

Bulletin No. 91

Law of the Sea



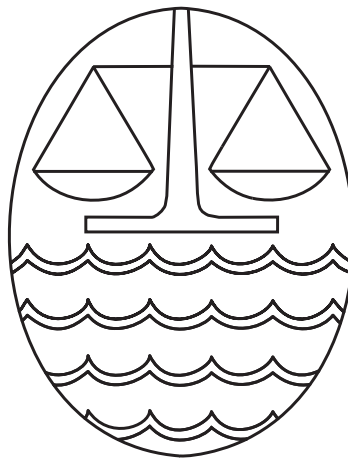
*Division for Ocean Affairs
and the Law of the Sea
Office of Legal Affairs*



United Nations

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Office of Legal Affairs

Law *of the Sea*



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I. UNITED NATIONS CONVENTION ON THE LAW OF THE SEA

STATUS OF THE UNITED NATIONS CONVENTION ON THE LAW OF THE SEA, OF THE AGREEMENT RELATING TO THE IMPLEMENTATION OF PART XI OF THE CONVENTION AND OF THE AGREEMENT FOR THE IMPLEMENTATION OF THE PROVISIONS OF THE CONVENTION RELATING TO THE CONSERVATION AND MANAGEMENT OF STRADDLING FISH STOCKS AND HIGHLY MIGRATORY FISH STOCKS¹

1. Table recapitulating the status of the Convention and of the related Agreements, as at 31 July 2016

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

The symbol □ indicates (i) that a declaration or statement was made at the time of signature; at the time of ratification/accession or anytime thereafter, or (ii) declarations confirmed upon succession.

A double icon □□ indicates that two declarations were made by the State. The abbreviation (fc) indicates a formal confirmation; (a) an accession; (s) a succession; (ds) a definitive signature; (p) the consent to be bound; (sp) a simplified procedure. Names of States in italics indicate non-members of the United Nations; shaded rows indicate landlocked States.

State or entity	United Nations Convention on the Law of the Sea (in force as from 16/11/1994)			Agreement relating to the implementation of Part XI of the Convention (in force as from 28/07/1996)		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 11/12/2001)		
	Signature dd/mm/yy	Ratification/ accession; dd/mm/yy	Declaration	Signature dd/mm/yy	Ratification/ accession; dd/mm/yy	Signature dd/mm/yy	Ratification/ accession; dd/mm/yy	Declaration
TOTALS	157	168		79	149	59	83	
Afghanistan	18/03/83							
Albania		23/06/03(a)			23/06/03(p)			
Algeria	10/12/82□	11/06/96	□	29/07/94	11/06/96(p)			

¹ Source: Chapter XXI of the publication entitled *Multilateral Treaties Deposited with the Secretary-General*, available from <https://treaties.un.org>, under “Status of Treaties Deposited with the Secretary-General”. In accordance with Article 308, paragraphs 1 and 2, of the Convention:

1. This Convention shall enter into force 12 months after the date of deposit of the sixtieth instrument of ratification or accession.
2. For each State ratifying or acceding to this Convention after the deposit of the sixtieth instrument of ratification or accession, the Convention shall enter into force on the thirtieth day following the deposit of its instrument of ratification or accession, subject to paragraph 1.

State or entity	United Nations Convention on the Law of the Sea (in force as from 16/11/1994)			Agreement relating to the implementation of Part XI of the Convention (in force as from 28/07/1996)		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 11/12/2001)		
	Signature dd/mm/yy	Ratification/ accession; dd/mm/yy	Declaration	Signature dd/mm/yy	Ratification/ accession; dd/mm/yy	Signature dd/mm/yy	Ratification/ accession; dd/mm/yy	Declaration
Andorra								
Angola	10/12/82	05/12/90			07/09/10(a)			
Antigua and Barbuda	07/02/83	02/02/89			03/05/16(a)			
Argentina	05/10/84	01/12/95		29/07/94	01/12/95	04/12/95		
Armenia		09/12/02(a)			09/12/02(a)			
Australia	10/12/82	05/10/94		29/07/94	05/10/94	04/12/95	23/12/99	
Austria	10/12/82	14/07/95		29/07/94	14/07/95	27/06/96	19/12/03	
Azerbaijan		16/06/16(a)			16/06/16(a)			
Bahamas	10/12/82	29/07/83		29/07/94	28/07/95(sp)		16/01/97(a)	
Bahrain	10/12/82	30/05/85						
Bangladesh	10/12/82	27/07/01			27/07/01(a)	04/12/95	05/11/12	
Barbados	10/12/82	12/10/93		15/11/94	28/07/95(sp)		22/09/00(a)	
Belarus	10/12/82	30/08/06			30/08/06(a)			
Belgium	05/12/84	13/11/98		29/07/94	13/11/98(p)	03/10/96	19/12/03	
Belize	10/12/82	13/08/83			21/10/94(ds)	04/12/95	14/07/05	
Benin	30/08/83	16/10/97			16/10/97(p)			
Bhutan	10/12/82							
Bolivia (Plurinational State of)	27/11/84	28/04/95			28/04/95(p)			
Bosnia and Herzegovina		12/01/94(s)						
Botswana	05/12/84	02/05/90			31/01/05(a)			
Brazil	10/12/82	22/12/88		29/07/94	25/10/07	04/12/95	08/03/00	
Brunei Darussalam	05/12/84	05/11/96			05/11/96(p)			
Bulgaria	10/12/82	15/05/96			15/05/96(a)		13/12/06(a)	
Burkina Faso	10/12/82	25/01/05		30/11/94	25/01/05(p)	15/10/96		
Burundi	10/12/82							

Cabo Verde	10/12/82	10/08/87		29/07/94	23/04/08			
Cambodia	01/07/83							
Cameroon	10/12/82	19/11/85		24/05/95	28/08/02			
Canada	10/12/82	07/11/03		29/07/94	07/11/03	04/12/95	03/08/99	
Central African Republic	04/12/84							
Chad	10/12/82	14/08/09			14/08/09(p)			
Chile	10/12/82	25/08/97			25/08/97(a)		11/02/16(a)	
China	10/12/82	07/06/96		29/07/94	07/06/96(p)	06/11/96		
Colombia	10/12/82							
Comoros	06/12/84	21/06/94						
Congo	10/12/82	09/07/08			09/07/08(p)			
<i>Cook Islands</i>	10/12/82	15/02/95			15/02/95(a)		01/04/99(a)	
Costa Rica	10/12/82	21/09/92			20/09/01(a)		18/06/01(a)	
Côte d'Ivoire	10/12/82	26/03/84		25/11/94	28/07/95(sp)	24/01/96		
Croatia		05/04/95(s)			05/04/95(p)		10/09/13(a)	
Cuba	10/12/82	15/08/84			17/10/02(a)			
Cyprus	10/12/82	12/12/88		01/11/94	27/07/95		25/09/02(a)	
Czech Republic	22/02/93	21/06/96		16/11/94	21/06/96		19/03/07(a)	
Democratic People's Republic of Korea	10/12/82							
Democratic Republic of the Congo	22/08/83	17/02/89						
Denmark	10/12/82	16/11/04		29/07/94	16/11/04	27/06/96	19/12/03	
Djibouti	10/12/82	08/10/91						
Dominica	28/03/83	24/10/91						
Dominican Republic	10/12/82	10/07/09			10/07/09(p)			
Ecuador		24/09/12(a)			24/09/12(p)			
Egypt	10/12/82	26/08/83		22/03/95		05/12/95		
El Salvador	05/12/84							
Equatorial Guinea	30/01/84	21/07/97			21/07/97(p)			
Eritrea								

State or entity	United Nations Convention on the Law of the Sea (in force as from 16/11/1994)			Agreement relating to the implementation of Part XI of the Convention (in force as from 28/07/1996)		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 11/12/2001)		
	Signature dd/mm/yy	Ratification/ accession; dd/mm/yy	Declaration	Signature dd/mm/yy	Ratification/ accession; dd/mm/yy	Signature dd/mm/yy	Ratification/ accession; dd/mm/yy	Declaration
Estonia		26/08/05(a)	☐		26/08/05(a)		07/08/06(a)	☐
Ethiopia	10/12/82							
European Union	07/12/84☐	01/04/98(fc)	☐	29/07/94	01/04/98(fc)	27/06/96☐	19/12/03	☐
Fiji	10/12/82	10/12/82		29/07/94	28/07/95	04/12/95	12/12/96	
Finland	10/12/82☐	21/06/96	☐	29/07/94	21/06/96	27/06/96	19/12/03	☐
France	10/12/82☐	11/04/96	☐	29/07/94	11/04/96	04/12/96☐	19/12/03	☐
Gabon	10/12/82	11/03/98	☐	04/04/95	11/03/98(p)	07/10/96		
Gambia	10/12/82	22/05/84						
Georgia		21/03/96(a)			21/03/96(p)			
Germany		14/10/94(a)	☐	29/07/94	14/10/94	28/08/96	19/12/03	☐
Ghana	10/12/82	7/06/83	☐	16/11/94				
Greece	10/12/82☐	21/07/95	☐	29/07/94	21/07/95	27/06/96	19/12/03	☐
Grenada	10/12/82	25/04/91		14/11/94	28/07/95(sp)			
Guatemala	08/07/83	11/02/97	☐		11/02/97(p)			
Guinea	04/10/84☐	06/09/85		26/08/94	28/07/95(sp)		16/09/05(a)	
Guinea Bissau	10/12/82	25/08/86	☐			04/12/95		
Guyana	10/12/82	16/11/93			25/09/08(a)			
Haiti	10/12/82	31/07/96			31/07/96(p)			
Holy See								
Honduras	10/12/82	05/10/93	☐		28/07/03(a)			
Hungary	10/12/82	05/02/02	☐		05/02/02(a)		16/05/08(a)	☐
Iceland	10/12/82	21/06/85	☐	29/07/94	28/07/95(sp)	04/12/95	14/02/97	
India	10/12/82	29/06/95	☐	29/07/94	29/06/95		19/08/03(a)	☐
Indonesia	10/12/82	03/02/86		29/07/94	02/06/00	04/12/95	28/09/09	
Iran (Islamic Republic of)	10/12/82☐						17/04/98(a)	

Iraq	10/12/82	30/07/85						
Ireland	10/12/82	21/06/96		29/07/94	21/06/96	27/06/96	19/12/03	
Israel						04/12/95		
Italy	07/12/84	13/01/95		29/07/94	13/01/95	27/06/96	19/12/03	
Jamaica	10/12/82	21/03/83		29/07/94	28/07/95(sp)	04/12/95		
Japan	07/02/83	20/06/96		29/07/94	20/06/96	19/11/96	07/08/06	
Jordan		27/11/95(a)			27/11/95(p)			
Kazakhstan								
Kenya	10/12/82	02/03/89			29/07/94(ds)		13/07/04(a)	
Kiribati		24/02/03(a)			24/02/03(p)		15/09/05(a)	
Kuwait	10/12/82	02/05/86			02/08/02(a)			
Kyrgyzstan								
Lao People's Democratic Republic	10/12/82	05/06/98		27/10/94	05/06/98(p)			
Latvia		23/12/04(a)			23/12/04(a)		05/02/07(a)	
Lebanon	07/12/84	05/01/95			05/01/95(p)			
Lesotho	10/12/82	31/05/07			31/05/07(p)			
Liberia	10/12/82	25/09/08			25/09/08(p)		16/09/05(a)	
Libya	03/12/84							
Liechtenstein								
Lithuania		12/11/03(a)			12/11/03(a)		01/03/07(a)	
Luxembourg	05/12/84	05/10/00		29/07/94	05/10/00	27/06/96	19/12/03	
Madagascar	25/02/83	22/08/01			22/08/01(p)			
Malawi	07/12/84	28/09/10			28/09/10(p)			
Malaysia	10/12/82	14/10/96		02/08/94	14/10/96(p)			
Maldives	10/12/82	07/09/00		10/10/94	07/09/00(p)	08/10/96	30/12/98	
Mali	19/10/83	16/07/85						
Malta	10/12/82	20/05/93		29/07/94	26/06/96		11/11/01(a)	
Marshall Islands		09/08/91(a)				04/12/95	19/03/03	
Mauritania	10/12/82	17/07/96		02/08/94	17/07/96(p)	21/12/95		
Mauritius	10/12/82	04/11/94			04/11/94(p)		25/03/97(a)	

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	Signature dd/mm/yy	Ratification/ accession; dd/mm/yy	Declaration	Signature dd/mm/yy	Ratification/ accession; dd/mm/yy	Signature dd/mm/yy	Ratification/ accession; dd/mm/yy	Declaration
Mexico	10/12/82	18/03/83	☐		10/04/03(a)			
Micronesia (Federated States of)		29/04/91(a)		10/08/94	06/09/95	04/12/95	23/05/97	
Monaco	10/12/82	20/03/96		30/11/94	20/03/96(p)		09/06/99(a)	
Mongolia	10/12/82	13/08/96		17/08/94	13/08/96(p)			
Montenegro		23/10/06(d)	☐		23/10/06(d)			
Morocco	10/12/82	31/05/07	☐	19/10/94	31/05/07	04/12/95	19/09/12	
Mozambique	10/12/82	13/03/97			13/03/97(a)		10/12/08(a)	
Myanmar	10/12/82	21/05/96			21/05/96(a)			
Namibia	10/12/82	18/04/83		29/07/94	28/07/95(sp)	19/04/96	08/04/98	
Nauru	10/12/82	23/01/96			23/01/96(p)		10/01/97(a)	
Nepal	10/12/82	02/11/98			02/11/98(p)			
Netherlands	10/12/82	28/06/96	☐	29/07/94	28/06/96	28/06/96☐	19/12/03	☐
New Zealand	10/12/82	19/07/96		29/07/94	19/07/96	04/12/95	18/04/01	
Nicaragua	09/12/84☐	03/05/00	☐		03/05/00(p)			
Niger	10/12/82	07/08/13			07/08/13(p)			
Nigeria	10/12/82	14/08/86		25/10/94	28/07/95(sp)		02/11/09(a)	
Niue	05/12/84	11/10/06			11/10/06(p)	04/12/95	11/10/06	
Norway	10/12/82	24/06/96	☐		24/06/96(a)	04/12/95	30/12/96	☐
Oman	01/07/83☐	17/08/89	☐		26/02/97(a)		14/05/08(a)	
Pakistan	10/12/82	26/02/97	☐	10/08/94	26/02/97(p)	15/02/96		
Palau		30/09/96(a)	☐		30/09/96(p)		26/03/08(a)	
Panama	10/12/82	01/07/96	☐		01/07/96(p)		16/12/08(a)	
Papua New Guinea	10/12/82	14/01/97			14/01/97(p)	04/12/95	04/06/99	
Paraguay	10/12/82	26/09/86		29/07/94	10/07/95			
Peru								

Philippines	10/12/82	08/05/84		15/11/94	23/07/97	30/08/96	24/09/14
Poland	10/12/82	13/11/98		29/07/94	13/11/98(p)		14/03/06(a)
Portugal	10/12/82	03/11/97		29/07/94	03/11/97	27/06/96	19/12/03
Qatar	27/11/84	09/12/02			09/12/02(p)		
Republic of Korea	14/03/83	29/01/96		07/11/94	29/01/96	26/11/96	01/02/08
Republic of Moldova		06/02/07(a)			06/02/07(p)		
Romania	10/12/82	17/12/96			17/12/96(a)		16/07/07(a)
Russian Federation	10/12/82	12/03/97			12/03/97(a)	04/12/95	04/08/97
Rwanda	10/12/82						
Saint Kitts and Nevis	07/12/84	07/01/93					
Saint Lucia	10/12/82	27/03/85				12/12/95	09/08/96
Saint Vincent and the Grenadines	10/12/82	01/10/93					29/10/10(a)
Samoa	28/09/84	14/08/95		07/07/95	14/08/95(p)	04/12/95	25/10/96
San Marino							
Sao Tome and Principe	13/07/83	03/11/87					
Saudi Arabia	07/12/84	24/04/96			24/04/96(p)		
Senegal	10/12/82	25/10/84		09/08/94	25/07/95	04/12/95	30/01/97
Serbia	²	12/03/01(s)		12/05/95	28/07/95(sp) ³		
Seychelles	10/12/82	16/09/91		29/07/94	15/12/94	04/12/96	20/03/98
Sierra Leone	10/12/82	12/12/94			12/12/94(p)		
Singapore	10/12/82	17/11/94			17/11/94(p)		
Slovakia	28/05/93	08/05/96		14/11/94	08/05/96		06/11/08(a)
Slovenia		16/06/95(s)		19/01/95	16/06/95		15/06/06(a)
Solomon Islands	10/12/82	23/06/97			23/06/97(p)		13/02/97(a)
Somalia	10/12/82	24/07/89					

² For further details, see Chapter XXI, section 6 of the publication entitled *Multilateral Treaties Deposited with the Secretary-General*, available from https://treaties.un.org/Pages/ViewDetailsIII.aspx?src=TREATY&mtdsg_no=XXI-6&chapter=21&Temp=mtdsg3&clang=_en.

³ For further details, see Chapter XXI, section 6.a of the publication entitled *Multilateral Treaties Deposited with the Secretary-General*, available from https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XXI-6-a&chapter=21&clang=_en.

State or entity	United Nations Convention on the Law of the Sea (in force as from 16/11/1994)			Agreement relating to the implementation of Part XI of the Convention (in force as from 28/07/1996)		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 11/12/2001)		
	Signature dd/mm/yy	Ratification/ accession; dd/mm/yy	Declaration	Signature dd/mm/yy	Ratification/ accession; dd/mm/yy	Signature dd/mm/yy	Ratification/ accession; dd/mm/yy	Declaration
South Africa	05/12/84	23/12/97	☐	03/10/94	23/12/97		14/08/03(a)	
South Sudan								
Spain	04/12/84☐	15/01/97	☐☐	29/07/94	15/01/97	03/12/96	19/12/03	☐
Sri Lanka	10/12/82	19/07/94		29/07/94	28/07/95(sp)	09/10/96	24/10/96	
State of Palestine		02/01/15(a)			02/01/15(p)			
Sudan	10/12/82☐	23/01/85		29/07/94				
Suriname	10/12/82	09/07/98			09/07/98(p)			
Swaziland	18/01/84	24/09/12		12/10/94	24/09/12(p)			
Sweden	10/12/82☐	25/06/96	☐	29/07/94	25/06/96	27/06/96	19/12/03	☐
Switzerland	17/10/84	01/05/09	☐	26/10/94	01/05/09			
Syrian Arab Republic								
Tajikistan								
Thailand	10/12/82	15/05/11	☐		15/05/11(a)			
The former Yugoslav Republic of Macedonia		19/08/94 (s)			19/08/94(p)			
Timor-Leste		08/01/13(a)	☐		08/01/13(p)			
Togo	10/12/82	16/04/85		03/08/94	28/07/95(sp)			
Tonga		02/08/95(a)			2/08/95(p)	04/12/95	31/07/96	
Trinidad and Tobago	10/12/82	25/04/86	☐☐	10/10/94	28/07/95(sp)		13/09/06(a)	
Tunisia	10/12/82	24/04/85	☐☐	15/05/95	24/05/02			
Turkey								
Turkmenistan								
Tuvalu	10/12/82	09/12/02			09/12/02(p)		02/02/09(a)	
Uganda	10/12/82	09/11/90		09/08/94	28/07/95(sp)	10/10/96		
Ukraine	10/12/82☐	26/07/99	☐	28/02/95	26/07/99	04/12/95	27/02/03	

United Arab Emirates	10/12/82							
United Kingdom of Great Britain and Northern Ireland		25/07/97(a)	☐☐	29/07/94	25/07/97	04/12/95	10/12/01 19/12/03 ⁴	☐☐
United Republic of Tanzania	10/12/82	30/09/85	☐	07/10/94	25/06/98			
United States of America				29/07/94		04/12/95	21/08/96	☐
Uruguay	10/12/82☐	10/12/92	☐	29/07/94	07/08/07	16/01/96☐	10/09/99	☐
Uzbekistan								
Vanuatu	10/12/82	10/08/99		29/07/94	10/08/99(p)	23/07/96		
Venezuela (Bolivarian Republic of)								
Viet Nam	10/12/82	25/07/94	☐		27/04/06(a)			
Yemen	10/12/82☐	21/07/87	☐		13/10/14(a)			
Zambia	10/12/82	07/03/83		13/10/94	28/07/95(sp)			
Zimbabwe	10/12/82	24/02/93		28/10/94	28/07/95(sp)			
TOTALS	157	168		79	149	59	83	

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⁴ For further details, see Chapter XXI, section 7, of the publication entitled *Multilateral Treaties Deposited with the Secretary-General*, available from https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XXI-7&chapter=21&clang=_en.

2. *Chronological lists of ratifications of, accessions and successions to the Convention and the related Agreements, as at 31 July 2016*

(a) *The Convention*

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

83. Nauru (23 January 1996)
84. Republic of Korea (29 January 1996)
85. Monaco (20 March 1996)
86. Georgia (21 March 1996)
87. France (11 April 1996)
88. Saudi Arabia (24 April 1996)
89. Slovakia (8 May 1996)
90. Bulgaria (15 May 1996)
91. Myanmar (21 May 1996)
92. China (7 June 1996)
93. Algeria (11 June 1996)
94. Japan (20 June 1996)
95. Czech Republic (21 June 1996)
96. Finland (21 June 1996)
97. Ireland (21 June 1996)
98. Norway (24 June 1996)
99. Sweden (25 June 1996)
100. Netherlands (28 June 1996)
101. Panama (1 July 1996)
102. Mauritania (17 July 1996)
103. New Zealand (19 July 1996)
104. Haiti (31 July 1996)
105. Mongolia (13 August 1996)
106. Palau (30 September 1996)
107. Malaysia (14 October 1996)
108. Brunei Darussalam (5 November 1996)
109. Romania (17 December 1996)
110. Papua New Guinea (14 January 1997)
111. Spain (15 January 1997)
112. Guatemala (11 February 1997)
113. Pakistan (26 February 1997)
114. Russian Federation (12 March 1997)
115. Mozambique (13 March 1997)
116. Solomon Islands (23 June 1997)
117. Equatorial Guinea (21 July 1997)
118. United Kingdom of Great Britain and Northern Ireland (25 July 1997)
119. Chile (25 August 1997)
120. Benin (16 October 1997)
121. Portugal (3 November 1997)
122. South Africa (23 December 1997)
123. Gabon (11 March 1998)
124. European Union (1 April 1998)
125. Lao People's Democratic Republic (5 June 1998)
126. Suriname (9 July 1998)
127. Nepal (2 November 1998)
128. Belgium (13 November 1998)
129. Poland (13 November 1998)
130. Ukraine (26 July 1999)
131. Vanuatu (10 August 1999)
132. Nicaragua (3 May 2000)
133. Maldives (7 September 2000)
134. Luxembourg (5 October 2000)
135. Serbia (12 March 2001)
136. Bangladesh (27 July 2001)
137. Madagascar (22 August 2001)
138. Hungary (5 February 2002)
139. Armenia (9 December 2002)
140. Qatar (9 December 2002)
141. Tuvalu (9 December 2002)
142. Kiribati (24 February 2003)
143. Albania (23 June 2003)
144. Canada (7 November 2003)
145. Lithuania (12 November 2003)
146. Denmark (16 November 2004)
147. Latvia (23 December 2004)
148. Burkina Faso (25 January 2005)
149. Estonia (26 August 2005)
150. Belarus (30 August 2006)
151. Niue (11 October 2006)
152. Montenegro (23 October 2006)
153. Republic of Moldova (6 February 2007)
154. Lesotho (31 May 2007)
155. Morocco (31 May 2007)
156. Congo (9 July 2008)
157. Liberia (25 September 2008)
158. Switzerland (1 May 2009)
159. Dominican Republic (10 July 2009)
160. Chad (14 August 2009)
161. Malawi (28 September 2010)
162. Thailand (15 May 2011)
163. Ecuador (24 September 2012)
164. Swaziland (24 September 2012)
165. Timor-Leste (8 January 2013)
166. Niger (7 August 2013)
167. State of Palestine (2 January 2015)
168. Azerbaijan (16 June 2016)

(b) *Agreement relating to the Implementation of Part XI of the Convention*

1. Kenya (29 July 1994)
2. The former Yugoslav Republic of Macedonia (19 August 1994)
3. Australia (5 October 1994)
4. Germany (14 October 1994)
5. Belize (21 October 1994)
6. Mauritius (4 November 1994)
7. Singapore (17 November 1994)
8. Sierra Leone (12 December 1994)
9. Seychelles (15 December 1994)
10. Lebanon (5 January 1995)
11. Italy (13 January 1995)
12. Cook Islands (15 February 1995)
13. Croatia (5 April 1995)
14. Bolivia (Plurinational State of) (28 April 1995)
15. Slovenia (16 June 1995)
16. India (29 June 1995)
17. Paraguay (10 July 1995)
18. Austria (14 July 1995)
19. Greece (21 July 1995)
20. Senegal (25 July 1995)
21. Cyprus (27 July 1995)
22. Bahamas (28 July 1995)
23. Barbados (28 July 1995)
24. Côte d'Ivoire (28 July 1995)
25. Fiji (28 July 1995)
26. Grenada (28 July 1995)
27. Guinea (28 July 1995)
28. Iceland (28 July 1995)
29. Jamaica (28 July 1995)
30. Namibia (28 July 1995)
31. Nigeria (28 July 1995)
32. Sri Lanka (28 July 1995)
33. Togo (28 July 1995)
34. Trinidad and Tobago (28 July 1995)
35. Uganda (28 July 1995)
36. Serbia (28 July 1995)
37. Zambia (28 July 1995)
38. Zimbabwe (28 July 1995)
39. Tonga (2 August 1995)
40. Samoa (14 August 1995)
41. Micronesia (Federated States of) (6 September 1995)
42. Jordan (27 November 1995)
43. Argentina (1 December 1995)
44. Nauru (23 January 1996)
45. Republic of Korea (29 January 1996)
46. Monaco (20 March 1996)
47. Georgia (21 March 1996)
48. France (11 April 1996)
49. Saudi Arabia (24 April 1996)
50. Slovakia (8 May 1996)
51. Bulgaria (15 May 1996)
52. Myanmar (21 May 1996)
53. China (7 June 1996)
54. Algeria (11 June 1996)
55. Japan (20 June 1996)
56. Czech Republic (21 June 1996)
57. Finland (21 June 1996)
58. Ireland (21 June 1996)
59. Norway (24 June 1996)
60. Sweden (25 June 1996)
61. Malta (26 June 1996)
62. Netherlands (28 June 1996)
63. Panama (1 July 1996)
64. Mauritania (17 July 1996)
65. New Zealand (19 July 1996)
66. Haiti (31 July 1996)
67. Mongolia (13 August 1996)
68. Palau (30 September 1996)
69. Malaysia (14 October 1996)
70. Brunei Darussalam (5 November 1996)
71. Romania (17 December 1996)
72. Papua New Guinea (14 January 1997)
73. Spain (15 January 1997)
74. Guatemala (11 February 1997)
75. Oman (26 February 1997)
76. Pakistan (26 February 1997)
77. Russian Federation (12 March 1997)
78. Mozambique (13 March 1997)
79. Solomon Islands (23 June 1997)
80. Equatorial Guinea (21 July 1997)
81. Philippines (23 July 1997)
82. United Kingdom of Great Britain and Northern Ireland (25 July 1997)
83. Chile (25 August 1997)
84. Benin (16 October 1997)
85. Portugal (3 November 1997)
86. South Africa (23 December 1997)
87. Gabon (11 March 1998)
88. European Union (1 April 1998)
89. Lao People's Democratic Republic (5 June 1998)
90. United Republic of Tanzania (25 June 1998)
91. Suriname (9 July 1998)

92. Nepal (2 November 1998)
93. Belgium (13 November 1998)
94. Poland (13 November 1998)
95. Ukraine (26 July 1999)
96. Vanuatu (10 August 1999)
97. Nicaragua (3 May 2000)
98. Indonesia (2 June 2000)
99. Maldives (7 September 2000)
100. Luxembourg (5 October 2000)
101. Bangladesh (27 July 2001)
102. Madagascar (22 August 2001)
103. Costa Rica (20 September 2001)
104. Hungary (5 February 2002)
105. Tunisia (24 May 2002)
106. Cameroon (28 August 2002)
107. Kuwait (2 August 2002)
108. Cuba (17 October 2002)
109. Armenia (9 December 2002)
110. Qatar (9 December 2002)
111. Tuvalu (9 December 2002)
112. Kiribati (24 February 2003)
113. Mexico (10 April 2003)
114. Albania (23 June 2003)
115. Honduras (28 July 2003)
116. Canada (7 November 2003)
117. Lithuania (12 November 2003)
118. Denmark (16 November 2004)
119. Latvia (23 December 2004)
120. Botswana (31 January 2005)
121. Burkina Faso (25 January 2005)
122. Estonia (26 August 2005)
123. Viet Nam (27 April 2006)
124. Belarus (30 August 2006)
125. Niue (11 October 2006)
126. Montenegro (23 October 2006)
127. Republic of Moldova (6 February 2007)
128. Lesotho (31 May 2007)
129. Morocco (31 May 2007)
130. Uruguay (7 August 2007)
131. Brazil (25 October 2007)
132. Cabo Verde (23 April 2008)
133. Congo (9 July 2008)
134. Liberia (25 September 2008)
135. Guyana (25 September 2008)
136. Switzerland (1 May 2009)
137. Dominican Republic (10 July 2009)
138. Chad (14 August 2009)
139. Angola (7 September 2010)
140. Malawi (28 September 2010)
141. Thailand (15 May 2011)
142. Ecuador (24 September 2012)
143. Swaziland (24 September 2012)
144. Timor-Leste (8 January 2013)
145. Niger (7 August 2013)
146. Yemen (13 October 2014)
147. State of Palestine (2 January 2015)
148. Antigua and Barbuda (3 May 2016)
149. Azerbaijan (16 June 2016)

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

1. Tonga (31 July 1996)
2. Saint Lucia (9 August 1996)
3. United States of America (21 August 1996)
4. Sri Lanka (24 October 1996)
5. Samoa (25 October 1996)
6. Fiji (12 December 1996)
7. Norway (30 December 1996)
8. Nauru (10 January 1997)
9. Bahamas (16 January 1997)
10. Senegal (30 January 1997)
11. Solomon Islands (13 February 1997)
12. Iceland (14 February 1997)
13. Mauritius (25 March 1997)
14. Micronesia (Federated States of) (23 May 1997)
15. Russian Federation (4 August 1997)
16. Seychelles (20 March 1998)
17. Namibia (8 April 1998)
18. Iran (Islamic Republic of) (17 April 1998)
19. Maldives (30 December 1998)
20. Cook Islands (1 April 1999)
21. Papua New Guinea (4 June 1999)
22. Monaco (9 June 1999)
23. Canada (3 August 1999)
24. Uruguay (10 September 1999)
25. Australia (23 December 1999)
26. Brazil (8 March 2000)
27. Barbados (22 September 2000)
28. New Zealand (18 April 2001)
29. Costa Rica (18 June 2001)
30. Malta (11 November 2001)
31. United Kingdom of Great Britain and Northern Ireland (10 December 2001), (19 December 2003)
32. Cyprus (25 September 2002)
33. Ukraine (27 February 2003)
34. Marshall Islands (19 March 2003)
35. South Africa (14 August 2003)
36. India (19 August 2003)
37. European Union (19 December 2003)
38. Austria (19 December 2003)
39. Belgium (19 December 2003)
40. Denmark (19 December 2003)
41. Finland (19 December 2003)
42. France (19 December 2003)
43. Germany (19 December 2003)
44. Greece (19 December 2003)
45. Ireland (19 December 2003)
46. Italy (19 December 2003)
47. Luxembourg (19 December 2003)
48. Netherlands (19 December 2003)
49. Portugal (19 December 2003)
50. Spain (19 December 2003)
51. Sweden (19 December 2003)
52. Kenya (13 July 2004)
53. Belize (14 July 2005)
54. Kiribati (15 September 2005)
55. Guinea (16 September 2005)
56. Liberia (16 September 2005)
57. Poland (14 March 2006)
58. Slovenia (15 June 2006)
59. Estonia (7 August 2006)
60. Japan (7 August 2006)
61. Trinidad and Tobago (13 September 2006)
62. Niue (11 October 2006)
63. Bulgaria (13 December 2006)
64. Latvia (5 February 2007)
65. Lithuania (1 March 2007)
66. Czech Republic (19 March 2007)
67. Romania (16 July 2007)
68. Republic of Korea (1 February 2008)
69. Palau (26 March 2008)
70. Oman (14 May 2008)
71. Hungary (16 May 2008)
72. Slovakia (6 November 2008)
73. Mozambique (10 December 2008)
74. Panama (16 December 2008)
75. Tuvalu (2 February 2009)
76. Indonesia (28 September 2009)
77. Nigeria (2 November 2009)
78. Saint Vincent and the Grenadines (29 October 2010)
79. Morocco (19 September 2012)
80. Bangladesh (5 November 2012)
81. Croatia (10 September 2013)
82. Philippines (24 September 2014)
83. Chile (11 February 2016)

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

NATIONAL LEGISLATION

Marshall Islands¹

Republic of the Marshall Islands Maritime Zones Declaration Act 2016

AN ACT to amend Chapter 1, Title 33 of the MIRC by repealing the Marine Zones Act of 1984, and replace with the Maritime Zones Declaration Act to provide for all the internal waters, the archipelagic waters, the territorial sea, the contiguous zone, the exclusive economic zone, and the continental shelf of [...] the Republic of the Marshall Islands.

Be it enacted by the Nitijela of the Republic of the Marshall Islands

§101. Short title

This Act may be cited as the *Republic of the Marshall Islands Maritime Zones Declaration Act 2016*.

§102. Interpretation

- (1) In this Act:
 - (a) “archipelago” means a group of islands, including parts of islands, interconnecting waters and other natural features, which are so closely interrelated that they form an intrinsic geographical, economic and political entity, or have historically been regarded as such;
 - (b) “local government waters” means the waters lying within the jurisdiction of a local government pursuant to Article IX, subsections 1(2) and (3) of the Constitution of the Republic of the Marshall Islands;
 - (c) “conservation and management” includes all rules, regulations methods and measures that:
 - (i) are required to build, restore or maintain, or are useful in building, restoring or maintaining, any fishery resources or the marine environment.
 - (ii) are designed to ensure that:
 - (A) a supply of food and other products may be taken, and recreational benefits obtained, on a continuing basis;
 - (B) irreversible or long-term ill effects on fishery resources or the marine environment are avoided; and
 - (C) there will be a multiplicity of options available with respect to use of those resources.
 - (d) “fishery resource” means any fishery, stock of fish, species of fish or habitat of fish;
 - (e) “geodetic datum” means World Geodetic System 1984 (WGS 84);
 - (f) “lagoon” means the waters lying within the reef of an atoll;
 - (g) “low-water line” means the line of low water at the lowest astronomical tide;
 - (h) “nautical mile” means an international nautical mile of 1,852 metres;
 - (i) “the Minister” means the Minister or Ministers in charge of the subject matters of this Act.
- (2) For the purposes of this Act, permanent harbor works that form an integral part of a harbor system shall be regarded as forming part of the coast, but this subsection does not apply to off-shore installations or artificial islands.

¹ Transmitted by note verbale dated 22 April 2016 from the Permanent Mission of the Republic of the Marshall Islands to the United Nations addressed to the Secretary-General of the United Nations. Annexed lists of geographical coordinates of points were deposited with the Secretary-General under articles 16(2), 47(9), 75(2) and 84 (2) of the Convention (see Maritime Zone Notification M.Z.N.120.2016.LOS of 3 May 2016).

§103. References to international law

Where in this Act it is provided that anything shall be done by the Government of the Marshall Islands or by Cabinet, or any law or order shall be made, or any other thing shall be done, in accordance with the rules of international law, the question whether it was so done or made, is non-justiciable.

§104. Application of this Act

The provisions of this Act shall be read subject to the provisions of any other treaty or international obligation which is finally accepted by or on behalf of the Republic and approved by the Nitijela by Resolution.

PART 2. LOCAL GOVERNMENT WATERS

§105. Local government waters

The Minister may confirm by declaration the outer limits of waters lying within the jurisdiction of a local government pursuant to Article IX, section 1(2) and (3) of the Constitution of the Republic of the Marshall Islands. Such a declaration shall only be made following consultation between the National Government and the relevant local government.

PART 3. TERRITORIAL SEA

§106. The territorial sea

- (1) Subject to subsection (2), the territorial sea comprises those areas of the sea having:
 - (a) as their inner limits, the baseline described in section 107(1); and
 - (b) as their outer limits, a line measured seaward from that baseline, every point of which is distant 12 nautical miles from the nearest point of that baseline.
- (2) Where archipelagic baselines are drawn pursuant to section 107(2), the territorial sea comprises those areas of the sea referred to in subsection (1) above and, to the extent that they are not thereby included, those additional areas of the sea having:
 - (a) as their inner limits, archipelagic baselines referred to in section 107(2); and
 - (b) as their outer limits, a line measured seaward from those archipelagic baselines, every point of which is distant 12 nautical miles from the nearest point of those archipelagic baselines.

§107. Baselines of the territorial sea

- (1) Subject to subsection (2) below, the baseline from which the breadth of the territorial sea is measured shall be:
 - (a) where a reef is present
 - (i) the low-water line of the seaward side of the reef fringing the coast of any part of the Republic or bounding any lagoon adjacent to any part of that coast; and
 - (ii) where there are breaks in reefs or entrances to lagoons, any closing lines drawn between the natural entrance points at low water or between the geographic coordinates of points declared by order of the Minister; or
 - (b) where a reef is not present, the low-water line of the coast itself and outermost permanent harbour works.
- (2) Where there is an archipelago, the Minister may, by order, declare, in accordance with international law, the geographic coordinates of points between which archipelagic baselines are to be drawn.
- (3) Archipelagic baselines drawn pursuant to subsection (2) above shall not affect the baselines referred to in Article IX, subsection 1(2) of the Constitution of the Republic of the Marshall Islands.

§108. Internal waters

The internal waters of the Republic are all waters on the landward side of the low-water line and closing lines described in section 107(1), including lagoons.

PART 4. ARCHIPELAGIC WATERS

§109. *Archipelagic waters*

The archipelagic waters of the Republic comprise all waters, other than internal waters, enclosed by the archipelagic baselines drawn pursuant to section 107(2).

§110. *Reserved*

PART 5. CONTIGUOUS ZONE

§111. *Contiguous zone*

- (1) Subject to subsection (2) below, the contiguous zone of the Republic comprises those areas of the sea that are beyond and adjacent to the territorial sea, having as their outer limits a line measured seaward from the baseline described in section 107(1) every point of which is distant 24 nautical miles from the nearest point of that baseline.
- (2) Where an archipelagic baseline is drawn pursuant to section 107(2), the outer limits of the contiguous zone are a line measured seaward from that archipelagic baseline, every point of which is distant 24 nautical miles from the nearest point of that archipelagic baseline.

PART 6. EXCLUSIVE ECONOMIC ZONE

§112. *Exclusive economic zone*

- (1) Subject to subsections (2) and (3) below, the exclusive economic zone of the Republic comprises those areas of the sea, seabed and subsoil that are beyond and adjacent to the territorial sea, having as their outer limits a line measured seaward from the baseline described in section 107(1), every point of which is not more than 200 nautical miles from the nearest point of that baseline.
- (2) Where an archipelagic baseline is drawn pursuant to section 107(2), the outer limits of the exclusive economic zone are a line measured seaward from that archipelagic baseline, every point of which is not more than 200 nautical miles from the nearest point of that archipelagic baseline.
- (3) The Minister may, by order, declare that the outer limits of the exclusive economic zone of the Republic are such as are specified in the order.

PART 7. CONTINENTAL SHELF

§113. *Continental shelf*

- (1) Subject to subsections (2) and (3), the continental shelf of the Republic comprises those parts of the seabed and subsoil of the submarine areas beyond and adjacent to the territorial sea, having as their outer limits a line measured seaward from the baseline described in section 107(1), every point of which is not more than 200 nautical miles from the nearest point of that baseline.
- (2) Where an archipelagic baseline is drawn pursuant to section 107(2), the outer limits of the continental shelf are a line measured seaward from that archipelagic baseline, every point of which is not more than 200 nautical miles from the nearest point of that archipelagic baseline.
- (3) The Minister may, by order, declare that the outer limits of the continental shelf of the Republic are such as are specified in the order.

PART 8. RIGHTS IN THE MARITIME ZONES

§114. *Legal character of maritime zones*

The sovereignty of the Republic of the Marshall Islands extends to its land areas, internal waters, local government waters, territorial sea and archipelagic waters, and to the airspace over them and the seabed and subsoil under them, and the resources contained in them.

§115. Rights in the contiguous zone

Within the contiguous zone, the Republic has all rights necessary:

- (a) to prevent infringement of its customs, fiscal, immigration and sanitary laws and regulations within its land areas, territorial sea and archipelagic waters; and
- (b) to punish any such infringement, and all relevant laws of the Republic extend to the contiguous zone accordingly.

§116. Rights in the exclusive economic zone and continental shelf

- (1) Within the exclusive economic zone, the Republic has sovereign rights:
 - (a) for the purposes of exploring and exploiting, conserving and managing the natural resources, whether living or non-living, of:
 - (i) the seabed;
 - (ii) the subsoil under the seabed; and
 - (iii) the waters over the seabed; and
 - (b) 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.
- (2) Within the continental shelf, the Republic has:
 - (a) sovereign rights for the purpose of exploring it and exploiting its natural resources; and
 - (b) exclusive rights to authorise and regulate drilling on it for all purposes.
- (3) Within the exclusive economic zone and the continental shelf, the Republic has the exclusive right to construct, authorise and regulate the construction, operation and use of:
 - (a) artificial islands;
 - (b) installations and structures for the purposes provided in subsection (1), marine scientific research, the protection and preservation of the marine environment and other economic purposes; and
 - (c) installations and structures which may interfere with the Republic's exercise of its rights in the exclusive economic zone or continental shelf.
- (4) Within the exclusive economic zone and continental shelf, the Republic has exclusive jurisdiction over the artificial islands, installations and structures referred to in subsection (3), including jurisdiction with regard to customs, fiscal, health, safety and immigration laws and regulations.
- (5) Within the exclusive economic zone and continental shelf, the Republic:
 - (a) has jurisdiction with respect to protection and preservation of the marine environment, and
 - (b) has the right to regulate, authorise and conduct marine scientific research.
- (6) Within the contiguous zone, the exclusive economic zone and the continental shelf, the Republic has such other rights as are conferred or recognised by international law.

§117. Rights of other States in maritime zones

- (1) The Minister may, by order:
 - (a) designate sea lanes and air routes suitable for the continuous and expeditious passage of foreign ships and aircraft through and over the archipelagic waters and the adjacent territorial sea;
 - (b) prescribe traffic separation schemes for the purpose of ensuring the safe passage of ships through narrow channels in any such sea lanes; and
 - (c) prescribe sea lanes and traffic separation schemes for foreign ships exercising the right of innocent passage through the territorial sea.
- (2) In sea lanes and air routes designated under subsections (1)(a) and (1)(b), all ships and aircraft may, in accordance with international law, enjoy the right of navigation and over flight, in their normal modes, for the purpose of continuous, expeditious and unobstructed transit through and over the archipelagic

waters and the adjacent territorial sea, from one part of the high seas or exclusive economic zone to another part of the high seas or exclusive economic zone.

- (3) Until sea lanes and air routes are designated under subsections (1)(a) and (1)(b), the rights of navigation and over flight referred to in subsection (2) may be exercised through and over all routes normally used for international navigation and over flight.
- (4) Subject to subsections (2) and (3), ships of all States have, in accordance with international law, the right of innocent passage through the territorial sea and the archipelagic waters of the Republic.
- (5) Subject to this Act, any other law of the Republic, and international law, all States shall enjoy in the exclusive economic zone the high seas freedoms, navigation and over flight and of the laying of submarine cables and pipelines, and all other internationally lawful uses of the sea related to those freedoms.
- (6) Subject to this Act and any other law of the Republic all States may lay submarine cables and pipelines on the continental shelf in accordance with international law.

PART 9. DECLARATIONS, REPEAL OF MARINE ZONES (DECLARATION) ACT AND REGULATIONS

§118. Declarations and official charts

- (1) The Minister may, by order, declare:
 - (a) the geographic coordinates of the points on the baseline described in section 107(1); or
 - (b) the geographic coordinates of the limits of the whole or any part of the local government waters, territorial sea, archipelagic waters, the contiguous zone, the exclusive economic zone and the continental shelf.
- (2) The Minister may cause the points, lines or limits declared pursuant to sections 107(1), 107(2), 112(3), 113(3), and 118(1) to be clearly indicated on charts of a scale or scales adequate for them to be readily determined.

§119. Evidentiary provisions

In any proceedings before a court or person acting judicially, a certificate signed by the Minister stating that a specified nautical chart is a chart to which section 118(2) applies is evidence of the matters stated in the certificate, and the chart is evidence of the matters set out in it.

§120. Repeal of Marine Zones (Declaration) Act 1984

The Marine Zones (Declaration) Act 1984 is repealed in its entirety.

§121. Consequential amendments

A reference to the *Marine Zones Declaration Act 1984* in any laws of the Republic shall be read as a reference to this Act.

Section 605(1)(d) of the *Admiralty Jurisdiction Act 1986* is amended by deleting “as defined in the *Marine Zones (Declaration) Act 1984*” and after the words “territorial sea” inserting “and archipelagic waters as defined in the *Maritime Zones Declaration Act 2016*”.

Section 302 of the *Tuna and Game-Fish Conservation Zone Act 1996* is amended by inserting “(1A) For the purposes of this Chapter, ‘base line’ means the baseline referred to in section 106(1) of the *Maritime Zones Declaration Act 2016*.”

Section 113(c) of the *Regulation and Control of Shipping Act 1966* is amended by deleting “as defined and described in Section 107 of the *Marine Zones (Declaration) Act 1984*” and after the words “territorial sea” inserting “and archipelagic waters as defined in the *Maritime Zones Declaration Act 2016*.”

Section 130(1) of the *Environmental Protection Authority Act 1984* is amended by deleting “territorial waters” and inserting “waters within the jurisdiction of the Republic.”

The Coast Conservation Act 1988 is amended as follows:

Section 302 insert “s.302(aa) ‘archipelagic waters’ means the area of sea declared to be the archipelagic waters of the Republic of the Marshall Islands under the *Maritime Zones Declaration Act 2016*”;

Section 302(m) delete the definition of “straight base line”; and Section 328 after “territorial sea” insert “and archipelagic waters.”

Section 112(7) of the *Maritime Administration Act 1990* is amended by inserting after “territorial waters” the words “, archipelagic waters”.

Section 903(4)(iii) of the *Domestic Watercraft Act 1992* is amended by deleting “territorial waters, and exclusive economic zone as defined in the *Marine Zones (Declaration) Act 1984*” and inserting “archipelagic waters, territorial sea and exclusive economic zone as defined in the *Maritime Zones Declaration Act 2016*”.

The Marine Resources Act 1997 is amended as follows:

Section 25(4)(e)(i) delete “five miles of the baseline from which the territorial sea is measured” and replace with “local government waters”;

Section 43(1) delete “five miles of the baseline from which the territorial sea of any atoll or island is measured” and replace with “local government waters”;

Section 43(2) delete “internal waters and with its waters up to five miles seaward of the baseline from which the territorial sea is measured” and replace with “local government waters”; and Section 43(5) delete “extending up to five miles seaward from the baseline from which the territorial sea is measured” and replace with “local government waters”.

§122. *Regulations*

The Minister may make regulations to give effect to this Act, including but not limited to the following:

- (a) regulating the conduct of marine scientific research within the exclusive economic zone and continental shelf;
- (b) regulating the exploration and exploitation, conservation and management of the natural resources within the exclusive economic zone;
- (c) regulating the exploration and exploitation of the exclusive economic zone for the production of energy from the water, currents and winds, and for other economic purposes;
- (d) regulating the construction, operation and use of artificial islands, installations and structures within the exclusive economic zone and the continental shelf, including requirements for the establishment of safety zones around any such island, installation or structure;
- (e) prescribing measures for the protection and preservation of the marine environment of the exclusive economic zone and continental shelf;
- (f) regulating the exploration and exploitation of the continental shelf and of its natural resources;
- (g) regulating drilling on the continental shelf; and
- (h) providing for such other matters as are necessary or expedient to give effect to the rights and obligations of the Republic in relation to its internal waters, local government waters, archipelagic waters, territorial sea, contiguous zone, exclusive economic zone and continental shelf, or as are necessary to give full effect to the provisions of this Act.

DECLARATION OF BASELINES AND MARITIME ZONES OUTER LIMITS MADE UNDER SECTION 118 OF THE MARITIME ZONES DECLARATION ACT 2016

I, the Honorable John M. Silk, Minister of Foreign Affairs, with the power vested in me pursuant to Section 118 of the *Maritime Zones Declaration Act 2016*, hereby declare as follows:

1. *Citation and commencement*

This Declaration may be cited as the *Baselines and Maritime Zones Outer Limits Declaration 2016*, and shall come into force on the date of its publication.

2. *Baselines*

The baselines of the territorial sea of the Republic are set out in Parts 1, 2 and 3 of Schedule 1.

3. *Maritime zones outer limits*

The outer limits of the territorial sea, contiguous zone, exclusive economic zone and continental shelf of the Republic are set out in Parts 4, 5, 6 and 7 of Schedule 1.

4. *Guide to reading Schedule 1*

1. In the tables in Parts 1 and 2 of Schedule 1:
 - (a) lines are generated by reference to points,
 - (b) the first column sets out the point identifier,
 - (c) the second and third columns set out the geographic coordinates for each point, and
 - (d) the fourth column sets out the zones measured from the point:
 - (i) AB stands for endpoint of an archipelagic baseline,
 - (ii) TS stands for territorial sea,
 - (iii) CZ stands for contiguous zone and
 - (iv) EEZ stands for exclusive economic zone, and continental shelf.
2. In the tables in Parts 3, 4 and 5 of Schedule 1:
 - (a) lines are generated by reference to points,
 - (b) the first column sets out the point identifier and
 - (c) the second and third columns set out the geographic coordinates for each point.
3. In the tables in Parts 6 and 7 of Schedule 1:
 - (a) lines are generated by reference to points,
 - (b) the first column sets out the point identifier,
 - (c) the second and third columns set out the geographic coordinates for each point, and
 - (d) the fourth column sets out the following information about the point:
 - (i) a treaty reference point, which is a reference to how the point is referred to in a treaty, or
 - (ii) 200, where the outer limit line faces the high seas and the EEZ and continental shelf is defined by measuring a distance of 200 nautical miles from the baseline.

5. *Geodetic framework*

In this Declaration, points defined by geographic coordinates are determined by reference to the World Geodetic System 1984 (WGS 84). Point are connected by geodesic lines realized in the WGS 84.

SCHEDULE 1—GEOGRAPHICAL COORDINATES²

² *Note by the editor:* For a complete list of geographic coordinates, see http://www.un.org/Depts/los/LEGISLATIONANDTREATIES/PDFFILES/DEPOSIT/mhl_mzn120_2016_2.pdf.

III. COMMUNICATION BY STATES

*Iran (Islamic Republic of)*¹

Note verbale from the Permanent Mission of the Islamic Republic of Iran to the United Nations addressed to the Secretary-General of the United Nations, 21 April 2016

[...]

The Permanent Mission of the Islamic Republic of Iran [...] with reference to the communication dated 23 September 2015, jointly submitted by the Permanent Missions of the State of Kuwait and the Kingdom of Saudi Arabia to the United Nations, has the honor to state the following:

1. The Islamic Republic of Iran, as repeatedly reiterated on many occasions, does not recognize any claim of sovereign rights for the purpose of exploring and exploitation the resources of the seabed and subsoil of the marine areas between Iran and its neighbors prior to the delimitation of maritime boundaries with the relevant neighboring states.
2. The Islamic Republic of Iran has always pursued the policy of friendship and good neighborliness toward all neighboring States and, on the basis of this fundamental policy, expects its neighboring States to avoid using concepts and terms that are incompatible with the principle of goodwill and do not contribute to mutual understanding and trust.
3. While recalling the principle of international law that a bilateral treaty does not create any obligation for a third party (*pacta tertiis nec nocent nec prosunt*), the Islamic Republic of Iran reiterates its reserved position on articles 1 and 7 of the bilateral Agreement between Kuwait and Saudi Arabia, dated 2 July 2000, concerning the submerged area adjacent to the partitioned zone.
4. In the meantime, the Islamic Republic of Iran, based on its principled and longstanding position, has always expressed its readiness to conduct separate bilateral negotiations with the governments of Kuwait and Saudi Arabia, in order to delimit its maritime boundaries adjacent to the partitioned zone. The Islamic Republic of Iran is committed to continue this approach which is a manifestation of its good faith and is rooted in the established norms and principles of international law.

The Permanent Mission of the Islamic Republic of Iran to the United Nations would appreciate if the Secretary-General could have the present note verbale circulated to all Member States and published in the next issue of the *Law of the Sea Bulletin*.

[...]

¹ See www.un.org/Depts/los/LEGISLATIONANDTREATIES/PDFFILES/communications/irn_re_sau_kwt_Apr_2016e.pdf.

IV. OTHER INFORMATION RELEVANT TO THE LAW OF THE SEA

A. LIST OF CONCILIATORS, ARBITRATORS AND EXPERTS NOMINATED UNDER ARTICLE 2 OF ANNEXES V, VII AND VIII TO THE CONVENTION

List of conciliators and arbitrators nominated under article 2 of annexes V and VII to the Convention¹ as at 31 July 2016

<i>State Party</i>	<i>Nominations</i>	<i>Date of deposit of notification with the Secretary-General</i>
Argentina	Dr. Frida María Armas Pfirter, Conciliator and Arbitrator	28 September 2009
	Ambassador Horacio Adolfo Basabe, Conciliator and Arbitrator	4 September 2013
	Professor Marcelo Gustavo Kohen, Conciliator and Arbitrator	4 September 2013
	Minister Holger Federico Martinsen, Conciliator and Arbitrator	4 September 2013
Australia	Sir Gerard Brennan AC KBE, Arbitrator	19 August 1999
	Mr. Henry Burmester QC, Arbitrator	19 August 1999
	Professor Ivan Shearer AM, Arbitrator	19 August 1999
Austria	Professor Dr. Gerhard Hafner, Department of International Law and International Relations, University of Vienna, Member of the Permanent Court of Arbitration, The Hague, Conciliator at the OSCE Court of Conciliation and Arbitration, Former Member of the International Law Commission, Conciliator and Arbitrator	9 January 2008
	Professor Dr. Gerhard Loibl, Professor at the Diplomatic Academy of Vienna, Conciliator and Arbitrator	9 January 2008
	Ambassador Dr. Helmut Tichy, Deputy Head of the Office of the Legal Adviser, Austrian Federal Ministry for European and International Affairs, Conciliator and Arbitrator	9 January 2008
Belgium	Ambassador Dr. Helmut Türk, Judge at the International Tribunal for the Law of the Sea, Member of the Permanent Court of Arbitration, The Hague, Conciliator and Arbitrator	9 January 2008
	Professor Erik Franckx, President of the Department of International and European Law at the Vrije University Brussels	1 May 2014
Brazil	Mr. Philippe Gautier, Registrar of the International Tribunal for the Law of the Sea	1 May 2014
	Walter de Sá Leitão, Conciliator and Arbitrator	10 September 2001
Chile	Helmut Brunner Nöer, Conciliator	18 November 1998
	Rodrigo Díaz Albónico, Conciliator	18 November 1998
	Carlos Martínez Sotomayor, Conciliator	18 November 1998
	Eduardo Vío Grossi, Conciliator	18 November 1998
	José Miguel Barros Franco, Arbitrator	18 November 1998
	María Teresa Infante Caffi, Arbitrator	18 November 1998
	Edmundo Vargas Carreño, Arbitrator	18 November 1998
	Fernando Zegers Santa Cruz, Arbitrator	18 November 1998
Costa Rica	Carlos Fernando Alvarado Valverde, Conciliator and Arbitrator	15 March 2000

¹ Source: Chapter XXI.6 of the publication entitled *Multilateral Treaties Deposited with the Secretary-General*, available from https://treaties.un.org/Pages/ViewDetailsIII.aspx?src=TREATY&mtdsg_no=XXI-6&chapter=21&Temp=mtdsg3&clang=_en.

<i>State Party</i>	<i>Nominations</i>	<i>Date of deposit of notification with the Secretary-General</i>
Cyprus	Ambassador Andrew Jacovides, Conciliator and Arbitrator	23 February 2007
	Ms. Christine G. Hioureas, Conciliator and Arbitrator	15 January 2016
Czech Republic	Dr. Václav Mikulka, Conciliator and Arbitrator	27 March 2014
Estonia	Mrs. Ene Lillipuu, Head of the Legal Department of the Estonian Maritime Administration, Conciliator and Arbitrator	18 December 2006
	Mr. Heiki Lindpere, the Director of the Institute of Law of the University of Tartu, Conciliator and Arbitrator	18 December 2006
Finland	Professor Kari Hakapää, Conciliator and Arbitrator	25 May 2001
	Professor Martti Koskenniemi, Conciliator and Arbitrator	25 May 2001
	Justice Gutav Möller, Conciliator and Arbitrator	25 May 2001
	Justice Pekka Vihervuori, Conciliator and Arbitrator	25 May 2001
France	Allan Pellet, Arbitrator	16 December 2015
	Pierre-Marie Dupuy, Arbitrator	4 February 1998
	Jean-Pierre Queneudec, Arbitrator	4 February 1998
	Laurent Lucchini, Arbitrator	4 February 1998
Germany	Dr. (Ms.) Renate Platzoeder, Arbitrator	25 March 1996
Ghana	H.E. Judge Dr. Thomas A. Mensah Former Judge and First President of the UN Tribunal of the Law of the Sea (ITLOS), Conciliator and Arbitrator	30 May 2013
	Professor Martin Tsamenyi, Professor of Law, University of Wollongong, Australia and Director, Australian National Center for Ocean Resources and Security (ANCORS), Conciliator and Arbitrator	30 May 2013
Guatemala	Minister Counsellor Lesther Antonio Ortega Lemus, Conciliator and Arbitrator	26 March 2014
Iceland	Ambassador Gudmundur Eiriksson, Conciliator and Arbitrator	13 September 2013
	Tomas H. Heidar, Legal Adviser, Ministry for Foreign Affairs, Conciliator and Arbitrator	13 September 2013
Indonesia	Professor Dr. Hasjim Djalal, M.A., Conciliator and Arbitrator	3 August 2001
	Dr. Ety Roesmaryati Agoes, SH, LLM, Conciliator and Arbitrator	3 August 2001
	Dr. Sudirman Saad, D.H., M.Hum, Conciliator and Arbitrator	3 August 2001
	Lieutenant Commander Kresno Bruntoro, SH, LLM, Conciliator and Arbitrator	3 August 2001
Italy	Professor Umberto Leanza, Conciliator and Arbitrator	21 September 1999
	Ambassdor Luigi Vittorio Ferraris, Conciliator	21 September 1999
	Ambassador Giuseppe Jacoangeli, Conciliator	21 September 1999
	Professor Tullio Scovazzi, Arbitrator	21 September 1999
	Paolo Guido Spinelli, Former Chief of the Service for Legal Affairs, Diplomatic Disputes and international Agreements of the Italian Ministry of Foreign Affairs, Conciliator	28 June 2011
	Maurizio Maresca, Arbitrator	28 June 2011
	Tullio Treves, Arbitrator	28 June 2011

<i>State Party</i>	<i>Nominations</i>	<i>Date of deposit of notification with the Secretary-General</i>
Japan	Judge Hisashi Owada, Judge, International Court of Justice, Arbitrator	28 September 2000
	Dr. Nisuke Ando, Professor Emeritus, Kyoto University, Japan, Arbitrator	28 September 2000
	Judge Shunji Yanai, President of the International Tribunal for the Law of the Sea, Conciliator and Arbitrator	4 October 2013
Lebanon	H.E. Dr. Joseph Akl, Judge in the International Tribunal of the Law of the Sea, Arbitrator	31 January 2014
Mauritius	Mr. Dheerendra Kumar Dabee, G.O.S.K., SC, Solicitor-General, Arbitrator	5 November 2014
	Ambassador Milan J.N. Meetarbhan, G.O.S.K. Permanent Representative of Mauritius, Arbitrator	5 November 2014
	Ms. Aruna Devi Narain, Parliamentary Counsel, Arbitrator	5 November 2014
	Mr. Philippe Sands, QC, Professor, Arbitrator	5 November 2014
Mexico	Ambassador Alberto Székely Sánchez, Special Adviser to the Secretary for International Waters Affairs, Arbitrator	9 December 2002
	Dr. Alonso Gómez Robledo Verduzco, Researcher, Institute of Legal Research, National Autonomous University of Mexico, Member of the Inter-American Legal Committee of the Organization of American States, Arbitrator	9 December 2002
	Frigate Captain JN. LD. DEM. Agustín Rodríguez Malpica Esquivel, Chief, Legal Unit, Secretariat of the Navy, Arbitrator	9 December 2002
	Frigate Lieutenant SJN.LD. Juan Jorge Quiroz Richards, Secretariat of the Navy, Arbitrator	9 December 2002
	Ambassador José Luis Vallarta Marrón, Former Permanent Representative of Mexico to the International Seabed Authority, Conciliator	9 December 2002
	Dr. Alejandro Sobarzo, Member of the national delegation to the Permanent Court of Arbitration, Conciliator	9 December 2002
	Joel Hernández García, Deputy Legal Adviser, Ministry of Foreign Affairs, Conciliator	9 December 2002
	Dr. Erasmo Lara Cabrera, Director of International Law III, Legal Adviser, Ministry of Foreign Affairs, Conciliator	9 December 2002
Mongolia	Professor Rüdiger Wolfrum, Arbitrator	22 February 2005
	Professor Jean-Pierre Cot, Arbitrator	22 February 2005
Netherlands	E. Hey, Arbitrator	9 February 1998
	Professor A. Soons, Arbitrator	9 February 1998
	A. Bos, Arbitrator	9 February 1998
	Professor Dr. Barbara Kwiatkowska, Arbitrator	29 May 2002
Norway	Carsten Smith, President of the Supreme Court, Conciliator and Arbitrator	22 November 1999
	Karin Bruzelius, Supreme Court Judge, Conciliator and Arbitrator	22 November 1999
	Hans Wilhelm Longva, Director General, Department of Legal Affairs, Ministry of Foreign Affairs, Conciliator and Arbitrator	22 November 1999
	Ambassador Per Tresselt, Conciliator and Arbitrator	22 November 1999
Poland	Mr. Janusz Symonides, Conciliator and Arbitrator	14 May 2004
	Mr. Stanislaw Pawlak, Conciliator and Arbitrator	14 May 2004
	Mrs. Maria Dragun-Gertner, Conciliator and Arbitrator	14 May 2004

<i>State Party</i>	<i>Nominations</i>	<i>Date of deposit of notification with the Secretary-General</i>
Portugal	Professor José Manuela Pureza, Conciliator	5 October 2011
	Dr. João Madureira, Conciliator	5 October 2011
	Dr. Mateus Kowalski, Conciliator	5 October 2011
	Dr. Tiago Pitta e Cunha, Conciliator	5 October 2011
	Professor Nuno Sérgio Marques Antunes, Arbitrator	5 October 2011
Republic of Korea	Professor Jin-Hyun Paik, Conciliator and Arbitrator	14 February 2013
Romania	Mr. Bogdan Aurescu, Secretary of State, Ministry of Foreign Affairs, Member of the Permanent Court of Arbitration, Arbitrator	2 October 2009
	Mr. Cosmin Dinescu, Director General for Legal Affairs, Ministry of Foreign Affairs, Arbitrator	2 October 2009
Russian Federation	Vladimir S. Kotliar, Arbitrator	26 May 1997
	Professor Kamil A. Bekyashev, Arbitrator	4 March 1998
	Mr. Alexander N. Vylegjanin, Director of the Legal Department of the Council for the Study of Productive Forces of the Russian Academy of Science, Arbitrator	17 January 2003
Singapore	Professor S. Jayakumar, Professor of Law, National University of Singapore, Conciliator and Arbitrator	5 April 2016
	Professor Tommy Koh, Professor of Law, National University of Singapore, Ambassador-at-Large, Conciliator and Arbitrator	5 April 2016
	Mr. Chan Sek Keong, Retired Chief Justice, Former Attorney-General, Conciliator and Arbitrator	5 April 2016
	Mr. Lionel Yee Woon Chin S.C., Solicitor-General, Conciliator and Arbitrator	5 April 2016
Slovakia	Dr. Marek Smid, International Law Department of the Ministry of Foreign Affairs of Slovakia, Conciliator	9 July 2004
	Dr. Peter Tomka, Judge of the International Court of Justice, Arbitrator	9 July 2004
South Africa	Judge Albertus Jacobus Hoffmann, Vice-President, International Tribunal for the Law of the Sea, Arbitrator	25 April 2014
Spain	José Antonio de Yturriaga Barberán, Arbitrator	23 June 1999
	José Antonio de Yturriaga Barberán, Ambassador at large, Conciliator	7 February 2002
	Juan Antonio Yáñez-Barnuevo García, Ambassador at large, Conciliator	7 February 2002
	Aurelio Pérez Giralda, Chief, International Legal Advisory Assistance, Ministry of Foreign Affairs, Conciliator	7 February 2002
	José Antonio Pastor Ridruejo, Judge, European Court of Human Rights, Arbitrator	7 February 2002
	D. Juan Antonio Yáñez-Barnuevo García, Arbitrator	26 March 2012
	Da Concepción Escobar Hernández, Conciliator and Arbitrator	26 March 2012
Sri Lanka	Hon. M.S. Aziz, P.C., Conciliator and Arbitrator	17 January 1996
	C. W. Pinto, Secretary-General of the Iran-US Tribunal in the Hague, Conciliator and Arbitrator	17 September 2002

<i>State Party</i>	<i>Nominations</i>	<i>Date of deposit of notification with the Secretary-General</i>
Sudan	Sayed/Shawgi Hussain, Arbitrator	8 September 1995
	Dr. Ahmed Elmufti, Arbitrator	8 September 1995
	Dr. Abd Elrahman Elkhalifa, Conciliator	8 September 1995
	Sayed/Eltahir Hamadalla, Conciliator	8 September 1995
	Professor Elihu Lauterpacht CBE QC, Arbitrator	8 September 1995
	Sir Arthur Watts KCMG QC, Arbitrator	8 September 1995
Sweden	Dr. Marie Jacobsson, Principal Legal Advisor on International Law, Ministry for Foreign Affairs, Arbitrator	2 June 2006
	Dr. Said Mahmoudi, Professor of International Law, University of Stockholm, Arbitrator	2 June 2006
Switzerland	Ms. Laurence Boisson de Chazournes, Professor, Arbitrator	14 October 2014
	Mr. Andrew Clapham, Professor, Arbitrator	14 October 2014
	Mr. Lucius Cafilisch, Professor, Arbitrator	14 October 2014
	Mr. Robert Kolb, Professor, Arbitrator	14 October 2014
Trinidad and Tobago	Mr. Justice Cecil Bernard, Judge of the Industrial Court of the Republic of Trinidad and Tobago, Arbitrator	17 November 2004
United Kingdom of Great Britain and Northern Ireland	Sir Michael Wood, Conciliator and Arbitrator	2 November 2010
	Sir Elihu Lauterpacht QC, Conciliator and Arbitrator	2 November 2010
	Professor Vaughan Lowe QC, Conciliator and Arbitrator	2 November 2010
	Mr. David Anderson, Conciliator and Arbitrator	2 November 2010
United Republic of Tanzania	Ambassador James Kateka, Judge of ITLOS, Conciliator and Arbitrator	18 September 2013

B. RECENT JUDGMENTS, AWARDS AND ORDERS²

Permanent Court of Arbitration: The South China Sea Arbitration (The Republic of the Philippines v. The People's Republic of China), 12 July 2016³

The Tribunal renders its award

A unanimous Award has been issued today by the Tribunal constituted under Annex VII to the United Nations Convention on the Law of the Sea (the “Convention”) in the arbitration instituted by the Republic of the Philippines against the People’s Republic of China.

This arbitration concerned the role of historic rights and the source of maritime entitlements in the South China Sea, the status of certain maritime features and the maritime entitlements they are capable of generating, and the lawfulness of certain actions by China that were alleged by the Philippines to violate the Convention. In light of limitations on compulsory dispute settlement under the Convention, the Tribunal has emphasized that it does not rule on any question of sovereignty over land territory and does not delimit any boundary between the Parties.

China has repeatedly stated that “it will neither accept nor participate in the arbitration unilaterally initiated by the Philippines.” Annex VII, however, provides that the “[a]bsence of a party or failure of a party to defend its case shall not constitute a bar to the proceedings.” Annex VII also provides that, in the event that a party does not participate in the proceedings, a tribunal “must satisfy itself not only that it has jurisdiction over the dispute but also that the claim is well founded in fact and law.” Accordingly, throughout these proceedings, the Tribunal has taken steps to test the accuracy of the Philippines’ claims, including by requesting further written submissions from the Philippines, by questioning the Philippines both prior to and during two hearings, by appointing independent experts to report to the Tribunal on technical matters, and by obtaining historical evidence concerning features in the South China Sea and providing it to the Parties for comment.

China has also made clear—through the publication of a Position Paper in December 2014 and in other official statements—that, in its view, the Tribunal lacks jurisdiction in this matter. Article 288 of the Convention provides that: “In the event of a dispute as to whether a court or tribunal has jurisdiction, the matter shall be settled by decision of that court or tribunal.” Accordingly, the Tribunal convened a hearing on jurisdiction and admissibility in July 2015 and rendered an Award on Jurisdiction and Admissibility on 29 October 2015, deciding some issues of jurisdiction and deferring others for further consideration. The Tribunal then convened a hearing on the merits from 24 to 30 November 2015.

The Award of today’s date addresses the issues of jurisdiction not decided in the Award on Jurisdiction and Admissibility and the merits of the Philippines’ claims over which the Tribunal has jurisdiction. The Award is final and binding, as set out in Article 296 of the Convention and Article 11 of Annex VII.

Historic rights and the “nine-dash line”

The Tribunal found that it has jurisdiction to consider the Parties’ dispute concerning historic rights and the source of maritime entitlements in the South China Sea. On the merits, the Tribunal concluded that the Convention comprehensively allocates rights to maritime areas and that protections for pre-existing rights to resources were considered, but not adopted in the Convention. Accordingly, the Tribunal concluded that, to the extent China had historic rights to resources in the waters of the South China Sea, such rights were extinguished to the extent they were incompatible with the exclusive economic zones provided for in the Convention. The Tribunal also noted that, although Chinese navigators and fishermen, as well as those of other States, had historically made use of the *islands* in the South China Sea, there was no evidence that China had historically exercised exclusive control over the *waters* or their resources. The Tribunal concluded that there was no legal basis for China to claim historic rights to resources within the sea areas falling within the “nine-dash line”.

² This section is devoted to information concerning law of the sea cases as reported by the International Tribunal for the Law of the Sea, the International Court of Justice, the Permanent Court of Arbitration and other arbitral tribunals.

³ Permanent Court of Arbitration Press Release of 12 July 2016, reproduced in extenso from <https://pca-cpa.org/wp-content/uploads/sites/175/2016/07/PH-CN-20160712-Press-Release-No-11-English.pdf>.

Status of features

The Tribunal next considered entitlements to maritime areas and the status of features. The Tribunal first undertook an evaluation of whether certain reefs claimed by China are above water at high tide. Features that are above water at high tide generate an entitlement to at least a 12 nautical mile territorial sea, whereas features that are submerged at high tide do not. The Tribunal noted that the reefs have been heavily modified by land reclamation and construction, recalled that the Convention classifies features on their natural condition, and relied on historical materials in evaluating the features. The Tribunal then considered whether any of the features claimed by China could generate maritime zones beyond 12 nautical miles. Under the Convention, islands generate an exclusive economic zone of 200 nautical miles and a continental shelf, but “[r]ocks which cannot sustain human habitation or economic life of their own shall have no exclusive economic zone or continental shelf.” The Tribunal concluded that this provision depends upon the objective capacity of a feature, in its natural condition, to sustain either a stable community of people or economic activity that is not dependent on outside resources or purely extractive in nature. The Tribunal noted that the current presence of official personnel on many of the features is dependent on outside support and not reflective of the capacity of the features. The Tribunal found historical evidence to be more relevant and noted that the Spratly Islands were historically used by small groups of fishermen and that several Japanese fishing and guano mining enterprises were attempted. The Tribunal concluded that such transient use does not constitute inhabitation by a stable community and that all of the historical economic activity had been extractive. Accordingly, the Tribunal concluded that none of the Spratly Islands is capable of generating extended maritime zones. The Tribunal also held that the Spratly Islands cannot generate maritime zones collectively as a unit. Having found that none of the features claimed by China was capable of generating an exclusive economic zone, the Tribunal found that it could—without delimiting a boundary—declare that certain sea areas are within the exclusive economic zone of the Philippines, because those areas are not overlapped by any possible entitlement of China.

Lawfulness of Chinese actions

The Tribunal next considered the lawfulness of Chinese actions in the South China Sea. Having found that certain areas are within the exclusive economic zone of the Philippines, the Tribunal found that China had violated the Philippines’ sovereign rights in its exclusive economic zone by (a) interfering with Philippine fishing and petroleum exploration, (b) constructing artificial islands and (c) failing to prevent Chinese fishermen from fishing in the zone. The Tribunal also held that fishermen from the Philippines (like those from China) had traditional fishing rights at Scarborough Shoal and that China had interfered with these rights in restricting access. The Tribunal further held that Chinese law enforcement vessels had unlawfully created a serious risk of collision when they physically obstructed Philippine vessels.

Harm to marine environment

The Tribunal considered the effect on the marine environment of China’s recent large-scale land reclamation and construction of artificial islands at seven features in the Spratly Islands and found that China had caused severe harm to the coral reef environment and violated its obligation to preserve and protect fragile ecosystems and the habitat of depleted, threatened, or endangered species. The Tribunal also found that Chinese authorities were aware that Chinese fishermen have harvested endangered sea turtles, coral, and giant clams on a substantial scale in the South China Sea (using methods that inflict severe damage on the coral reef environment) and had not fulfilled their obligations to stop such activities.

Aggravation of dispute

Finally, the Tribunal considered whether China’s actions since the commencement of the arbitration had aggravated the dispute between the Parties. The Tribunal found that it lacked jurisdiction to consider the implications of a stand-off between Philippine marines and Chinese naval and law enforcement vessels at Second Thomas Shoal, holding that this dispute involved military activities and was therefore excluded from compulsory settlement. The Tribunal found, however, that China’s recent large-scale land reclamation and construction of artificial islands was incompatible with the obligations on a State during dispute resolution proceedings, insofar as China has inflicted irreparable harm to the marine environment, built a large arti-

ficial island in the Philippines' exclusive economic zone, and destroyed evidence of the natural condition of features in the South China Sea that formed part of the Parties' dispute.

An expanded summary of the Tribunal's decisions is set out below.

The Tribunal was constituted on 21 June 2013 pursuant to the procedure set out in Annex VII of the Convention to decide the dispute presented by the Philippines. The Tribunal is composed of Judge Thomas A. Mensah of Ghana, Judge Jean-Pierre Cot of France, Judge Stanislaw Pawlak of Poland, Professor Alfred H.A. Soons of the Netherlands, and Judge Rüdiger Wolfrum of Germany. Judge Thomas A. Mensah serves as President of the Tribunal. The Permanent Court of Arbitration acts as the Registry in the proceedings.

Further information about the case may be found at www.pcacases.com/web/view/7, including the Award on Jurisdiction and Admissibility, the Rules of Procedure, earlier Press Releases, hearing transcripts, and photographs. Procedural Orders, submissions by the Philippines, and reports by the Tribunal's experts will be made available in due course, as will unofficial Chinese translations of the Tribunal's Awards.

Background to the Permanent Court of Arbitration

The Permanent Court of Arbitration (PCA) is an intergovernmental organization established by the 1899 Hague Convention on the Pacific Settlement of International Disputes. The PCA has 121 Member States. Headquartered at the Peace Palace in The Hague, the Netherlands, the PCA facilitates arbitration, conciliation, fact-finding, and other dispute resolution proceedings among various combinations of States, State entities, intergovernmental organizations, and private parties. The PCA's International Bureau is currently administering 8 interstate disputes, 73 investor-State arbitrations, and 34 cases arising under contracts involving a State or other public entity. The PCA has administered 12 cases initiated by States under Annex VII to the United Nations Convention on the Law of the Sea.

In July 2013, the Tribunal in the *South China Sea Arbitration* appointed the PCA to serve as Registry for the proceedings. The Tribunal's Rules of Procedure provide that the PCA shall "maintain an archive of the arbitral proceedings and provide appropriate registry services as directed by the Arbitral Tribunal." Such services include assisting with the identification and appointment of experts; publishing information about the arbitration and issuing press releases; organizing the hearings at the Peace Palace in The Hague; and the financial management of the case, which involves holding a deposit for expenses in the arbitration, such as to pay arbitrator fees, experts, technical support, court reporters etc. The Registry also serves as the channel of communications amongst the Parties and the Tribunal and observer States.

SUMMARY OF THE TRIBUNAL'S DECISIONS ON ITS JURISDICTION AND ON THE MERITS OF THE PHILIPPINES' CLAIMS

1. BACKGROUND TO THE ARBITRATION

The *South China Sea Arbitration* between the Philippines and China concerned an application by the Philippines for rulings in respect of four matters concerning the relationship between the Philippines and China in the South China Sea. First, the Philippines sought a ruling on the source of the Parties' rights and obligations in the South China Sea and the effect of the United Nations Convention on the Law of the Sea ("Convention") on China's claims to historic rights within its so-called "nine-dash line". Second, the Philippines sought a ruling on whether certain maritime features claimed by both China and the Philippines are properly characterized as islands, rocks, low-tide elevations or submerged banks under the Convention. The status of these features under the Convention determines the maritime zones they are capable of generating. Third, the Philippines sought rulings on whether certain Chinese actions in the South China Sea have violated the Convention, by interfering with the exercise of the Philippines' sovereign rights and freedoms under the Convention or through construction and fishing activities that have harmed the marine environment. Finally, the Philippines sought a ruling that certain actions taken by China, in particular its large-scale land reclamation and construction of artificial islands in the Spratly Islands since this arbitration was commenced, have unlawfully aggravated and extended the Parties' dispute.

The Chinese Government has adhered to the position of neither accepting nor participating in these arbitral proceedings. It has reiterated this position in diplomatic notes, in the "Position Paper of the Gov-

ernment of the People's Republic of China on the Matter of Jurisdiction in the South China Sea Arbitration Initiated by the Republic of the Philippines" dated 7 December 2014 ("China's Position Paper"), in letters to members of the Tribunal from the Chinese Ambassador to the Kingdom of the Netherlands, and in many public statements. The Chinese Government has also made clear that these statements and documents "shall by no means be interpreted as China's participation in the arbitral proceeding in any form."

Two provisions of the Convention address the situation of a party that objects to the jurisdiction of a tribunal and declines to participate in the proceedings:

- (a) Article 288 of the Convention provides that: "In the event of a dispute as to whether a court or tribunal has jurisdiction, the matter shall be settled by decision of that court or tribunal."
- (b) Article 9 of Annex VII to the Convention provides that:

If one of the parties to the dispute does not appear before the arbitral tribunal or fails to defend its case, the other party may request the tribunal to continue the proceedings and to make its award. Absence of a party or failure of a party to defend its case shall not constitute a bar to the proceedings. Before making its award, the arbitral tribunal must satisfy itself not only that it has jurisdiction over the dispute but also that the claim is well founded in fact and law.

Throughout these proceedings, the Tribunal has taken a number of steps to fulfil its duty to satisfy itself as to whether it has jurisdiction and whether the Philippines' claims are "well founded in fact and law". With respect to jurisdiction, the Tribunal decided to treat China's informal communications as equivalent to an objection to jurisdiction, convened a Hearing on Jurisdiction and Admissibility on 7 to 13 July 2015, questioned the Philippines both before and during the hearing on matters of jurisdiction, including potential issues not raised in China's informal communications, and issued an Award on Jurisdiction and Admissibility on 29 October 2015 (the "Award on Jurisdiction"), deciding some issues of jurisdiction and deferring others for further consideration in conjunction with the merits of the Philippines' claims. With respect to the merits, the Tribunal sought to test the accuracy of the Philippines' claims by requesting further written submissions from the Philippines, by convening a hearing on the merits from 24 to 30 November 2015, by questioning the Philippines both before and during the hearing with respect to its claims, by appointing independent experts to report to the Tribunal on technical matters, and by obtaining historical records and hydrographic survey data for the South China Sea from the archives of the United Kingdom Hydrographic Office, the National Library of France, and the French National Overseas Archives and providing it to the Parties for comment, along with other relevant materials in the public domain.

2. THE PARTIES' POSITIONS

The Philippines made 15 Submissions in these proceedings, requesting the Tribunal to find that:

- (1) China's maritime entitlements in the South China Sea, like those of the Philippines, may not extend beyond those expressly permitted by the United Nations Convention on the Law of the Sea;
- (2) China's claims to sovereign rights jurisdiction, and to "historic rights", with respect to the maritime areas of the South China Sea encompassed by the so-called "nine-dash line" are contrary to the Convention and without lawful effect to the extent that they exceed the geographic and substantive limits of China's maritime entitlements expressly permitted by UNCLOS;
- (3) Scarborough Shoal generates no entitlement to an exclusive economic zone or continental shelf;
- (4) Mischief Reef, Second Thomas Shoal, and Subi Reef are low-tide elevations that do not generate entitlement to a territorial sea, exclusive economic zone or continental shelf; and are not features that are capable of appropriation by occupation or otherwise;
- (5) Mischief Reef and Second Thomas Shoal are part of the exclusive economic zone and continental shelf of the Philippines;
- (6) Gaven Reef and McKennan Reef (including Hughes Reef) are low-tide elevations that do not generate entitlement to a territorial sea, exclusive economic zone or continental shelf, but their low-water line may be used to determine the baseline from which the breadth of the territorial sea of Namyt and Sin Cowe, respectively, is measured;

- (7) Johnson Reef, Cuarteron Reef and Fiery Cross Reef generate no entitlement to an exclusive economic zone or continental shelf;
- (8) China has unlawfully interfered with the enjoyment and exercise of the sovereign rights of the Philippines with respect to the living and non-living resources of its exclusive economic zone and continental shelf;
- (9) China has unlawfully failed to prevent its nationals and vessels from exploiting the living resources in the exclusive economic zone of the Philippines;
- (10) China has unlawfully prevented Philippine fishermen from pursuing their livelihoods by interfering with traditional fishing activities at Scarborough Shoal;
- (11) China has violated its obligations under the Convention to protect and preserve the marine environment at Scarborough Shoal, Second Thomas Shoal, Cuarteron Reef, Fiery Cross Reef, Gaven Reef, Johnson Reef, Hughes Reef and Subi Reef;
- (12) China's occupation of and construction activities on Mischief Reef
 - (a) violate the provisions of the Convention concerning artificial islands, installations and structures;
 - (b) violate China's duties to protect and preserve the marine environment under the Convention; and
 - (c) constitute unlawful acts of attempted appropriation in violation of the Convention;
- (13) China has breached its obligations under the Convention by operating its law enforcement vessels in a dangerous manner, causing serious risk of collision to Philippine vessels navigating in the vicinity of Scarborough Shoal;
- (14) Since the commencement of this arbitration in January 2013, China has unlawfully aggravated and extended the dispute by, among other things:
 - (a) interfering with the Philippines' rights of navigation in the waters at, and adjacent to, Second Thomas Shoal;
 - (b) preventing the rotation and resupply of Philippine personnel stationed at Second Thomas Shoal;
 - (c) endangering the health and well-being of Philippine personnel stationed at Second Thomas Shoal; and
 - (d) conducting dredging, artificial island-building and construction activities at Mischief Reef, Cuarteron Reef, Fiery Cross Reef, Gaven Reef, Johnson Reef, Hughes Reef and Subi Reef; and
- (15) China shall respect the rights and freedoms of the Philippines under the Convention, shall comply with its duties under the Convention, including those relevant to the protection and preservation of the marine environment in the South China Sea, and shall exercise its rights and freedoms in the South China Sea with due regard to those of the Philippines under the Convention.

With respect to jurisdiction, the Philippines has asked the Tribunal to declare that the Philippines' claims "are entirely within its jurisdiction and are fully admissible."

China does not accept and is not participating in this arbitration but stated its position that the Tribunal "does not have jurisdiction over this case." In its Position Paper, China advanced the following arguments:

- The essence of the subject matter of the arbitration is the territorial sovereignty over several maritime features in the South China Sea, which is beyond the scope of the Convention and does not concern the interpretation or application of the Convention;
- China and the Philippines have agreed, through bilateral instruments and the Declaration on the Conduct of Parties in the South China Sea, to settle their relevant disputes through negotiations. By unilaterally initiating the present arbitration, the Philippines has breached its obligation under international law;
- Even assuming, *arguendo*, that the subject matter of the arbitration were concerned with the interpretation or application of the Convention, that subject matter would constitute an integral part of maritime delimitation between the two countries, thus falling within the scope of the declaration filed by China in 2006 in accordance with the Convention, which excludes, *inter alia*, disputes con-

cerning maritime delimitation from compulsory arbitration and other compulsory dispute settlement procedures;

Although China has not made equivalent public statements with respect to the merits of the majority of the Philippines' claims, the Tribunal has sought throughout the proceedings to ascertain China's position on the basis of its contemporaneous public statements and diplomatic correspondence.

3. THE TRIBUNAL'S DECISIONS ON THE SCOPE OF ITS JURISDICTION

The Tribunal has addressed the scope of its jurisdiction to consider the Philippines' claims both in its Award on Jurisdiction, to the extent that issues of jurisdiction could be decided as a preliminary matter, and in its Award of 12 July 2016, to the extent that issues of jurisdiction were intertwined with the merits of the Philippines' claims. The Tribunal's Award of 12 July 2016 also incorporates and reaffirms the decisions on jurisdiction taken in the Award on Jurisdiction.

For completeness, the Tribunal's decisions on jurisdiction in both awards are summarized here together.

(a) *Preliminary matters*

In its Award on Jurisdiction, the Tribunal considered a number of preliminary matters with respect to its jurisdiction. The Tribunal noted that both the Philippines and China are parties to the Convention and that the Convention does not permit a State to except itself generally from the mechanism for the resolution of disputes set out in the Convention. The Tribunal held that China's non-participation does not deprive the Tribunal of jurisdiction and that the Tribunal had been properly constituted pursuant to the provisions of Annex VII to the Convention, which include a procedure to form a tribunal even in the absence of one party. Finally, the Tribunal rejected an argument set out in China's Position Paper and held that the mere act of unilaterally initiating an arbitration cannot constitute an abuse of the Convention.

(b) *Existence of a dispute concerning interpretation and application of the Convention*

In its Award on Jurisdiction, the Tribunal considered whether the Parties' disputes concerned the interpretation or application of the Convention, which is a requirement for resort to the dispute settlement mechanisms of the Convention.

The Tribunal rejected the argument set out in China's Position Paper that the Parties' dispute is actually about territorial sovereignty and therefore not a matter concerning the Convention. The Tribunal accepted that there is a dispute between the Parties concerning sovereignty over islands in the South China Sea, but held that the matters submitted to arbitration by the Philippines do not concern sovereignty. The Tribunal considered that it would not need to implicitly decide sovereignty to address the Philippines' Submissions and that doing so would not advance the sovereignty claims of either Party to islands in the South China Sea.

The Tribunal also rejected the argument set out in China's Position Paper that the Parties' dispute is actually about maritime boundary delimitation and therefore excluded from dispute settlement by Article 298 of the Convention and a declaration that China made on 25 August 2006 pursuant to that Article. The Tribunal noted that a dispute concerning whether a State has an entitlement to a maritime zone is a distinct matter from the delimitation of maritime zones in an area in which they overlap. The Tribunal noted that entitlements, together with a wide variety of other issues, are commonly considered in a boundary delimitation, but can also arise in other contexts. The Tribunal held that it does not follow that a dispute over each of these issues is necessarily a dispute over boundary delimitation.

Finally, the Tribunal held that each of the Philippines' Submissions reflected a dispute concerning the Convention. In doing so, the Tribunal emphasized (a) that a dispute concerning the interaction between the Convention and other rights (including any Chinese "historic rights") is a dispute concerning the Convention and (b) that where China has not clearly stated its position, the existence of a dispute may be inferred from the conduct of a State or from silence and is a matter to be determined objectively.

(c) *Involvement of indispensable third parties*

In its Award on Jurisdiction, the Tribunal considered whether the absence from this arbitration of other States that have made claims to the islands of the South China Sea would be a bar to the Tribunal's jurisdiction. The Tribunal noted that the rights of other States would not form "the very subject-matter of the decision," the standard for a third party to be indispensable. The Tribunal further noted that in December 2014, Viet Nam had submitted a statement to the Tribunal, in which Viet Nam asserted that it has "no doubt that the Tribunal has jurisdiction in these proceedings." The Tribunal also noted that Viet Nam, Malaysia, and Indonesia had attended the hearing on jurisdiction as observers, without any State raising the argument that its participation was indispensable.

In its Award of 12 July 2016, the Tribunal noted that it had received a communication from Malaysia on 23 June 2016, recalling Malaysia's claims in the South China Sea. The Tribunal compared its decisions on the merits of the Philippines' Submissions with the rights claimed by Malaysia and reaffirmed its decision that Malaysia is not an indispensable party and that Malaysia's interests in the South China Sea do not prevent the Tribunal from addressing the Philippines' Submissions.

(d) *Preconditions to jurisdiction*

In its Award on Jurisdiction, the Tribunal considered the applicability of Articles 281 and 282 of the Convention, which may prevent a State from making use of the mechanisms under the Convention if they have already agreed to another means of dispute resolution.

The Tribunal rejected the argument set out in China's Position Paper that the 2002 China–ASEAN Declaration on the Conduct of Parties in the South China Sea prevented the Philippines from initiating arbitration. The Tribunal held that the Declaration is a political agreement and not legally binding, does not provide a mechanism for binding settlement, does not exclude other means of dispute settlement, and therefore does not restrict the Tribunal's jurisdiction under Articles 281 or 282. The Tribunal also considered the Treaty of Amity and Cooperation in Southeast Asia, and the Convention on Biological Diversity, and a series of joint statements issued by the Philippines and China referring to the resolution of disputes through negotiations and concluded that none of these instruments constitute an agreement that would prevent the Philippines from bringing its claims to arbitration.

The Tribunal further held that the Parties had exchanged views regarding the settlement of their disputes, as required by Article 283 of the Convention, before the Philippines initiated the arbitration. The Tribunal concluded that this requirement was met in the record of diplomatic communications between the Philippines and China, in which the Philippines expressed a clear preference for multilateral negotiations involving the other States surrounding the South China Sea, while China insisted that only bilateral talks could be considered.

(e) *Exceptions and limitations to jurisdiction*

In its Award of 12 July 2016, the Tribunal considered whether the Philippines' Submissions concerning Chinese historic rights and the "nine-dash line" were affected by the exception from jurisdiction for disputes concerning "historic title" in Article 298 of the Convention. The Tribunal reviewed the meaning of "historic title" in the law of the sea and held that this refers to claims of historic sovereignty over bays and other near-shore waters. Reviewing China's claims and conduct in the South China Sea, the Tribunal concluded that China claims historic rights to resources within the "nine-dash line", but does not claim historic title over the waters of the South China Sea. Accordingly, the Tribunal concluded that it had jurisdiction to consider the Philippines' claims concerning historic rights and, as between the Philippines and China, the "nine-dash line".

In its Award of 12 July 2016, the Tribunal also considered whether the Philippines' Submissions were affected by the exception from jurisdiction in Article 298 for disputes concerning sea boundary delimitation. The Tribunal had already found in its Award on Jurisdiction that the Philippines' Submissions do not concern boundary delimitation as such, but noted that several of the Philippines' Submissions were dependent on certain areas forming part of the Philippines' exclusive economic zone. The Tribunal held that it could only address such submissions if there was no possibility that China could have an entitlement to an exclusive economic zone overlapping that of the Philippines and deferred a final decision on its jurisdiction. In its

Award of 12 July 2016, the Tribunal reviewed evidence about the reefs and islands claimed by China in the South China Sea and concluded that none is capable of generating an entitlement to an exclusive economic zone. Because China has no possible entitlement to an exclusive economic zone overlapping that of the Philippines in the Spratly Islands, the Tribunal held that the Philippines' submissions were not dependent on a prior delimitation of a boundary.

In its Award of 12 July 2016, the Tribunal also considered whether the Philippines' Submissions were affected by the exception from jurisdiction in Article 298 for disputes concerning law enforcement activities in the exclusive economic zone. The Tribunal recalled that the exception in Article 298 would apply only if the Philippines' Submissions related to law enforcement activities in *China's* exclusive economic zone. Because, however, the Philippines' Submissions related to events in the Philippines' *own* exclusive economic zone or in the territorial sea, the Tribunal concluded that Article 298 did not pose an obstacle to its jurisdiction.

Lastly, in its Award of 12 July 2016, the Tribunal considered whether the Philippines' submissions were affected by the exception from jurisdiction in Article 298 for disputes concerning military activities. The Tribunal considered that the stand-off between Philippine marines on Second Thomas Shoal and Chinese naval and law enforcement vessels constituted military activities and concluded that it lacked jurisdiction over the Philippines' Submission No. 14(a)-(c). The Tribunal also considered whether China's land reclamation and construction of artificial islands at seven features in the Spratly Islands constituted military activities, but noted that China had repeatedly emphasized the non-military nature of its actions and had stated at the highest level that it would not militarize its presence in the Spratlys. The Tribunal decided that it would not deem activities to be military in nature when China itself had repeatedly affirmed the opposite. Accordingly, the Tribunal concluded that Article 298 did not pose an obstacle to its jurisdiction.

4. THE TRIBUNAL'S DECISIONS ON THE MERITS OF THE PHILIPPINES' CLAIMS

(a) *The "nine-dash line" and China's claim to historic rights in the maritime areas of the South China Sea*

In its Award of 12 July 2016, the Tribunal considered the implications of China's "nine-dash line" and whether China has historic rights to resources in the South China Sea beyond the limits of the maritime zones that it is entitled to pursuant to the Convention.

The Tribunal examined the history of the Convention and its provisions concerning maritime zones and concluded that the Convention was intended to comprehensively allocate the rights of States to maritime areas. The Tribunal noted that the question of pre-existing rights to resources (in particular fishing resources) was carefully considered during the negotiations on the creation of the exclusive economic zone and that a number of States wished to preserve historic fishing rights in the new zone. This position was rejected, however, and the final text of the Convention gives other States only a limited right of access to fisheries in the exclusive economic zone (in the event the coastal State cannot harvest the full allowable catch) and no rights to petroleum or mineral resources. The Tribunal found that China's claim to historic rights to resources was incompatible with the detailed allocation of rights and maritime zones in the Convention and concluded that, to the extent China had historic rights to resources in the waters of the South China Sea, such rights were extinguished by the entry into force of the Convention to the extent they were incompatible with the Convention's system of maritime zones.

The Tribunal also examined the historical record to determine whether China actually had historic rights to resources in the South China Sea prior to the entry into force of the Convention. The Tribunal noted that there is evidence that Chinese navigators and fishermen, as well as those of other States, had historically made use of the *islands* in the South China Sea, although the Tribunal emphasized that it was not empowered to decide the question of sovereignty over the islands. However, the Tribunal considered that prior to the Convention, the waters of the South China Sea beyond the territorial sea were legally part of the high seas, in which vessels from any State could freely navigate and fish. Accordingly, the Tribunal concluded that historical navigation and fishing by China in the *waters* of the South China Sea represented the exercise of high seas freedoms, rather than a historic right, and that there was no evidence that China had historically exercised exclusive control over the waters of the South China Sea or prevented other States from exploiting their resources.

Accordingly, the Tribunal concluded that, as between the Philippines and China, there was no legal basis for China to claim historic rights to resources, in excess of the rights provided for by the Convention, within the sea areas falling within the "nine-dash line".

(b) *The status of features in the South China Sea*

In its Award of 12 July 2016, the Tribunal considered the status of features in the South China Sea and the entitlements to maritime areas that China could potentially claim pursuant to the Convention.

The Tribunal first undertook a technical evaluation as to whether certain coral reefs claimed by China are or are not above water at high tide. Under Articles 13 and 121 of the Convention, features that are above water at high tide generate an entitlement to at least a 12 nautical mile territorial sea, whereas features that are submerged at high tide generate no entitlement to maritime zones. The Tribunal noted that many of the reefs in the South China Sea have been heavily modified by recent land reclamation and construction and recalled that the Convention classifies features on the basis of their natural condition. The Tribunal appointed an expert hydrographer to assist it in evaluating the Philippines' technical evidence and relied heavily on archival materials and historical hydrographic surveys in evaluating the features. The Tribunal agreed with the Philippines that Scarborough Shoal, Johnson Reef, Cuarteron Reef, and Fiery Cross Reef are high-tide features and that Subi Reef, Hughes Reef, Mischief Reef, and Second Thomas Shoal were submerged at high tide in their natural condition. However, the Tribunal disagreed with the Philippines regarding the status of Gaven Reef (North) and McKennan Reef and concluded that both are high-tide features.

The Tribunal then considered whether any of the features claimed by China could generate an entitlement to maritime zones beyond 12 nautical miles. Under Article 121 of the Convention, islands generate an entitlement to an exclusive economic zone of 200 nautical miles and to a continental shelf, but “[r]ocks which cannot sustain human habitation or economic life of their own shall have no exclusive economic zone or continental shelf.” The Tribunal noted that this provision was closely linked to the expansion of coastal State jurisdiction with the creation of the exclusive economic zone and was intended to prevent insignificant features from generating large entitlements to maritime zones that would infringe on the entitlements of inhabited territory or on the high seas and the area of the seabed reserved for the common heritage of mankind. The Tribunal interpreted Article 121 and concluded that the entitlements of a feature depend on (a) the objective capacity of a feature, (b) in its natural condition, to sustain either (c) a stable community of people or (d) economic activity that is neither dependent on outside resources nor purely extractive in nature.

The Tribunal noted that many of the features in the Spratly Islands are currently controlled by one or another of the littoral States, which have constructed installations and maintain personnel there. The Tribunal considered these modern presences to be dependent on outside resources and support and noted that many of the features have been modified to improve their habitability, including through land reclamation and the construction of infrastructure such as desalination plants. The Tribunal concluded that the current presence of official personnel on many of the features does not establish their capacity, in their natural condition, to sustain a stable community of people and considered that historical evidence of habitation or economic life was more relevant to the objective capacity of the features. Examining the historical record, the Tribunal noted that the Spratly Islands were historically used by small groups of fishermen from China, as well as other States, and that several Japanese fishing and guano mining enterprises were attempted in the 1920s and 1930s. The Tribunal concluded that temporary use of the features by fishermen did not amount to inhabitation by a stable community and that all of the historical economic activity had been extractive in nature. Accordingly, the Tribunal concluded that all of the high-tide features in the Spratly Islands (including, for example, Itu Aba, Thitu, West York Island, Spratly Island, North-East Cay, South-West Cay) are legally “rocks” that do not generate an exclusive economic zone or continental shelf.

The Tribunal also held that the Convention does not provide for a group of islands such as the Spratly Islands to generate maritime zones collectively as a unit.

(c) *Chinese activities in the South China Sea*

In its Award of 12 July 2016, the Tribunal considered the lawfulness under the Convention of various Chinese actions in the South China Sea.

Having found that Mischief Reef, Second Thomas Shoal and Reed Bank are submerged at high tide, form part of the exclusive economic zone and continental shelf of the Philippines, and are not overlapped by any possible entitlement of China, the Tribunal concluded that the Convention is clear in allocating sovereign rights to the Philippines with respect to sea areas in its exclusive economic zone. The Tribunal found as

a matter of fact that China had (a) interfered with Philippine petroleum exploration at Reed Bank, (b) purported to prohibit fishing by Philippine vessels within the Philippines' exclusive economic zone, (c) protected and failed to prevent Chinese fishermen from fishing within the Philippines' exclusive economic zone at Mischief Reef and Second Thomas Shoal, and (d) constructed installations and artificial islands at Mischief Reef without the authorization of the Philippines. The Tribunal therefore concluded that China had violated the Philippines' sovereign rights with respect to its exclusive economic zone and continental shelf.

The Tribunal next examined traditional fishing at Scarborough Shoal and concluded that fishermen from the Philippines, as well as fishermen from China and other countries, had long fished at the Shoal and had traditional fishing rights in the area. Because Scarborough Shoal is above water at high tide, it generates an entitlement to a territorial sea, its surrounding waters do not form part of the exclusive economic zone, and traditional fishing rights were not extinguished by the Convention. Although the Tribunal emphasized that it was not deciding sovereignty over Scarborough Shoal, it found that China had violated its duty to respect to the traditional fishing rights of Philippine fishermen by halting access to the Shoal after May 2012. The Tribunal noted, however, that it would reach the same conclusion with respect to the traditional fishing rights of Chinese fishermen if the Philippines were to prevent fishing by Chinese nationals at Scarborough Shoal.

The Tribunal also considered the effect of China's actions on the marine environment. In doing so, the Tribunal was assisted by three independent experts on coral reef biology who were appointed to assist it in evaluating the available scientific evidence and the Philippines' expert reports. The Tribunal found that China's recent large scale land reclamation and construction of artificial islands at seven features in the Spratly Islands has caused severe harm to the coral reef environment and that China has violated its obligation under Articles 192 and 194 of the Convention to preserve and protect the marine environment with respect to fragile ecosystems and the habitat of depleted, threatened, or endangered species. The Tribunal also found that Chinese fishermen have engaged in the harvesting of endangered sea turtles, coral, and giant clams on a substantial scale in the South China Sea, using methods that inflict severe damage on the coral reef environment. The Tribunal found that Chinese authorities were aware of these activities and failed to fulfill their due diligence obligations under the Convention to stop them.

Finally, the Tribunal considered the lawfulness of the conduct of Chinese law enforcement vessels at Scarborough Shoal on two occasions in April and May 2012 when Chinese vessels had sought to physically obstruct Philippine vessels from approaching or gaining entrance to the Shoal. In doing so, the Tribunal was assisted by an independent expert on navigational safety who was appointed to assist it in reviewing the written reports provided by the officers of the Philippine vessels and the expert evidence on navigational safety provided by the Philippines. The Tribunal found that Chinese law enforcement vessels had repeatedly approached the Philippine vessels at high speed and sought to cross ahead of them at close distances, creating serious risk of collision and danger to Philippine ships and personnel. The Tribunal concluded that China had breached its obligations under the Convention on the International Regulations for Preventing Collisions at Sea, 1972, and Article 94 the Convention concerning maritime safety.

(d) Aggravation of the dispute between the Parties

In its Award of 12 July 2016, the Tribunal considered whether China's recent large-scale land reclamation and construction of artificial islands at seven features in the Spratly Islands since the commencement of the arbitration had aggravated the dispute between the Parties. The Tribunal recalled that there exists a duty on parties engaged in a dispute settlement procedure to refrain from aggravating or extending the dispute or disputes at issue during the pendency of the settlement process. The Tribunal noted that China has (a) built a large artificial island on Mischief Reef, a low-tide elevation located in the exclusive economic zone of the Philippines; (b) caused permanent, irreparable harm to the coral reef ecosystem and (c) permanently destroyed evidence of the natural condition of the features in question. The Tribunal concluded that China had violated its obligations to refrain from aggravating or extending the Parties' disputes during the pendency of the settlement process.

(e) Future conduct of the Parties

Finally, the Tribunal considered the Philippines' request for a declaration that, going forward, China shall respect the rights and freedoms of the Philippines and comply with its duties under the Convention.

In this respect, the Tribunal noted that both the Philippines and China have repeatedly accepted that the Convention and general obligations of good faith define and regulate their conduct. The Tribunal considered that the root of the disputes at issue in this arbitration lies not in any intention on the part of China or the Philippines to infringe on the legal rights of the other, but rather in fundamentally different understandings of their respective rights under the Convention in the waters of the South China Sea. The Tribunal recalled that it is a fundamental principle of international law that bad faith is not presumed and noted that Article 11 of Annex VII provides that the “award ... shall be complied with by the parties to the dispute.” The Tribunal therefore considered that no further declaration was necessary.

**C. SELECTED DOCUMENTS OF THE GENERAL ASSEMBLY AND THE SECURITY COUNCIL
OF THE UNITED NATIONS⁴**

1. A/70/825-S/2016/329: Letter dated 7 April 2016 from the Permanent Representative of Cyprus to the United Nations addressed to the Secretary-General.
2. S/2016/382: Letter dated 25 April 2016 from the Permanent Representative of the Sudan to the United Nations addressed to the President of the Security Council.
3. A/70/855-S/2016/406: Letter dated 28 April 2016 from the Permanent Representative of Turkey to the United Nations addressed to the Secretary-General.
4. A/70/900-S/2016/474: Letter dated 23 May 2016 from the Permanent Representative of Greece to the United Nations addressed to the Secretary-General.
5. A/70/944: 13 June 2016 from the Permanent Representative of Viet Nam to the United Nations addressed to the Secretary-General.
6. A/70/945-S/2016/541: Letter dated 15 June 2016 from the Chargé d'affaires a.i. of the Permanent Mission of Turkey to the United Nations addressed to the Secretary-General.
7. A/70/960: Letter dated 17 June 2016 from the Permanent Representative of China to the United Nations addressed to the Secretary-General.

⁴ All United Nations documents are available from [www.undocs.org/\[symbol of the document\]](http://www.undocs.org/[symbol of the document]).

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