the Territorial Sea of the Kingdom (Extension in the Netherlands Antilles) Act (Bulletin of Acts and Decrees 559).

The boundary between the Kingdom (Aruba and the Netherlands Antilles (Bonaire and Curaçao)) and Venezuela is established in article 2 of the Boundary Delimitation Treaty between the Kingdom of the Netherlands and the Republic of Venezuela, signed in Willemstad on 31 March 1978 (Dutch Treaty Series 1978, 61). The Treaty applies to all sea borders which the Parties have set or could set in accordance with international law (article 1 (1)). The boundary line established in the Treaty therefore also applies to the boundary of the contiguous zone. Article 2 (1) of the Decree applies. From Curaçao the minimum distance to the boundary line established in the Treaty is less than 24 nautical miles, but more than 12 nautical miles at all points. From Aruba the minimum distance to the boundary line established in the Treaty is less than 12 nautical miles at some points and more at others, but less than 24 nautical miles at all points. From Bonaire the minimum distance to the boundary line is less than 12 nautical miles at some points, more than 24 nautical miles at other points, while at still other points it lies between 12 and 24 nautical miles. The Kingdom has a contiguous zone which is delimited by the outer limit of the territorial sea, the boundary line established in the Treaty, in so far as the distance to the boundary line is less than 24 nautical miles, and article 1 of this Decree (see annexe 1).

A boundary line between the Kingdom (the Netherlands Antilles (Saba, Sint Eustatius and Sint Maarten)) and France (Departement Guadeloupe (Saint Barthelemy and Saint Martin)) has not yet been established by treaty. Article 2 (2) of the Decree applies. The minimum distance from Saba and Sint Eustatius is more than 12 nautical miles for three parts of the median line; from Sint Maarten the minimal distance to this line is less than 12 nautical miles at all points. The Kingdom has a contiguous zone bordered by the outer limit of the territorial sea and this line (see annexe 2). The easternmost part of this line is also bordered by the median line with respect to Saint Kitts and Nevis (Saint Kitts). The westernmost part of this line is also delimited by article 1 of this Decree and the median line with respect to Saint Kitts and Nevis (Saint Kitts).

A boundary line between the Kingdom (the Netherlands Antilles (Sint Eustatius) and Saint Kitts and Nevis (Saint Kitts)) has not yet been established by treaty. Article 2 (2) of the Decree applies. The minimum distance from Sint Eustatius to the median line is more than 12 nautical miles for the two outermost parts of this line. The

Kingdom has a contiguous zone which is bordered by the outer limit of the territorial sea and this line (see annexe 2). The northernmost section of this line, which was described in the previous paragraph, is also bordered by the median line with respect to France (Departement Guadeloupe (Saint Barthelemy)). The southernmost section of this line, which was also described in the previous paragraph, is also delimited by article 1 of this Decree and the median line with respect to France (Departement Guadeloupe (Saint Martin)).

The States whose baselines border on those of the Kingdom are Belgium, Germany and France (Departement Guadeloupe (Saint Martin)). Treaties have been signed with Belgium and Germany which are relevant for establishing the outer limits of the Kingdom's contiguous zone. These are the Treaty between the Kingdoms of the Netherlands and Belgium on the Delimitation of the Continental Shelf, signed in Brussels on 18 December 1996 (Dutch Treaty Series 1997, 15), and the Treaty between the Kingdom of the Netherlands and the Federal Republic of Germany concerning the Lateral Delimitation of the Continental Shelf in the Vicinity of the Coast, signed in Bonn on 1 December 1964 (Dutch Treaty Series 1964, 184). These Treaties establish the boundary lines between the respective continental shelves (article 1). The boundary line set in the Treaty with Belgium also functions as the boundary line between the respective exclusive economic zones (article 2). The boundary with Germany established in the Treaty is also regarded by the Kingdom as the boundary between the respective economic zones; see the explanatory memorandum to the Exclusive Economic Zone of the Netherlands (Outer Limits) Decree (Bulletin of Acts and Decrees 2000, 167, p. 5). The above Treaties are thus not applicable to the contiguous zone, as such. Article 2 (1) of this Decree seeks, in part, to stipulate unilaterally that the boundary lines established in these Treaties also function as the outer limit of the Kingdom's contiguous zone. The Kingdom has a contiguous zone which is bordered by the outer limit of the territorial sea and the line referred to in article 1 of this Decree, in so far as this line does not extend beyond the boundary lines agreed with Belgium and Germany in the above Treaties (see annexe 3).

A boundary line between the Kingdom (the Netherlands Antilles (Sint Maarten)) and France (Departement Guadeloupe (Saint Martin)) has not yet been established by treaty. Article 2 (2) of the Decree applies. The Kingdom has a contiguous zone which is delimited laterally by the western part of the median line with France (Departement Guadeloupe (Saint Martin)) (see annexe 2). This zone, which is described above, is also delimited by article 1 of this Decree, the median line with respect to Saint Kitts and Nevis (Saint Kitts) and the median line between Saba and France (Departement Guadeloupe (Saint Martin)).

Establishing a contiguous zone and determining its outer limit is a kingdom affair, but the internal sea border between Curacao and Aruba is important in connection with determining the territorial application of these countries' ordinances that relate to article 303 (2) of UNCLOS. The boundary line between Curaçao and Aruba is set by the Kingdom Act of 12 December 1985 establishing a sea border between the Netherlands Antilles and Aruba (Bulletin of Acts and Decrees 664). This internal border divides the contiguous zone between the Netherlands Antilles (Curaçao) and Aruba in two. The relevance of this sea border does not extend to the competences derived from article 33 of UNCLOS, because the Coast Guard of the Netherlands Antilles and Aruba is competent on both sides of the sea border.

Bernard Bot
Minister of Foreign Affairs

III. OTHER INFORMATION

Communications from States: Cyprus¹Ref.: 24.11.012.042

The Permanent Mission of the Republic of Cyprus to the United Nations presents its compliments to the Secretary-General of the United Nations and has the honour to communicate the following:

The note verbale, dated 4 of October 2005, from the Permanent Mission of Turkey to the United Nations addressed to the Secretary-General of the United Nations, concerning the Statement of Position by the Republic of Cyprus on Turkey's objection to the Agreement between the Republic of Cyprus and the Arab Republic of Egypt, has recently been published in the Law of the Sea Bulletin No. 59, page 34.

The Republic of Cyprus has examined the Turkish note verbale and observes that the latter fails to address issues of fact and law and above all falls short of complying with international legality, thus rendering the content of the note verbale with no legal effect.

The Republic of Cyprus rejects the reference to "Greek Cypriot Authorities" and reminds that the sole legitimate Government on the island of Cyprus is the Government of the Republic of Cyprus. This is the firm position held by the entire international community, with the sole exception of Turkey and endorsed by numerous instruments of Public International Law and European Law, amongst which United Nations' Security Council Resolutions 541 (1983) and 550 (1984).

It should not be disregarded that Turkey is one of the guarantors of the Republic of Cyprus' independence, territorial integrity and security, as well as its constitutional order and not the guarantor of any secessionist "authority". Such a misuse of her international treaty obligations, raises serious doubts as to the commitment of the Government of Turkey to implement and fully respect other international commitments, including, for example, her obligations vis-à-vis the European Union or a possible future agreed solution of the Cyprus problem.

The Republic of Cyprus reaffirms the content of its previous Statement of Position as regards matters pertaining to the Law of the Sea and the Agreement on the Delimitation on the Exclusive Economic Zone between the Republic of Cyprus and the Arab Republic of Egypt.

The Republic of Cyprus agrees with the following position by Turkey: "Furthermore, according to one of the general principles of international law of the sea, States bordering an enclosed or semi-enclosed sea, such as the Mediterranean Sea, are under an obligation to cooperate with each other in the exercise of their rights and in the performance of their duties".

The Republic of Cyprus infers from this statement that Turkey concurs with the rest of the international community in recognizing the Republic of Cyprus as a State under established norms of Public International Law and expects that Turkey will engage constructively in bilateral consultations in order to reach an analogous agreement of delimitation with the legitimate Government of the Republic of Cyprus.

Nevertheless, Turkey's statement contradicts her actions since she continues to illegally occupy a sizeable part of the maritime zones of the Republic of Cyprus and prevents the latter from exercising effective control over a part of its sovereign territory. It is incumbent upon Turkey to abide by peremptory norms of international law and align itself with law-respecting States of the United Nations.

The Permanent Mission of the Republic of Cyprus would highly appreciate it if the Secretary-General of the United Nations would circulate this note to all United Nations Member States and publish it in the next edition of the Law of the Sea Bulletin.

The Permanent Mission of the Republic of Cyprus avails itself of this opportunity to renew to the Secretary-General of the United Nations the assurances of its highest consideration.

¹ Note verbale dated 19 October 2006 from the Permanent Mission of the Republic of Cyprus to the United Nations addressed to the Secretary-General of the United Nations.