

# **Final Act of the International Conference on the Suppression of Unlawful Acts against the Safety of Maritime Navigation**

1 In accordance with Article 2(b) of the Convention on the International Maritime Organization the Council of the Organization decided, at its fifty-eighth session in June 1987, to convene an international conference on the suppression of unlawful acts against the safety of maritime navigation. This decision was endorsed by the Assembly of the Organization at its fifteenth regular session by resolution A.633(15) of 20 November 1987. The purpose of the conference was to consider the adoption of instruments on the suppression of unlawful acts against the safety of maritime navigation and the safety of fixed platforms located on the continental shelf.

2 The Council, with the approval of the Assembly, accepted with gratitude the kind invitation of the Government of Italy for the conference to be held in Rome.

3 The Conference was held at the Headquarters of the Food and Agriculture Organization of the United Nations in Rome, from 1 March to 10 March 1988.

4 Representatives of 76 States participated in the Conference, namely the representatives of:

Algeria	Cyprus
Argentina	Czechoslovakia
Australia	Denmark
Austria	Ecuador
Bahamas	Egypt
Bangladesh	Finland
Belgium	France
Bolivia	German Democratic Republic
Brazil	Germany, Federal Republic of
Brunei Darussalam	Ghana
Bulgaria	Greece
Byelorussian Soviet Socialist Republic	Haiti
Canada	Honduras
Chile	Hungary
China	India
Colombia	Indonesia
Costa Rica	Iran (Islamic Republic of)
	Iraq

Ireland	Portugal
Israel	Republic of Korea
Italy	Saudi Arabia
Japan	Somalia
Jordan	Spain
Kenya	Sudan
Kuwait	Sweden
Lebanon	Switzerland
Liberia	Syrian Arab Republic
Libyan Arab Jamahiriya	Thailand
Malaysia	Turkey
Malta	Ukrainian Soviet Socialist Republic
Mexico	Union of Soviet Socialist Republics
Morocco	United Arab Emirates
Netherlands	United Kingdom of Great Britain and Northern Ireland
New Zealand	United States of America
Nicaragua	Yemen
Nigeria	Yugoslavia
Norway	Zaire
Peru	
Philippines	
Poland	

5 The following States sent observers to the Conference:

Cuba	Panama
Guinea	Qatar
Holy See	Tunisia

6 The Palestine Liberation Organization (PLO) sent observers to the Conference.

7 The United Nations was represented at the Conference.

8 The Office of the United Nations High Commissioner for Refugees was represented at the Conference.

9 The following intergovernmental organization sent observers to the Conference:

International Institute for the Unification of Private Law  
(UNIDROIT)

10 The following non-governmental international organizations sent observers to the Conference:

International Chamber of Shipping (ICS)  
Baltic and International Maritime Council (BIMCO)

11 The Conference was opened by Mr. C.P. Srivastava, Secretary-General of the International Maritime Organization. On behalf of the Government of Italy, Hon. Prof. Giuliano Vassalli, the Minister of Justice, made a statement welcoming the delegates.

12 Professor L. Ferrari Bravo, Head of the delegation of Italy, was elected President of the Conference.

13 The Vice-Presidents elected by the Conference were:

H.E. Sr. J.A. Medicis (Brazil)  
M. C. Tepavitcharov (Bulgaria)  
Mr. Shen Zhao (China)  
S.E. Dr. G. Bula Hoyos (Colombia)  
M. C. Douay (France)  
Mr. H.-J. Heldt (Federal Republic of Germany)  
Hon. Mr. J. P. Keller (Liberia)  
H.E. Mr. J.T. Kolo (Nigeria)  
H.E. Eng. A.Y. Al-Turki (Saudi Arabia)  
Mr. V.A. Vasilenko (Ukrainian SSR)

14 The Secretary-General of the Conference was Mr. C.P. Srivastava, Secretary-General of the Organization. Mr. T.A. Mensah, Assistant Secretary-General of the Organization, served as Executive Secretary of the Conference and Mr. C.H. Zimmerli, Senior Deputy Director, Legal Affairs and External Relations Division, served as Deputy Executive Secretary.

15 The Conference established a Committee of the Whole with the mandate to consider the two draft instruments before the Conference, namely, the draft Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation and the draft Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms located on the Continental Shelf.

16 The Conference also established a Drafting Committee consisting of the following States: Algeria, Argentina, Austria, China, Egypt, France, the German Democratic Republic, Japan, Kenya, Peru, the Philippines, Spain, Sweden, the USSR, the United Kingdom and the United States.

17 A Credentials Committee consisting of Bangladesh, Belgium, Czechoslovakia, Ghana and Honduras was appointed to examine the credentials of representatives attending the Conference.

18 The officers elected for the Committee were as follows:

*Committee of the Whole:*

Chairman: Mr. P. Kirsch (Canada)

Vice-Chairmen: Ms. R. Hussein (Malaysia)  
H.E. Señor Luis Solari (Peru)  
Citoyen S.K. Milombe (Zaire)

*Drafting Committee:*

Chairman: H.E. Mr. Ahmed Abulkheir (Egypt)  
Vice-Chairmen: H.E. Dr. H. Tuerk (Austria)  
Dr. G. Plant (United Kingdom)

*Credentials Committee:*

Chairman: Mr. W.K. Ansa-Otu (Ghana)

19 The Conference used as the basis of its work the draft texts prepared by the *Ad Hoc* Preparatory Committee on the Suppression of Unlawful Acts against the Safety of Maritime Navigation which was established by the Council of IMO. These were:

- draft Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation;
- draft Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf.

20 The Conference also had before it a document containing the comments of the Legal Committee of IMO, which had been submitted in accordance with the request of the Council of the Organization.

21 Also before the Conference were a number of documents, comments and observations, including proposed amendments, from Governments and interested organizations in relation to the draft texts referred to in paragraph 19 above.

22 As a result of its deliberations, as recorded in the reports of the plenary meetings and of the various committees, the Conference adopted the following instruments:

- (a) Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation
- (b) Protocol for the suppression of Unlawful Acts against the Safety of Fixed Platforms located on the Continental Shelf

23 In relation to article 4 of the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, some delegations were in favour of the inclusion in article 4, paragraph 1, of straits used for international navigation. Other delegations pointed out that it was unnecessary to include them since navigation in such straits was one of the situations envisaged in article 4, paragraph 1. Therefore, the Convention will apply in straits used for international navigation, without prejudice to the legal status of the waters forming such straits in accordance with relevant conventions and other rules of international law.

24 This Final Act is established in a single original text in the Arabic, Chinese, English, French, Russian and Spanish languages. The original text is to be deposited with the Secretary-General of the International Maritime Organization.

25 The Secretary-General shall send certified copies of this Final Act and certified copies of the authentic texts of the instruments referred to in paragraph 22 above to the Governments of the States invited to be represented at the Conference, in accordance with the wishes of those Governments.

IN WITNESS WHEREOF the undersigned have affixed their signature to this Final Act.\*

DONE AT ROME this tenth day of March one thousand nine hundred and eighty-eight.

\* Signature pages omitted.

# Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation

THE STATES PARTIES to this Convention,

HAVING IN MIND the purposes and principles of the Charter of the United Nations concerning the maintenance of international peace and security and the promotion of friendly relations and co-operation among States,

RECOGNIZING in particular that everyone has the right to life, liberty and security of person, as set out in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights,

DEEPLY CONCERNED about the world-wide escalation of acts of terrorism in all its forms, which endanger or take innocent human lives, jeopardize fundamental freedoms and seriously impair the dignity of human beings,

CONSIDERING that unlawful acts against the safety of maritime navigation jeopardize the safety of persons and property, seriously affect the operation of maritime services, and undermine the confidence of the peoples of the world in the safety of maritime navigation,

CONSIDERING that the occurrence of such acts is a matter of grave concern to the international community as a whole,

BEING CONVINCED of the urgent need to develop international co-operation between States in devising and adopting effective and practical measures for the prevention of all unlawful acts against the safety of maritime navigation, and the prosecution and punishment of their perpetrators,

RECALLING resolution 40/61 of the General Assembly of the United Nations of 9 December 1985 which, *inter alia*, “urges all States unilaterally and in co-operation with other States, as well as relevant United Nations organs, to contribute to the progressive elimination of causes underlying international terrorism and to pay special attention to all situations, including colonialism, racism and situations involving mass and flagrant violations of human rights and fundamental freedoms and those involving alien occupation, that may give rise to international terrorism and may endanger international peace and security”,

RECALLING FURTHER that resolution 40/61 “unequivocally condemns, as criminal, all acts, methods and practices of terrorism wherever and by whomever

committed, including those which jeopardize friendly relations among States and their security”,

RECALLING ALSO that by resolution 40/61, the International Maritime Organization was invited to “study the problem of terrorism aboard or against ships with a view to making recommendations on appropriate measures”,

HAVING IN MIND resolution A.584(14) of 20 November 1985, of the Assembly of the International Maritime Organization, which called for development of measures to prevent unlawful acts which threaten the safety of ships and the security of their passengers and crews,

NOTING that acts of the crew which are subject to normal shipboard discipline are outside the purview of this Convention,

AFFIRMING the desirability of monitoring rules and standards relating to the prevention and control of unlawful acts against ships and persons on board ships, with a view to updating them as necessary, and, to this effect, taking note with satisfaction of the Measures to Prevent Unlawful Acts against Passengers and Crews on Board Ships, recommended by the Maritime Safety Committee of the International Maritime Organization,

AFFIRMING FURTHER that matters not regulated by this Convention continue to be governed by the rules and principles of general international law,

RECOGNIZING the need for all States, in combating unlawful acts against the safety of maritime navigation, strictly to comply with rules and principles of general international law,

HAVE AGREED as follows:

### Article 1

For the purposes of this Convention, *ship* means a vessel of any type whatsoever not permanently attached to the sea-bed, including dynamically supported craft, submersibles, or any other floating craft.

### Article 2

This Convention does not apply to:

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

2 Nothing in this Convention affects the immunities of warships and other government ships operated for non-commercial purposes.

### Article 3

- 1 Any person commits an offence if that person unlawfully and intentionally:
  - (a) seizes or exercises control over a ship by force or threat thereof or any other form of intimidation; or
  - (b) performs an act of violence against a person on board a ship if that act is likely to endanger the safe navigation of that ship; or
  - (c) destroys a ship or causes damage to a ship or to its cargo which is likely to endanger the safe navigation of that ship; or
  - (d) places or causes to be placed on a ship, by any means whatsoever, a device or substance which is likely to destroy that ship, or cause damage to that ship or its cargo which endangers or is likely to endanger the safe navigation of that ship; or
  - (e) destroys or seriously damages maritime navigational facilities or seriously interferes with their operation, if any such act is likely to endanger the safe navigation of a ship; or
  - (f) communicates information which he knows to be false, thereby endangering the safe navigation of a ship; or
  - (g) injures or kills any person, in connection with the commission or the attempted commission of any of the offences set forth in subparagraphs (a) to (f).
- 2 Any person also commits an offence if that person:
  - (a) attempts to commit any of the offences set forth in paragraph 1; or
  - (b) abets the commission of any of the offences set forth in paragraph 1 perpetrated by any person or is otherwise an accomplice of a person who commits such an offence; or
  - (c) threatens, with or without a condition, as is provided for under national law, aimed at compelling a physical or juridical person to do or refrain from doing any act, to commit any of the offences set forth in paragraph I, subparagraphs (b); (c) and (e), if that threat is likely to endanger the safe navigation of the ship in question.

### Article 4

1 This Convention applies if the ship is navigating or is scheduled to navigate into, through or from waters beyond the outer limit of the territorial sea of a single State, or the lateral limits of its territorial sea with adjacent States.

2 In cases where the Convention does not apply pursuant to paragraph 1, it nevertheless applies when the offender or the alleged offender is found in the territory of a State Party other than the State referred to in paragraph 1.

**Article 5**

Each State Party shall make the offences set forth in article 3 punishable by appropriate penalties which take into account the grave nature of those offences.

**Article 6**

1 Each State Party shall take such measures as may be necessary to establish its jurisdiction over the offences set forth in article 3 when the offence is committed:

- (a) against or on board a ship flying the flag of the State at the time the offence is committed; or
- (b) in the territory of that State, including its territorial sea; or
- (c) by a national of that State.

2 A State Party may also establish its jurisdiction over any such offence when:

- (a) it is committed by a stateless person whose habitual residence is in that State; or
- (b) during its commission a national of that State is seized, threatened, injured or killed; or
- (c) it is committed in an attempt to compel that State to do or abstain from doing any act.

3 Any State Party which has established jurisdiction mentioned in paragraph 2 shall notify the Secretary-General of the International Maritime Organization (hereinafter referred to as *the Secretary-General*). If such State Party subsequently rescinds that jurisdiction, it shall notify the Secretary-General.

4 Each State Party shall take such measures as may be necessary to establish its jurisdiction over the offences set forth in article 3 in cases where the alleged offender is present in its territory and it does not extradite him to any of the States Parties which have established their jurisdiction in accordance with paragraphs 1 and 2 of this article.

5 This Convention does not exclude any criminal jurisdiction exercised in accordance with national law.

**Article 7**

1 Upon being satisfied that the circumstances so warrant, any State Party in the territory of which the offender or the alleged offender is present shall, in accordance with its law, take him into custody or take other measures to ensure his presence for such time as is necessary to enable any criminal or extradition proceedings to be instituted.

2 Such State shall immediately make a preliminary inquiry into the facts, in accordance with its own legislation.

3 Any person regarding whom the measures referred to in paragraph 1 are being taken shall be entitled to:

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

4 The rights referred to in paragraph 3 shall be exercised in conformity with the laws and regulations of the State in the territory of which the offender or the alleged offender is present, subject to the proviso that the said laws and regulations must enable full effect to be given to the purposes for which the rights accorded under paragraph 3 are intended.

5 When a State Party, pursuant to this article, has taken a person into custody, it shall immediately notify the States which have established jurisdiction in accordance with article 6, paragraph 1 and, if it considers it advisable, any other interested States, of the fact that such person is in custody and of the circumstances which warrant his detention. The State which makes the preliminary inquiry contemplated in paragraph 2 of this article shall promptly report its findings to the said States and shall indicate whether it intends to exercise jurisdiction.

**Article 8**

1 The master of a ship of a State Party (the *flag State*) may deliver to the authorities of any other State Party (the *receiving State*) any person who he has reasonable grounds to believe has committed one of the offences set forth in article 3.

2 The flag State shall ensure that the master of its ship is obliged, whenever practicable, and if possible before entering the territorial sea of the receiving State carrying on board any person whom the master intends to deliver in accordance with paragraph 1, to give notification to the authorities of the receiving State of his intention to deliver such person and the reasons therefor.

3 The receiving State shall accept the delivery, except where it has grounds to consider that the Convention is not applicable to the acts giving rise to the delivery, and shall proceed in accordance with the provisions of article 7. Any refusal to accept a delivery shall be accompanied by a statement of the reasons for refusal.

4 The flag State shall ensure that the master of its ship is obliged to furnish the authorities of the receiving State with the evidence in the master's possession which pertains to the alleged offence.

5 A receiving State which has accepted the delivery of a person in accordance with paragraph 3 may, in turn, request the flag State to accept delivery of that person. The flag State shall consider any such request, and if it accedes to the request it shall proceed in accordance with article 7. If the flag State declines a request, it shall furnish the receiving State with a statement of the reasons therefor.

### Article 9

Nothing in this Convention shall affect in any way the rules of international law pertaining to the competence of States to exercise investigative or enforcement jurisdiction on board ships not flying their flag.

### Article 10

1 The State Party in the territory of which the offender or the alleged offender is found shall, in cases to which article 6 applies, if it does not extradite him, be obliged, without exception whatsoever and whether or not the offence was committed in its territory, to submit the case without delay to its competent authorities for the purpose of prosecution, through proceedings in accordance with the laws of that State. Those authorities shall take their decision in the same manner as in the case of any other offence of a grave nature under the law of that State.

2 Any person regarding whom proceedings are being carried out in connection with any of the offences set forth in article 3 shall be guaranteed fair treatment at all stages of the proceedings, including enjoyment of all the rights and guarantees provided for such proceedings by the law of the State in the territory of which he is present.

### Article 11

1 The offences set forth in article 3 shall be deemed to be included as extraditable offences in any extradition treaty existing between any of the States Parties. States Parties undertake to include such offences as extraditable offences in every extradition treaty to be concluded between them.

2 If a State Party which makes extradition conditional on the existence of a treaty receives a request for extradition from another State Party with which it has no extradition treaty, the requested State Party may, at its option, consider this Convention as a legal basis for extradition in respect of the offences set forth in article 3. Extradition shall be subject to the other conditions provided by the law of the requested State Party.

3 States Parties which do not make extradition conditional on the existence of a treaty shall recognize the offences set forth in article 3 as extraditable offences

between themselves, subject to the conditions provided by the law of the requested State.

4 If necessary, the offences set forth in article 3 shall be treated, for the purposes of extradition between States Parties, as if they had been committed not only in the place in which they occurred but also in a place within the jurisdiction of the State Party requesting extradition.

5 A State Party which receives more than one request for extradition from States which have established jurisdiction in accordance with article 7\* and which decides not to prosecute shall, in selecting the State to which the offender or alleged offender is to be extradited, pay due regard to the interests and responsibilities of the State Party whose flag the ship was flying at the time of the commission of the offence.

6 In considering a request for the extradition of an alleged offender pursuant to this Convention, the requested State shall pay due regard to whether his rights as set forth in article 7, paragraph 3, can be effected in the requesting State.

7 With respect to the offences as defined in this Convention, the provisions of all extradition treaties and arrangements applicable between States Parties are modified as between States Parties to the extent that they are incompatible with this Convention.

### Article 12

1 State Parties shall afford one another the greatest measure of assistance in connection with criminal proceedings brought in respect of the offences set forth in article 3, including assistance in obtaining evidence at their disposal necessary for the proceedings.

2 States Parties shall carry out their obligations under paragraph 1 in conformity with any treaties on mutual assistance that may exist between them. In the absence of such treaties, States Parties shall afford each other assistance in accordance with their national law.

### Article 13

1 States Parties shall co-operate in the prevention of the offences set forth in article 3, particularly by:

- (a) taking all practicable measures to prevent preparations in their respective territories for the commission of those offences within or outside their territories;

\* Note by the Secretariat: This figure should in fact read 6.

- (b) exchanging information in accordance with their national law, and co-ordinating administrative and other measures taken as appropriate to prevent the commission of offences set forth in article 3.

2 When, due to the commission of an offence set forth in article 3, the passage of a ship has been delayed or interrupted, any State Party in whose territory the ship or passengers or crew are present shall be bound to exercise all possible efforts to avoid a ship, its passengers, crew or cargo being unduly detained or delayed.

### Article 14

Any State Party having reason to believe that an offence set forth in article 3 will be committed shall, in accordance with its national law, furnish as promptly as possible any relevant information in its possession to those States which it believes would be the States having established jurisdiction in accordance with article 6.

### Article 15

1 Each State Party shall, in accordance with its national law, provide to the Secretary-General, as promptly as possible, any relevant information in its possession concerning:

- (a) the circumstances of the offence;
- (b) the action taken pursuant to article 13, paragraph 2;
- (c) the measures taken in relation to the offender or the alleged offender and, in particular, the results of any extradition proceedings or other legal proceedings.

2 The State Party where the alleged offender is prosecuted shall, in accordance with its national law, communicate the final outcome of the proceedings to the Secretary-General.

3 The information transmitted in accordance with paragraphs 1 and 2 shall be communicated by the Secretary-General to all States Parties, to Members of the International Maritime Organization (hereinafter referred to as *the Organization*), to the other States concerned, and to the appropriate international intergovernmental organizations.

### Article 16

1 Any dispute between two or more States Parties concerning the interpretation or application of this Convention which cannot be settled through negotiation within a reasonable time shall, at the request of one of them, be submitted to arbitration. If, within six months from the date of the request for arbitration, the parties are unable to agree on the organization of the arbitration

any one of those parties may refer the dispute to the International Court of Justice by request in conformity with the Statute of the Court.

2 Each State may at the time of signature or ratification, acceptance or approval of this Convention or accession thereto, declare that it does not consider itself bound by any or all of the provisions of paragraph 1. The other States Parties shall not be bound by those provisions with respect to any State Party which has made such a reservation.

3 Any State which has made a reservation in accordance with paragraph 2 may, at any time, withdraw that reservation by notification to the Secretary-General.

### Article 17

1 This Convention shall be open for signature at Rome on 10 March 1988 by States participating in the International Conference on the Suppression of Unlawful Acts against the Safety of Maritime Navigation and at the Headquarters of the Organization by all States from 14 March 1988 to 9 March 1989. It shall thereafter remain open for accession.

- 2 States may express their consent to be bound by this Convention by:
- (a) signature without reservation as to ratification, acceptance or approval; or
  - (b) signature subject to ratification, acceptance or approval, followed by ratification, acceptance or approval; or
  - (c) accession.

3 Ratification, acceptance, approval or accession shall be effected by the deposit of an instrument to that effect with the Secretary-General.

### Article 18

1 This Convention shall enter into force ninety days following the date on which fifteen States have either signed it without reservation as to ratification, acceptance or approval, or have deposited an instrument of ratification, acceptance, approval or accession in respect thereof.

2 For a State which deposits an instrument of ratification, acceptance, approval or accession in respect of this Convention after the conditions for entry into force thereof have been met, the ratification, acceptance, approval or accession shall take effect ninety days after the date of such deposit.



**Article 19**

1 This Convention may be denounced by any State Party at any time after the expiry of one year from the date on which this Convention enters into force for that State.

2 Denunciation shall be effected by the deposit of an instrument of denunciation with the Secretary-General.

3 A denunciation shall take effect one year, or such longer period as may be specified in the instrument of denunciation, after the receipt of the instrument of denunciation by the Secretary-General.

**Article 20**

1 A conference for the purpose of revising or amending this Convention may be convened by the Organization.

2 The Secretary-General shall convene a conference of the States Parties to this Convention for revising or amending the Convention, at the request of one third of the States Parties, or ten States Parties, whichever is the higher figure.

3 Any instrument of ratification, acceptance, approval or accession deposited after the date of entry into force of an amendment to this Convention shall be deemed to apply to the Convention as amended.

**Article 21**

1 This Convention shall be deposited with the Secretary-General.

2 The Secretary-General shall:

- (a) inform all States which have signed this Convention or acceded thereto, and all Members of the Organization, of:
  - (i) each new signature or deposit of an instrument of ratification, acceptance, approval or accession together with the date thereof;
  - (ii) the date of the entry into force of this Convention;
  - (iii) the deposit of any instrument of denunciation of this Convention together with the date on which it is received and the date on which the denunciation takes effect;
  - (iv) the receipt of any declaration or notification made under this Convention;
- (b) transmit certified true copies of this Convention to all States which have signed this Convention or acceded thereto.

3 As soon as this Convention enters into force, a certified true copy thereof shall be transmitted by the Depositary to the Secretary-General of the United

Nations for registration and publication in accordance with Article 102 of the Charter of the United Nations.

**Article 22**

This Convention is established in a single original in the Arabic, Chinese, English, French, Russian and Spanish languages, each text being equally authentic.

IN WITNESS WHEREOF the undersigned being duly authorized by their respective Governments for that purpose have signed this Convention.\*

DONE AT ROME this tenth day of March one thousand nine hundred and eighty-eight.

\* Signature pages omitted.

# Protocol for the suppression of unlawful acts against the safety of fixed platforms located on the continental shelf

THE STATES PARTIES to this Protocol,

BEING PARTIES to the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation,

RECOGNIZING that the reasons for which the Convention was elaborated also apply to fixed platforms located on the continental shelf,

TAKING ACCOUNT of the provisions of that Convention,

AFFIRMING that matters not regulated by this Protocol continue to be governed by the rules and principles of general international law,

HAVE AGREED as follows:

## Article 1

1 The provisions of articles 5 and 7 and of articles 10 to 16 of the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (hereinafter referred to as *the Convention*) shall also apply *mutatis mutandis* to the offences set forth in article 2 of this Protocol where such offences are committed on board or against fixed platforms located on the continental shelf.

2 In cases where this Protocol does not apply pursuant to paragraph 1, it nevertheless applies when the offender or the alleged offender is found in the territory of a State Party other than the State in whose internal waters or territorial sea the fixed platform is located.

3 For the purposes of this Protocol, *fixed platform* means an artificial island, installation or structure permanently attached to the sea-bed for the purpose of exploration or exploitation of resources or for other economic purposes.

## Article 2

- 1 Any person commits an offence if that person unlawfully and intentionally:
- (a) seizes or exercises control over a fixed platform by force or threat thereof or any other form of intimidation; or
  - (b) performs an act of violence against a person on board a fixed platform if that act is likely to endanger its safety; or

- (c) destroys a fixed platform or causes damage to it which is likely to endanger its safety; or
  - (d) places or causes to be placed on a fixed platform, by any means whatsoever, a device or substance which is likely to destroy that fixed platform or likely to endanger its safety; or
  - (e) injures or kills any person in connection with the commission or the attempted commission of any of the offences set forth in subparagraphs (a) to (d).
- 2 Any person also commits an offence if that person:
- (a) attempts to commit any of the offences set forth in paragraph 1; or
  - (b) abets the commission of any such offences perpetrated by any person or is otherwise an accomplice of a person who commits such an offence; or
  - (c) threatens, with or without a condition, as is provided for under national law, aimed at compelling a physical or juridical person to do or refrain from doing any act, to commit any of the offences set forth in paragraph 1, subparagraphs (b) and (c), if that threat is likely to endanger the safety of the fixed platform.

### Article 3

- 1 Each State Party shall take such measures as may be necessary to establish its jurisdiction over the offences set forth in article 2 when the offence is committed:
- (a) against or on board a fixed platform while it is located on the continental shelf of that State; or
  - (b) by a national of that State.
- 2 A State Party may also establish its jurisdiction over any such offence when:
- (a) it is committed by a stateless person whose habitual residence is in that State;
  - (b) during its commission a national of that State is seized, threatened, injured or killed; or
  - (c) it is committed in an attempt to compel that State to do or abstain from doing any act.
- 3 Any State Party which has established jurisdiction mentioned in paragraph 2 shall notify the Secretary-General of the International Maritime Organization (hereinafter referred to as *the Secretary-General*). If such State Party subsequently rescinds that jurisdiction, it shall notify the Secretary-General.

4 Each State Party shall take such measures as may be necessary to establish its jurisdiction over the offences set forth in article 2 in cases where the alleged offender is present in its territory and it, does not extradite him to any of the States Parties which have established their jurisdiction in accordance with paragraphs 1 and 2 of this article.

5 This Protocol does not exclude any criminal jurisdiction exercised in accordance with national law.

### Article 4

Nothing in this Protocol shall affect in any way the rules of international law pertaining to fixed platforms located on the continental shelf.

### Article 5

1 This Protocol shall be open for signature at Rome on 10 March 1988 and at the Headquarters of the International Maritime Organization (hereinafter referred to as *the Organization*) from 14 March 1988 to 9 March 1989 by any State which has signed the Convention. It shall thereafter remain open for accession.

- 2 States may express their consent to be bound by this Protocol by:
- (a) signature without reservation as to ratification, acceptance or approval; or
  - (b) signature subject to ratification, acceptance or approval, followed by ratification, acceptance or approval; or
  - (c) accession.

3 Ratification, acceptance, approval or accession shall be effected by the deposit of an instrument to that effect with the Secretary-General.

4 Only a State which has signed the Convention without reservation as to ratification, acceptance or approval, or has ratified, accepted, approved or acceded to the Convention may become a Party to this Protocol.

### Article 6

1 This Protocol shall enter into force ninety days following the date on which three States have either signed it without reservation as to ratification, acceptance or approval, or have deposited an instrument of ratification, acceptance, approval or accession in respect thereof. However, this Protocol shall not enter into force before the Convention has entered into force.

2 For a State which deposits an instrument of ratification, acceptance, approval or accession in respect of this Protocol after the conditions for entry into force thereof have been met, the ratification, acceptance, approval or accession shall take effect ninety days after the date of such deposit.

**Article 7**

1 This Protocol may be denounced by any State Party at any time after the expiry of one year from the date on which this Protocol enters into force for that State.

2 Denunciation shall be effected by the deposit of an instrument of denunciation with the Secretary-General.

3 A denunciation shall take effect one year, or such longer period as may be specified in the instrument of denunciation, after the receipt of the instrument of denunciation by the Secretary-General.

4 A denunciation of the Convention by a State Party shall be deemed to be a denunciation of this Protocol by that Party.

**Article 8**

1 A conference for the purpose of revising or amending this Protocol may be convened by the Organization.

2 The Secretary-General shall convene a conference of the States Parties to this Protocol for revising or amending the Protocol, at the request of one third of the States Parties, or five States Parties, whichever is the higher figure.

3 Any instrument of ratification, acceptance, approval or accession deposited after the date of entry into force of an amendment to this Protocol shall be deemed to apply to the Protocol as amended.

**Article 9**

1 This Protocol shall be deposited with the Secretary-General.

2 The Secretary-General shall:

- (a) inform all States which have signed this Protocol or acceded thereto, and all Members of the Organization, of:
  - (i) each new signature or deposit of an instrument of ratification, acceptance, approval or accession, together with the date thereof;
  - (ii) the date of entry into force of this Protocol;
  - (iii) the deposit of any instrument of denunciation of this Protocol together with the date on which it is received and the date on which the denunciation takes effect;
  - (iv) the receipt of any declaration or notification made under this Protocol or under the Convention, concerning this Protocol;
- (b) transmit certified true copies of this Protocol to all States which have signed this Protocol or acceded thereto.

3 As soon as this Protocol enters into force, a certified true copy thereof shall be transmitted by the Depositary to the Secretary-General of the United Nations for registration and publication in accordance with Article 102 of the Charter of the United Nations.

**Article 10**

This Protocol is established in a single original in the Arabic, Chinese, English, French, Russian and Spanish languages, each text being equally authentic.

IN WITNESS WHEREOF the undersigned, being duly authorized by their respective Governments for that purpose, have signed this Protocol.\*

DONE AT ROME this tenth day of March one thousand nine hundred and eighty-eight.

\* Signature pages omitted.

## Final Act of the International Conference on the Revision of the SUA Treaties

1 In accordance with Article 2(b) of the Convention on the International Maritime Organization (IMO) and pursuant to the request of the IMO Assembly in resolution A.924(22), the Council of the Organization decided, at its twenty-second extraordinary session, in November 2003, that a diplomatic conference of States Parties to the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, done at Rome on 10 March 1988, and to the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms located on the Continental Shelf, done at Rome on 10 March 1988 (hereinafter *the Conference*) be convened by IMO to revise the said instruments. This decision was endorsed by the Assembly of the Organization at its twenty-third regular session by resolution A.942(23) of 5 December 2003 on the Work Programme and Budget for the Twenty-Third Financial Period 2004-2005.

2 The Conference was held at the Headquarters of the International Maritime Organization in London from 10 to 14 October 2005.

3 Representatives of 74 States Parties to the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation participated in the Conference, namely the representatives of:

Albania	Finland
Algeria	France
Argentina	Germany
Australia	Ghana
Austria	Greece
Belgium	Guinea
Bolivia	Honduras
Bulgaria	India
Canada	Ireland
Chile	Italy
China	Japan
Costa Rica	Jordan
Cuba	Kenya
Cyprus	Latvia
Denmark	Lebanon
Dominica	Liberia
Ecuador	Lithuania
Egypt	Malta
Equatorial Guinea	Marshall Islands
Estonia	Mauritius



Mexico	Singapore
Morocco	South Africa
Mozambique	Spain
Netherlands	Sri Lanka
New Zealand	Sweden
Nigeria	Switzerland
Norway	Trinidad and Tobago
Pakistan	Turkey
Panama	Turkmenistan
Peru	Ukraine
Philippines	United Kingdom of Great Britain and Northern Ireland
Poland	United States of America
Portugal	Uruguay
Republic of Korea	Vanuatu
Romania	Vietnam
Russian Federation	Yemen
Senegal	
Serbia and Montenegro	

4 Representatives of 70 States Parties to the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf participated in the Conference, namely the representatives of:

Albania	Ghana
Argentina	Greece
Australia	Guinea
Austria	Honduras
Belgium	India
Bolivia	Ireland
Bulgaria	Italy
Canada	Japan
Chile	Jordan
China	Kenya
Costa rica	Latvia
Cuba	Lebanon
Cyprus	Liberia
Denmark	Lithuania
Dominica	Malta
Ecuador	Marshall Islands
Egypt	Mauritius
Equatorial guinea	Mexico
Estonia	Morocco
Finland	Mozambique
France	Netherlands
Germany	New Zealand

Norway	Sweden
Pakistan	Switzerland
Panama	Trinidad and Tobago
Peru	Turkey
Philippines	Turkmenistan
Poland	Ukraine
Portugal	United kingdom of Great Britain and Northern Ireland
Republic of Korea	United States of America
Romania	Uruguay
Russian Federation	Vanuatu
Senegal	Vietnam
Serbia and Montenegro	Yemen
South Africa	
Spain	

5 The following States sent observers to the Conference:

Angola	Holy See
Antigua and Barbuda	Indonesia
Bahamas	Iran (Islamic Republic of)
Belize	Iraq
Brazil	Israel
Colombia	Jamaica
Côte d'Ivoire	Malaysia
Croatia	Saudi Arabia
Democratic People's Republic of Korea	Senegal
Democratic Republic of the Congo	Sierra leone
Dominican Republic	Thailand
Gabon	Tuvalu
	Venezuela

6 Hong Kong, China, an Associate Member of the Organization, sent an observer to the Conference.

7 The following intergovernmental organizations sent observers to the Conference:

Maritime Organization For West And Central Africa (MOWCA)  
International Oil Pollution Compensation Funds (IOPC Funds)  
International Mobile Satellite Organization (IMSO)

8 The European Commission (EC) sent an observer to the Conference.

9 The following non-governmental international organizations also sent observers to the Conference:

International Chamber of Shipping (ICS)  
International Shipping Federation (ISF)

International Union of Marine Insurance (IUMI)  
 International Confederation of Free Trade Unions (ICFTU)  
 Comité Maritime International (CMI)  
 International Federation of Shipmasters' Associations (IFSMA)  
 Interational Group of P & I Associations (P & I Clubs)  
 World Nuclear Transport Institute (WNTI)  
 Oil Companies International Marine Forum (OCIMF)

10 H.E. Ambassador Giancarlo Aragona, Head of the delegation of Italy, was elected President of the Conference.

11 The Vice-Presidents elected by the Conference were:  
 Vice-Admiral Francisco Martínez (Chile)  
 H.E. Ambassador Gehad Madi (Egypt)  
 H.E. Ambassador Aurimas Taurantas (Lithuania)  
 H.E. Ambassador Antonio Gumende (Mozambique)  
 H.E. Ambassador Edgardo B. Espiritu (Philippines)

12 The Secretariat of the Conference consisted of the following officers:

Secretary-General	Mr. Efthimios E. Mitropoulos Secretary-General of the Organization
Executive Secretary	Dr. Rosalie P. Balkin Director, Legal Affairs and External Relations Division, IMO
Deputy Executive Secretary	Mr. Agustín Blanco-Bazán Senior Deputy Director/Head, Sub-Division for Legal Affairs, Legal Affairs and External Relations Division, IMO

13 The Conference established a Committee of the Whole with the mandate to consider a draft protocol of 2005 to the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation and a draft protocol of 2005 to the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf.

14 A Drafting Committee was established by the Conference and was composed of representatives of the following nine States:

Argentina	Russian Federation
Australia	Spain
China	United Kingdom of Great Britain and Northern Ireland
France	United States Of America
Morocco	

15 A Credentials Committee was appointed to examine the credentials of representatives attending the Conference and was composed of representatives of the following five States:

Ecuador	Trinidad and Tobago
Estonia	Ukraine
Marshall Islands	

16 The officers elected for the Committees were as follows:

*Committee of the Whole:*

Chairman:	Mr. Alfred H.E. Popp, QC (Canada)
First Vice-Chairperson:	Mrs. Birgit Sølling Olsen (Denmark)
Second Vice-Chairman:	Mr. Kofi Mbiah (Ghana)

*Drafting Committee:*

Chairperson:	Ms. Renée E. Leon (Australia)
Vice-Chairman:	Mr. Sergio R. Carranza Förster (Spain)

*Credentials Committee:*

Chairman:	Mr. Evans King (Trinidad and Tobago)
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17 The Conference used, as the basis of its work, the following documents prepared by the IMO Legal Committee:

- a draft protocol of 2005 to the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation; and
- a draft protocol of 2005 to the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms located on the Continental Shelf.

18 Also before the Conference were a number of documents containing proposals and comments submitted by Governments and interested organizations on the above-mentioned draft texts.

19 As a result of its deliberations, and having noted statements by the delegations of India, Pakistan and the Russian Federation, the Conference adopted the following instruments:

Protocol of 2005 to the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation; and

Protocol of 2005 to the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms located on the Continental Shelf.

20 With reference to article 3bis(1)(b)(iv), the Conference acknowledged that States Parties, in determining whether the equipment, materials or software or related technology significantly contributes to the design, manufacture or delivery of

a BCN weapon, may, if they deem it to be appropriate, use the definition of "related materials" in United Nations Security Council resolution 1540 (2004).

21 This Final Act is established in a single original text in the Arabic, Chinese, English, French, Russian and Spanish languages, which is to be deposited with the Secretary-General of IMO.

22 The Conference requested the Secretary-General to prepare consolidated texts in the Arabic, Chinese, English, French, Russian and Spanish languages of the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, 2005 (2005 SUA Convention) and of the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms located on the Continental Shelf, 2005 (2005 SUA Fixed Platforms Protocol).

23 The Secretary-General shall send certified copies of this Final Act and certified copies of the authentic texts of the instruments referred to in paragraph 19 above to the Governments of the States invited to be represented at the Conference.

IN WITNESS WHEREOF the undersigned have affixed their signatures to this Final Act.\*

DONE IN LONDON this fourteenth day of October, two thousand and five.

\* Signature pages omitted.

## **Protocol of 2005 to the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation**

### **Preamble**

THE STATES PARTIES to this Protocol,

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

ACKNOWLEDGING that terrorist acts threaten international peace and security,

MINDFUL of resolution A.924(22) of the Assembly of the International Maritime Organization requesting the revision of existing international legal and technical measures and the consideration of new measures in order to prevent and suppress terrorism against ships and to improve security aboard and ashore, and thereby to reduce the risk to passengers, crews and port personnel on board ships and in port areas and to vessels and their cargoes,

CONSCIOUS of the Declaration on Measures to Eliminate International Terrorism, annexed to United Nations General Assembly resolution 49/60 of 9 December 1994, in which, *inter alia*, the States Members of the United Nations solemnly reaffirm their unequivocal condemnation of all acts, methods and practices of terrorism as criminal and unjustifiable, wherever and by whomever committed, including those which jeopardize the friendly relations among States and peoples and threaten the territorial integrity and security of States,

NOTING United Nations General Assembly resolution 51/210 of 17 December 1996 and the Declaration to Supplement the 1994 Declaration on Measures to Eliminate International Terrorism annexed thereto,

RECALLING resolutions 1368 (2001) and 1373 (2001) of the United Nations Security Council, which reflect international will to combat terrorism in all its forms and manifestations, and which assigned tasks and responsibilities to States, and taking into account the continued threat from terrorist attacks,

RECALLING ALSO resolution 1540 (2004) of the United Nations Security Council, which recognizes the urgent need for all States to take additional effective measures to prevent the proliferation of nuclear, chemical or biological weapons and their means of delivery,



RECALLING FURTHER the Convention on Offences and Certain Other Acts Committed on Board Aircraft, done at Tokyo on 14 September 1963; the Convention for the Suppression of Unlawful Seizure of Aircraft, done at The Hague on 16 December 1970; the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, done at Montreal on 23 September 1971; the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, adopted by the General Assembly of the United Nations on 14 December 1973; the International Convention against the Taking of Hostages, adopted by the General Assembly of the United Nations on 17 December 1979; the Convention on the Physical Protection of Nuclear Material, done at Vienna on 26 October 1979 and amendments thereto adopted on 8 July 2005; the Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, done at Montreal on 24 February 1988; the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms located on the Continental Shelf, done at Rome on 10 March 1988; the Convention on the Marking of Plastic Explosives for the Purpose of Detection, done at Montreal on 1 March 1991; the International Convention for the Suppression of Terrorist Bombings, adopted by the General Assembly of the United Nations on 15 December 1997; the International Convention for the Suppression of the Financing of Terrorism, adopted by the General Assembly of the United Nations on 9 December 1999, and the International Convention for the Suppression of Acts of Nuclear Terrorism adopted by the General Assembly of the United Nations on 13 April 2005,

BEARING IN MIND the importance of the United Nations Convention on the Law of the Sea done at Montego Bay, on 10 December 1982, and of the customary international law of the sea,

CONSIDERING resolution 59/46 of the United Nations General Assembly, which reaffirmed that international co-operation as well as actions by States to combat terrorism should be conducted in conformity with the principles of the Charter of the United Nations, international law and relevant international conventions, and resolution 59/24 of the United Nations General Assembly, which urged States to become parties to the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation and its Protocol, invited States to participate in the review of those instruments by the Legal Committee of the International Maritime Organization to strengthen the means of combating such unlawful acts, including terrorist acts, and also urged States to take appropriate measures to ensure the effective implementation of those instruments, in particular through the adoption of legislation, where appropriate, aimed at ensuring that there is a proper framework for responses to incidents of armed robbery and terrorist acts at sea,

CONSIDERING ALSO the importance of the amendments to the International Convention for the Safety of Life at Sea, 1974, and of the International Ship and Port Facility Security (ISPS) Code, both adopted by the 2002 Conference of Contracting Governments to that Convention in establishing an appropriate international technical framework involving co-operation between Governments, Government agencies, national and local administrations and the shipping and port industries to detect security threats and take preventative measures against security incidents affecting ships or port facilities used in international trade,

CONSIDERING FURTHER resolution 58/187 of the United Nations General Assembly, which reaffirmed that States must ensure that any measure taken to combat terrorism complies with their obligations under international law, in particular international human rights, refugee and humanitarian law,

BELIEVING that it is necessary to adopt provisions supplementary to those of the Convention, to suppress additional terrorist acts of violence against the safety and security of international maritime navigation and to improve its effectiveness,

HAVE AGREED as follows:

### Article 1

For the purposes of this Protocol:

- 1 *Convention* means the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, done at Rome on 10 March 1988.
- 2 *Organization* means the International Maritime Organization (IMO).
- 3 *Secretary-General* means the Secretary-General of the Organization.

### Article 2

*Article 1 of the Convention is amended to read as follows:*

#### “Article 1

- 1 For the purposes of this Convention:
  - (a) *ship* means a vessel of any type whatsoever not permanently attached to the sea-bed, including dynamically supported craft, submersibles, or any other floating craft.
  - (b) *transport* means to initiate, arrange or exercise effective control, including decision-making authority, over the movement of a person or item.
  - (c) *serious injury or damage* means:
    - (i) serious bodily injury; or

- (ii) extensive destruction of a place of public use, State or Government facility, infrastructure facility, or public transportation system, resulting in major economic loss; or
  - (iii) substantial damage to the environment, including air, soil, water, fauna, or flora.
- (d) *BCN weapon* means:
- (i) *biological weapons*, which are:
    - (1) microbial or other biological agents, or toxins whatever their origin or method of production, of types and in quantities that have no justification for prophylactic, protective or other peaceful purposes; or
    - (2) weapons, equipment or means of delivery designed to use such agents or toxins for hostile purposes or in armed conflict.
  - (ii) *chemical weapons*, which are, together or separately:
    - (1) toxic chemicals and their precursors, except where intended for:
      - (A) industrial, agricultural, research, medical, pharmaceutical or other peaceful purposes; or
      - (B) protective purposes, namely those purposes directly related to protection against toxic chemicals and to protection against chemical weapons; or
      - (C) military purposes not connected with the use of chemical weapons and not dependent on the use of the toxic properties of chemicals as a method of warfare; or
      - (D) law enforcement including domestic riot control purposes,
 as long as the types and quantities are consistent with such purposes;
    - (2) munitions and devices specifically designed to cause death or other harm through the toxic properties of those toxic chemicals specified in subparagraph (ii)(1), which would be released as a result of the employment of such munitions and devices;
    - (3) any equipment specifically designed for use directly in connection with the employment of munitions and devices specified in subparagraph (ii)(2).
  - (iii) nuclear weapons and other nuclear explosive devices.
- (e) *toxic chemical* means any chemical which through its chemical action on life processes can cause death, temporary incapacitation or

- permanent harm to humans or animals. This includes all such chemicals, regardless of their origin or of their method of production, and regardless of whether they are produced in facilities, in munitions or elsewhere.
- (f) *precursor* means any chemical reactant which takes part at any stage in the production by whatever method of a toxic chemical. This includes any key component of a binary or multicomponent chemical system.
  - (g) *Organization* means the International Maritime Organization (IMO).
  - (h) *Secretary-General* means the Secretary-General of the Organization.
- 2 For the purposes of this Convention:
- (a) the terms “place of public use”, “State or government facility”, “infrastructure facility”, and “public transportation system” have the same meaning as given to those terms in the International Convention for the Suppression of Terrorist Bombings, done at New York on 15 December 1997; and
  - (b) the terms “source material and “special fissionable material” have the same meaning as given to those terms in the Statute of the International Atomic Energy Agency (IAEA), done at New York on 26 October 1956.”

### Article 3

*The following text is added as article 2bis of the Convention:*

#### “Article 2bis

- 1 Nothing in this Convention shall affect other rights, obligations and responsibilities of States and individuals under international law, in particular the purposes and principles of the Charter of the United Nations and international human rights, refugee and humanitarian law.
- 2 This Convention does not apply to the activities of armed forces during an armed conflict, as those terms are understood under international humanitarian law, which are governed by that law, and the activities undertaken by military forces of a State in the exercise of their official duties, inasmuch as they are governed by other rules of international law.
- 3 Nothing in this Convention shall affect the rights, obligations and responsibilities under the Treaty on the Non-Proliferation of Nuclear Weapons, done at Washington, London and Moscow on 1 July 1968, the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction, done at Washington, London and Moscow on 10 April 1972, or the Convention on the

Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction, done at Paris on 13 January 1993, of States Parties to such treaties.”

#### Article 4

1 The chapeau of article 3, paragraph 1 of the Convention is replaced by the following text:

“Any person commits an offence within the meaning of this Convention if that person unlawfully and intentionally:”

2 Article 3, paragraph 1(f) of the Convention is replaced by the following text:

“(f) communicates information which that person knows to be false, thereby endangering the safe navigation of a ship.”

3 Article 3, paragraph 1(g) of the Convention is deleted.

4 Article 3, paragraph 2 of the Convention is replaced by the following text:

“2 Any person also commits an offence if that person threatens, with or without a condition, as is provided for under national law, aimed at compelling a physical or juridical person to do or refrain from doing any act, to commit any of the offences set forth in paragraphs 1 (b), (c), and (e), if that threat is likely to endanger the safe navigation of the ship in question.”

5 The following text is added as article 3bis of the Convention:

#### “Article 3bis

1 Any person commits an offence within the meaning of this Convention if that person unlawfully and intentionally:

- (a) when the purpose of the act, by its nature or context, is to intimidate a population, or to compel a Government or an international organization to do or to abstain from doing any act:
  - (i) uses against or on a ship or discharges from a ship any explosive, radioactive material or BCN weapon in a manner that causes or is likely to cause death or serious injury or damage; or
  - (ii) discharges, from a ship, oil, liquefied natural gas, or other hazardous or noxious substance, which is not covered by subparagraph (a)(i), in such quantity or concentration that causes or is likely to cause death or serious injury or damage; or
  - (iii) uses a ship in a manner that causes death or serious injury or damage; or

(iv) threatens, with or without a condition, as is provided for under national law, to commit an offence set forth in subparagraph (a)(i), (ii) or (iii); or

(b) transports on board a ship:

(i) any explosive or radioactive material, knowing that it is intended to be used to cause, or in a threat to cause, with or without a condition, as is provided for under national law, death or serious injury or damage for the purpose of intimidating a population, or compelling a Government or an international organization to do or to abstain from doing any act; or

(ii) any BCN weapon, knowing it to be a BCN weapon as defined in article 1; or

(iii) any source material, special fissionable material, or equipment or material especially designed or prepared for the processing, use or production of special fissionable material, knowing that it is intended to be used in a nuclear explosive activity or in any other nuclear activity not under safeguards pursuant to an IAEA comprehensive safeguards agreement; or

(iv) any equipment, materials or software or related technology that significantly contributes to the design, manufacture or delivery of a BCN weapon, with the intention that it will be used for such purpose.

2 It shall not be an offence within the meaning of this Convention to transport an item or material covered by paragraph 1(b)(iii) or, insofar as it relates to a nuclear weapon or other nuclear explosive device, paragraph 1(b)(iv), if such item or material is transported to or from the territory of, or is otherwise transported under the control of, a State Party to the Treaty on the Non-Proliferation of Nuclear Weapons where:

- (a) the resulting transfer or receipt, including internal to a State, of the item or material is not contrary to such State Party's obligations under the Treaty on the Non-Proliferation of Nuclear Weapons and,
- (b) if the item or material is intended for the delivery system of a nuclear weapon or other nuclear explosive device of a State Party to the Treaty on the Non-Proliferation of Nuclear Weapons, the holding of such weapon or device is not contrary to that State Party's obligations under that Treaty.”

6 *The following text is added as article 3ter of the Convention:*

### “Article 3ter

Any person commits an offence within the meaning of this Convention if that person unlawfully and intentionally transports another person on board a ship knowing that the person has committed an act that constitutes an offence set forth in article 3, 3bis or 3quater or an offence set forth in any treaty listed in the Annex, and intending to assist that person to evade criminal prosecution.”

7 *The following text is added as article 3quater of the Convention:*

### “Article 3quater

Any person also commits an offence within the meaning of this Convention if that person:

- (a) unlawfully and intentionally injures or kills any person in connection with the commission of any of the offences set forth in article 3, paragraph 1, article 3bis, or article 3ter; or
- (b) attempts to commit an offence set forth in article 3, paragraph 1, article 3bis, paragraph 1(a)(i), (ii) or (iii) , or subparagraph (a) of this article; or
- (c) participates as an accomplice in an offence set forth in article 3, article 3bis, article 3ter, or subparagraph (a) or (b) of this article; or
- (d) organizes or directs others to commit an offence set forth in article 3, article 3bis, article 3ter, or subparagraph (a) or (b) of this article; or
- (e) contributes to the commission of one or more offences set forth in article 3, article 3bis, article 3ter or subparagraph (a) or (b) of this article, by a group of persons acting with a common purpose, intentionally and either:
  - (i) with the aim of furthering the criminal activity or criminal purpose of the group, where such activity or purpose involves the commission of an offence set forth in article 3, 3bis or 3ter; or
  - (ii) in the knowledge of the intention of the group to commit an offence set forth in article 3, 3bis or 3ter.”

### Article 5

1 *Article 5 of the Convention is replaced by the following text:*

“Each State Party shall make the offences set forth in articles 3, 3bis, 3ter and 3quater punishable by appropriate penalties which take into account the grave nature of those offences.”

2 *The following text is added as article 5bis of the Convention:*

### “Article 5bis

1 Each State Party, in accordance with its domestic legal principles, shall take the necessary measures to enable a legal entity located in its territory or organized under its laws to be held liable when a person responsible for management or control of that legal entity has, in that capacity, committed an offence set forth in this Convention. Such liability may be criminal, civil or administrative.

2 Such liability is incurred without prejudice to the criminal liability of individuals having committed the offences.

3 Each State Party shall ensure, in particular, that legal entities liable in accordance with paragraph 1 are subject to effective, proportionate and dissuasive criminal, civil or administrative sanctions. Such sanctions may include monetary sanctions.”

### Article 6

1 *The chapeau of article 6, paragraph 1 of the Convention is replaced by the following text:*

“1 Each State Party shall take such measures as may be necessary to establish its jurisdiction over the offences set forth in articles 3, 3bis, 3ter and 3quater when the offence is committed.”

2 *Article 6, paragraph 3 of the Convention is replaced by the following text:*

“3 Any State Party which has established jurisdiction mentioned in paragraph 2 shall notify the Secretary-General. If such State Party subsequently rescinds that jurisdiction, it shall notify the Secretary-General.”

3 *Article 6, paragraph 4 of the Convention is replaced by the following text:*

“4 Each State Party shall take such measures as may be necessary to establish its jurisdiction over the offences set forth in articles 3, 3bis, 3ter and 3quater in cases where the alleged offender is present in its territory and it does not extradite the alleged offender to any of the States Parties which have established their jurisdiction in accordance with paragraphs 1 and 2 of this article.”

**Article 7**

The following text is added as the Annex to the Convention:

**“Annex**

- 1 Convention for the Suppression of Unlawful Seizure of Aircraft, done at The Hague on 16 December 1970.
- 2 Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, done at Montreal on 23 September 1971.
- 3 Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, adopted by the General Assembly of the United Nations on 14 December 1973.
- 4 International Convention against the Taking of Hostages, adopted by the General Assembly of the United Nations on 17 December 1979.
- 5 Convention on the Physical Protection of Nuclear Material, done at Vienna on 26 October 1979.
- 6 Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, done at Montreal on 24 February 1988.
- 7 Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf, done at Rome on 10 March 1988.
- 8 International Convention for the Suppression of Terrorist Bombings, adopted by the General Assembly of the United Nations on 15 December 1997.
- 9 International Convention for the Suppression of the Financing of Terrorism, adopted by the General Assembly of the United Nations on 9 December 1999.”

**Article 8**

1 Article 8, paragraph 1 of the Convention is replaced by the following text:

“1 The master of a ship of a State Party (the “flag State”) may deliver to the authorities of any other State Party (the “receiving State”) any person who the master has reasonable grounds to believe has committed an offence set forth in article 3, 3bis, 3ter, or 3quater.”

2 The following text is added as article 8bis of the Convention:

**“Article 8bis**

1 States Parties shall co-operate to the fullest extent possible to prevent and suppress unlawful acts covered by this Convention, in conformity with international law, and shall respond to requests pursuant to this article as expeditiously as possible.

2 Each request pursuant to this article should, if possible, contain the name of the suspect ship, the IMO ship identification number, the port of registry, the ports of origin and destination, and any other relevant information. If a request is conveyed orally, the requesting Party shall confirm the request in writing as soon as possible. The requested Party shall acknowledge its receipt of any written or oral request immediately.

3 States Parties shall take into account the dangers and difficulties involved in boarding a ship at sea and searching its cargo, and give consideration to whether other appropriate measures agreed between the States concerned could be more safely taken in the next port of call or elsewhere.

4 A State Party that has reasonable grounds to suspect that an offence set forth in article 3, 3bis, 3ter or 3quater has been, is being or is about to be committed involving a ship flying its flag, may request the assistance of other States Parties in preventing or suppressing that offence. The States Parties so requested shall use their best endeavours to render such assistance within the means available to them.

5 Whenever law enforcement or other authorized officials of a State Party (“the requesting Party”) encounter a ship flying the flag or displaying marks of registry of another State Party (“the first Party”) located seaward of any State’s territorial sea, and the requesting Party has reasonable grounds to suspect that the ship or a person on board the ship has been, is or is about to be involved in the commission of an offence set forth in article 3, 3bis, 3ter or 3quater, and the requesting Party desires to board,

- (a) it shall request, in accordance with paragraphs 1 and 2 that the first Party confirm the claim of nationality, and
- (b) if nationality is confirmed, the requesting Party shall ask the first Party (hereinafter referred to as “the flag State”) for authorization to board and to take appropriate measures with regard to that ship which may include stopping, boarding and searching the ship, its cargo and persons on board, and questioning the persons on board in order to determine if an offence set forth in article 3, 3bis, 3ter or 3quater has been, is being or is about to be committed, and

- (c) the flag State shall either:
- (i) authorize the requesting Party to board and to take appropriate measures set out in subparagraph (b), subject to any conditions it may impose in accordance with paragraph 7; or
  - (ii) conduct the boarding and search with its own law enforcement or other officials; or
  - (iii) conduct the boarding and search together with the requesting Party, subject to any conditions it may impose in accordance with paragraph 7; or
  - (iv) decline to authorize a boarding and search.

The requesting Party shall not board the ship or take measures set out in subparagraph (b) without the express authorization of the flag State.

- (d) Upon or after depositing its instrument of ratification, acceptance, approval or accession, a State Party may notify the Secretary-General that, with respect to ships flying its flag or displaying its mark of registry, the requesting Party is granted authorization to board and search the ship, its cargo and persons on board, and to question the persons on board in order to locate and examine documentation of its nationality and determine if an offence set forth in article 3, *3bis*, *3ter* or *3quater* has been, is being or is about to be committed, if there is no response from the first Party within four hours of acknowledgement of receipt of a request to confirm nationality.
- (e) Upon or after depositing its instrument of ratification, acceptance, approval or accession, a State Party may notify the Secretary-General that, with respect to ships flying its flag or displaying its mark of registry, the requesting Party is authorized to board and search a ship, its cargo and persons on board, and to question the persons on board in order to determine if an offence set forth in article 3, *3bis*, *3ter* or *3quater* has been, is being or is about to be committed.

The notifications made pursuant to this paragraph can be withdrawn at any time.

6 When evidence of conduct described in article 3, *3bis*, *3ter* or *3quater* is found as the result of any boarding conducted pursuant to this article, the flag State may authorize the requesting Party to detain the ship, cargo and persons on board pending receipt of disposition instructions from the flag State. The requesting Party shall promptly inform the flag State of the results of a boarding, search, and detention conducted pursuant to this article. The requesting Party shall also promptly inform the flag State of the discovery of evidence of illegal conduct that is not subject to this Convention.

7 The flag State, consistent with the other provisions of this Convention, may subject its authorization under paragraph 5 or 6 to conditions, including

obtaining additional information from the requesting Party, and conditions relating to responsibility for and the extent of measures to be taken. No additional measures may be taken without the express authorization of the flag State, except when necessary to relieve imminent danger to the lives of persons or where those measures derive from relevant bilateral or multilateral agreements.

8 For all boardings pursuant to this article, the flag State has the right to exercise jurisdiction over a detained ship, cargo or other items and persons on board, including seizure, forfeiture, arrest and prosecution. However, the flag State may, subject to its constitution and laws, consent to the exercise of jurisdiction by another State having jurisdiction under article 6.

9 When carrying out the authorized actions under this article, the use of force shall be avoided except when necessary to ensure the safety of its officials and persons on board, or where the officials are obstructed in the execution of the authorized actions. Any use of force pursuant to this article shall not exceed the minimum degree of force which is necessary and reasonable in the circumstances.

#### 10 Safeguards:

- (a) Where a State Party takes measures against a ship in accordance with this article, it shall:
  - (i) take due account of the need not to endanger the safety of life at sea;
  - (ii) ensure that all persons on board are treated in a manner which preserves their basic human dignity, and in compliance with the applicable provisions of international law, including international human rights law;
  - (iii) ensure that a boarding and search pursuant to this article shall be conducted in accordance with applicable international law;
  - (iv) take due account of the safety and security of the ship and its cargo;
  - (v) take due account of the need not to prejudice the commercial or legal interests of the flag State;
  - (vi) ensure, within available means, that any measure taken with regard to the ship or its cargo is environmentally sound under the circumstances;
  - (vii) ensure that persons on board against whom proceedings may be commenced in connection with any of the offences set forth in article 3, *3bis*, *3ter* or *3quater* are afforded the protections of paragraph 2 of article 10, regardless of location;
  - (viii) ensure that the master of a ship is advised of its intention to board, and is, or has been, afforded the opportunity to contact

the ship's owner and the flag State at the earliest opportunity;  
and

- (ix) take reasonable efforts to avoid a ship being unduly detained or delayed.
- (b) Provided that authorization to board by a flag State shall not *per se* give rise to its liability, States Parties shall be liable for any damage, harm or loss attributable to them arising from measures taken pursuant to this article when:
  - (i) the grounds for such measures prove to be unfounded, provided that the ship has not committed any act justifying the measures taken; or
  - (ii) such measures are unlawful or exceed those reasonably required in light of available information to implement the provisions of this article.

States Parties shall provide effective recourse in respect of such damage, harm or loss.

- (c) Where a State Party takes measures against a ship in accordance with this Convention, it shall take due account of the need not to interfere with or to affect:
  - (i) the rights and obligations and the exercise of jurisdiction of coastal States in accordance with the international law of the sea; or
  - (ii) the authority of the flag State to exercise jurisdiction and control in administrative, technical and social matters involving the ship.
- (d) Any measure taken pursuant to this article shall be carried out by law enforcement or other authorized officials from warships or military aircraft, or from other ships or aircraft clearly marked and identifiable as being on Government service and authorized to that effect and, notwithstanding articles 2 and 2*bis*, the provisions of this article shall apply.
- (e) For the purposes of this article "law enforcement or other authorized officials" means uniformed or otherwise clearly identifiable members of law enforcement or other Government authorities duly authorized by their Government. For the specific purpose of law enforcement under this Convention, law enforcement or other authorized officials shall provide appropriate government-issued identification documents for examination by the master of the ship upon boarding.

11 This article does not apply to or limit boarding of ships conducted by any State Party in accordance with international law, seaward of any State's territorial sea, including boardings based upon the right of visit, the rendering of assistance

to persons, ships and property in distress or peril, or an authorization from the flag State to take law enforcement or other action.

12 States Parties are encouraged to develop standard operating procedures for joint operations pursuant to this article and consult, as appropriate, with other States Parties with a view to harmonizing such standard operating procedures for the conduct of operations.

13 States Parties may conclude agreements or arrangements between them to facilitate law enforcement operations carried out in accordance with this article.

14 Each State Party shall take appropriate measures to ensure that its law enforcement or other authorized officials, and law enforcement or other authorized officials of other States Parties acting on its behalf, are empowered to act pursuant to this article.

15 Upon or after depositing its instrument of ratification, acceptance, approval or accession, each State Party shall designate the authority, or, where necessary, authorities to receive and respond to requests for assistance, for confirmation of nationality, and for authorization to take appropriate measures. Such designation, including contact information, shall be notified to the Secretary-General within one month of becoming a Party, who shall inform all other States Parties within one month of the designation. Each State Party is responsible for providing prompt notice through the Secretary-General of any changes in the designation or contact information."

## Article 9

*Article 10, paragraph 2 is replaced by the following text:*

"2 Any person who is taken into custody, or regarding whom any other measures are taken or proceedings are being carried out pursuant to this Convention, shall be guaranteed fair treatment, including enjoyment of all rights and guarantees in conformity with the law of the State in the territory of which that person is present and applicable provisions of international law, including international human rights law."

## Article 10

*Article 11, paragraphs 1, 2, 3 and 4 are replaced by the following text:*

"1 The offences set forth in articles 3, 3*bis*, 3*ter* and 3*quater* shall be deemed to be included as extraditable offences in any extradition treaty existing between any of the States Parties. States Parties undertake to include such offences as extraditable offences in every extradition treaty to be concluded between them.

2 If a State Party which makes extradition conditional on the existence of a treaty receives a request for extradition from another State Party with which it has no extradition treaty, the requested State Party may, at its option, consider this Convention as a legal basis for extradition in respect of the offences set forth in articles 3, 3bis, 3ter and 3quater. Extradition shall be subject to the other conditions provided by the law of the requested State Party.

3 States Parties which do not make extradition conditional on the existence of a treaty shall recognize the offences set forth in articles 3, 3bis, 3ter and 3quater as extraditable offences between themselves, subject to the conditions provided by the law of the requested State Party.

4 If necessary, the offences set forth in articles 3, 3bis, 3ter and 3quater shall be treated, for the purposes of extradition between States Parties, as if they had been committed not only in the place in which they occurred but also in a place within the jurisdiction of the State Party requesting extradition."

2 *The following text is added as article 11bis, of the Convention:*

#### **"Article 11bis**

None of the offences set forth in article 3, 3bis, 3ter or 3quater shall be regarded for the purposes of extradition or mutual legal assistance as a political offence or as an offence connected with a political offence or as an offence inspired by political motives. Accordingly, a request for extradition or for mutual legal assistance based on such an offence may not be refused on the sole ground that it concerns a political offence or an offence connected with a political offence or an offence inspired by political motives."

3 *The following text is added as article 11ter of the Convention:*

#### **"Article 11ter**

Nothing in this Convention shall be interpreted as imposing an obligation to extradite or to afford mutual legal assistance, if the requested State Party has substantial grounds for believing that the request for extradition for offences set forth in article 3, 3bis, 3ter or 3quater or for mutual legal assistance with respect to such offences has been made for the purpose of prosecuting or punishing a person on account of that person's race, religion, nationality, ethnic origin, political opinion or gender, or that compliance with the request would cause prejudice to that person's position for any of these reasons."

### **Article 11**

1 *Article 12, paragraph 1 of the Convention is replaced by the following text:*

"1 States Parties shall afford one another the greatest measure of assistance in connection with criminal proceedings brought in respect of the offences set forth

in articles 3, 3bis, 3ter and 3quater, including assistance in obtaining evidence at their disposal necessary for the proceedings."

2 *The following text is added as article 12bis of the Convention:*

#### **"Article 12bis**

1 A person who is being detained or is serving a sentence in the territory of one State Party whose presence in another State Party is requested for purposes of identification, testimony or otherwise providing assistance in obtaining evidence for the investigation or prosecution of offences set forth in article 3, 3bis, 3ter or 3quater may be transferred if the following conditions are met:

- (a) the person freely gives informed consent; and
- (b) the competent authorities of both States agree, subject to such conditions as those States may deem appropriate.

2 For the purposes of this article:

- (a) the State to which the person is transferred shall have the authority and obligation to keep the person transferred in custody, unless otherwise requested or authorized by the State from which the person was transferred;
- (b) the State to which the person is transferred shall without delay implement its obligation to return the person to the custody of the State from which the person was transferred as agreed beforehand, or as otherwise agreed, by the competent authorities of both States;
- (c) the State to which the person is transferred shall not require the State from which the person was transferred to initiate extradition proceedings for the return of the person;
- (d) the person transferred shall receive credit for service of the sentence being served in the State from which the person was transferred for time spent in the custody of the State to which the person was transferred.

3 Unless the State Party from which a person is to be transferred in accordance with this article so agrees, that person, whatever that person's nationality, shall not be prosecuted or detained or subjected to any other restriction of personal liberty in the territory of the State to which that person is transferred in respect of acts or convictions anterior to that person's departure from the territory of the State from which such person was transferred."



**Article 12**

*Article 13 of the Convention is replaced by the following text:*

“1 States Parties shall co-operate in the prevention of the offences set forth in articles 3, 3bis, 3ter and 3quater, particularly by:

- (a) taking all practicable measures to prevent preparation in their respective territories for the commission of those offences within or outside their territories;
- (b) exchanging information in accordance with their national law, and co-ordinating administrative and other measures taken as appropriate to prevent the commission of offences set forth in articles 3, 3bis, 3ter and 3quater.

2 When, due to the commission of an offence set forth in article 3, 3bis, 3ter or 3quater, the passage of a ship has been delayed or interrupted, any State Party in whose territory the ship or passengers or crew are present shall be bound to exercise all possible efforts to avoid a ship, its passengers, crew or cargo being unduly detained or delayed.”

**Article 13**

*Article 14 of the Convention is replaced by the following text:*

“Any State Party having reason to believe that an offence set forth in article 3, 3bis, 3ter or 3quater will be committed shall, in accordance with its national law, furnish as promptly as possible any relevant information in its possession to those States which it believes would be the States having established jurisdiction in accordance with article 6.”

**Article 14**

*Article 15, paragraph 3 of the Convention is replaced by the following text:*

“3 The information transmitted in accordance with paragraphs 1 and 2 shall be communicated by the Secretary-General to all States Parties, to Members of the Organization, to other States concerned, and to the appropriate international intergovernmental organizations.”

**Article 15**

*Interpretation and application*

1 The Convention and this Protocol shall, as between the Parties to this Protocol, be read and interpreted together as one single instrument.

2 Articles 1 to 16 of the Convention, as revised by this Protocol, together with articles 17 to 24 of this Protocol and the Annex thereto, shall constitute and be

called the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, 2005 (2005 SUA Convention).

**Article 16**

*The following text is added as article 16bis of the Convention:*

**“Article 16bis**

**Final clauses of the Convention for  
the Suppression of Unlawful Acts against the Safety  
of Maritime Navigation, 2005**

The final clauses of the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, 2005 shall be articles 17 to 24 of the Protocol of 2005 to the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation. References in this Convention to States Parties shall be taken to mean references to States Parties to that Protocol.”

**FINAL CLAUSES**

**Article 17**

*Signature, ratification, acceptance, approval and accession*

1 This Protocol shall be open for signature at the Headquarters of the Organization from 14 February 2006 to 13 February 2007 and shall thereafter remain open for accession.

2 States may express their consent to be bound by this Protocol by:

- (a) signature without reservation as to ratification, acceptance or approval; or
- (b) signature subject to ratification, acceptance or approval, followed by ratification, acceptance or approval; or
- (c) accession.

3 Ratification, acceptance, approval or accession shall be effected by the deposit of an instrument to that effect with the Secretary-General.

4 Only a State which has signed the Convention without reservation as to ratification, acceptance or approval, or has ratified, accepted, approved or acceded to the Convention may become a Party to this Protocol.

**Article 18***Entry into force*

1 This Protocol shall enter into force ninety days following the date on which twelve States have either signed it without reservation as to ratification, acceptance or approval, or have deposited an instrument of ratification, acceptance, approval or accession with the Secretary-General.

2 For a State which deposits an instrument of ratification, acceptance, approval or accession in respect of this Protocol after the conditions in paragraph 1 for entry into force thereof have been met, the ratification, acceptance, approval or accession shall take effect ninety days after the date of such deposit.

**Article 19***Denunciation*

1 This Protocol may be denounced by any State Party at any time after the date on which this Protocol enters into force for that State.

2 Denunciation shall be effected by the deposit of an instrument of denunciation with the Secretary-General.

3 A denunciation shall take effect one year, or such longer period as may be specified in the instrument of denunciation, after the deposit of the instrument with the Secretary-General.

**Article 20***Revision and amendment*

1 A conference for the purpose of revising or amending this Protocol may be convened by the Organization.

2 The Secretary-General shall convene a conference of States Parties to this Protocol for revising or amending the Protocol, at the request of one third of the States Parties, or ten States Parties, whichever is the higher figure.

3 Any instrument of ratification, acceptance, approval or accession deposited after the date of entry into force of an amendment to this Protocol shall be deemed to apply to the Protocol as amended.

**Article 21***Declarations*

1 Upon depositing its instrument of ratification, acceptance, approval or accession, a State Party which is not a party to a treaty listed in the Annex may declare that, in the application of this Protocol to the State Party, the treaty shall be deemed not to be included in article 3ter. The declaration shall cease to have

effect as soon as the treaty enters into force for the State Party, which shall notify the Secretary-General of this fact.

2 When a State Party ceases to be a party to a treaty listed in the Annex, it may make a declaration as provided for in this article, with respect to that treaty.

3 Upon depositing its instrument of ratification, acceptance, approval or accession, a State Party may declare that it will apply the provisions of article 3ter in accordance with the principles of its criminal law concerning family exemptions of liability.

**Article 22***Amendments to the Annex*

1 The Annex may be amended by the addition of relevant treaties that:

- (a) are open to the participation of all States;
- (b) have entered into force; and
- (c) have been ratified, accepted, approved or acceded to by at least twelve States Parties to this Protocol.

2 After the entry into force of this Protocol, any State Party thereto may propose such an amendment to the Annex. Any proposal for an amendment shall be communicated to the Secretary-General in written form. The Secretary-General shall circulate any proposed amendment that meets the requirements of paragraph 1 to all members of the Organization and seek from States Parties to this Protocol their consent to the adoption of the proposed amendment.

3 The proposed amendment to the Annex shall be deemed adopted after more than twelve of the States Parties to this Protocol consent to it by written notification to the Secretary-General.

4 The adopted amendment to the Annex shall enter into force thirty days after the deposit with the Secretary-General of the twelfth instrument of ratification, acceptance or approval of such amendment for those States Parties to this Protocol that have deposited such an instrument. For each State Party to this Protocol ratifying, accepting or approving the amendment after the deposit of the twelfth instrument with the Secretary-General, the amendment shall enter into force on the thirtieth day after deposit by such State Party of its instrument of ratification, acceptance or approval.

**Article 23***Depositary*

1 This Protocol and any amendments adopted under articles 20 and 22 shall be deposited with the Secretary-General.

- 2 The Secretary-General shall:
- (a) inform all States which have signed this Protocol or acceded to this Protocol of:
    - (i) each new signature or deposit of an instrument of ratification, acceptance, approval or accession together with the date thereof;
    - (ii) the date of the entry into force of this Protocol;
    - (iii) the deposit of any instrument of denunciation of this Protocol together with the date on which it is received and the date on which the denunciation takes effect;
    - (iv) any communication called for by any article of this Protocol;
    - (v) any proposal to amend the Annex which has been made in accordance with article 22, paragraph 2;
    - (vi) any amendment deemed to have been adopted in accordance with article 22, paragraph 3;
    - (vii) any amendment ratified, accepted or approved in accordance with article 22, paragraph 4, together with the date on which that amendment shall enter into force; and
  - (b) transmit certified true copies of this Protocol to all States which have signed or acceded to this Protocol.

3 As soon as this Protocol enters into force, a certified true copy of the text shall be transmitted by the Secretary-General to the Secretary-General of the United Nations for registration and publication in accordance with Article 102 of the Charter of the United Nations.

## Article 24

### *Languages*

This Protocol is established in a single original in the Arabic, Chinese, English, French, Russian and Spanish languages, each text being equally authentic.

DONE AT LONDON this fourteenth day of October two thousand and five.

IN WITNESS WHEREOF the undersigned,\* being duly authorized by their respective Governments for that purpose, have signed this Protocol.

## **Protocol of 2005 to the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms located on the Continental Shelf**

THE STATES PARTIES to this Protocol,

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

RECOGNIZING that the reasons for which the Protocol of 2005 to the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation was elaborated also apply to fixed platforms located on the continental shelf,

TAKING account of the provisions of those Protocols,

HAVE AGREED as follows:

## Article 1

For the purposes of this Protocol:

- 1 *1988 Protocol* means the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms located on the Continental Shelf, done at Rome on 10 March 1988.
- 2 *Organization* means the International Maritime Organization.
- 3 *Secretary-General* means the Secretary-General of the Organization.

## Article 2

*Article 1, paragraph 1, of the 1988 Protocol is replaced by the following text:*

“1 The provisions of article 1, paragraphs 1(c), (d), (e), (f), (g), (h) and 2(a), of articles 2*bis*, 5, 5*bis* and 7, and of articles 10 to 16, including articles 11*bis*, 11*ter* and 12*bis*, of the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, as amended by the Protocol of 2005 to the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, shall also apply *mutatis mutandis* to the offences set forth in

\* Signature pages omitted.

articles 2, 2bis and 2ter of this Protocol where such offences are committed on board or against fixed platforms located on the continental shelf.”

### Article 3

1 Article 2, paragraph 1(d) of the 1988 Protocol is replaced by the following text:

“(d) places or causes to be placed on a fixed platform, by any means whatsoever, a device or substance which is likely to destroy that fixed platform or likely to endanger its safety.”

2 Article 2, paragraph 1(e) of the 1988 Protocol is deleted.

3 Article 2, paragraph 2 of the 1988 Protocol is replaced by the following text:

“2 Any person also commits an offence if that person threatens, with or without a condition, as is provided for under national law, aimed at compelling a physical or juridical person to do or refrain from doing any act, to commit any of the offences set forth in paragraphs 1(b) and (c), if that threat is likely to endanger the safety of the fixed platform.”

### Article 4

1 The following text is inserted as article 2bis:

#### “Article 2bis

Any person commits an offence within the meaning of this Protocol if that person unlawfully and intentionally, when the purpose of the act, by its nature or context, is to intimidate a population, or to compel a Government or an international organization to do or to abstain from doing any act:

- (a) uses against or on a fixed platform or discharges from a fixed platform any explosive, radioactive material or BCN weapon in a manner that causes or is likely to cause death or serious injury or damage; or
- (b) discharges, from a fixed platform, oil, liquefied natural gas, or other hazardous or noxious substance, which is not covered by subparagraph (a), in such quantity or concentration that causes or is likely to cause death or serious injury or damage; or
- (c) threatens, with or without a condition, as is provided for under national law, to commit an offence set forth in subparagraph (a) or (b).”

2 The following text is inserted as article 2ter:

#### “Article 2ter

Any person also commits an offence within the meaning of this Protocol if that person:

- (a) unlawfully and intentionally injures or kills any person in connection with the commission of any of the offences set forth in article 2, paragraph 1, or article 2bis; or
- (b) attempts to commit an offence set forth in article 2, paragraph 1, article 2bis, subparagraph (a) or (b), or subparagraph (a) of this article; or
- (c) participates as an accomplice in an offence set forth in article 2, article 2bis or subparagraph (a) or (b) of this article; or
- (d) organizes or directs others to commit an offence set forth in article 2, article 2bis or subparagraph (a) or (b) of this article; or
- (e) contributes to the commission of one or more offences set forth in article 2, article 2bis or subparagraph (a) or (b) of this article, by a group of persons acting with a common purpose, intentionally and either:
  - (i) with the aim of furthering the criminal activity or criminal purpose of the group, where such activity or purpose involves the commission of an offence set forth in article 2 or 2bis; or
  - (ii) in the knowledge of the intention of the group to commit an offence set forth in article 2 or 2bis.”

### Article 5

1 Article 3, paragraph 1 of the 1988 Protocol is replaced by the following text:

“1 Each State Party shall take such measures as may be necessary to establish its jurisdiction over the offences set forth in articles 2, 2bis and 2ter when the offence is committed:

- (a) against or on board a fixed platform while it is located on the continental shelf of that State; or
- (b) by a national of that State.”

2 Article 3, paragraph 3 of the 1988 Protocol is replaced by the following text:

“3 Any State Party which has established jurisdiction mentioned in paragraph 2 shall notify the Secretary-General. If such State Party subsequently rescinds that jurisdiction, it shall notify the Secretary-General.”

3 *Article 3, paragraph 4 of the 1988 Protocol is replaced by the following text:*

“4 Each State Party shall take such measures as may be necessary to establish its jurisdiction over the offences set forth in articles 2, *2bis* and *2ter* in cases where the alleged offender is present in its territory and it does not extradite the alleged offender to any of the States Parties which have established their jurisdiction in accordance with paragraphs 1 and 2.”

## Article 6

### *Interpretation and application*

1 The 1988 Protocol and this Protocol shall, as between the Parties to this Protocol, be read and interpreted together as one single instrument.

2 Articles 1 to 4 of the 1988 Protocol, as revised by this Protocol, together with articles 8 to 13 of this Protocol shall constitute and be called the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf, 2005 (2005 SUA Fixed Platforms Protocol).

## Article 7

*The following text is added as article 4bis of the Protocol:*

### “Article 4bis

#### **Final clauses of the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms located on the Continental Shelf, 2005**

The final clauses of the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf, 2005, shall be articles 8 to 13 of the Protocol of 2005 to the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf. References in this Protocol to States Parties shall be taken to mean references to States Parties to the 2005 Protocol.”

### FINAL CLAUSES

## Article 8

### *Signature, ratification, acceptance, approval and accession*

1 This Protocol shall be open for signature at the Headquarters of the Organization from 14 February 2006 to 13 February 2007 and shall thereafter remain open for accession.

2 States may express their consent to be bound by this Protocol by:

- (a) signature without reservation as to ratification, acceptance or approval; or
- (b) signature subject to ratification, acceptance or approval, followed by ratification, acceptance or approval; or
- (c) accession.

3 Ratification, acceptance, approval or accession shall be effected by the deposit of an instrument to that effect with the Secretary-General.

4 Only a State which has signed the 1988 Protocol without reservation as to ratification, acceptance or approval, or has ratified, accepted, approved or acceded to the 1988 Protocol may become a Party to this Protocol.

## Article 9

### *Entry into force*

1 This Protocol shall enter into force ninety days following the date on which three States have either signed it without reservation as to ratification, acceptance or approval, or have deposited an instrument of ratification, acceptance, approval or accession with the Secretary-General. However, this Protocol shall not enter into force before the Protocol of 2005 to the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation has entered into force.

2 For a State which deposits an instrument of ratification, acceptance, approval or accession in respect of this Protocol after the conditions in paragraph 1 for entry into force thereof have been met, the ratification, acceptance, approval or accession shall take effect ninety days after the date of such deposit.

## Article 10

### *Denunciation*

1 This Protocol may be denounced by any State Party at any time after the date on which this Protocol enters into force for that State.

2 Denunciation shall be effected by the deposit of an instrument of denunciation with the Secretary-General.

3 A denunciation shall take effect one year, or such longer period as may be specified in the instrument of denunciation, after the deposit of the instrument with the Secretary-General.

**Article 11***Revision and amendment*

- 1 A conference for the purpose of revising or amending this Protocol may be convened by the Organization.
- 2 The Secretary-General shall convene a conference of States Parties to this Protocol for revising or amending the Protocol, at the request of one third of the States Parties, or five States Parties, whichever is the higher figure.
- 3 Any instrument of ratification, acceptance, approval or accession deposited after the date of entry into force of an amendment to this Protocol shall be deemed to apply to the Protocol as amended.

**Article 12***Depositary*

- 1 This Protocol and any amendments adopted under article 11 shall be deposited with the Secretary-General.
- 2 The Secretary-General shall:
  - (a) inform all States which have signed this Protocol or acceded to this Protocol of:
    - (i) each new signature or deposit of an instrument of ratification, acceptance, approval or accession together with the date thereof;
    - (ii) the date of the entry into force of this Protocol;
    - (iii) the deposit of any instrument of denunciation of this Protocol together with the date on which it is received and the date on which the denunciation takes effect;
    - (iv) any communication called for by any article of this Protocol; and
  - (b) transmit certified true copies of this Protocol to all States which have signed or acceded to this Protocol.
- 3 As soon as this Protocol enters into force, a certified true copy of the text shall be transmitted by the Secretary-General to the Secretary-General of the United Nations for registration and publication in accordance with Article 102 of the Charter of the United Nations.

**Article 13***Languages*

This Protocol is established in a single original in the Arabic, Chinese, English, French, Russian and Spanish languages, each text being equally authentic.

DONE AT LONDON this fourteenth day of October two thousand and five.

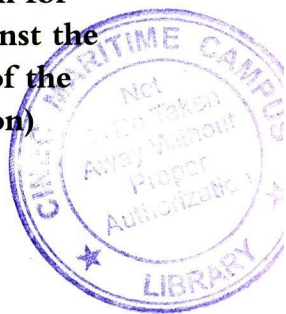
IN WITNESS WHEREOF the undersigned,\* being duly authorized by their respective Governments for that purpose, have signed this Protocol.

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\* Signature pages omitted.

# Convention for the Suppression of Unlawful Acts against The Safety of Maritime Navigation, 2005 (2005 SUA Convention)

## (Consolidated text of the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation and of the Protocol of 2005 to the Convention)



### Article 1

1 For the purposes of this Convention:

- (a) *ship* means a vessel of any type whatsoever not permanently attached to the sea-bed, including dynamically supported craft, submersibles, or any other floating craft.
- (b) *transport* means to initiate, arrange or exercise effective control, including decision-making authority, over the movement of a person or item.
- (c) *serious injury or damage* means:
  - (i) serious bodily injury; or
  - (ii) extensive destruction of a place of public use, State or government facility, infrastructure facility, or public transportation system, resulting in major economic loss; or
  - (iii) substantial damage to the environment, including air, soil, water, fauna, or flora.
- (d) *BCN weapon* means:
  - (i) “biological weapons”, which are:
    - (1) microbial or other biological agents, or toxins whatever their origin or method of production, of types and in quantities that have no justification for prophylactic, protective or other peaceful purposes; or
    - (2) weapons, equipment or means of delivery designed to use such agents or toxins for hostile purposes or in armed conflict.

- (ii) “chemical weapons”, which are, together or separately:
- (1) toxic chemicals and their precursors, except where intended for:
    - (A) industrial, agricultural, research, medical, pharmaceutical or other peaceful purposes; or
    - (B) protective purposes, namely those purposes directly related to protection against toxic chemicals and to protection against chemical weapons; or
    - (C) military purposes not connected with the use of chemical weapons and not dependent on the use of the toxic properties of chemicals as a method of warfare; or
    - (D) law enforcement including domestic riot control purposes,  
as long as the types and quantities are consistent with such purposes;
  - (2) munitions and devices specifically designed to cause death or other harm through the toxic properties of those toxic chemicals specified in subparagraph (ii)(1), which would be released as a result of the employment of such munitions and devices;
  - (3) any equipment specifically designed for use directly in connection with the employment of munitions and devices specified in subparagraph (ii)(2).
- (iii) “nuclear weapons” and other “nuclear explosive devices”.
- (e) *toxic chemical* means any chemical which through its chemical action on life processes can cause death, temporary incapacitation or permanent harm to humans or animals. This includes all such chemicals, regardless of their origin or of their method of production, and regardless of whether they are produced in facilities, in munitions or elsewhere.
- (f) *precursor* means any chemical reactant which takes part at any stage in the production by whatever method of a toxic chemical. This includes any key component of a binary or multicomponent chemical system.
- (g) *Organization* means the International Maritime Organization (IMO).
- (h) *Secretary-General* means the Secretary-General of the Organization.
- 2 For the purposes of this Convention:
- (a) the terms “place of public use”, “State or Government facility”, “infrastructure facility”, and “public transportation system” have the same meaning as given to those terms in the International

Convention for the Suppression of Terrorist Bombings, done at New York on 15 December 1997; and

- (b) the terms “source material” and “special fissionable material” have the same meaning as given to those terms in the Statute of the International Atomic Energy Agency (IAEA), done at New York on 26 October 1956.

## Article 2

1 This Convention does not apply to:

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

2 Nothing in this Convention affects the immunities of warships and other Government ships operated for non-commercial purposes.

## Article 2bis

1 Nothing in this Convention shall affect other rights, obligations and responsibilities of States and individuals under international law, in particular the purposes and principles of the Charter of the United Nations and international human rights, refugee and humanitarian law.

2 This Convention does not apply to the activities of armed forces during an armed conflict, as those terms are understood under international humanitarian law, which are governed by that law, and the activities undertaken by military forces of a State in the exercise of their official duties, inasmuch as they are governed by other rules of international law.

3 Nothing in this Convention shall affect the rights, obligations and responsibilities under the Treaty on the Non-Proliferation of Nuclear Weapons, done at Washington, London and Moscow on 1 July 1968, the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction, done at Washington, London and Moscow on 10 April 1972, or the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction, done at Paris on 13 January 1993, of States Parties to such treaties.



**Article 3**

1 Any person commits an offence within the meaning of this Convention if that person unlawfully and intentionally:

- (a) seizes or exercises control over a ship by force or threat thereof or any other form of intimidation; or
- (b) performs an act of violence against a person on board a ship if that act is likely to endanger the safe navigation of that ship; or
- (c) destroys a ship or causes damage to a ship or to its cargo which is likely to endanger the safe navigation of that ship; or
- (d) places or causes to be placed on a ship, by any means whatsoever, a device or substance which is likely to destroy that ship, or cause damage to that ship or its cargo which endangers or is likely to endanger the safe navigation of that ship; or
- (e) destroys or seriously damages maritime navigational facilities or seriously interferes with their operation, if any such act is likely to endanger the safe navigation of a ship; or
- (f) communicates information which that person knows to be false, thereby endangering the safe navigation of a ship.

2 Any person also commits an offence if that person threatens, with or without a condition, as is provided for under national law, aimed at compelling a physical or juridical person to do or refrain from doing any act, to commit any of the offences set forth in paragraphs 1 (b), (c), and (e), if that threat is likely to endanger the safe navigation of the ship in question.

**Article 3bis**

1 Any person commits an offence within the meaning of this Convention if that person unlawfully and intentionally:

- (a) when the purpose of the act, by its nature or context, is to intimidate a population, or to compel a Government or an international organization to do or to abstain from doing any act:
  - (i) uses against or on a ship or discharges from a ship any explosive, radioactive material or BCN weapon in a manner that causes or is likely to cause death or serious injury or damage; or
  - (ii) discharges, from a ship, oil, liquefied natural gas, or other hazardous or noxious substance, which is not covered by subparagraph (a)(i), in such quantity or concentration that causes or is likely to cause death or serious injury or damage; or
  - (iii) uses a ship in a manner that causes death or serious injury or damage; or

- (iv) threatens, with or without a condition, as is provided for under national law, to commit an offence set forth in subparagraph (a)(i), (ii) or (iii); or
- (b) transports on board a ship:
  - (i) any explosive or radioactive material, knowing that it is intended to be used to cause, or in a threat to cause, with or without a condition, as is provided for under national law, death or serious injury or damage for the purpose of intimidating a population, or compelling a Government or an international organization to do or to abstain from doing any act; or
  - (iii) any BCN weapon, knowing it to be a BCN weapon as defined in article 1; or
  - (iii) any source material, special fissionable material, or equipment or material especially designed or prepared for the processing, use or production of special fissionable material, knowing that it is intended to be used in a nuclear explosive activity or in any other nuclear activity not under safeguards pursuant to an IAEA comprehensive safeguards agreement; or
  - (iv) any equipment, materials or software or related technology that significantly contributes to the design, manufacture or delivery of a BCN weapon, with the intention that it will be used for such purpose.

2 It shall not be an offence within the meaning of this Convention to transport an item or material covered by paragraph 1(b)(iii) or, insofar as it relates to a nuclear weapon or other nuclear explosive device, paragraph 1(b)(iv), if such item or material is transported to or from the territory of, or is otherwise transported under the control of, a State Party to the Treaty on the Non-Proliferation of Nuclear Weapons where:

- (a) the resulting transfer or receipt, including internal to a State, of the item or material is not contrary to such State Party's obligations under the Treaty on the Non-Proliferation of Nuclear Weapons; and
- (b) if the item or material is intended for the delivery system of a nuclear weapon or other nuclear explosive device of a State Party to the Treaty on the Non-Proliferation of Nuclear Weapons, the holding of such weapon or device is not contrary to that State Party's obligations under that Treaty.

**Article 3ter**

Any person commits an offence within the meaning of this Convention if that person unlawfully and intentionally transports another person on board a ship knowing that the person has committed an act that constitutes an offence set forth

in article 3, 3<sup>bis</sup> or 3<sup>quater</sup> or an offence set forth in any treaty listed in the Annex, and intending to assist that person to evade criminal prosecution.

### Article 3<sup>quater</sup>

Any person also commits an offence within the meaning of this Convention if that person:

- (a) unlawfully and intentionally injures or kills any person in connection with the commission of any of the offences set forth in article 3, paragraph 1, article 3<sup>bis</sup>, or article 3<sup>ter</sup>; or
- (b) attempts to commit an offence set forth in article 3, paragraph 1, article 3<sup>bis</sup>, paragraph 1(a)(i), (ii) or (iii), or subparagraph (a) of this article; or
- (c) participates as an accomplice in an offence set forth in article 3, article 3<sup>bis</sup>, article 3<sup>ter</sup>, or subparagraph (a) or (b) of this article; or
- (d) organizes or directs others to commit an offence set forth in article 3, article 3<sup>bis</sup>, article 3<sup>ter</sup>, or subparagraph (a) or (b) of this article; or
- (e) contributes to the commission of one or more offences set forth in article 3, article 3<sup>bis</sup>, article 3<sup>ter</sup> or subparagraph (a) or (b) of this article, by a group of persons acting with a common purpose, intentionally and either:
  - (i) with the aim of furthering the criminal activity or criminal purpose of the group, where such activity or purpose involves the commission of an offence set forth in article 3, 3<sup>bis</sup> or 3<sup>ter</sup>; or
  - (ii) in the knowledge of the intention of the group to commit an offence set forth in article 3, 3<sup>bis</sup> or 3<sup>ter</sup>.

### Article 4

1 This Convention applies if the ship is navigating or is scheduled to navigate into, through or from waters beyond the outer limit of the territorial sea of a single State, or the lateral limits of its territorial sea with adjacent States.

2 In cases where the Convention does not apply pursuant to paragraph 1, it nevertheless applies when the offender or the alleged offender is found in the territory of a State Party other than the State referred to in paragraph 1.

### Article 5

Each State Party shall make the offences set forth in articles 3, 3<sup>bis</sup>, 3<sup>ter</sup> and 3<sup>quater</sup> punishable by appropriate penalties which take into account the grave nature of those offences.

### Article 5<sup>bis</sup>

1 Each State Party, in accordance with its domestic legal principles, shall take the necessary measures to enable a legal entity located in its territory or organized under its laws to be held liable when a person responsible for management or control of that legal entity has, in that capacity, committed an offence set forth in this Convention. Such liability may be criminal, civil or administrative.

2 Such liability is incurred without prejudice to the criminal liability of individuals having committed the offences.

3 Each State Party shall ensure, in particular, that legal entities liable in accordance with paragraph 1 are subject to effective, proportionate and dissuasive criminal, civil or administrative sanctions. Such sanctions may include monetary sanctions.

### Article 6

1 Each State Party shall take such measures as may be necessary to establish its jurisdiction over the offences set forth in articles 3, 3<sup>bis</sup>, 3<sup>ter</sup> or 3<sup>quater</sup> when the offence is committed:

- (a) against or on board a ship flying the flag of the State at the time the offence is committed; or
- (b) in the territory of that State, including its territorial sea; or
- (c) by a national of that State.

2 A State Party may also establish its jurisdiction over any such offence when:

- (a) it is committed by a stateless person whose habitual residence is in that State; or
- (b) during its commission a national of that State is seized, threatened, injured or killed; or
- (c) it is committed in an attempt to compel that State to do or abstain from doing any act.

3 Any State Party which has established jurisdiction mentioned in paragraph 2 shall notify the Secretary-General. If such State Party subsequently rescinds that jurisdiction, it shall notify the Secretary-General.

4 Each State Party shall take such measures as may be necessary to establish its jurisdiction over the offences set forth in articles 3, 3<sup>bis</sup>, 3<sup>ter</sup> or 3<sup>quater</sup> in cases where the alleged offender is present in its territory and it does not extradite the alleged offender to any of the States Parties which have established their jurisdiction in accordance with paragraphs 1 and 2 of this article.

5 This Convention does not exclude any criminal jurisdiction exercised in accordance with national law.

## Article 7

1 Upon being satisfied that the circumstances so warrant, any State Party in the territory of which the offender or the alleged offender is present shall, in accordance with its law, take him into custody or take other measures to ensure his presence for such time as is necessary to enable any criminal or extradition proceedings to be instituted.

2 Such State shall immediately make a preliminary inquiry into the facts, in accordance with its own legislation.

3 Any person regarding whom the measures referred to in paragraph 1 are being taken shall be entitled to:

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

4 The rights referred to in paragraph 3 shall be exercised in conformity with the laws and regulations of the State in the territory of which the offender or the alleged offender is present, subject to the proviso that the said laws and regulations must enable full effect to be given to the purposes for which the rights accorded under paragraph 3 are intended.

5 When a State Party, pursuant to this article, has taken a person into custody, it shall immediately notify the States which have established jurisdiction in accordance with article 6, paragraph 1 and, if it considers it advisable, any other interested States, of the fact that such person is in custody and of the circumstances which warrant his detention. The State which makes the preliminary inquiry contemplated in paragraph 2 of this article shall promptly report its findings to the said States and shall indicate whether it intends to exercise jurisdiction.

## Article 8

1 The master of a ship of a State Party (the "flag State") may deliver to the authorities of any other State Party (the "receiving State") any person who the master has reasonable grounds to believe has committed an offence set forth in article 3, *3bis*, *3ter*, or *3quater*.

2 The flag State shall ensure that the master of its ship is obliged, whenever practicable, and if possible before entering the territorial sea of the receiving State carrying on board any person whom the master intends to deliver in accordance with paragraph 1, to give notification to the authorities of the receiving State of his intention to deliver such person and the reasons therefor.

3 The receiving State shall accept the delivery, except where it has grounds to consider that the Convention is not applicable to the acts giving rise to the delivery, and shall proceed in accordance with the provisions of article 7. Any refusal to accept a delivery shall be accompanied by a statement of the reasons for refusal.

4 The flag State shall ensure that the master of its ship is obliged to furnish the authorities of the receiving State with the evidence in the master's possession which pertains to the alleged offence.

5 A receiving State which has accepted the delivery of a person in accordance with paragraph 3 may, in turn, request the flag State to accept delivery of that person. The flag State shall consider any such request, and if it accedes to the request it shall proceed in accordance with article 7. If the flag State declines a request, it shall furnish the receiving State with a statement of the reasons therefor.

## Article 8bis

1 States Parties shall co-operate to the fullest extent possible to prevent and suppress unlawful acts covered by this Convention, in conformity with international law, and shall respond to requests pursuant to this article as expeditiously as possible.

2 Each request pursuant to this article should, if possible, contain the name of the suspect ship, the IMO ship identification number, the port of registry, the ports of origin and destination, and any other relevant information. If a request is conveyed orally, the requesting Party shall confirm the request in writing as soon as possible. The requested Party shall acknowledge its receipt of any written or oral request immediately.

3 States Parties shall take into account the dangers and difficulties involved in boarding a ship at sea and searching its cargo, and give consideration to whether other appropriate measures agreed between the States concerned could be more safely taken in the next port of call or elsewhere.

4 A State Party that has reasonable grounds to suspect that an offence set forth in article 3, *3bis*, *3ter* or *3quater* has been, is being or is about to be committed involving a ship flying its flag, may request the assistance of other States Parties in preventing or suppressing that offence. The States Parties so requested shall use their best endeavours to render such assistance within the means available to them.

5 Whenever law enforcement or other authorized officials of a State Party ("the requesting Party") encounter a ship flying the flag or displaying marks of registry of another State Party ("the first Party") located seaward of any State's territorial sea, and the requesting Party has reasonable grounds to suspect that the ship or a person on board the ship has been, is or is about to be involved in the

commission of an offence set forth in article 3, 3bis, 3ter or 3quater, and the requesting Party desires to board,

- (a) it shall request, in accordance with paragraphs 1 and 2 that the first Party confirm the claim of nationality, and
- (b) if nationality is confirmed, the requesting Party shall ask the first Party (hereinafter referred to as "the flag State") for authorization to board and to take appropriate measures with regard to that ship which may include stopping, boarding and searching the ship, its cargo and persons on board, and questioning the persons on board in order to determine if an offence set forth in article 3, 3bis, 3ter or 3quater has been, is being or is about to be committed, and
- (c) the flag State shall either:
  - (i) authorize the requesting Party to board and to take appropriate measures set out in subparagraph (b), subject to any conditions it may impose in accordance with paragraph 7; or
  - (ii) conduct the boarding and search with its own law enforcement or other officials; or
  - (iii) conduct the boarding and search together with the requesting Party, subject to any conditions it may impose in accordance with paragraph 7; or
  - (iv) decline to authorize a boarding and search.

The requesting Party shall not board the ship or take measures set out in subparagraph (b) without the express authorization of the flag State.

- (d) Upon or after depositing its instrument of ratification, acceptance, approval or accession, a State Party may notify the Secretary-General that, with respect to ships flying its flag or displaying its mark of registry, the requesting Party is granted authorization to board and search the ship, its cargo and persons on board, and to question the persons on board in order to locate and examine documentation of its nationality and determine if an offence set forth in article 3, 3bis, 3ter or 3quater has been, is being or is about to be committed, if there is no response from the first Party within four hours of acknowledgement of receipt of a request to confirm nationality.
- (e) Upon or after depositing its instrument of ratification, acceptance, approval or accession, a State Party may notify the Secretary-General that, with respect to ships flying its flag or displaying its mark of registry, the requesting Party is authorized to board and search a ship, its cargo and persons on board, and to question the persons on board in order to determine if an offence set forth in article 3, 3bis, 3ter or 3quater has been, is being or is about to be committed.

The notifications made pursuant to this paragraph can be withdrawn at any time.

6 When evidence of conduct described in article 3, 3bis, 3ter or 3quater is found as the result of any boarding conducted pursuant to this article, the flag State may authorize the requesting Party to detain the ship, cargo and persons on board pending receipt of disposition instructions from the flag State. The requesting Party shall promptly inform the flag State of the results of a boarding, search, and detention conducted pursuant to this article. The requesting Party shall also promptly inform the flag State of the discovery of evidence of illegal conduct that is not subject to this Convention.

7 The flag State, consistent with the other provisions of this Convention, may subject its authorization under paragraph 5 or 6 to conditions, including obtaining additional information from the requesting Party, and conditions relating to responsibility for and the extent of measures to be taken. No additional measures may be taken without the express authorization of the flag State, except when necessary to relieve imminent danger to the lives of persons or where those measures derive from relevant bilateral or multilateral agreements.

8 For all boardings pursuant to this article, the flag State has the right to exercise jurisdiction over a detained ship, cargo or other items and persons on board, including seizure, forfeiture, arrest and prosecution. However, the flag State may, subject to its constitution and laws, consent to the exercise of jurisdiction by another State having jurisdiction under article 6.

9 When carrying out the authorized actions under this article, the use of force shall be avoided except when necessary to ensure the safety of its officials and persons on board, or where the officials are obstructed in the execution of the authorized actions. Any use of force pursuant to this article shall not exceed the minimum degree of force which is necessary and reasonable in the circumstances.

#### 10 Safeguards:

- (a) Where a State Party takes measures against a ship in accordance with this article, it shall:
  - (i) take due account of the need not to endanger the safety of life at sea;
  - (ii) ensure that all persons on board are treated in a manner which preserves their basic human dignity, and in compliance with the applicable provisions of international law, including international human rights law;
  - (iii) ensure that a boarding and search pursuant to this article shall be conducted in accordance with applicable international law;
  - (iv) take due account of the safety and security of the ship and its cargo;
  - (v) take due account of the need not to prejudice the commercial or legal interests of the flag State;

- (vi) ensure, within available means, that any measure taken with regard to the ship or its cargo is environmentally sound under the circumstances;
  - (vii) ensure that persons on board against whom proceedings may be commenced in connection with any of the offences set forth in article 3, 3bis, 3ter or 3quater are afforded the protections of paragraph 2 of article 10, regardless of location;
  - (viii) ensure that the master of a ship is advised of its intention to board, and is, or has been, afforded the opportunity to contact the ship's owner and the flag State at the earliest opportunity; and
  - (ix) take reasonable efforts to avoid a ship being unduly detained or delayed.
- (b) Provided that authorization to board by a flag State shall not *per se* give rise to its liability, States Parties shall be liable for any damage, harm or loss attributable to them arising from measures taken pursuant to this article when:
- (i) the grounds for such measures prove to be unfounded, provided that the ship has not committed any act justifying the measures taken; or
  - (ii) such measures are unlawful or exceed those reasonably required in light of available information to implement the provisions of this article.

States Parties shall provide effective recourse in respect of such damage, harm or loss.

- (c) Where a State Party takes measures against a ship in accordance with this Convention, it shall take due account of the need not to interfere with or to affect:
- (i) the rights and obligations and the exercise of jurisdiction of coastal States in accordance with the international law of the sea; or
  - (ii) the authority of the flag State to exercise jurisdiction and control in administrative, technical and social matters involving the ship.
- (d) Any measure taken pursuant to this article shall be carried out by law enforcement or other authorized officials from warships or military aircraft, or from other ships or aircraft clearly marked and identifiable as being on Government service and authorized to that effect and, notwithstanding articles 2 and 2bis, the provisions of this article shall apply.
- (e) For the purposes of this article "law enforcement or other authorized officials" means uniformed or otherwise clearly identifiable members

of law enforcement or other government authorities duly authorized by their Government. For the specific purpose of law enforcement under this Convention, law enforcement or other authorized officials shall provide appropriate government-issued identification documents for examination by the master of the ship upon boarding.

11 This article does not apply to or limit boarding of ships conducted by any State Party in accordance with international law, seaward of any State's territorial sea, including boardings based upon the right of visit, the rendering of assistance to persons, ships and property in distress or peril, or an authorization from the flag State to take law enforcement or other action.

12 States Parties are encouraged to develop standard operating procedures for joint operations pursuant to this article and consult, as appropriate, with other States Parties with a view to harmonizing such standard operating procedures for the conduct of operations.

13 States Parties may conclude agreements or arrangements between them to facilitate law enforcement operations carried out in accordance with this article.

14 Each State Party shall take appropriate measures to ensure that its law enforcement or other authorized officials, and law enforcement or other authorized officials of other States Parties acting on its behalf, are empowered to act pursuant to this article.

15 Upon or after depositing its instrument of ratification, acceptance, approval or accession, each State Party shall designate the authority, or, where necessary, authorities to receive and respond to requests for assistance, for confirmation of nationality, and for authorization to take appropriate measures. Such designation, including contact information, shall be notified to the Secretary-General within one month of becoming a Party, who shall inform all other States Parties within one month of the designation. Each State Party is responsible for providing prompt notice through the Secretary-General of any changes in the designation or contact information.

## Article 9

Nothing in this Convention shall affect in any way the rules of international law pertaining to the competence of States to exercise investigative or enforcement jurisdiction on board ships not flying their flag.

## Article 10

1 The State Party in the territory of which the offender or the alleged offender is found shall, in cases to which article 6 applies, if it does not extradite him, be obliged, without exception whatsoever and whether or not the offence was committed in its territory, to submit the case without delay to its competent authorities for the purpose of prosecution, through proceedings in accordance

with the laws of that State. Those authorities shall take their decision in the same manner as in the case of any other offence of a grave nature under the law of that State.

2 Any person who is taken into custody, or regarding whom any other measures are taken or proceedings are being carried out pursuant to this Convention, shall be guaranteed fair treatment, including enjoyment of all rights and guarantees in conformity with the law of the State in the territory of which that person is present and applicable provisions of international law, including international human rights law.

### Article 11

1 The offences set forth in articles 3, *3bis*, *3ter* or *3quater* shall be deemed to be included as extraditable offences in any extradition treaty existing between any of the States Parties. States Parties undertake to include such offences as extraditable offences in every extradition treaty to be concluded between them.

2 If a State Party which makes extradition conditional on the existence of a treaty receives a request for extradition from another State Party with which it has no extradition treaty, the requested State Party may, at its option, consider this Convention as a legal basis for extradition in respect of the offences set forth in articles 3, *3bis*, *3ter* or *3quater*. Extradition shall be subject to the other conditions provided by the law of the requested State Party.

3 States Parties which do not make extradition conditional on the existence of a treaty shall recognize the offences set forth in articles 3, *3bis*, *3ter* or *3quater* as extraditable offences between themselves, subject to the conditions provided by the law of the requested State Party.

4 If necessary, the offences set forth in articles 3, *3bis*, *3ter* or *3quater* shall be treated, for the purposes of extradition between States Parties, as if they had been committed not only in the place in which they occurred but also in a place within the jurisdiction of the State Party requesting extradition.

5 A State Party which receives more than one request for extradition from States which have established jurisdiction in accordance with article 6 and which decides not to prosecute shall, in selecting the State to which the offender or alleged offender is to be extradited, pay due regard to the interests and responsibilities of the State Party whose flag the ship was flying at the time of the commission of the offence.

6 In considering a request for the extradition of an alleged offender pursuant to this Convention, the requested State shall pay due regard to whether his rights as set forth in article 7, paragraph 3, can be effected in the requesting State.

7 With respect to the offences as defined in this Convention, the provisions of all extradition treaties and arrangements applicable between States Parties are

modified as between States Parties to the extent that they are incompatible with this Convention.

### Article 11bis

None of the offences set forth in article 3, *3bis*, *3ter* or *3quater* shall be regarded for the purposes of extradition or mutual legal assistance as a political offence or as an offence connected with a political offence or as an offence inspired by political motives. Accordingly, a request for extradition or for mutual legal assistance based on such an offence may not be refused on the sole ground that it concerns a political offence or an offence connected with a political offence or an offence inspired by political motives.

### Article 11ter

Nothing in this Convention shall be interpreted as imposing an obligation to extradite or to afford mutual legal assistance, if the requested State Party has substantial grounds for believing that the request for extradition for offences set forth in article 3, *3bis*, *3ter* or *3quater* or for mutual legal assistance with respect to such offences has been made for the purpose of prosecuting or punishing a person on account of that person's race, religion, nationality, ethnic origin, political opinion or gender, or that compliance with the request would cause prejudice to that person's position for any of these reasons.

### Article 12

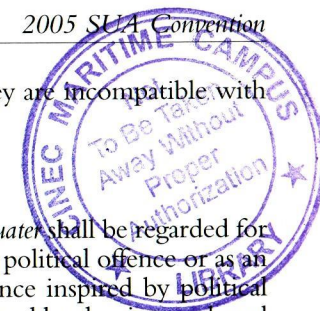
1 States Parties shall afford one another the greatest measure of assistance in connection with criminal proceedings brought in respect of the offences set forth in articles 3, *3bis*, *3ter* or *3quater*, including assistance in obtaining evidence at their disposal necessary for the proceedings.

2 States Parties shall carry out their obligations under paragraph 1 in conformity with any treaties on mutual assistance that may exist between them. In the absence of such treaties, States Parties shall afford each other assistance in accordance with their national law.

### Article 12bis

1 A person who is being detained or is serving a sentence in the territory of one State Party whose presence in another State Party is requested for purposes of identification, testimony or otherwise providing assistance in obtaining evidence for the investigation or prosecution of offences set forth in article 3, *3bis*, *3ter* or *3quater* may be transferred if the following conditions are met:

- (a) the person freely gives informed consent; and
- (b) the competent authorities of both States agree, subject to such conditions as those States may deem appropriate.



2 For the purposes of this article:

- (a) the State to which the person is transferred shall have the authority and obligation to keep the person transferred in custody, unless otherwise requested or authorized by the State from which the person was transferred;
- (b) the State to which the person is transferred shall without delay implement its obligation to return the person to the custody of the State from which the person was transferred as agreed beforehand, or as otherwise agreed, by the competent authorities of both States;
- (c) the State to which the person is transferred shall not require the State from which the person was transferred to initiate extradition proceedings for the return of the person;
- (d) the person transferred shall receive credit for service of the sentence being served in the State from which the person was transferred for time spent in the custody of the State to which the person was transferred.

3 Unless the State Party from which a person is to be transferred in accordance with this article so agrees, that person, whatever that person's nationality, shall not be prosecuted or detained or subjected to any other restriction of personal liberty in the territory of the State to which that person is transferred in respect of acts or convictions anterior to that person's departure from the territory of the State from which such person was transferred.

### Article 13

1 States Parties shall co-operate in the prevention of the offences set forth in articles 3, *3bis*, *3ter* or *3quater*, particularly by:

- (a) taking all practicable measures to prevent preparation in their respective territories for the commission of those offences within or outside their territories;
- (b) exchanging information in accordance with their national law, and co-ordinating administrative and other measures taken as appropriate to prevent the commission of offences set forth in articles 3, *3bis*, *3ter* and *3quater*.

2 When, due to the commission of an offence set forth in article 3, *3bis*, *3ter* or *3quater*, the passage of a ship has been delayed or interrupted, any State Party in whose territory the ship or passengers or crew are present shall be bound to exercise all possible efforts to avoid a ship, its passengers, crew or cargo being unduly detained or delayed.

### Article 14

Any State Party having reason to believe that an offence set forth in article 3, *3bis*, *3ter* or *3quater* will be committed shall, in accordance with its national law, furnish as promptly as possible any relevant information in its possession to those States which it believes would be the States having established jurisdiction in accordance with article 6.

### Article 15

1 Each State Party shall, in accordance with its national law, provide to the Secretary-General, as promptly as possible, any relevant information in its possession concerning:

- (a) the circumstances of the offence;
- (b) the action taken pursuant to article 13, paragraph 2;
- (c) the measures taken in relation to the offender or the alleged offender and, in particular, the results of any extradition proceedings or other legal proceedings.

2 The State Party where the alleged offender is prosecuted shall, in accordance with its national law, communicate the final outcome of the proceedings to the Secretary-General.

3 The information transmitted in accordance with paragraphs 1 and 2 shall be communicated by the Secretary-General to all States Parties, to Members of the Organization, to other States concerned, and to the appropriate international intergovernmental organizations.

### Article 16

1 Any dispute between two or more States Parties concerning the interpretation or application of this Convention which cannot be settled through negotiation within a reasonable time shall, at the request of one of them, be submitted to arbitration. If, within six months from the date of the request for arbitration, the parties are unable to agree on the organization of the arbitration any one of those parties may refer the dispute to the International Court of Justice by request in conformity with the Statute of the Court.

2 Each State may at the time of signature or ratification, acceptance or approval of this Convention or accession thereto, declare that it does not consider itself bound by any or all of the provisions of paragraph 1. The other States Parties shall not be bound by those provisions with respect to any State Party which has made such a reservation.

3 Any State which has made a reservation in accordance with paragraph 2 may, at any time, withdraw that reservation by notification to the Secretary-General.

### **Article 16bis**

#### *Final clauses of the Convention*

The final clauses of this Convention shall be articles 17 to 24 of the Protocol of 2005 to the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation. References in this Convention to States Parties shall be taken to mean references to States Parties to that Protocol.

### **FINAL CLAUSES**

[Articles 17 to 24 of the Protocol of 2005 to the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation.]

### **Article 17**

#### *Signature, ratification, acceptance, approval and accession*

1 This Protocol shall be open for signature at the Headquarters of the Organization from 14 February 2006 to 13 February 2007 and shall thereafter remain open for accession.

2 States may express their consent to be bound by this Protocol by:

- (a) signature without reservation as to ratification, acceptance or approval; or
- (b) signature subject to ratification, acceptance or approval, followed by ratification, acceptance or approval; or
- (c) accession.

3 Ratification, acceptance, approval or accession shall be effected by the deposit of an instrument to that effect with the Secretary-General.

4 Only a State which has signed the Convention without reservation as to ratification, acceptance or approval, or has ratified, accepted, approved or acceded to the Convention may become a Party to this Protocol.

### **Article 18**

#### *Entry into force*

1 This Protocol shall enter into force ninety days following the date on which twelve States have either signed it without reservation as to ratification, acceptance or approval, or have deposited an instrument of ratification, acceptance, approval or accession with the Secretary-General.

2 For a State which deposits an instrument of ratification, acceptance, approval or accession in respect of this Protocol after the conditions in paragraph 1 for entry into force thereof have been met, the ratification, acceptance, approval or accession shall take effect ninety days after the date of such deposit.

### **Article 19**

#### *Denunciation*

1 This Protocol may be denounced by any State Party at any time after the date on which this Protocol enters into force for that State.

2 Denunciation shall be effected by the deposit of an instrument of denunciation with the Secretary-General.

3 A denunciation shall take effect one year, or such longer period as may be specified in the instrument of denunciation, after the deposit of the instrument with the Secretary-General.

### **Article 20**

#### *Revision and amendment*

1 A conference for the purpose of revising or amending this Protocol may be convened by the Organization.

2 The Secretary-General shall convene a conference of States Parties to this Protocol for revising or amending the Protocol, at the request of one third of the States Parties, or ten States Parties, whichever is the higher figure.

3 Any instrument of ratification, acceptance, approval or accession deposited after the date of entry into force of an amendment to this Protocol shall be deemed to apply to the Protocol as amended.

### **Article 21**

#### *Declarations*

1 Upon depositing its instrument of ratification, acceptance, approval or accession, a State Party which is not a party to a treaty listed in the Annex may declare that, in the application of this Protocol to the State Party, the treaty shall be deemed not to be included in article 3ter. The declaration shall cease to have effect as soon as the treaty enters into force for the State Party, which shall notify the Secretary-General of this fact.

2 When a State Party ceases to be a party to a treaty listed in the Annex, it may make a declaration as provided for in this article, with respect to that treaty.

3 Upon depositing its instrument of ratification, acceptance, approval or accession, a State Party may declare that it will apply the provisions of article 3ter



in accordance with the principles of its criminal law concerning family exemptions of liability.

## Article 22

### *Amendments to the Annex*

- 1 The Annex may be amended by the addition of relevant treaties that:
  - (a) are open to the participation of all States;
  - (b) have entered into force; and
  - (c) have been ratified, accepted, approved or acceded to by at least twelve States Parties to this Protocol.
- 2 After the entry into force of this Protocol, any State Party thereto may propose such an amendment to the Annex. Any proposal for an amendment shall be communicated to the Secretary-General in written form. The Secretary-General shall circulate any proposed amendment that meets the requirements of paragraph 1 to all members of the Organization and seek from States Parties to this Protocol their consent to the adoption of the proposed amendment.
- 3 The proposed amendment to the Annex shall be deemed adopted after more than twelve of the States Parties to this Protocol consent to it by written notification to the Secretary-General.
- 4 The adopted amendment to the Annex shall enter into force thirty days after the deposit with the Secretary-General of the twelfth instrument of ratification, acceptance or approval of such amendment for those States Parties to this Protocol that have deposited such an instrument. For each State Party to this Protocol ratifying, accepting or approving the amendment after the deposit of the twelfth instrument with the Secretary-General, the amendment shall enter into force on the thirtieth day after deposit by such State Party of its instrument of ratification, acceptance or approval.

## Article 23

### *Depositary*

- 1 This Protocol and any amendments adopted under articles 20 and 22 shall be deposited with the Secretary-General.
- 2 The Secretary-General shall:
  - (a) inform all States which have signed this Protocol or acceded to this Protocol of:
    - (i) each new signature or deposit of an instrument of ratification, acceptance, approval or accession together with the date thereof;
    - (ii) the date of the entry into force of this Protocol;

- (iii) the deposit of any instrument of denunciation of this Protocol together with the date on which it is received and the date on which the denunciation takes effect;
  - (iv) any communication called for by any article of this Protocol;
  - (v) any proposal to amend the Annex which has been made in accordance with article 22, paragraph 2;
  - (vi) any amendment deemed to have been adopted in accordance with article 22, paragraph 3;
  - (vii) any amendment ratified, accepted or approved in accordance with article 22, paragraph 4, together with the date on which that amendment shall enter into force; and
- (b) transmit certified true copies of this Protocol to all States which have signed or acceded to this Protocol.
- 3 As soon as this Protocol enters into force, a certified true copy of the text shall be transmitted by the Secretary-General to the Secretary-General of the United Nations for registration and publication in accordance with Article 102 of the Charter of the United Nations.

## Article 24

### *Languages*

This Protocol is established in a single original in the Arabic, Chinese, English, French, Russian and Spanish languages, each text being equally authentic.

DONE AT LONDON this fourteenth day of October two thousand and five.

IN WITNESS WHEREOF the undersigned,\* being duly authorized by their respective Governments for that purpose, have signed this Protocol.

\* Signature pages omitted.

## Annex

- 1 Convention for the Suppression of Unlawful Seizure of Aircraft, done at The Hague on 16 December 1970.
- 2 Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, done at Montreal on 23 September 1971.
- 3 Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, adopted by the General Assembly of the United Nations on 14 December 1973.
- 4 International Convention against the Taking of Hostages, adopted by the General Assembly of the United Nations on 17 December 1979.
- 5 Convention on the Physical Protection of Nuclear Material, done at Vienna on 26 October 1979.
- 6 Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, done at Montreal on 24 February 1988.
- 7 Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms located on the Continental Shelf, done at Rome on 10 March 1988.
- 8 International Convention for the Suppression of Terrorist Bombings, adopted by the General Assembly of the United Nations on 15 December 1997.
- 9 International Convention for the Suppression of the Financing of Terrorism, adopted by the General Assembly of the United Nations on 9 December 1999.

## Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms located on the Continental Shelf, 2005

### (Consolidated text of the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms located on the Continental Shelf and of the Protocol of 2005 to the Protocol)

#### Article 1

1 The provisions of article 1, paragraphs 1(c), (d), (e), (f), (g), (h) and 2(a), of articles 2*bis*, 5, 5*bis* and 7, and of articles 10 to 16, including articles 11*bis*, 11*ter* and 12*bis*, of the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, as amended by the Protocol of 2005 to the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, shall also apply *mutatis mutandis* to the offences set forth in articles 2, 2*bis* and 2*ter* of this Protocol where such offences are committed on board or against fixed platforms located on the continental shelf.

2 In cases where this Protocol does not apply pursuant to paragraph 1, it nevertheless applies when the offender or the alleged offender is found in the territory of a State Party other than the State in whose internal waters or territorial sea the fixed platform is located.

3 For the purposes of this Protocol, *fixed platform* means an artificial island, installation or structure permanently attached to the sea-bed for the purpose of exploration or exploitation of resources or for other economic purposes.

#### Article 2

- 1 Any person commits an offence if that person unlawfully and intentionally:
  - (a) seizes or exercises control over a fixed platform by force or threat thereof or any other form of intimidation; or
  - (b) performs an act of violence against a person on board a fixed platform if that act is likely to endanger its safety; or

- (c) destroys a fixed platform or causes damage to it which is likely to endanger its safety; or
- (d) places or causes to be placed on a fixed platform, by any means whatsoever, a device or substance which is likely to destroy that fixed platform or likely to endanger its safety.

2 Any person also commits an offence if that person threatens, with or without a condition, as is provided for under national law, aimed at compelling a physical or juridical person to do or refrain from doing any act, to commit any of the offences set forth in paragraphs 1(b) and (c), if that threat is likely to endanger the safety of the fixed platform.

### Article 2bis

Any person commits an offence within the meaning of this Protocol if that person unlawfully and intentionally, when the purpose of the act, by its nature or context, is to intimidate a population, or to compel a Government or an international organization to do or to abstain from doing any act:

- (a) uses against or on a fixed platform or discharges from a fixed platform any explosive, radioactive material or BCN weapon in a manner that causes or is likely to cause death or serious injury or damage; or
- (b) discharges, from a fixed platform, oil, liquefied natural gas, or other hazardous or noxious substance, which is not covered by subparagraph (a), in such quantity or concentration that causes or is likely to cause death or serious injury or damage; or
- (c) threatens, with or without a condition, as is provided for under national law, to commit an offence set forth in subparagraph (a) or (b).

### Article 2ter

Any person also commits an offence within the meaning of this Protocol if that person:

- (a) unlawfully and intentionally injures or kills any person in connection with the commission of any of the offences set forth in article 2, paragraph 1, or article 2bis; or
- (b) attempts to commit an offence set forth in article 2, paragraph 1, article 2bis, subparagraph (a) or (b), or subparagraph (a) of this article; or
- (c) participates as an accomplice in an offence set forth in article 2, article 2bis or subparagraph (a) or (b) of this article; or
- (d) organizes or directs others to commit an offence set forth in article 2, article 2bis or subparagraph (a) or (b) of this article; or

- (e) contributes to the commission of one or more offences set forth in article 2, article 2bis or subparagraph (a) or (b) of this article, by a group of persons acting with a common purpose, intentionally and either:
  - (i) with the aim of furthering the criminal activity or criminal purpose of the group, where such activity or purpose involves the commission of an offence set forth in article 2 or 2bis; or
  - (ii) in the knowledge of the intention of the group to commit an offence set forth in article 2 or 2bis.

### Article 3

1 Each State Party shall take such measures as may be necessary to establish its jurisdiction over the offences set forth in articles 2, 2bis and 2ter when the offence is committed:

- (a) against or on board a fixed platform while it is located on the continental shelf of that State; or
- (b) by a national of that State.

2 A State Party may also establish its jurisdiction over any such offence when:

- (a) it is committed by a stateless person whose habitual residence is in that State;
- (b) during its commission a national of that State is seized, threatened, injured or killed; or
- (c) it is committed in an attempt to compel that State to do or abstain from doing any act.

3 Any State Party which has established jurisdiction mentioned in paragraph 2 shall notify the Secretary-General. If such State Party subsequently rescinds that jurisdiction, it shall notify the Secretary-General.

4 Each State Party shall take such measures as may be necessary to establish its jurisdiction over the offences set forth in articles 2, 2bis and 2ter in cases where the alleged offender is present in its territory and it does not extradite the alleged offender to any of the States Parties which have established their jurisdiction in accordance with paragraphs 1 and 2.

5 This Protocol does not exclude any criminal jurisdiction exercised in accordance with national law.

### Article 4

Nothing in this Protocol shall affect in any way the rules of international law pertaining to fixed platforms located on the continental shelf.

**Article 4bis***Final clauses of the Protocol*

The final clauses of this Protocol shall be articles 8 to 13 of the Protocol of 2005 to the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf. References in this Protocol to States Parties shall be taken to mean references to States Parties to the 2005 Protocol.

**FINAL CLAUSES**

[Articles 8 to 13 of the Protocol of 2005 to the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf.]

**Article 8***Signature, ratification, acceptance, approval and accession*

1 This Protocol shall be open for signature at the Headquarters of the Organization from 14 February 2006 to 13 February 2007 and shall thereafter remain open for accession.

2 States may express their consent to be bound by this Protocol by:

- (a) signature without reservation as to ratification, acceptance or approval; or
- (b) signature subject to ratification, acceptance or approval, followed by ratification, acceptance or approval; or
- (c) accession.

3 Ratification, acceptance, approval or accession shall be effected by the deposit of an instrument to that effect with the Secretary-General.

4 Only a State which has signed the 1988 Protocol without reservation as to ratification, acceptance or approval, or has ratified, accepted, approved or acceded to the 1988 Protocol may become a Party to this Protocol.

**Article 9***Entry into force*

1 This Protocol shall enter into force ninety days following the date on which three States have either signed it without reservation as to ratification, acceptance or approval, or have deposited an instrument of ratification, acceptance, approval or accession with the Secretary-General. However, this Protocol shall not enter into force before the Protocol of 2005 to the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation has entered into force.

2 For a State which deposits an instrument of ratification, acceptance, approval or accession in respect of this Protocol after the conditions in paragraph 1 for entry into force thereof have been met, the ratification, acceptance, approval or accession shall take effect ninety days after the date of such deposit.

**Article 10***Denunciation*

1 This Protocol may be denounced by any State Party at any time after the date on which this Protocol enters into force for that State.

2 Denunciation shall be effected by the deposit of an instrument of denunciation with the Secretary-General.

3 A denunciation shall take effect one year, or such longer period as may be specified in the instrument of denunciation, after the deposit of the instrument with the Secretary-General.

**Article 11***Revision and amendment*

1 A conference for the purpose of revising or amending this Protocol may be convened by the Organization.

2 The Secretary-General shall convene a conference of States Parties to this Protocol for revising or amending the Protocol, at the request of one third of the States Parties, or five States Parties, whichever is the higher figure.

3 Any instrument of ratification, acceptance, approval or accession deposited after the date of entry into force of an amendment to this Protocol shall be deemed to apply to the Protocol as amended.

**Article 12***Depositary*

1 This Protocol and any amendments adopted under article 11 shall be deposited with the Secretary-General.

2 The Secretary-General shall:

- (a) inform all States which have signed this Protocol or acceded to this Protocol of:
  - (i) each new signature or deposit of an instrument of ratification, acceptance, approval or accession together with the date thereof;
  - (ii) the date of the entry into force of this Protocol;

- (iii) the deposit of any instrument of denunciation of this Protocol together with the date on which it is received and the date on which the denunciation takes effect;
  - (iv) any communication called for by any article of this Protocol; and
- (b) transmit certified true copies of this Protocol to all States which have signed or acceded to this Protocol.

3 As soon as this Protocol enters into force, a certified true copy of the text shall be transmitted by the Secretary-General to the Secretary-General of the United Nations for registration and publication in accordance with Article 102 of the Charter of the United Nations.

### **Article 13**

#### *Languages*

This Protocol is established in a single original in the Arabic, Chinese, English, French, Russian and Spanish languages, each text being equally authentic.

DONE AT LONDON this fourteenth day of October two thousand and five.

IN WITNESS WHEREOF the undersigned,\* being duly authorized by their respective Governments for that purpose, have signed this Protocol.

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\* Signature pages omitted.