

**Part I**  
**NATIONAL LEGISLATION**



## Division I

# THE TERRITORIAL SEA AND THE CONTIGUOUS ZONE

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## Subdivision A. The Territorial Sea

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### Chapter I

## STATUS, BREADTH AND DELIMITATION OF THE TERRITORIAL SEA

### 1. DAHOMEY

CODE DE LA MARINE MARCHANDE DU 18 JUIN 1968<sup>1</sup>

#### *TITRE II. – LA NAVIGATION MARITIME*

#### *Chapitre V. – Pêche réservée*

*Article 8.* La pêche dans les eaux territoriales est réservée aux navires dahoméens et, sous réserve de réciprocité, aux navires d'autres Etats ou à certaines catégories d'entre eux.

*Article 9.* Les dispositions de l'article 8 ne portent pas atteinte au droit de libre circulation reconnu aux bateaux de pêche étrangers naviguant ou mouillant dans la zone de pêche réservée des eaux territoriales dahoméennes, à condition que ces navires se conforment aux règles spéciales de police qui pourraient être édictées en application de l'article 10 du présent Code.

#### *Chapitre VI. – Police de la navigation maritime*

*Article 10.* La police de la navigation dans les eaux maritimes est réglementée par l'autorité maritime. Cela ne fait pas obstacle à l'établissement dans les ports et rades de règlements particuliers d'utilisation par les autorités qui en assurent la gestion. Ces règlements sont cependant soumis à l'approbation de l'autorité maritime.

Les limites des ports et rades sont fixées par décret.

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<sup>1</sup> Ordonnance No 68-38/P.R./M.T.P.T.P.T. du 18 juin 1968, modifiée par ordonnance No 69-39/P.R./M.A.E. du 9 décembre 1969. Transmis par la Mission permanente du Dahomey auprès de l'Organisation des Nations Unies par note en date du 25 octobre 1974.

### TITRE III. – STATUT DU NAVIRE

#### Chapitre premier. – Définition du navire de mer

*Article 11.* Est considéré comme navire de mer tout engin flottant qui effectue à titre principal une navigation maritime, soit par ses propres moyens, soit en remorque.

La qualité de navire de mer est constatée par l'immatriculation de l'engin par les soins de l'autorité maritime.

#### Chapitre II. – Dahoméisation des navires

*Article 12.* La dahoméisation est l'acte administratif qui confère au navire le droit de porter le pavillon de la République du Dahomey avec les privilèges qui s'y rattachent.

*Article 13.* Tout navire dahoméen qui prend la mer doit avoir à bord un acte de dahoméisation délivré par l'autorité maritime au nom du Chef de l'Etat.

*Article 14.* Les navires d'Etat et les navires armés pour le compte de la République du Dahomey reçoivent une lettre de nationalité qui leur confère le droit de porter le pavillon national.

*Article 15.* L'autorité administrative peut dispenser de l'acte de dahoméisation certains navires de moins de 10 tonneaux de jauge brute.

*Article 16.* Pour recevoir l'acte de dahoméisation, les navires doivent appartenir pour moitié au moins à des nationaux dahoméens ou à des nationaux d'un autre Etat avec lequel auront été passés des accords de réciprocité.

Si le navire appartient à une société, celle-ci doit avoir son siège social au Dahomey et avoir un conseil d'administration ou de surveillance dont le Président, le Président directeur général s'il y en a un, le gérant et la majorité des membres soient de nationalité dahoméenne ou de la nationalité d'un autre Etat avec lequel auront été passés des accords de réciprocité.

Si la société est une société de personnes ou une société à responsabilité limitée, il faut, en outre, que la moitié du capital au moins appartienne à l'Etat dahoméen ou à un autre Etat avec lequel auront été passés des accords de réciprocité, à des collectivités publiques ou à des nationaux dahoméens ou d'un autre Etat avec lequel auront été passés des accords de réciprocité. Des dérogations à ces conditions pourront être accordées par décret en faveur des Etats limitrophes ne possédant pas de frontière maritime, des collectivités publiques des sociétés et des nationaux de ces Etats.

#### Chapitre IV. – Immatriculation des navires – publication – radiation

*Article 22.* Les navires sont immatriculés à Cotonou par les soins de l'autorité maritime.

Seuls peuvent être immatriculés les navires ayant obtenu un acte de dahoméisation ou ceux dont les propriétaires ont déposé une demande non

contestée en ce sens et ceux régulièrement dispensés de l'acte de dahoméisation en application de l'article 15 du présent Code.

*Article 23.* L'immatriculation originelle d'un navire et toute nouvelle immatriculation au nom d'un nouveau propriétaire fait l'objet d'une publication au *Journal officiel* de la République du Dahomey.

Cette publication mentionne les noms, tonnage et port d'immatriculation du navire, les noms, domiciles ou sièges sociaux du vendeur ou constructeur et de l'acquéreur, la date de la mutation de propriété.

Sauf opposition dûment notifiée dans un délai de deux mois à compter de cette publication, le changement de propriété est considéré comme inattaquable et définitif.

*Article 24.* L'immatriculation donne lieu à la perception d'une taxe dont le montant et l'imputation sont fixés par arrêté.

*Article 25.* L'autorité maritime détermine les règles et conditions à remplir pour obtenir l'immatriculation des navires et fixe les modalités de leur radiation des matricules.

#### *Chapitre V. – Pavillon et signalement extérieur permanent des navires*

*Article 26.* Les navires dahoméens arborent à la poupe ou à la corne d'artimon le pavillon national.

Les capitaines de ces navires sont tenus d'arborer le pavillon national à l'entrée et à la sortie des ports et sur toute réquisition d'un bâtiment de guerre quelle que soit sa nationalité.

Dans les ports et rades, le pavillon national est arboré les dimanches, jours fériés et fêtes légales et sur ordre de l'autorité maritime.

Le petit et le grand pavois comportent des pavillons nationaux hissés en tête de chaque mât.

*Article 27.* Hors le pavillon national, aucun pavillon, marque ou guidon ne peut être utilisé sans accord préalable de l'autorité maritime. En particulier, tout pavillon ou marque de Compagnie de navigation doit faire l'objet d'une décision de l'autorité maritime qui en approuve les dispositions.

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*Article 29.* Tout navire doit porter un signalement extérieur permanent qui permette de l'identifier.

Ce signalement est réglementé par l'autorité maritime en fonction des caractéristiques des navires et du genre de navigation pratiqué.

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*TITRE V<sup>1</sup>. – LE DOMAINE PUBLIC MARITIME  
ET LES EAUX TERRITORIALES*

*Chapitre premier. – Le domaine public maritime*

*Article 178.* Le domaine public maritime est la partie du domaine public formée par la mer et les espaces qu'elle baigne soit temporairement, soit d'une manière continue.

*Article 179.* Le domaine public maritime comprend :

1° Les eaux intérieures, à savoir celles qui sont situées en deçà de la ligne à partir de laquelle est mesurée l'étendue de la mer territoriale et les eaux des ports et rades;

2° Le rivage de la mer, c'est-à-dire la partie des côtes alternativement couverte et découverte par la mer;

3° Les constructions ou ouvrages publics d'utilité maritime situés dans les zones ci-dessus.

*Article 180.* Les modalités de délimitation du domaine public maritime sont réglementées par décret.

*Article 181.* La circulation est libre sur le domaine public maritime sous réserve de l'observation des règlements de police en vigueur.

*Article 182.* Le domaine public maritime est inaliénable, insaisissable et imprescriptible.

Les conditions dans lesquelles il peut être occupé ou concédé, les règles applicables aux extractions du domaine public maritime et aux travaux effectués sur le domaine public maritime, les mesures d'ordre et de police qui s'y rattachent sont fixées par décret, sous réserve des dispositions prévues à l'article 190, paragraphe 7, du présent Code.

*Chapitre II. – Les eaux territoriales et contiguës*

*Article 183.* Les eaux territoriales s'étendent jusqu'à une distance de 12 milles marins à compter de la laisse de la plus basse mer.

Pour les golfes, rades ou estuaires, des décrets fixent, en tant que de besoin, la ligne à partir de laquelle la distance de douze milles est comptée.

*Article 184.* Il peut être créé par décret une zone contiguë aux eaux territoriales.

*Article 185.* Outre la pêche ainsi que prévu au titre II, chapitre V, du présent Code, la République du Dahomey se réserve tous droits d'exploitation de la mer et du sous-sol marin dans les eaux territoriales de l'Etat et dans la zone contiguë qui pourrait être déterminée en application de l'article 184 du présent Code, conformément aux usages internationaux.

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<sup>1</sup> Dans sa note du 25 octobre 1974, le représentant permanent du Dahomey appelle l'attention du Secrétaire général sur le titre V de ce code qui est en train d'être révisé en vue de tenir compte de la décision du Dahomey d'étendre sa mer territoriale à 200 milles nautiques.

*TITRE VI. – LES ACTIVITES MARITIMES*

*Chapitre II. – La pêche maritime et ses activités annexes*

*Article 189.* La pêche maritime consiste dans la capture par des moyens appropriés de tout animal vivant en mer ou dans la partie maritime des fleuves et lagunes.

*Section première. – Réglementation administrative de la pêche maritime*

*Article 190.* Des arrêtés de l'autorité maritime préparés en liaison avec l'Organisme chargé des recherches en matière de pêche maritime déterminent en tant que de besoin :

1° Les zones et époques où la pêche est interdite soit entièrement, soit pour certaines espèces;

2° Les filets, engins, instruments, procédés et modes de pêche prohibés soit entièrement, soit dans certaines conditions;

3° Les dispositions de nature à prévenir la destruction du frai et à assurer la conservation des fonds de pêche et en particulier celles concernant la taille marchande des diverses espèces pêchées;

4° Les interdictions relatives à la pêche, à la mise en vente, à l'achat, au transport, au colportage ou à l'emploi du frai, des poissons, crustacés, coquillages et autres animaux marins qui n'atteignent pas les dimensions prescrites;

5° Les appâts ou substances dont l'emploi est interdit en dehors de celles prévues à l'article 191 du présent Code;

6° Les mesures d'ordre et de police propres à assurer la conservation de la pêche ainsi qu'à en régler l'exercice;

7° Les conditions d'établissement et d'exploitation des pêcheries, viviers, parcs à huîtres, moules ou autres animaux marins situés en mer ou sur le domaine public maritime, sous réserve que le montant et l'imputation des taxes à percevoir lors de l'octroi, de la cession ou du renouvellement de ces autorisations soient fixés par décret.

*Article 191.* Il est interdit de faire usage pour la pêche soit de dynamite, soit de tout autre explosif, soit de substances ou d'appâts pouvant enivrer ou détruire les poissons, crustacés et coquillages.

*TITRE VII. – LE REGIME DISCIPLINAIRE ET PENAL*

*Chapitre premier. – Dispositions générales*

*Article 194.* Sont soumis aux dispositions du présent titre :

1° Les personnes, de quelque nationalité qu'elles soient, embarquées à bord des navires battant pavillon dahoméen soit comme membres de

l'équipage pendant la durée de leur embarquement, soit comme passagers ou pilotes pendant la durée de leur présence à bord.

Cependant, les militaires et marins des Forces Armées du Dahomey demeurent justiciables des tribunaux militaires pour tout crime ou délit commis pendant leur présence à bord des navires.

2° Les personnes qui, bien que non embarquées à bord d'un navire battant pavillon dahoméen ont commis une des infractions prévues au présent titre.

*Article 195.* Pour l'application des dispositions contenues dans le présent titre :

– L'expression "capitaine" désigne le capitaine ou patron ou à défaut, la personne qui exerce, régulièrement, en fait, le commandement du navire;

– L'expression "officier" désigne le second, les lieutenants, le chef mécanicien, les officiers mécaniciens, les radioélectriciens, les commissaires, les médecins, les élèves officiers et, d'une façon générale, toutes personnes portées comme officiers sur le rôle d'équipage;

– L'expression "maître" désigne les maître d'équipage, maîtres-charpentiers, maîtres d'hôtel ou assimilés, les premiers chauffeurs ou assimilés, les graisseurs, les radiotélégraphistes n'ayant pas rang d'officier et, d'une façon générale, toutes personnes portées comme maîtres ou chefs de service sur le rôle d'équipage;

– L'expression "homme d'équipage" désigne toutes les autres personnes de l'équipage inscrites sur le rôle;

– L'expression "passager" désigne les passagers proprement dits ainsi que toutes les personnes qui se trouvent en fait à bord du navire en vue d'effectuer le voyage et sans faire partie de l'équipage;

– L'expression "autorité maritime" continue à désigner l'autorité définie au titre 1<sup>er</sup> du présent Code;

– L'expression "bord" désigne le navire, ses embarcations et ses divers moyens de communication avec la terre.

*Article 196.* En ce qui concerne les crimes et délits prévus par le présent titre, les délais de prescription de l'action publique, de l'exécution de la peine et de l'action civile sont fixés conformément au droit commun.

En ce qui concerne les fautes contre la discipline, les délais dans lesquels l'action doit être intentée, la punition prononcée et la peine exécutée sont ceux prévus pour les contraventions de simple police.

Les délais prévus aux paragraphes précédents ne commencent à courir qu'à partir du jour où, après l'infraction commise, le navire a touché un port du Dahomey.

*Article 197.* Aucune poursuite ne peut être exercée en application des dispositions du présent titre lorsque la personne inculpée a été jugée définitivement à l'étranger pour les mêmes faits, sous réserve, en cas de condamnation, qu'elle ait subi ou prescrit sa peine ou obtenu sa grâce.

*Article 198.* Les dispositions du droit commun concernant les circonstances atténuantes sont applicables aux crimes et délits prévus par le



présent Code. Il en est de même des dispositions relatives au sursis et à la récidive, sauf stipulation contraire.

*Article 199.* Il sera, lors de l'armement de chaque navire, ouvert un livre spécial appelé "livre de discipline" qui sera coté et paraphé par l'autorité maritime pour être conservé à bord.

*Article 200.* Le capitaine ou l'autorité maritime, selon le cas, mentionne au livre de discipline la date, la nature et les circonstances de toute faute ou infraction commise à bord, qu'il s'agisse d'une "faute de discipline", d'un délit ou d'un crime. Il y consigne également les résultats des enquêtes effectuées, les punitions infligées et les mesures spéciales ordonnées.

Le livre de discipline doit être présenté au visa de l'autorité maritime toutes les fois qu'une faute de discipline, un délit ou un crime a été commis à bord.

Pour les navires de moins de cent tonneaux de jauge brute, la tenue du livre de discipline peut être rendue facultative par décision de l'autorité maritime.

*Article 201.* Il est tenu en outre par l'autorité maritime un livre spécial dit "livre de punitions" qui mentionne les punitions infligées, les enquêtes ouvertes pour crimes ou délits et les suites qui y ont été données.

*Article 202.* Les punitions ou sanctions infligées sont, avec l'indication des fautes ou infractions qui les ont provoquées, inscrites à la diligence de l'autorité maritime à l'article matriculaire du marin intéressé.

*Article 203.* L'autorité maritime peut, en cas de nécessité, demander l'intervention de la force publique à l'autorité compétente, soit pour procéder à l'arrestation des délinquants, soit pour procéder à la saisie des navires, embarcations, engins, installations, appâts ou produits de la pêche qui ont été l'objet d'un crime ou délit.

*Article 204.* Lorsqu'il s'agit des faits prévus par la présente loi et ses textes d'application et imputables à une ou plusieurs personnes appartenant à l'équipage d'un navire étranger, l'autorité maritime peut, sans préjudice des mesures de droit commun, arrêter le navire jusqu'au dépôt à la Caisse des Dépôts et Consignations ou d'un organisme en tenant lieu, d'un cautionnement destiné à garantir l'exécution des condamnations dont elle fixe le montant.

En cas de condamnation définitive et non exécutée, le cautionnement est acquis au budget du Dahomey déduction faite des frais et des réparations civiles.

*Article 205.* Le droit commun est applicable aux infractions, aux règles de compétence, de procédure, d'instruction ou autres non prévues ou non précisées par le présent Code.

Il est cependant précisé que quiconque, propriétaire, armateur ou autre personne, étant à terre ou à bord, incite par parole ou par écrit le capitaine, un homme d'équipage ou l'équipage et les passagers d'un navire à commettre l'un des crimes ou délits prévus par le présent titre, ou se fait le complice de ce crime ou délit, est puni de la même peine que celle prévue pour les auteurs

du crime ou délit commis, sauf dispositions contraires prévues par le présent Code.

La peine applicable aux auteurs du crime ou délit peut être réduite par la juridiction répressive, s'il apparaît que ceux-ci ont agi à l'instigation de l'une des personnes susvisées.

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### *Chapitre III. – Des délits et crimes maritimes*

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#### *Section II. – Des délits et crimes concernant la police de la navigation*

*Article 239.* Toute personne, même étrangère, embarquée sur un navire dahoméen ou étranger, qui, dans les eaux maritimes et jusqu'à la limite des eaux territoriales, ne se conforme pas aux règlements ou aux ordres émanant de l'autorité maritime et relatifs, soit à la police des eaux et rades, soit à la police de la navigation maritime, soit à la sécurité de la navigation, est punie d'un emprisonnement de dix jours à six mois et d'une amende de 25 000 à 250 000 francs, ou de l'une de ces deux peines seulement.

La même peine est encourue par toute personne embarquée sur un navire dahoméen qui, hors des eaux territoriales du Dahomey, ne se conforme pas aux ordres régulièrement donnés par l'une des autorités visées au chapitre 1<sup>er</sup> du titre I du présent Code ou par le commandant d'un navire de guerre de la République du Dahomey.

Si les infractions au présent article sont commises en temps de guerre, la peine peut être triplée.

*Article 240.* Tout capitaine requis par l'autorité compétente, qui, sans motif légitime, refuse de se charger du dossier de l'enquête ou des pièces à conviction, ou d'assurer le transport d'un prévenu, ou qui ne livre pas le prévenu ou le dossier confié à ses soins à l'autorité maritime désignée pour les recevoir, est puni d'une amende de 25 000 à 250 000 francs sans préjudice, s'il y a lieu, en cas d'évasion ou de complicité d'évasion, de l'application aux personnes embarquées, au capitaine et au prévenu, des dispositions des articles 237 à 243 du Code pénal.

*Article 241.* Est puni d'une amende de 25 000 à 250 000 francs, tout capitaine ou armateur qui, sans motif légitime, refuse de déférer à la réquisition de l'autorité maritime pour rapatrier des nationaux dahoméens au Dahomey.

*Article 242.* Tout capitaine qui, en mer, n'obéit pas à l'appel d'un navire de guerre de la République du Dahomey et le contraint à faire usage de la force est puni d'un emprisonnement de trois mois à deux ans et d'une amende de 25 000 à 250 000 francs, ou de l'une de ces deux peines seulement.

*Article 243.* Tout capitaine ou armateur qui enfreint les obligations qui incombent à l'armement concernant soit les soins à donner aux marins malades ou blessés, soit le rapatriement et la conduite de ces marins ainsi qu'il est prévu au chapitre V du titre IV du présent Code, est puni d'un

emprisonnement de dix jours à deux mois et d'une amende de 25 000 à 250 000 francs, ou de l'une de ces deux peines seulement.

La même peine est encourue par le capitaine qui, ayant laissé à terre, avant qu'il ait atteint son lieu de destination un passager malade ou blessé, ne donne pas avis de cette mesure à l'autorité diplomatique ou consulaire du pays auquel appartient le passager débarqué, ou à défaut, à l'autorité locale.

*Article 244.* Est puni d'une amende de 25 000 à 250 000 francs, pour chaque infraction constatée, tout propriétaire ou armateur qui ne se conforme pas aux prescriptions du présent Code relatives à la réglementation du travail, de la nourriture et du couchage, des congés et repos, des salaires minima à bord des navires, et aux prescriptions des règlements pris pour leur application.

Est puni de la même peine sans préjudice des mesures disciplinaires prévues par l'article 213, tout capitaine qui commet personnellement, ou d'accord avec l'armateur ou propriétaire du navire, les infractions prévues par le paragraphe précédent. Toutefois, la peine prononcée contre le capitaine peut être réduite du quart de celle prononcée contre le propriétaire ou l'armateur s'il est prouvé que le capitaine a reçu un ordre écrit ou verbal de cet armateur ou propriétaire.

Les peines prévues aux deux paragraphes précédents peuvent être portées au double en cas de récidive. Il y a récidive lorsque le contrevenant a subi, dans les douze mois qui précèdent, une condamnation pour les faits réprimés par le présent article.

*Article 245.* Toute personne qui, sur un navire dahoméen, exerce sans l'autorisation de l'autorité maritime et hors le cas de force majeure soit le commandement du navire, soit toute autre fonction, sans satisfaire aux conditions exigées par les règlements maritimes, est punie d'un emprisonnement de dix jours à un an et d'une amende de 25 000 à 250 000 francs, ou de l'une de ces deux peines seulement.

Est punie de la même peine toute personne qui, sans une commission régulière de pilote, aura entrepris ou tenté d'entreprendre la conduite d'un navire en qualité de pilote commissionné.

*Article 246.* Est puni d'une amende de 25 000 à 250 000 francs tout armateur ou propriétaire qui ne se conforme pas aux règlements relatifs à l'immatriculation des navires.

*Article 247.* Tout propriétaire ou armateur qui ne se conforme pas aux règlements relatifs à la dahoméisation des navires ou se rend coupable d'une dahoméisation frauduleuse est puni d'un emprisonnement de dix jours à six mois et d'une amende de 100 000 à 5 000 000 de francs, ou de l'une de ces deux peines seulement.

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#### *Section IV. – De la piraterie*

*Article 271.* Seront poursuivis et jugés comme pirates :

1° Tout individu faisant partie de l'équipage d'un navire armé militairement et naviguant sans avoir été muni pour le voyage d'un passeport, rôle

d'équipage, commissions ou autres actes constatant la légitimité de l'expédition;

2° Tout capitaine d'un navire armé militairement et porteur de commissions délivrées par deux ou plusieurs puissances ou Etats différents;

3° Tout individu faisant partie de l'équipage d'un navire battant pavillon du Dahomey, lequel commettrait à main armée des actes de déprédation ou de violence soit envers des navires dahoméens ou des navires d'une puissance avec laquelle le Dahomey ne serait pas en état de guerre, soit envers les équipages ou chargements de ces navires;

4° Tout individu faisant partie de l'équipage d'un navire étranger, lequel, hors l'état de guerre et sans être pourvu de lettres de marque ou de commissions régulières, commettrait les actes visés à l'alinéa précédent envers des navires dahoméens, leurs équipages ou chargements;

5° Le capitaine et les officiers de tout navire quelconque qui auraient commis des actes d'hostilité sous un pavillon autre que celui de l'Etat dont ledit navire aurait commission;

6° Tout Dahoméen qui, ayant obtenu, même avec l'autorisation du Gouvernement, commission d'une puissance étrangère pour commander un navire armé militairement, commettrait des actes d'hostilité envers des navires dahoméens, leurs équipages ou leurs chargements;

7° Tout individu faisant partie de l'équipage d'un navire dahoméen qui tenterait de s'emparer dudit navire par fraude ou violence envers le capitaine;

8° Tout individu faisant partie de l'équipage d'un navire dahoméen qui le livrerait à des pirates ou à l'ennemi.

*Article 272.* Quiconque aura été déclaré coupable du crime de piraterie sera puni de la peine de mort, des travaux forcés ou de la réclusion.

Les mêmes peines sont applicables aux passagers qui participeraient aux actes visés à l'article 271 du présent Code ou en seraient les auteurs

La vente des navires capturés pour cause de piraterie sera, en outre, ordonnée par le Tribunal au profit de l'Etat.

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#### *Chapitre IV. – Des infractions en matière de pêche maritime*

##### *Section première. – Des délits concernant la réglementation administrative des pêches maritimes et des activités annexes*

*Article 283.* Est puni d'une amende de 20 000 à 1 000 000 de francs et d'un emprisonnement de dix jours à six mois, ou de l'une de ces deux peines seulement, quiconque contrevient aux dispositions prévues aux articles 190 et 191 du présent Code.

Lorsqu'il s'agit d'établissements de pêcheries, viviers, parcs à huîtres, moules, coquillages ou autres animaux marins, l'autorité maritime peut ordonner en outre l'enlèvement ou la destruction immédiate, aux frais des contrevenants, des installations construites sans autorisation.

*Article 284.* L'autorité maritime procède à la saisie et à la mise en vente immédiate au profit de l'Etat des produits de la pêche des contrevenants aux dispositions de l'article précédent.

*Article 285.* En cas de récidive dans les deux ans à l'une quelconque des infractions réprimées par l'article 283, le contrevenant peut être condamné au double de la peine d'amende.

En outre, les embarcations, navires, installations et engins utilisés sont saisis par l'autorité maritime et le Tribunal peut prononcer leur confiscation et leur mise en vente au profit de l'Etat.

*Article 286.* Est puni d'une amende de 20 000 à 1 000 000 de francs et d'un emprisonnement de dix jours à six mois, ou de l'une de ces deux peines seulement, quiconque contrevient aux dispositions réglementaires édictées en application de l'article 192 du présent Code.

L'autorité maritime peut, en outre ordonner soit la destruction, soit la mise en vente au profit de l'Etat des produits ou lots qui ne répondent pas aux normes fixées.

En cas de récidive dans les deux ans, le contrevenant peut être condamné au double de la peine d'amende prévue à l'alinéa 1 du présent article.

*Article 287.* Les sanctions prévues par les articles 283 à 286 du présent Code sont infligées :

1° Au capitaine ou patron lorsque l'infraction est commise par un navire. Cependant, l'armateur est seul responsable des condamnations civiles. Il est en outre solidairement responsable du paiement des amendes pénales prononcées;

2° A la personne qui dirige, en fait, l'établissement ou l'exploitation lorsqu'il s'agit d'infractions relatives soit au commerce, transport, colportage ou emploi des produits de la pêche qui n'atteignent pas les dimensions prescrites, soit à l'installation de pêcheries, viviers, parcs à huîtres, moules, coquillages ou autres animaux marins, soit aux mesures d'hygiène et de salubrité prescrites pour l'élevage, le transport, la vente et le commerce des produits de la pêche;

Cette même personne est en outre seule responsable des condamnations civiles;

3° Aux délinquants eux-mêmes dans les autres cas, sans préjudice toujours des condamnations civiles.

*Article 288.* Tout capitaine et membre d'équipage d'un navire étranger surpris en pêche dans les eaux territoriales ou la zone contiguë aux eaux territoriales dont l'exploitation peut être réservée aux Dahoméens, sous réserve des accords de réciprocité, est puni d'une amende de 200 000 à 4 000 000 de francs et d'un emprisonnement de dix jours à six mois ou de l'une de ces deux peines seulement.

En cas de récidive dans les deux ans, la confiscation du navire, des engins et des produits de la pêche est obligatoirement prononcée par le Tribunal au profit de l'Etat.

L'armateur est solidairement responsable du paiement des amendes prononcées.

*Article 289.* Les délits en matière de pêche maritime sont recherchés et constatés :

1° Par les représentants qualifiés de l'autorité maritime;

2° Par les officiers de police judiciaire;

3° Par les officiers et officiers marinières commandant les bâtiments ou embarcations de la République du Dahomey, les gendarmes, les officiers et maîtres de port et les autres agents spécialement habilités à cet effet.

Ils donnent lieu à l'établissement de procès-verbaux.

*Article 290.* Les procès-verbaux établis par les agents énumérés à l'article précédent font foi jusqu'à preuve du contraire. Ils ne sont pas soumis à l'affirmation.

Les procès-verbaux sont transmis directement par leurs auteurs à l'autorité maritime qui saisit le Procureur de la République près le Tribunal dont relève sa résidence.

A défaut de procès-verbaux ou en cas d'insuffisance de ces actes, les infractions peuvent être prouvées par témoins.

*Article 291.* Le Ministère public ne peut engager les poursuites qu'au vu des conclusions de l'autorité maritime ou à l'expiration d'un délai de quinze jours après qu'il aura réclamé ces conclusions par lettre recommandée.

L'autorité maritime doit, si elle le demande, être entendue par le Tribunal.

*Article 292.* La partie lésée a le droit de se porter partie civile devant le Tribunal, conformément aux textes en vigueur.

Toutefois, elle ne peut donner citation directement au prévenu et doit saisir le juge d'instruction.

*Article 293.* Pour tous les délits de pêche, l'autorité maritime peut transiger avec les délinquants dès lors qu'ils ne sont pas considérés comme récidivistes.

Le montant de la transaction, qui ne peut être opérée qu'avant jugement, est au minimum celui du montant de la peine d'amende encourue par le délinquant.

#### TITRE VIII. – DISPOSITIONS DIVERSES

*Article 299.* Sont abrogées toutes dispositions contraires à la présente ordonnance, qui sera exécutée comme loi de l'Etat.

## 2. ECUADOR

### (a) CIVIL CODE AS AMENDED BY DECREE NO. 256-CLP OF 27 FEBRUARY 1970<sup>1</sup>

...

#### *Book II, Title III – National Property*

628. The adjacent sea, to a distance of 200 nautical miles measured from the low-water mark, at the most salient points of the continental Ecuadorian coast and the outer-most islands of the Colón Archipelago, according to the baseline to be indicated by Executive Decree,<sup>2</sup> shall constitute the territorial sea and be part of the national domain.

The adjacent sea between the baseline referred to in the preceding paragraph and the low-water mark shall constitute internal waters and be part of the national domain.

If maritime police and defence zones more extensive than those specified in the preceding paragraphs are determined under relevant international treaties, the provisions of such treaties shall prevail.

The different zones of the territorial sea that shall be subject to the régime of free maritime navigation or of innocent passage for foreign ships shall be established by Executive Decree.

The bed and subsoil of the adjacent sea also form part of the public domain.

629. The air space corresponding to the territory of the State, including the territorial sea as defined in the preceding article, shall also be part of the national domain.

Regulations governing the free air transit zone above the territorial sea shall be made by the Executive.

...

### (b) SUPREME DECREE NO. 959-A OF 28 JUNE 1971 PRESCRIBING STRAIGHT BASELINES FOR THE MEASUREMENT OF THE TERRITORIAL SEA<sup>3</sup>

*Whereas* article 628 of the Civil Code<sup>4</sup> in force provides that the Ecuadorian territorial sea shall be measured in both the continental territory of the Republic of the Colón Archipelago (Galapagos Islands), from the straight baselines which will be determined for this purpose by Executive Decree; and

<sup>1</sup> Spanish text provided by the Permanent Mission of Ecuador to the United Nations in a note verbale of 16 October 1973. Translation by the Secretariat of the United Nations.

<sup>2</sup> See Supreme Decree No. 939-A of 28 June 1971, reproduced *infra* (b).

<sup>3</sup> *Registro Oficial* No. 265 of 13 July 1973, pp. 1-2. Translation by the Secretariat of the United Nations.

<sup>4</sup> Reproduced *supra* (a).

*Whereas* a Commission composed of representatives of the Ministry of Foreign Affairs, the Navy and the Military Geographic Institute has studied the plotting of such lines and determined their course; and

*Whereas* such study has been approved by the Ministry of Foreign Affairs and the Ministry of National Defence on the grounds that it is in the national interest and fully conforms to the rules of international law which are in force on the matter.

*It is hereby decreed:*

*Article 1.* The straight baselines from which the breadth of the territorial sea of the Republic shall be measured shall be constituted by the following traverses:

I. On the continent

(a) The line shall start from the point of intersection of the maritime frontier with Colombia, with the straight line Punta Manglares (Colombia)—Punta Galera (Ecuador);

(b) From this point a straight line passing through Punta Galera and meeting the northernmost point of Isla de la Plata;

(c) From this point a straight line to Puntilla de Santa Elena;

(d) A straight line from Puntilla de Santa Elena in the direction of Cabo Blanco (Peru) to the intersection with the geographic parallel constituting the maritime frontier with Peru.

II. In the Colón Archipelago (Galapagos Islands)

(a) From Islote Darwin a straight line to the north-eastern tip of Isla Pinta.

(b) A straight line to the northernmost point of Isla Genovesa;

(c) A straight line passing through Punta Valdizan, Isla San Cristobal, and intersecting the northern extension of the straight line joining the south-eastern tip of Isla Española to Punta Pitt, Isla San Cristobal;

(d) A straight line from this intersection to the south-eastern tip of Isla Española:

(e) A straight line to Punta Sur, Isla Santa Maria;

(f) A straight line passing through the south-eastern tip of Isla Isabela, near Punta Esex, and intersecting the southern extension of the line joining the outermost projecting point of the western coast of Isla Fernandina, approximately in its middle, with the western tip of the southern sector of Isla Isabela, in the vicinity of Punta Cristobal;

(g) From this point of intersection a line passing through the western tip of the southern sector of Isla Isabela, in the vicinity of Punta Cristobal, to the outermost projecting point on the western coast of Isla Fernandina, approximately in its middle; and

(h) A straight line to Isla Darwin.

*Article 2.* The sea areas lying between the lines described in article 1 (I) and the coast line on the Continent, and within the lines described in article I (II), in the Colón Archipelago, shall constitute internal waters.



### 3. FRANCE

#### a) LOI No 71-1060 DU 24 DECEMBRE 1971 RELATIVE A LA DELIMITATION DES EAUX TERRITORIALES FRANCAISES<sup>1</sup>

*Art. 1<sup>er</sup>.* Les eaux territoriales françaises s'étendent jusqu'à une limite fixée à 12 milles marins à partir des lignes de base.

Les lignes de base sont la laisse de basse mer ainsi que les lignes de base droites et les lignes de fermeture des baies qui sont déterminées par décret.

La souveraineté de l'Etat français s'étend à l'espace aérien ainsi qu'au lit et au sous-sol de la mer dans la limite des eaux territoriales.

*Art. 2.* Sauf convention particulière, la largeur des eaux territoriales ne s'étend pas au-delà d'une ligne médiane dont tous les points sont équidistants des points les plus proches des lignes de base des côtes françaises et des côtes des pays étrangers qui font face aux côtes françaises ou qui leur sont limitrophes.

*Art. 3.* Lorsque la distance entre les lignes de base des côtes françaises et celles des côtes d'un Etat étranger qui leur font face est égale ou inférieure à 24 milles ou ne permet plus l'existence d'une zone de haute mer suffisante pour la navigation, des dispositions pourront être prises en vue d'assurer la libre navigation maritime et aérienne, dans le respect des conventions internationales et, s'il y a lieu, après accord avec les Etats intéressés.

*Art. 4.* Les dispositions de la présente loi ne portent pas atteinte à l'exercice des droits de pêche accordés à certains navires étrangers dans les conditions prévues par les accords internationaux et le droit interne français.

*Art. 5.* La présente loi est applicable aux territoires d'outre-mer.

#### b) DECRET DU 29 JUIIN 1971 DEFINISSANT LES LIGNES DE BASE DROITES SERVANT A LA DETERMINATION DES LIGNES DE BASE A PARTIR DESQUELLES EST MESUREE LA LARGEUR DES EAUX TERRITORIALES AU LARGE DE LA GUYANE FRANCAISE<sup>2</sup>

Le Premier Ministre

...

Vu le décret No 67-451 du 7 juin 1967<sup>3</sup> portant extension de la zone de pêche interdite aux navires étrangers, et notamment ses articles 2 et 5;

Vu le décret No 70-1183 du 11 décembre 1970<sup>4</sup> relatif à l'extension au département de la Guyane française du décret No 67-451 du 7 juin 1967,

Décète :

*Art. 1<sup>er</sup>.* Les lignes de base droites servant à la détermination des lignes de base à partir desquelles est mesurée la largeur des eaux territoriales au large

<sup>1</sup> *Journal officiel*, 30 décembre 1971.

<sup>2</sup> *Journal officiel*, 7 juillet 1971.

<sup>3</sup> Reproduit dans ST/LEG/SER.B/15, p. 636.

<sup>4</sup> Reproduit partiellement dans ST/LEG/SER.B/16, p. 301.

de la Guyane française sont celles joignant les points A, B, C, D, E et F ainsi définis :

Point A. – L'îlot le plus à l'ouest des Roches Blanches (latitude 5° 26'6 N., longitude 52° 56'7 O.).

Point B. – Le feu de l'île Royale (latitude 5° 17'2 N., longitude 52° 35'6 O.).

Point C. – Le feu de l'Enfant perdu (latitude 5° 02'55 N., longitude 52° 21'37 O.).

Point D. – Le sommet de l'îlot Le Père (latitude 4° 55'7 N., longitude 52° 12'3 O.).

Point E. – Le sommet de l'îlot Grand Connétable (latitude 4° 49'5 N., longitude 51° 56'3 O.).

Point F. – (latitude 4° 34' N., longitude 51° 46'3 O.)

...

#### 4. GERMAN DEMOCRATIC REPUBLIC

(a) EXCERPT FROM THE CONSTITUTION OF THE GERMAN DEMOCRATIC REPUBLIC OF 6 APRIL 1968 AS MODIFIED BY THE LAW OF 7 OCTOBER 1974<sup>1</sup>

...

*Article 7.* (1) The State organs ensure the territorial integrity of the German Democratic Republic and the inviolability of its national frontiers, inclusive of its air space and its territorial waters, and the protection and exploitation of its continental shelf.

...

*Article 12.* (1) Mineral resources: mines, power stations, barrages and large bodies of water, the natural resources of the continental shelf, the industrial enterprises, banks and insurance companies, nationally owned farms, traffic routes, the means of transport of the railways, ocean shipping and civil aviation and post and telecommunications installations are nationally owned property. Private ownership thereof is inadmissible.

(b) EXCERPT FROM THE REGULATION<sup>2</sup> BY THE NATIONAL DEFENCE COUNCIL OF THE GERMAN DEMOCRATIC REPUBLIC ON THE PROHIBITION OF ACCESS TO CERTAIN AREAS—CLOSED AREA ORDER OF 21 JUNE 1963

...

#### *Prohibited areas in inland sea-waters and in territorial waters*

*Article 16.* For the purpose of the defence of the German Democratic Republic, certain areas within the inland sea-waters and territorial waters of

<sup>1</sup> German text provided by the Permanent Mission of the German Democratic Republic to the United Nations in a note verbale of 19 December 1974. Translation by the Secretariat of the United Nations.

<sup>2</sup> *Legal Gazette of the German Democratic Republic*, part I, 1963, p. 93. German text provided by the Permanent Mission of the German Democratic Republic to the United Nations in a note verbale of 19 December 1974. Translation by the Secretariat of the United Nations.

the German Democratic Republic may be declared closed areas either temporarily or, whose such areas are of negligible significance for the peaceful passage of foreign ships, permanently.

*Article 17.* (1) Proposals for the establishment of closed areas in inland sea-waters and in territorial waters shall be submitted to the Commander-in-Chief of the People's Navy.

(2) The Commander-in-Chief of the People's Navy shall determine such closed areas with the prior agreement of the heads of the competent State and economic organs.

(3) The establishment of permanently closed areas in inland sea-waters and in territorial waters shall require the prior approval of the Minister of Defence.

*Article 18.* (1) The marking of closed areas in the inland sea-waters and territorial waters shall be the responsibility of the Commander-in-Chief of the People's Navy and shall be carried out by the People's Navy.

(2) The co-ordinates of such closed areas shall be published by the Nautical Hydrography Department in *Nautische Mitteilungen für Seefahrer*.

(3) Prior to the establishment of such closed areas, the Minister for Foreign Affairs shall be consulted, through the Minister of Defence, as a rule not less than 14 days before the closure.

*Article 19.* Any declaration of sea-areas outside the territorial waters of the German Democratic Republic as danger zones because of exercises by the armed forces of the German Democratic Republic shall be made in conformity with the rules of international law and with due regard for the interests of international shipping and international air traffic.

...

(c) EXCERPT FROM THE REGULATION<sup>1</sup> ON ORDER IN THE FRONTIER AREAS AND TERRITORIAL WATERS OF THE GERMAN DEMOCRATIC REPUBLIC—FRONTIER ORDER—OF 15 JUNE 1972

...

#### *Section IV*

Regulations concerning order in the frontier area along the coast and in the territorial waters of the German Democratic Republic.

*Article 29.* The national frontier of the German Democratic Republic at sea (sea-frontier) is the line which separates the territorial waters from the high seas.<sup>2</sup>

<sup>1</sup> Legal Gazette of the German Democratic Republic, part II, 1972, p. 483. German text provided by the Permanent Mission of the German Democratic Republic to the United Nations in a note verbale of 19 December 1974. Translation by the Secretariat of the United Nations.

<sup>2</sup> The breadth of the territorial waters of the German Democratic Republic is three nautical miles.

*Article 30.* (1) The baseline from which the breadth of the territorial waters is measured is established in conformity with the geographical features of the coast with reference to the course of the coastline and in conformity with the principle of the straight baseline (annex 1).

(2) The inland sea-waters of the German Democratic Republic include:

(a) The waters of harbours as far as the line drawn through the permanent harbour installations situated furthest out to sea;

(b) The waters of bays whose coasts belong wholly to the German Democratic Republic, as far as a straight line drawn through the natural projections of the coast which are not more than 24 nautical miles distant from each other;

(c) The waters of lagoons and haffs whose coasts belong wholly to the German Democratic Republic

...

*Article 37.* (1) The stay and anchoring of foreign merchant ships and fishing and pleasure vessels in the territorial waters, inland sea-waters and established roadsteads of the German Democratic Republic (hereinafter called "waters of the German Democratic Republic") is permissible only when customary as part of normal navigation or when made necessary by reason of *force majeure* or distress;

(2) Entry into the harbours of the German Democratic Republic may take place only by the approaches and established navigation routes published in *Nautische Mitteilungen für Seefahrer*.

*Article 38.* (1) The right to peaceful passage through the territorial waters shall be guaranteed, provided that such passage does not endanger peace, security and order and that the existing legal provisions of the German Democratic Republic are not violated.

(2) Passage means crossing the territorial waters without entering the inland seawaters and without putting into or out from the inland seawaters from or to the high seas.

(3) The passage and stay of foreign warships in the waters and harbours of the German Democratic Republic is permissible only with the authorization and consent of the Government of the German Democratic Republic or its authorized organs and is subject to observance of the special regulations for such passage and stay.<sup>1</sup>

*Article 39.* No ship, boat and passenger traffic may cross the sea-frontier of the German Democratic Republic except through the established frontier crossing points or check points.

...

*Article 57.* (1) The competent defence and security organs shall be entitled, in the waters of the German Democratic Republic:

(a) To require any ship to show its national or State flag;

<sup>1</sup> Regulation of 11 August 1965 on the stay of foreign warships in the waters of the German Democratic Republic. *Infra* Chapter VI, 1.

(b) To demand to know the reason for entry into the waters of the German Democratic Republic;

(c) To give instructions as to course and speed;

(d) To stop any ship and to check the ship's papers, and cargo manifest, to check the passengers and crew and to examine the cargo and the holds;

(e) To arrest persons on board a foreign ship passing through territorial waters if the said persons have, in the course of transit, committed an offence in violation of order in the territorial waters or if the captain of the foreign ship requests assistance.

(2) The customs authorities of the German Democratic Republic shall have the rights referred to in paragraph 1 (c) and (d) above.

*Article 58.* (1) The defence and security organs shall be entitled, in the waters of the German Democratic Republic, to stop any ship and bring it into port, if the ship:

(a) Does not comply with the instructions given under article 57, paragraph 1 (a) to (c), or resists the measures provided for in article 57, paragraph 1 (d) and (e);

(b) Undertakes the loading or unloading of cargo in areas other than those designated for that purpose;

(c) Embarks or disembarks passengers in violation of the relevant regulations;

(d) Establishes contact with the coast or islands of the German Democratic Republic or with other craft for illegal purposes;

(e) Carries on fishing activities or exploitation of the sea in any other manner in violation of the relevant regulations;

(f) Violates the customs of foreign exchange control regulations;

(g) Enters waters which are closed to shipping;

(h) Leaves port without the authorization of the customs or port authorities and does not comply with the order to stop;

(i) Violates the rules of peaceful passage.

(2) The customs authorities of the German Democratic Republic shall have the same right if the ship:

(a) Does not comply with the instructions given under article 67, paragraph 1 (c), or resists the measures provided for in article 57, paragraph 1 (d);

(b) Commits the acts described in paragraph 1 (b) to (d) (f) and (h).

*Article 59.* Foreign ships which have violated laws of the German Democratic Republic may be pursued, stopped and brought into port. The pursuit may be continued on the high seas (hot pursuit) if it was commenced within the waters of the German Democratic Republic and has not been interrupted. The pursuit shall cease when the foreign ship enters the territorial waters of its own or of a third State.

*Article 60.* (1) A protocol relating to the measures referred to in article 57, paragraph 1 (d) and (e), article 58 and article 59, signed by both parties, in two copies in the German language, shall be prepared in every case. The

captain of the ship may include his reservations in the protocol or may record them in any language in a separate appendix.

(2) These provisions shall not apply to the operations of the authorities operating at frontier crossing points.

*Article 61.* The provisions of articles 57 to 60 shall not apply to foreign warships.

#### ANNEX 1<sup>1</sup>

The baseline of the territorial waters of the German Democratic Republic shall be determined by the course of the coastline and of the connecting lines between the co-ordinates of the following points:

1. Frontier with the Polish People's Republic . . . . .	Latitude 53° 55' 46" Longitude 14° 13' 42"
2. Peenemünder Haken . . . . .	Latitude 54° 10' 06" Longitude 13° 48' 56"
3. Greifswalder Oie . . . . .	Latitude 54° 15' 00" Longitude 15° 35' 43"
4. Nordperd . . . . .	Latitude 54° 20' 33" Longitude 13° 46' 06"
5. Kollicker Ort along the coastline to . . . . .	Latitude 54° 33' 49" Longitude 13° 40' 51"
6. Ranzow . . . . .	Latitude 54° 35' 11" Longitude 13° 38' 21"
7. Kap Arkona . . . . .	Latitude 54° 41' 12" Longitude 13° 25' 45"
8. Rehbergort . . . . .	Latitude 54° 38' 42" Longitude 13° 13' 27"
9. Dornbusch (Insel Hiddensee) . . . . .	Latitude 54° 36' 28" Longitude 13° 08' 05"
10. Bernsteininsel . . . . .	Latitude 54° 29' 27" Longitude 12° 32' 06"
11. Darsser Ort along the coastline to . . . . .	Latitude 54° 29' 00" Longitude 12° 30' 48"
12. Halbinsel Wustrow . . . . .	Latitude 54° 05' 40" Longitude 11° 33' 13"
13. Gross-Klütz-Höved along the coastline to . . . . .	Latitude 54° 00' 58" Longitude 11° 10' 50"
14. Frontier between the German Democratic Republic and the Federal Republic of Germany . . . . .	Latitude 53° 57' 30" Longitude 10° 54' 18"

<sup>1</sup> *Supra* Article 30, paragraph 1.

## 5. GHANA

### TERRITORIAL WATERS AND CONTINENTAL SHELF DECREE, 1973<sup>1</sup>

In pursuance of the National Redemption Council (Establishment) Proclamation, 1972, this Decree is hereby made:

#### 1. *Extent of territorial waters*

(1) It is hereby declared that the territorial waters of the Republic shall extend to the limits of thirty nautical miles from low-water mark.

(2) The National Redemption Council may, if satisfied that it is in the public interest so to do, by legislative instrument declare any part of the sea touching or adjoining the coast, and seaward of the outer limits of the territorial waters of the Republic to be an area over which the Government shall exercise any right of protection.

#### 2. *Fishing conservation zone*

Where the National Redemption Council is satisfied that it is in the public interest so to do, it may by legislative instrument declare any area of the sea touching or adjoining the coast, and within a distance of one hundred nautical miles from the outer limits of the territorial waters of the Republic, to be a fishing conservation zone; and may in the same or any other instrument specify the measures which shall be taken for the conservation of the resources of any such area.

#### 3. *Vesting of continental shelf*

It is hereby declared that the continental shelf is vested in the National Redemption Council on behalf of the Republic in trust for the people of Ghana.

#### 4. *Regulations*

(1) The National Redemption Council may by legislative instrument make regulations for giving full effect to the provisions of this Decree.

(2) Regulations made under this section may prescribe a penalty for an infringement thereof of a fine not exceeding ₵100,000 or a term of imprisonment not exceeding fifteen years or both and may also require the forfeiture of anything used in the commission of the offence.

(3) Where an offence under any regulations made under this section is committed by a body of persons—

(a) Where the body of persons is a body corporate, every director and officer of the body corporate shall be deemed to be guilty of the offence; and

(b) Where the body corporate is a firm, every partner of the firm shall be deemed to be guilty of the offence:

Provided that a person shall not be deemed to be guilty of an offence by virtue of this subsection if he proves that the act constituting the offence was

<sup>1</sup> N.R.C.D. 165; 16 March 1973. Text provided by the Permanent Representative of Ghana to the United Nations in a note verbale of 5 July 1973.

committed by a person other than himself and without his knowledge or connivance and that he exercised all due diligence to prevent the commission of the offence having regard to all the circumstances.

#### 5. Interpretation

For the purposes of this Decree and any other enactment—"continental shelf" includes—

(a) The sea-bed and subsoil of the submarine areas to a depth of one hundred fathoms contiguous to the coast and seaward of the area of land beneath the territorial waters of the Republic; and

(b) Such further parts lying beyond the said depth of one hundred fathoms of the sea-bed and subsoil of the submarine areas whose natural resources are capable of exploitation; and

(c) All the natural resources of the areas specified in this definition including minerals and other inorganic and organic matter;

"territorial waters" shall have the meaning assigned to it by section 1 of this Decree.

#### 6. Repeals

The Territorial Waters and Continental Shelf Act, 1963 (Act 175)<sup>1</sup> and the Territorial Waters and Continental Shelf Act, 1963 (Amendment) Decree, 1968 (N.L.C.D. 309) are hereby repealed.

## 6. GUINEA-BISSAU

DECISION No 14/74 EN DATE DU 31 DECEMBRE 1974, DU CONSEIL D'ETAT RELATIVE A LA DELIMITATION DES EAUX TERRITORIALES DE L'ETAT DE GUINEE-BISSAU<sup>2</sup>

*Article premier.* La mer territoriale de la République de Guinée-Bissau s'étend sur 150 milles marins à partir des principales lignes de base définies par les points suivants :

- Baie de Varela (12° 12' N., 16° 29',6 O.)
- à Caió (11° 50',7 N., 16° 20',2 O.);
- Sud-ouest de l'île de Unhocomo (11° 16',4 N., 16° 29' O.)  
au sud-ouest de l'île de Orango (11° 1',5 N., 16° 11' O.);
- Est de l'île de João Vieira (11° 2',7 N., 15° 36',5 O.)  
au sud-ouest de l'île de Canhabaque (10° 54' N., 15° 6',3 O.).

*Paragraphe unique.* Les points limites de comptage de la mer territoriale de la République de Guinée-Bissau sont les suivants :

- Au nord — 12° 20', 2 N., 16° 43', 2 W.
- Au sud — 10° 35',8 N., 15° 4' W.

<sup>1</sup> Reproduced in part in ST/LEG/SER.B/15, pp 85, 360 and 637.

<sup>2</sup> Texte communiqué par lettre en date du 31 décembre 1974 du représentant permanent auprès de l'Organisation des Nations Unies.



*Article 2.* La pêche à l'intérieur des eaux territoriales de la République de Guinée-Bissau est formellement interdite à tout navire étranger qui ne soit pas autorisé à cela par une convention signée par le pays du pavillon respectif.

*Article 3.* La violation aux dispositions de l'article 2 est punie d'une amende de 100 à 200 contos. En cas de récidive, l'amende sera le double de ces montants.

*Article 4.* L'agent de l'autorité qui aura vérifié l'infraction conduira le navire et son équipage au port national le plus proche et informera les autorités.

*Article 5.* Par détermination des autorités maritimes, on procédera immédiatement à la vente du poisson (s'il y en a), versant le produit de cette vente, en cas de condamnation, dans les coffres de l'Etat.

*Article 6.* Outre la condamnation au paiement de l'amende prévue par l'article 3, le tribunal qui a jugé la violation ordonnera la confiscation des instruments de pêche utilisés au cours de cette violation.

## 7. IRAQ

### INFORMATION CONCERNING THE SOVEREIGNTY OVER IRAQ'S TERRITORIAL WATERS AND ITS CONTINENTAL SHELF<sup>1</sup>

In 1968, an official spokesman in the Iraqi Ministry of Foreign Affairs issued the following Statement:

“In a joint communique issued in Teheran and Kuwait on January 13th, 1968, after the official visit of His Highness The Ruler of Kuwait to Iran, it was stated that both sides have agreed on a final solution regarding the continental shelves pertaining to both States. Since the Government of the Republic of Iraq did not participate in the negotiations held between the Iranian and the Kuwaiti Governments, and in view of Iraq's rights in the area and the interjacency of its territorial waters and continental shelf with those of the neighbouring countries, the Government of the Republic of Iraq declares that it shall maintain its full sovereignty over Iraq's territorial waters, and the air-space above it, its continental shelf and the subsoil thereof, and affirms that all works and installations, already undertaken or which may be undertaken in future in the said area are subject to Iraqi sovereignty. While the Iraqi Government declares this affirmation of Iraq's rights, it wishes to emphasize its full adherence to the rules and principles of international law, but at the same time it will not recognize any communique, déclaration, legislation, or plan of any neighbouring State which infringes upon Iraq's territorial waters and continental shelf in contravention with Iraq's sovereign rights.”

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<sup>1</sup> Text provided by the Deputy Permanent Representative of Iraq to the United Nations in a note verbale of 15 May 1973.

## 8. ISRAEL

### TERRITORIAL WATERS LAW, 1956<sup>1</sup>

1. In the definition of "territorial waters" in section I of the Interpretation Ordinance (New Version),<sup>2</sup> the words "three nautical miles" shall be replaced by the words "six nautical miles".

2. Wherever it is said in any law that a part of the open sea adjoining the coast of the State is included in the territory of the State or that any law or a power under any law applies to such a part, and the extent of that part is not fixed or is fixed at less than six nautical miles from low water mark or from some other point on the coast, such extent shall be six nautical miles as aforesaid.

## 9. LIBYAN ARAB REPUBLIC

### INFORMATION CONCERNING THE JURISDICTION OF THE GULF OF SURT<sup>3</sup>

"The Libyan Arab Republic makes the following announcement:

"The Gulf of Surt located within the territory of the Libyan Arab Republic and surrounded by land boundaries on its East, South, and West sides, and extending North offshore to latitude 32 degrees and 30 minutes, constitutes an integral part of the territory of the Libyan Arab Republic and is under its complete sovereignty.

"As the Gulf penetrates Libyan territory and forms a part thereof, it constitutes internal waters, beyond which the territorial waters of the Libyan Arab Republic start.

"Through history and without any dispute, the Libyan Arab Republic has exercised its sovereignty over the Gulf. Because of the Gulf's geographical location commanding a view of the Southern part of the country, it is, therefore, crucial to the security of the Libyan Arab Republic. Consequently, complete surveillance over its area is necessary to insure the security and safety of the State.

"In view of the aforementioned facts, the Libyan Arab Republic declares that the Gulf of Surt, defined within the borders stated above, is under its complete national sovereignty and jurisdiction in regard to legislative, judicial, administrative and other aspects related to ships and persons that may be present within its limits.

"Private and public foreign ships are not allowed to enter the Gulf without prior permission from the authorities of the Libyan Arab Republic and in accordance with the regulations established by it in this regard.

<sup>1</sup> *Laws of the State of Israel*, vol. XI, 5717 1956/57, p. 3. English text provided by the Permanent Representative of Israel to the United Nations in a note verbale of 29 February 1973.

<sup>2</sup> Reproduced in part in ST/LEG/SER.B/6, pp. 26-27.

<sup>3</sup> Provided by the Permanent Representative of the Libyan Arab Republic to the United Nations in a note verbale of 19 October 1973.

“The Libyan Arab Republic reserves the sovereign rights over the Gulf for its nationals. In general, the Libyan Arab Republic exercises complete rights of sovereignty over the Gulf of Surt as it does over any part of the territory of the State.”

## 10. MADAGASCAR

ORDONNANCE No 73-060 DU 28 SEPTÉMBRE 1973 FIXANT LES LIMITES DE LA MER TERRITORIALE ET DU PLATEAU CONTINENTAL DE LA REPUBLIQUE MALGACHE<sup>1</sup>

Le général de division Gabriel Ramanantsoa, chef du Gouvernement,

- Vu la loi constitutionnelle du 7 novembre 1972;
- Vu l'ordonnance No. 60-047 du 25 juin 1960 modifiée et complétée par l'ordonnance No 62-012 du 10 août 1962 et la loi No 66-007 du 5 juillet 1966 portant Code maritime<sup>2</sup> et notamment l'article 1-2-01;
- Vu la loi No 70-016 du 15 juillet 1970 portant réglementation maritime des installations et autres dispositifs sur le plateau continental<sup>3</sup>;
- Vu le décret No 63-131 du 27 février 1963 fixant la limite de la mer territoriale de la République malgache<sup>4</sup>;
- Vu la décision No 63-CSI/D du 12 septembre 1973 du Conseil supérieur des Institutions;
- En Conseil des Ministres, le 31 août 1973,

*Ordonne*

*Article 1er.* La mer territoriale de la République malgache s'étend jusqu'à une limite fixée à cinquante (50) milles marins à partir des lignes de base.

*Article 2.* Le “plateau continental” de la République malgache (zone économique exclusive) s'étend jusqu'à une limite fixée à cent (100) milles marins au-delà de sa mer territoriale.

Toutefois, et sauf convention particulière, le plateau continental malgache ne s'étend pas au-delà d'une ligne médiane dont tous les points sont équidistants des points les plus proches des lignes de base des côtes malgaches et des côtes des Etats qui lui font face.

L'expression “plateau continental” désigne le lit de la mer et le sous-sol des régions sous-marines adjacentes aux côtes malgaches situés au-delà de la mer territoriale de la République malgache.

*Article 3.* Les lignes de base à partir desquelles est mesurée la largeur de la mer territoriale sont fixées par décret.

<sup>1</sup> Texte transmis par le Chargé d'Affaires a.i. de la Mission permanente de Madagascar auprès de l'Organisation des Nations Unies par lettre en date du 19 février 1974.

<sup>2</sup> Reproduite partiellement dans ST/LEG/SER.B/15, p. 164-165 et 248.

<sup>3</sup> Reproduite partiellement dans ST/LEG/SER.B/16, p. 152-154.

<sup>4</sup> Reproduit partiellement dans ST/LEG/SER.B/15, p. 98-100.

*Article 4.* Toutes dispositions contraires à celles de la présente ordonnance sont abrogées, et notamment :

- Le 2ème alinéa de l'article 1-2-01 de l'annexe 2 de la loi No 66-007 du 5 juillet 1966 portant Code maritime;
- L'article 1er du décret No 63-131 du 27 février 1963.

...

## 11. MALDIVES

### CONSTITUTION OF THE REPUBLIC,<sup>1</sup>

#### ARTICLE 1, AMENDMENT CONCERNING THE TERRITORIAL LIMITS

... The political territory of Maldives extends over the islands situated within 12 miles of the territorial waters measured from the outside reef adjoining the Ocean in every Atoll in Maldives, and over the seas, air and everywhere connected with these islands.

## 12. MEXICO

### GENERAL ACT OF 31 DECEMBER 1941 ON NATIONAL PROPERTY,<sup>2</sup> AS AMENDED IN 1969<sup>3</sup>

...

*Article 18.* Property subject to public use consists of:

I. ...

II. The territorial sea to a distance of 12 nautical miles (22,224 metres), in accordance with the provisions of the Political Constitution of the United Mexican States, the laws derived from it, and international law. Except as provided in the following subparagraph, the breadth of the territorial sea shall be measured from the low-water mark on the coast of the mainland and on the shore of islands forming part of the national territory.

Where there are deep bays and inlets in the coast, or where there is a fringe of islands immediately adjacent to the coast, the method of straight baselines joining the points farthest out to sea may be employed in drawing

<sup>1</sup> Amendment approved by Citizen's Special Majlis on 15 April 1975. English text of amendment provided by the Under-Secretary, Department of External Affairs of the Republic of Maldives, in a letter dated 31 August 1975. For original text of article 1, see ST/LEG/SER.B/16, p. 16.

<sup>2</sup> The relevant provision (quoted as article 17) of the 1941 Act as amended in 1967 is reproduced in ST/LEG/SER.B/15, p. 101

<sup>3</sup> Amended by the Decree of 12 December 1969, published in *Diario Oficial* of 26 December 1969 and in force since 27 December 1969. This Decree amends article 18, paragraph II (first and second subparagraphs) of the General Act on National Property. Translation by the Secretariat of the United Nations.

According to section 3 of the Transitional Provisions of the 1969 amending decree, this amendment would not affect agreements concluded or to be concluded pursuant to transitional article 3 of the Act of 13 December 1966 on the Exclusive Fishing Zone, reproduced in ST/LEG/SER.B/15, p. 649.

the baseline from which the breadth of the territorial sea is measured. Such baselines must not depart appreciably from the general direction of the coast, and the areas of the sea lying landward from these lines must be sufficiently closely linked to the land domain to be subject to the régime of internal waters. The lines shall be drawn to the elevations which emerge at low tide, when these support lighthouses or installations which remain constantly above water level or when they lie wholly or partly at a distance from the coast of the mainland or from an island which does not exceed the breadth of the territorial sea. Permanent installations farther out to sea forming an integral part of the port system shall be considered part of the coast for the purposes of delimiting the territorial sea.

### 13. MONACO

ORDONNANCE SOUVERAINE No 5.094 DU 14 FEVRIER 1973  
PORTANT DELIMITATION DES EAUX TERRITORIALES MONEGASQUES<sup>1</sup>

Les eaux territoriales monégasques s'étendent jusqu'à une limite fixée à 12 milles marins à partir de la ligne de base formée par la laisse de basse mer longeant la côte.

Notre Secrétaire d'Etat, notre Directeur des Services judiciaires et notre Ministre d'Etat sont chargés, chacun en ce qui le concerne, de la promulgation et de l'exécution de la présente Ordonnance.

### 14. MOROCCO

DAHIR PORTANT LOI No 1.73.211 DU 2 MARS 1973 FIXANT LA LIMITE DES  
EAUX TERRITORIALES ET DE LA ZONE DE PECHE EXCLUSIVE MAROCAINES<sup>2</sup>

*Article premier.* Les eaux territoriales marocaines s'étendent jusqu'à une limite fixée à 12 milles marins à partir des lignes de base.

Les lignes de base sont la laisse de basse mer ainsi que les lignes de bases droites et les lignes de fermeture de baies qui sont déterminées par décret.

La souveraineté de l'Etat marocain s'étend à l'espace aérien ainsi qu'au lit et au sous-sol de la mer dans la limite des eaux territoriales.

*Article 2.* Sauf convention particulière, la largeur des eaux territoriales ne s'étend pas au-delà d'une ligne médiane dont tous les points sont équidistants des points les plus proches des lignes de base des côtes marocaines et des côtes des pays étrangers qui font face aux côtes marocaines ou qui leur sont limitrophes.

*Article 3.* Lorsque la distance entre les lignes de base des côtes marocaines et celles d'un Etat étranger qui leur font face est égale ou

<sup>1</sup> *Journal de Monaco*, No 6 022 du 23 février 1973, p. 144.

<sup>2</sup> Texte fourni par la Mission permanente du Royaume du Maroc auprès de l'Organisation des Nations Unies par note en date du 25 mars 1973.

inférieure à 24 milles marins ou ne permet plus l'existence d'un couloir de haute mer suffisant pour la libre navigation maritime ou aérienne, le droit de transit par les eaux territoriales marocaines et celui de les survoler sont accordés selon les conditions stipulées par les conventions internationales auxquelles le Maroc est partie et conformément au principe du "passage inoffensif" tel qu'il est reconnu et défini par le droit international.

*Article 4.* Une zone de pêche exclusive marocaine est instituée sur une étendue de 70 milles marins à partir des lignes de base définies dans l'article premier et selon les mêmes critères de délimitation que ceux mentionnés pour les eaux territoriales dans l'article 2.

*Article 5.* La souveraineté de l'Etat marocain s'étend à toutes les ressources biologiques de la colonne d'eau de cette zone.

L'exercice des droits de pêche est exclusivement réservé dans cette zone aux bateaux battant pavillon marocain ou exploités par des personnes physiques ou morales marocaines.

Ces dispositions ne font pas obstacle aux principes de coopération internationale auxquels le Maroc souscrit, sans préjudice pour ses droits de souveraineté et dans le respect de ses intérêts nationaux.

*Article 6.* Toute recherche ou exploration scientifique ou archéologique entreprise par un Etat étranger ou par les ressortissants d'un Etat étranger dans la zone de pêche exclusive est soumise à l'autorisation préalable du Gouvernement marocain.

...

## 15. PHILIPPINES

### CONSTITUTION OF THE REPUBLIC<sup>1</sup>

#### *Article 1*

##### *The national territory*

*Section 1.* The national territory comprises the Philippine archipelago, with all the islands and waters embraced therein, and all the other territories belonging to the Philippines by historic right or legal title, including the territorial sea, the air space, the subsoil, the sea-bed, the insular shelves, and the other submarine areas over which the Philippines has sovereignty or jurisdiction. The waters around, between, and connecting the islands of the archipelago, irrespective of their breadth and dimensions, form part of the internal waters of the Philippines.

...

<sup>1</sup> Entered into force on 17 January 1973. Text provided by the Permanent Representative of the Philippines to the United Nations in a note verbale of 27 April 1973.

## 16. TANZANIA

### PROCLAMATION BY THE PRESIDENT OF 24 AUGUST 1973 ON THE EXTENT OF THE TERRITORIAL WATERS OF THE UNITED REPUBLIC OF TANZANIA<sup>1</sup>

*Whereas* the Law of Nations recognizes that the sovereign power of a State extends to a belt of sea adjacent to its coasts:

*And whereas*, in the absence of uniformity in international practice relating to the extent of the territorial waters of states, it is necessary that a declaration be made of the extent of the territorial waters of the United Republic of Tanzania:

*Now therefore*, I, Julius Kambarage Nyerere, President of the United Republic of Tanzania, in exercise of the powers vested in me by the Interim Constitution of Tanzania 1965, and other written laws of the United Republic do hereby declare and proclaim that, notwithstanding any rule of law or any practice which may have been observed hitherto in relation to the United Republic of Tanzania or the territorial waters of the United Republic of Tanzania, the territorial waters of the United Republic of Tanzania extend across the sea a distance of fifty nautical miles measured from the appropriate base lines along the coasts and adjacent islands, as marked on charts numbered 1 to 4 issued by the Surveys Division of the Ministry of Lands, Settlement and Water Development, Dar es Salaam, on 30th March, 1967 and registered with the Secretary-General of the United Nations:

Provided that in respect of the island of Pemba where the distance between the base-line measured on Pemba and the mainland of Kenya is less than one hundred nautical miles, the territorial waters of the United Republic of Tanzania extend up to the median line every point of which is equidistant from the nearest point on the base-line between Pemba and the mainland of Kenya as marked on the aforesaid charts.

The Proclamation made by me on the tenth day of July, 1963 and published as Government Notice numbered 353 of 1963 and the Proclamation made by me on the thirtieth day of March, 1967<sup>2</sup> and published as Government Notice No. 137 of 1967 are hereby revoked.

## 17. TOGO

### (a) RENSEIGNEMENTS CONCERNANT LA LEGISLATION SUR LE DROIT DE LA MER<sup>3</sup>

“Le Togo n'a pas encore défini une législation complète sur la question de la délimitation et du contrôle de la mer territoriale, des zones contiguës et du plateau continental ainsi que de l'exploitation des ressources de la mer, du fond de la mer et de son sous-sol au-delà des eaux intérieures togolaises;

<sup>1</sup> Government Notice No. 209. Supplement No. 48 to the *Gazette of the United Republic of Tanzania*, Vol. LIV, No. 36: 7 September 1973.

<sup>2</sup> Reproduced in ST/LEG/SER.B/15, p. 127.

<sup>3</sup> Transmis par la Mission permanente du Togo auprès de l'Organisation des Nations Unies par note en date du 23 mai 1973.

cependant, la loi No 64-14 du 11 juillet 1964<sup>1</sup> portant réglementation de la pêche donne des indications à ce sujet.

...  
 "Aujourd'hui, la question du droit de la mer est d'actualité et la tendance du Togo est à l'extension de la largeur de la mer territoriale et de la zone exclusive de pêche, de manière que la souveraineté nationale couvre toutes les ressources de la mer adjacente à la mer territoriale jusqu'à la limite d'une "zone économique" à définir et incluant au moins le plateau continental. Cette zone économique exclusive ne s'étendra pas au-delà de 200 milles marins; le Togo y aura des droits souverains sur les ressources biologiques et non biologiques du fond de la mer et de son sous-sol; toutefois, les Etats étrangers jouiront dans cette zone des libertés de navigation et de survol, du droit de pose des câbles sous-marins et des pipe-lines."

(b) [LOI No 64-14 DU 11 JUILLET 1964 PORTANT REGLEMENTATION DE LA PECHE, article 4]<sup>1</sup>

## 18. TONGA

(a) ROYAL PROCLAMATION OF 11 JUNE 1887 DEFINING THE BOUNDARIES OF THE KINGDOM<sup>2</sup>

Whereas it seems expedient to Us that We should limit and define the extent and boundaries of Our Kingdom, We do hereby erect as Our Kingdom of Tonga all islands, rocks, reefs, foreshores and waters lying between the fifteenth and twenty-third and a half degrees of south latitude and between the one hundred and seventy-third and the one hundred and seventy-seventh degrees of west longitude from the Meridian of Greenwich.

(b) ROYAL PROCLAMATION OF 15 JUNE 1972 RELATING TO THE ISLANDS OF TELEKI TOKELAU AND TELEKI TONGA<sup>3</sup>

Whereas the Reefs known as North Minerva Reef and South Minerva Reef have long served as fishing grounds for the Tongan people and have long been regarded as belonging to the Kingdom of Tonga; and whereas the Kingdom of

<sup>1</sup> *Infra* Division IV, 13.

<sup>2</sup> *Government Gazette*, vol. II, No. 55, 24 August 1887. Text sent to the Secretary-General of the United Nations by the Prime Minister and Minister for Foreign Affairs of Tonga, in a letter dated 21 June 1971, requesting that it be brought to the attention of the Chairman of the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction with the following note:

"[The Proclamation] has been acquiesced in by all countries, including the Powers to whom it was communicated in 1887, as indicating, by reference to the co-ordinates therein designated, the legal extent of the national jurisdiction of the Kingdom within which legislation of the Kingdom is expressed to operate, without prejudice to the Government of Tonga's position on the legal status of the sea and the sea-bed beyond the limits of national jurisdiction."

<sup>3</sup> *Government Gazette Extraordinary* No. 7, 15 June 1972. Text transmitted to the Secretary-General of the United Nations by the Acting Prime Minister and Minister for Foreign Affairs of Tonga, in a letter dated 25 June 1974.



Tonga has now created on these Reefs islands known as Teleki Tokelau and Teleki Tonga; *and whereas* it is expedient that we should now confirm the rights of the Kingdom of Tonga to these islands; *therefore* we do hereby *affirm* and *proclaim* that the islands of Teleki Tokelau and Teleki Tonga and all islands, rocks, reefs, foreshores and waters lying within a radius of twelve miles thereof are part of our Kingdom of Tonga.

## 19. WESTERN SAMOA

### TERRITORIAL SEA ACT 1971<sup>1</sup>

...

2. Interpretation—In this Act, unless the context otherwise requires,—

“Bay” means an indentation of the coast such that its area is not less than that of the semi-circle whose diameter is a line drawn across the mouth of the indentation; and for the purposes of this definition the area of an indentation shall be taken to be the area bounded by low-water mark around the shore of the indentation and the straight line joining the low-water marks of its natural entrance points; and where, because of the presence of islands, an indentation has more than one mouth the length of the diameter of the semi-circle referred to shall be the sum of the lengths of the straight lines drawn across each of the mouths; and in calculating the area of an indentation the area of any islands lying within it shall be treated as part of the area of the indentation:

“Island” means a naturally formed area of land which is surrounded by and is above water at mean high-water spring tides:

“Government” means the Government of Western Samoa:

“Low-water mark” has the meaning assigned thereto by section 8 of this Act:

“Low-tide elevation” means a naturally formed area of land which is surrounded by and is above water at mean low-water spring tides but is submerged at mean high-water spring tides:

“Nautical mile” means the international nautical mile of 6,080 feet:

“Western Samoa” means the Independent State of Western Samoa.

3. The territorial sea—The territorial sea of Western Samoa comprises those areas of the sea having, as their inner limits, the baseline described in section 5 and 6 of this Act and, as their outer limits, a line measured seaward from that baseline, every point of which is distant twelve nautical miles from the nearest point of the baseline.

4. Internal waters—The internal waters of Western Samoa include any areas of the sea that are on the landward side of the baseline of the territorial sea of Western Samoa.

<sup>1</sup> Act No. 3 of 15 July 1971. Text transmitted through the Chargé d’Affaires a.i. of New Zealand to the United Nations in a note verbale of 9 July 1974.

5. Baseline of the territorial sea—

(1) Except as otherwise provided in section 6 of this Act, the baseline from which the breadth of the territorial sea of Western Samoa is measured shall be the low-water mark along the coast of Western Samoa, including the coast of all islands.

(2) For the purposes of this section, a low-tide elevation which lies wholly or partly within the breadth of sea which would be territorial sea if all low-tide elevations were disregarded for the purpose of the measurement of the breadth thereof shall be treated as an island.

6. Baseline of the territorial sea adjacent to a bay—In the case of the sea adjacent to a bay, the baseline from which the breadth of the territorial sea is measured shall—

(a) If the bay has only one mouth and the distance between the low-water marks of the natural entrance points of the bay does not exceed twenty-four nautical miles, be a straight line joining the said low-water marks;

(b) If, because of the presence of islands, the bay has more than one mouth and the distances between the low-water marks of the natural entrance points of each mouth added together do not exceed twenty-four nautical miles, be a series of straight lines across each of the mouths so as to join the said low-water marks;

(c) If neither paragraph (a) nor paragraph (b) of this section applies, be a straight line twenty-four nautical miles in length drawn from low-water mark to low-water mark within the bay in such a manner as to enclose the maximum area of water that is possible with a line of that length.

7. Bed of territorial sea and internal waters vested in Western Samoa—

(1) For the purposes of this section, the term “high-water mark” means the line of median high tide between the spring and neap tides.

(2) Subject to the grant of any estate or interest therein (whether by or pursuant to the provisions of any enactment or otherwise, and whether made before or after the commencement of this Act), the sea bed and subsoil of submarine areas bounded on the landward side by the high-water mark along the coast of Western Samoa including the coast of all islands, and on the seaward side by the outer limits of the territorial sea of Western Samoa shall be deemed to be and always to have been public land vested in Western Samoa.

8. Official charts—

(1) For the purposes of this Act, the low-water mark in any specified area shall be the line of low water at mean low-water spring tides as depicted on the largest scale nautical chart of that area produced by any authority and for the time being held and used by the Government.

(2) In any proceedings in any Court, a certificate purporting to be signed by the Director of Lands or by a Harbour-master of the Marine Department that any specified nautical chart of any area is the largest scale nautical chart of that area produced by any authority and for the time being held and used by the Government shall be admissible as evidence of the matters stated in the certificate.

(3) Every person signing any such certificate shall, in the absence of proof to the contrary, be presumed to be duly authorized to sign it.

9. Permanent harbour works—For the purposes of this Act, permanent harbour works which form an integral part of a harbour system shall be treated as forming part of the coast.

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## Chapter II

### NAVIGATION THROUGH THE TERRITORIAL SEA AND SAFETY OF SHIPS THERE<sup>1</sup>

#### 1. ARGENTINA

- (a) [ACT NO. 20,489 OF 23 MAY 1973 REGULATING SCIENTIFIC AND TECHNICAL RESEARCH ACTIVITIES CONDUCTED BY FOREIGNERS AND INTERNATIONAL ORGANIZATIONS, Articles 1-7 and 9]<sup>2</sup>
- (b) [DECREE NO. 4,915 OF 23 MAY 1973 REGULATING SCIENTIFIC AND TECHNICAL RESEARCH ACTIVITIES CONDUCTED BY FOREIGNERS AND INTERNATIONAL ORGANIZATIONS, Articles 1-4, 6 and 7]<sup>3</sup>

#### 2. ECUADOR

- (a) [CIVIL CODE AS AMENDED BY DECREE NO. 256-CLP OF 27 FEBRUARY 1970, Articles 628 and 629]<sup>4</sup>
- (b) REGULATIONS OF 17 FEBRUARY 1973 FOR THE GRANTING OF PERMITS TO FOREIGN VESSELS TO VISIT THE TERRITORIAL SEA OF ECUADOR, ITS COASTS OR ISLANDS FOR THE PURPOSE OF TOURISM OR SCIENTIFIC RESEARCH, Articles 1-6, 8-12<sup>5</sup>

*Article 1.* Any foreign vessel intending to visit the territorial sea, its coasts or islands for the purpose of tourism or scientific research must obtain the appropriate written authorization from the Ministry of National Defence.

*Article 2.* In order to obtain the authorization referred to in article 1, the operators, owners or captains of the vessel shall submit a written application, not less than 60 days before the date set for the expedition, either directly to the Ministry of National Defence or through any Ecuadorian embassy abroad, attaching thereto the data, requisite information and documents referred to in the articles below.

*Article 3.* When the expedition is being undertaken solely for the purpose of tourism, the application referred to in the preceding article shall be accompanied by the following documents and data:

1. Characteristics of the vessel;

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<sup>1</sup> On navigation see also *infra* Chapter IX as well as Division II; where a number of laws and regulations refer to the protection of navigation in connexion with the exploitation of natural resources on the sea-bed and the subsoil thereof.

<sup>2</sup> *Infra* Division II, 1 (a).

<sup>3</sup> *Ibid.*, 1 (b).

<sup>4</sup> *Supra* Chapter I, 2 (a).

<sup>5</sup> Spanish text provided by the Permanent Mission of Ecuador to the United Nations in a note verbale of 16 October 1973. Translation by the Secretariat of the United Nations.

2. Itineraries and description of activities to be carried out;
3. Names of national and foreign sponsors of the voyage, with their postal addresses, duly authenticated;
4. Place and date of embarkation and disembarkation;
5. An undertaking that if the Ministry deems necessary, an Ecuadorian tourist guide, to be paid by the Company, will be taken on board at a specified Ecuadorian port;
6. An express undertaking to observe the rules for the preservation of national parks and protected natural species, and to compensate for any damages caused thereto.

*Article 4.* When the purpose of the expedition is to carry out scientific research, the application shall be accompanied by the following documents and requisite information, in addition to those listed in article 3:

1. A list of the names of the scientific personnel participating;
2. The names of representatives or authorized agents in Ecuador, with their postal addresses, duly authenticated;
3. Details of the research to be carried out in the following fields: oceanography, physics, chemistry, biology, geophysics, meteorology and hydrology;
4. An undertaking to put in at the first Ecuadorian port and to take on board there, at the expense of the expedition, an official or functionary of the Naval Institute of Oceanography;
5. The use to be made of the results of the research;
6. An undertaking to make available through diplomatic channels, the complete results and conclusions of the studies carried out, indicating the date on which the undertaking is to be put into effect;
7. An undertaking to collaborate with Ecuadorian technical personnel in scientific work of interest to the Naval Institute of Oceanography;
8. In specific cases where the vessel is to carry out geophysical research involving underwater seismographic exploration, the granting of concessions of carboniferous materials shall be the responsibility of the Ministry of Natural Resources and Tourism, in accordance with the Supreme Decree published in *Registro Oficial* No. 400 of 31 May 1970. The General Naval Command, through the said Ministry, shall require natural or juridical persons to furnish the following information within six months from the completion of the survey works:
  - Method of seismographic exploration used;
  - Number of sheet-pilings and sheets;
  - Shot recording method used;
  - Filter system from initiation to final reproduction of the recordings;
  - “Deconvolution” procedure used and manner in which it was carried out, specifying whether it was done before or after “backing up”;
  - A base map showing the location of shot points;
  - Copies of the cross-sections and longitudinal sections of the seismic recordings—showing density or variable, galvanometric or combined

areas—duly corrected and processed at appropriate vertical and horizontal scales;

— A copy of the bathymetric chart.

*Article 5.* Following receipt of the application by the Ministry, and subject to the favourable opinion of the General Naval Command and verification that the application contains all the requisite information referred to in article 4, the Ministry shall issue the resolution granting or refusing the authorization.

*Article 6.* If the resolution authorizes the expedition, it shall stipulate the express conditions under which the authorization is granted; if it refuses the authorization, it shall indicate the reasons or the grounds for such refusal.

...

*Article 8.* If the Ministry or the General Naval Command considers, upon examination of the relevant documents, that the expedition is inadvisable or inconsistent with the national interests, the authorization may be postponed or refused without there being any obligation to explain the reasons for such action.

*Article 9.* After the authorization has been granted, if supervening circumstances so necessitate, or if the recipient fails to comply with one or more of the requirements or conditions stipulated for the expedition in the relevant resolution, the Ministry may, by means of a new resolution, cancel the authorization, allowing the captain of the vessel a reasonable period in which to leave the territorial waters.

*Article 10.* Although an application for the authorization of the expedition may have been submitted through the proper channels, no vessel may enter the territorial waters of Ecuador before the appropriate permit has been obtained.

*Article 11.* On the commencement of the expedition within Ecuadorian territorial waters, the captain of the vessel shall deliver the authorizing Ministerial Resolution to the official or agent responsible for tourism and shall be provided in return with:

(a) The orders and provisions of the General Naval Command;

(b) The provisions of the Naval Institute of Oceanography concerning the tasks to be carried out and verified.

*Article 12.* Upon completion of the expedition, the captain shall receive the appropriate authorization to sail from the competent Harbour Master.

...

### 3. FRANCE

[LOI No 71-1060 DU 24 DECEMBRE 1971 RELATIVE A LA DELIMITATION DES EAUX TERRITORIALES FRANCAISES, article 3]<sup>1</sup>

<sup>1</sup> *Supra* Chapter I, 3 (a).

#### 4. GERMANY, FEDERAL REPUBLIC OF

##### (a) ACT OF 26 JULY 1957 ON COASTAL SHIPPING<sup>1</sup>

The Bundestag has adopted the following Act:

###### *Article 1*

Coastal shipping, within the meaning of this Act, shall be deemed to be carried on by any person taking on board passengers or goods at any place in the area of application of this Act and transporting them for remuneration, using sea routes, to any point of destination in the said area. For purposes of delimiting sea routes, the provisions of the Third Executive Order relating to the Flag Rights Act, dated 3 August 1951 (*Bundesgesetzblatt II*, p. 155) shall apply as appropriate.

###### *Article 2*

(1) Coastal shipping may be carried on only:

1. With sea-going ships flying the federal flag in accordance with the Flag Rights Act, dated 8 February 1951 (*Bundesgesetzblatt I*, p. 79);
2. With inland ships which are entered in a register in the area of application of this Act and which possess the documents prescribed for sea voyages under article 6 of the Inland Ship Inspection Order, dated 18 July 1956 (*Bundesgesetzblatt II*, p. 769).

(2) If a vessel with which coastal shipping may be carried on in accordance with paragraph (1) is unavailable or is available only on much more unfavourable terms at the place where the transport is to begin, the waterways and shipping administration competent for the locality may on request authorize the transport to be made with a sea-going ship flying a foreign flag. A certificate in writing attesting to such authorization must be issued. The certificate must be carried on board.

###### *Article 3*

(1) Any person carrying on coastal shipping as master of a ship not authorized for coastal shipping under article 2, paragraph (1), and not possessing the authorization prescribed in article 2, paragraph (2), shall be guilty of a disciplinary offence.

(2) A disciplinary offence or an attempt to commit a disciplinary offence shall be punishable by a fine of up to 10,000 marks.

(3) The administrative authority within the meaning of article 73 of the Act on Disciplinary Offences shall be the waterways and shipping adminis-

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<sup>1</sup> *BGBI* 1957, part II, p. 738. For the entry into force and the status of previous legislation, see article 6. The texts of this Act and of the Regulations of 3 May 1971 governing maritime shipping routes, *infra*, 4 (b), were transmitted by the Permanent Representative of the Federal Republic of Germany to the United Nations in a note verbale dated 4 March 1975. Translation by the Secretariat of the United Nations.

tration. The Federal Minister of Transport shall exercise the functions of the supreme administrative authority under article 66, paragraph (2), of the Act on Disciplinary Offences.

*Article 4*

In accordance with article 13, paragraph (1), of the Third Transference Act, dated 4 January 1952 (*Bundesgesetzblatt* I, p. 1), this Act shall also be valid in *Land* Berlin.

*Article 5*

This Act shall not be valid in the Saarland.

*Article 6*

(1) This Act shall enter into force on 1 October 1957, except that in *Land* Berlin it shall enter into force with regard to article 3, paragraph (2), only on the day following the promulgation of the Acceptance Act in the Official Gazette of *Land* Berlin.

(2) At the same time the following shall cease to have effect:

1. The Act on Coastal Shipping, dated 22 May 1881 (*Reichsgesetzblatt*, p. 97);
2. The Ordinance concerning the Authorization of Foreign-Flag Ships to Engage in German Coastal Cargo Shipping, dated 29 December 1881 (*Reichsgesetzblatt*, p. 275);
3. The Ordinance concerning the Authorization of Ships Flying the Flag of the Netherlands to Engage in German Coastal Cargo Shipping, dated 1 June 1886 (*Reichsgesetzblatt*, p. 179).

(b) REGULATIONS OF 3 MAY 1971 BY THE MINISTRY OF TRANSPORT GOVERNING MARITIME SHIPPING ROUTES<sup>1</sup>, AS AMENDED Articles 3, 4, 40-42<sup>2</sup>

*SECTION ONE. GENERAL PROVISIONS<sup>3</sup>*

*Article 3*

*Basic rules governing conduct in traffic*

(1) Every participant in traffic must so conduct himself that safety and ease of movement of traffic is ensured and that no one else is harmed,

<sup>1</sup> *BGBI* 1971, part 1, p. 641. Entered into force on 1 November 1971 in accordance with article 67 (1). A few provisions not reproduced in this volume entered into force at a later date in accordance with article 67 (2)-(3). Translation of the Regulations and amendments thereto by the Secretariat of the United Nations.

<sup>2</sup> By Ordinance No. 1 of 7 July 1972, *BGBI*, part 1, p. 1169.

<sup>3</sup> As provided in article 1, the Regulations apply to maritime shipping routes, namely "water areas lying between the coastline at mean high water or the seaward boundary of inland waterways and the seaward boundary of the territorial sea." In terms of article 1 (3) the provisions in these rules shall prevail over a conflicting rule of the International Regulations for Preventing Collisions at Sea (Annex B to the Final Act of the International Conference on Safety of Life at Sea, 1960).



endangered or more seriously hampered or inconvenienced than is unavoidable under the circumstances. In particular, he must observe such rules governing precautions as are required by the custom of seamen or by the special circumstances of the case.

(2) All necessary measures for averting an imminent danger must be taken, with due regard to the special circumstances, even when the taking of such measures necessitates some deviation from the provisions of this Ordinance.

(3) A person whose ability to handle a vessel is impaired by reason of some bodily or mental defect or the use of alcoholic beverages or other intoxicants shall not be permitted to handle a vessel.

#### *Article 4*

##### *Responsibility*

(1) The master of the vessel shall be responsible for the observance of the provisions of this Ordinance concerning conduct in traffic and concerning the equipping of vessels with devices for the carrying and showing of visual signals.

(2) The pilot shall also bear responsibility; he must so advise the master of the vessel or the latter's representatives as to enable them to observe the provisions of this Ordinance.

(3) In the case of pushing and towing units, without prejudice to the provision contained in paragraph (1), the master of the unit shall be responsible for its safe handling. The term "master of the unit" means the master of the tugboat or the pusher craft; the masters of the vessels concerned may also, before the beginning of the passage, designate another vessel master as master of the unit.

(4) Where no vessel master has been designated and several persons are entitled to handle a vessel, they shall decide before the beginning of the passage who is to be the responsible vessel master.

(5) The provisions of this article shall not affect any responsibility of any other person which arises out of this Ordinance or other provisions.

#### *SECTION FIVE. TRAFFIC AT REST*

##### *Article 40*

*Anchoring, docking, mooring and passing involving vessels which are transporting especially dangerous goods<sup>1</sup>*

(1) Vessels which are transporting especially dangerous goods may anchor or moor only in the roadsteads and moorings designated by notice by

<sup>1</sup> As defined in article 2 (16) of these Regulations, "especially dangerous goods" means: cargo totalling more than 100 kg and belonging to classes I (a) and I (b) of annex I of the Ordinance on Dangerous Sea Freight, dated 4 January 1960 (*Bundesgesetzblatt* II, p. 9), last amended by the Ordinance of 14 June 1966 (*Bundesgesetzblatt*, II, p. 429), and cargo carried by tankers and belonging to classes I (d) and III (a) (1), (2), (3) and (5) of annex I of the Ordinance on Dangerous Sea Freight, as well as other liquids with flash points of up to 55°C.

the river and shipping police authority, and only if they observe the requirements which have been designated by notice.

(2) Where several vessels transporting especially dangerous goods are simultaneously lying within the area of the roadstead or mooring, they must be kept at an adequate distance from one another, having due regard to the local conditions.

(3) Where vessels are transporting especially dangerous goods, other vessels, except tugboats, maintenance vessels, tank-cleaning vessels and vessels participating in the transfer of cargo, must keep at an adequate safe distance from them, with special regard to the flight of sparks. Such vessels may enter the area of the roadstead or mooring only when the smokestacks and exhaust pipes have been equipped with devices which prevent the flight of sparks.

(4) Where a moored tanker has not been degassed after the unloading of especially dangerous goods, or other inflammable liquids or of gases, no vessels may lie alongside it during the process of filling the tanks with ballast water, and only the required tank-cleaning vessels may lie alongside it during the degassing process.

(5) Moored vessels which are transporting especially dangerous goods and vessels lying in their vicinity must be capable at all times of being immediately warped away.

#### *Article 41*

##### *Transfer of unusually dangerous goods*

(1) The transfer of unusually dangerous goods shall be permitted only at the roadsteads and moorings designated for the purpose by notice by the river and shipping police authority and only when the designated requirements are satisfied. The transfer must be reported in advance in good time to the competent river and shipping police authority.

(2) During the transfer, a vessel transporting especially dangerous goods may have no more than one vessel participating in the transfer lying alongside it on each side at any time.

(3) Vessels not participating in transfer must maintain an adequate safe distance from the vessels participating in the transfer which are transporting especially dangerous goods; otherwise they must leave the anchorage or mooring.

(4) After completion of the transfer the vessel must leave the roadstead or mooring without delay.

(5) All other provisions relating to the handling of dangerous goods shall remain unaffected.

#### *SECTION SIX. OTHER PROVISIONS*

#### *Article 42*

##### *Conduct in the case of casualty or loss of objects*

(1) Where a vessel is in danger of sinking, it must, in so far as possible, be moved so far away from the fairway that shipping is not impaired. After a

collision this shall also be the obligation of the master of any vessel involved which has remained seaworthy.

(2) Where the condition of the maritime shipping route necessary for navigation or the safety and ease of movement of traffic is impaired by vessels, floating installations or unusual floating objects which are drifting helplessly, have run aground, have become stranded or have sunk in the maritime shipping route or by other drifting or grounded objects, the water traffic and shipping office competent for the locality (in the Kiel Canal, the Kiel-Holtenau Canal Office) must be notified without delay.

(3) The location of a sunken vessel must be provisionally marked without delay by the master of the vessel. After a collision this shall also be the obligation of the master of any vessel involved which has remained seaworthy. He may not continue on his way until he has obtained permission therefor from the water traffic and shipping office competent for the locality (in the Kiel Canal, the Kiel-Holtenau Canal Office.)

(4) A grounded vessel may use its engine to free itself except where this is not possible without damaging the maritime shipping route, including the banks, river structures and shipping installations, or where shipping is endangered. If the vessel is in the Kiel Canal and cannot free itself by its own power, it must shut down its engine and, in so far as possible, free the fairway for passing vessels.

(5) In the event of fires and other occurrences endangering the safety and ease of movement of traffic that take place on board vessels, floating installations and unusual floating objects, the water traffic and shipping office competent for the locality (in the Kiel Canal, the Kiel-Holtenau Canal Office) must be notified thereof without delay.

## 5. GHANA

[MINERALS (OFFSHORE) REGULATIONS 1963, AS AMENDED IN 1968,  
Regulations 11, 16 (2) and 19 (2)]<sup>1</sup>

## 6. TOGO

[LOI No 64-14 DU 11 JUILLET 1964 PORTANT REGLEMENTATION  
DE LA PECHE, article 8]<sup>2</sup>

<sup>1</sup> *Infra* Chapter IX, 4 (b).

<sup>2</sup> *Infra* Division IV, 13.

## 7. UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND

### (a) PROTECTION OF WRECKS ACT 1973, Sections 1-3<sup>1</sup>

#### 1. *Protection of sites of historic wrecks*

(1) If the Secretary of State is satisfied with respect to any site in United Kingdom waters that—

(a) It is, or may prove to be, the site of a vessel lying wrecked on or in the sea-bed; and

(b) On account of the historical, archaeological or artistic importance of the vessel, or of any objects contained or formerly contained in it which may be lying on the sea-bed in or near the wreck, the site ought to be protected from unauthorized interference,

he may by order designate an area round the site as a restricted area.

(2) An order<sup>2</sup> under this section shall identify the site where the vessel lies or formerly lay, or is supposed to lie or have lain, and—

(a) The restricted area shall be all within such distance of the site (so identified) as is specified in the order, but excluding any area above high water mark of ordinary spring tides; and

(b) The distance specified for the purposes of paragraph (a) above shall be whatever the Secretary of State thinks appropriate to ensure protection for the wreck.

(3) Subject to section 3 (3) below, a person commits an offence if, in a restricted area, he does any of the following things otherwise than under the authority of a licence granted by the Secretary of State—

(a) He tampers with, damages or removes any part of a vessel lying wrecked on or in the sea-bed, or any object formerly contained in such a vessel; or

(b) He carries out diving or salvage operations directed to the exploration of any wreck or to removing objects from it or from the sea-bed or uses equipment constructed or adapted for any purpose of diving or salvage operations; or

(c) He deposits, so as to fall and lie abandoned on the sea-bed, anything which, if it were to fall on the site of a wreck (whether it so falls or not), would wholly or partly obliterate the site or obstruct access to it, or damage any part of the wreck;

and also commits an offence if he causes or permits any of those things to be done by others in a restricted area, otherwise than under the authority of such a licence.

#### 2. *Prohibition on approaching dangerous wrecks*

(1) If the Secretary of State is satisfied with respect to a vessel lying wrecked in the United Kingdom waters that—

<sup>1</sup> 1973 Chapter 33; 18 July 1973.

<sup>2</sup> See the Protection of Wrecks (Designation) Order 1973, cited *infra* (b).

(a) Because of anything contained in it, the vessel is in a condition which makes it a potential danger to life or property; and

(b) On that account it ought to be protected from unauthorized interference,

he may by order designate an area round the vessel as a prohibited area.

(2) An order under this section shall identify the vessel and the place where it is lying and—

(a) The prohibited area shall be all within such distance of the vessel as is specified by the order, excluding any area above high water mark of ordinary spring tides; and

(b) The distance specified for the purposes of paragraph (a) above shall be whatever the Secretary of State thinks appropriate to ensure that unauthorized persons are kept from the vessel.

(3) Subject to section 3 (3) below, a person commits an offence if, without authority in writing granted by the Secretary of State, he enters a prohibited area, whether on the surface or under water.

### 3. *Supplementary provisions*

(1) In this Act—

“United Kingdom waters” means any part of the sea within the seaward limits of United Kingdom territorial waters and includes any part of a river within the ebb and flow of ordinary spring tides;

“the sea” includes any estuary or arm of the sea; and references to the sea-bed include any area submerged at high water of ordinary spring tides.

...

(3) Nothing is to be regarded as constituting an offence under this Act where it is done by a person—

(a) In the course of any action taken by him for the sole purpose of dealing with an emergency of any description; or

(b) In exercising, or seeing to the exercise of, functions conferred by or under an enactment (local or other) on him or a body for which he acts; or

(c) Out of necessity due to stress of weather or navigational hazards.

(4) A person guilty of an offence under section 1 or section 2 above shall be liable on summary conviction to a fine of not more than £400, or on conviction on indictment to a fine; and proceedings for such an offence may be taken, and the offence may for all incidental purposes be treated as having been committed, at any place in the United Kingdom where he is for the time being.

...

(b) [PROTECTION OF WRECKS (DESIGNATION) ORDER 1973]<sup>1</sup>

<sup>1</sup> Dated 3 September 1973. *Statutory Instruments*, 1973 No. 1531. This Order designated as a restricted area for the purposes of the Protection of Wrecks Act 1973, *supra* (a), an area in Cattewater, Plymouth around the site of a wreck of historical and archaeological importance.

### Chapter III

## SECURITY OF THE COASTAL STATE

### 1. ARGENTINA

- (a) [ACT NO. 20,489 OF 23 MAY 1973 REGULATING SCIENTIFIC AND TECHNICAL RESEARCH ACTIVITIES CONDUCTED BY FOREIGNERS AND INTERNATIONAL ORGANIZATIONS, Articles 1-7 and 9] <sup>1</sup>
- (b) [DECREE NO. 4,915 OF 23 MAY 1973 REGULATING SCIENTIFIC AND TECHNICAL RESEARCH ACTIVITIES CONDUCTED BY FOREIGNERS AND INTERNATIONAL ORGANIZATIONS, Articles 1-4, 6 and 7] <sup>2</sup>

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<sup>1</sup> *Infra* Division II, 1 (a).

<sup>2</sup> *Infra* Division II, 1 (b).

## Chapter IV

### CUSTOMS, FISCAL AND SANITARY MATTERS

#### 1. DENMARK

(a) CUSTOMS ACT OF 1972<sup>1</sup>

##### *Chapter 1*

##### *The Customs territory*

*Article 1.* 1. The Customs territory shall comprise the land area of Denmark, the inner territorial waters and the outer territorial sea within a distance of four nautical miles (7,408 m) from the coastline or from such straight base-lines as are or may be established, as well as the air space over the territory thus defined.

2. The Customs territory shall not include the Faroe Islands or Greenland.

...

##### *Chapter 8*

##### *Customs inspection and Customs clearance*

...

*Article 71.* 1. Ships and aircraft within the Customs territory and other means of transport operating between the Customs territory and points abroad, as well as means of transport carrying uncleared goods, shall be subject to inspection by the Customs. The Customs shall have the right to undertake everywhere in the said means of transport such searches as are necessary for carrying out the inspection.

2. Ships under way shall stop at the request of the Customs.

3. Aircraft arriving in or departing from the Customs territory may land at and take off from only those airports which are approved by the Customs (Customs airports). The Minister of Finance may dispense specific categories of aircraft from this requirement in accordance with conditions laid down in detail.

4. The operators of means of transport shall be obliged to provide orally and in writing such information concerning the means of transport, the crew, the passengers, the cargo, etc., as may be necessary for carrying out the inspection and to show and open or uncover all means of access to the cargo, hold and store-rooms.

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<sup>1</sup> Act No. 519 of 13 December 1972. Danish text provided by the Ministry of Foreign Affairs of Denmark in a note verbale of 4 January 1974. Translation by the Secretariat of the United Nations.

5. Operators of means of transport shall report to the Customs upon arrival in and before departure from the Customs territory. The Minister of Finance may exempt operators of certain categories of means of transport from this reporting requirement in accordance with conditions laid down in detail.

6. Goods may be unloaded or loaded and passengers disembarked or taken on board only at ports approved by the Customs. The Customs, may, however, when special circumstances so require, allow unloading and loading to take place elsewhere.

7. The Customs shall specify where passengers entering the Customs territory may be disembarked.

### *Chapter 10*

#### *Other provisions*

*Article 110.* 1. The regulations concerning Customs inspection and Customs clearance established in or pursuant to this Act may be applied outside the Customs territory only to such extent as may be determined by international agreement. The Minister of Finance shall make known the scope of such extensions.

*Article 111.* 1. Within the framework of the provisions of this Act, the Minister of Finance may conclude agreements with foreign States on co-operation in the prevention of smuggling and may take such measures as are necessary for the implementation of such agreements.

2. The Minister of Finance may decide that Customs supervision staff of a foreign State with which an agreement is concluded on common supervision to combat illicit import or export of goods shall, in the performance of their duties in those parts of the Danish Customs territory which are covered by the agreement, have the same powers and enjoy the same protection of the law as Danish Customs supervision staff.

### *Chapter 11*

#### *Penal and other provisions*

*Article 117.* 1. Any person shall be punishable by a fine who:

- (i) fails to declare to the Customs goods which are introduced into the Customs territory or carried from a free port to the other part of the Customs territory, where such declaration is required under this Act or under regulations issued pursuant thereto;
- (ii) removes goods which are under Customs seal;

2. If the act is committed for the purpose of avoiding payment of duty or taxes, it shall be punished, in the same manner as smuggling, by fine,



detention or imprisonment for up to two years, unless a more severe penalty is provided for in article 289 of the Civil Penal Code.

3. Any person who sells or otherwise assigns, who buys or otherwise acquires or receives, or who transports or keeps goods smuggled into the Customs territory, even though he knows or suspects, or should suspect, that the goods are smuggled, shall be punishable in the same manner as provided for in paragraph 2.

4. Contravention of paragraphs 1 to 3 of this article or of article 289 of the Civil Penal Code shall render the offender liable to payment of the amount of duty or tax due on goods concerned.

*Article 118.* 1. If, in means of transport which have arrived at the Customs territory, dutiable or taxable goods are found which are not listed in the cargo documents and which are not duly declared to the Customs, such goods shall be treated as goods which their owner has attempted to smuggle in, unless the said owner can demonstrate the unlikelihood of an attempt at smuggling having been made.

2. If a vessel of under 120 tons net is encountered within the Customs territory with highly dutiable goods on board on which the duty or tax amounts to 500 kr or more, an attempt at smuggling shall be considered to have taken place, unless the extreme unlikelihood of vessels being operated for the purpose of smuggling is established.

*Article 119.* 1. The use of a Danish vessel for the smuggling of alcoholic liquors for gain into the foreign States which have ratified the Convention for the suppression of the contraband traffic in alcoholic liquors<sup>1</sup>, signed at Helsingfors on 19 August 1925, shall render the owner of the vessel and the shipping agent, if any, on the one hand, and the charterer and master on the other liable to punishment if they were aware or should have been aware that the vessel was being used for smuggling under article 117 of this Act or under article 289 of the Civil Penal Code. The trans-shipment of goods outside the Customs territories of the above-mentioned States under circumstances which make it extremely likely that the intention was to smuggle the goods into the Customs territory of one of them shall also be regarded as smuggling. The vessel shall be liable for any fine which may be incurred.

*Article 127.* 1. Means of transport that have been used for the smuggling or attempted smuggling or highly dutiable goods or for the transport of such smuggled goods within the Customs territory may be attached by the Customs or by the police on the Customs' behalf until such time as the amount of the duty tax or fine and any costs, payable by the owner, operator, crew or others serving on the means of transport has been paid, or security for payment has been furnished. If payment is not made within two months of the final disposition of the case, satisfaction may be sought against the means of transport.

<sup>1</sup> League of Nations, *Treaty Series*, vol. XLII, No. 1033.

(b) MINISTRY OF FINANCE NOTICE NO. 578 OF 22 DECEMBER 1972  
CONCERNING CLEARANCE<sup>1</sup>

Pursuant to articles 1, 15, 70-94, 97, 105, 108, 110, 111 and 123 of the Customs Act<sup>2</sup> and articles 8 and 9 of the Danish Statistics Act (cf. Legislative Notice No. 15 of 12 January 1972) and article 1 of the Act on administration of the European Economic Community regulations concerning marketing schemes for agricultural and other products, the following regulations are laid down concerning the inspection and Customs clearance of means of transport, persons and goods within the Customs territory:

*Chapter 1*

*The customs territory*

*Article 1.* 1. The Customs territory shall comprise the land areas of Denmark, the inner territorial waters and the outer territorial sea within a distance of four nautical miles (7,408 m) from the coastline or from the straight baselines established by Order No. 437 of 21 December 1966 on the delimitation of the territorial waters<sup>3</sup>, as well as the air space over the areas thus defined.

2. The Customs territory shall not include the Faroe Islands or Greenland.

*Article 2.* 1. Within the areas and to the extent provided for in article 9 of the Convention of 19 August 1925 for the suppression of the contraband traffic in alcoholic liquors (Helsingfors Convention)<sup>4</sup> and its Final Protocol, the provisions of the Customs Act and of this Notice concerning the transport of goods by sea, etc., as well as the penal provisions established in connexion therewith, shall apply to ships whose home port is in a State which has ratified the Convention.

*I. CUSTOMS CLEARANCE OF MEANS OF TRANSPORT AND PERSONS*

*Chapter 2*

*Ships*

*Article 3.* 1. Ships shall be understood in this Notice to mean ships, boats and vessels of all kinds.

*Article 4.* 1. Ships which are within the Customs territory shall be subject to Customs inspection.

2. Ships which are under way shall stop at the request of the Customs. An order by the Customs to stop shall be given orally or by means of the stop signal: "Stop your ship immediately".

<sup>1</sup> Danish text provided by the Ministry of Foreign Affairs of Denmark in a note verbale of 4 January 1974. Translation by the Secretariat of the United Nations.

<sup>2</sup> Reproduced in part *supra* (a).

<sup>3</sup> Reproduced in ST/LEG/SER.B/15, pp. 71-76.

<sup>4</sup> League of Nations *Treaty Series*, vol. XLII, No. 1033.

3. The master of the ship shall be obliged to furnish such information as may be necessary for the inspection concerning the ship, its cargo, etc., and, in confirmation of the information furnished, to produce the ship's papers and cargo documents, etc., and to show and open or uncover all means of access to the cargo, hold and store-rooms.

4. The Customs shall have the right to undertake everywhere in the ship the search (rummaging) required for the inspection.

5. Paragraphs 1 to 4 shall apply as appropriate whenever Swedish Customs supervision staff carry out Customs supervision duties within the Customs territory in accordance with the Convention of 28 October 1935 between Denmark and Sweden for common supervision in order to prevent the smuggling of alcoholic liquors. Swedish Customs supervision staff shall enjoy hereunder the same protection of the law as is afforded to Danish Customs supervision staff.

*Article 5.* 1. When a ship is within the Customs territory or when, while sailing between points in the Customs territory, it passes through foreign or international waters, the Customs may require that uncleared goods be placed under Customs seal. If a seal cannot be applied satisfactorily, a Customs guard may be placed on board the ship at the latter's expense.

2. Ships within the Customs territory may not carry uncleared provisions, etc., unless they have commenced a voyage the final destination of which is a place of call outside the Customs territory. The vessels referred to in article 88, paragraphs 6 and 7, may, however, carry uncleared provisions which have been taken on board in accordance with the rules established for those vessels.

3. Foreign pleasure craft sailing exclusively between points in their country of registry and points in the customs territory, as well as Danish pleasure craft, may carry uncleared provisions, etc., only in so far as they can be imported free of duty under the regulations concerning the exemption from duty of baggage, etc.

*Article 6.* 1. The loading and unloading of goods and the disembarkation and taking on board of passengers shall be subject to Customs inspection and may take place only at ports approved for the purpose by the Customs. The Customs may, however, when special circumstances so require, allow unloading and loading to take place at other places.

2. The Customs shall specify where passengers entering the Customs territory may be disembarked.

...

*Article 7.*

...

2. The master of a ship shall, as soon as possible after its arrival, orally inform the Customs from where the vessel has come and what cargo it carries.

3. The unloading and loading of goods, the disembarkation and taking on board of passengers and the disembarkation of crew members shall be

announced orally in advance to the Customs and may not be commenced until the permission of the Customs has been received.

4. Passenger ships on scheduled services and ferry boats arriving according to a time-table communicated to the Customs in advance shall be exempted from the provisions of paragraphs 1 to 3. The Customs may, however, regulate the disembarkation and taking on board of passengers and may, in special circumstances, prohibit the loading or unloading of goods until the ship has been searched.

*Article 12.* The master of a ship shall be liable for any duty or taxes on goods, including residual cargo and supplies of provisions, which are loaded, unloaded or consumed within the Customs territory in contravention of the regulations laid down in this Notice.

## 2. PAKISTAN

### CUSTOMS ACT, 1969<sup>1</sup>

#### *Section 164: Power to stop and search conveyances*

(1) Where the appropriate officer has reason to believe that within the territories of Pakistan (including territorial waters) any conveyance has been, is being, or is about to be, used in the smuggling of any goods or in the carriage of any smuggled goods, he may at any time stop any such conveyance or, in the case of an aircraft, compel it to land, and:—

- (a) Rummage and search any part of the conveyance;
- (b) Examine and search any goods thereon; and
- (c) Break open the lock of any door, fasture package for making search.

(2) Where in the circumstances referred to in sub-section (1):—

(a) It becomes necessary to stop any vessel or compel any aircraft to land it shall be lawful for any vessel or aircraft in the service of the Government while flying her proper flag or bearing flag marks and any authority authorized in this behalf by the Central Government to summon such vessel to stop or the aircraft to land, by means of an international signal, code or other recognized means, and thereupon such vessel shall forthwith stop or such aircraft shall forthwith land, and if it fails to do, so chase may be given thereto by any vessel or aircraft as aforesaid and if after a gun is fired as a signal the vessel fails to stop or the aircraft fails to stop or the aircraft fails to land, it may be fired upon;

(b) It becomes necessary to stop any conveyance other than a vessel or aircraft, the appropriate officer may use or cause to be used all lawful means for stopping it or preventing its escape including, if all other means fail, firing upon it.

<sup>1</sup> Text provided by the Permanent Representative of Pakistan to the United Nations in a note verbale of 8 October 1974.

**Chapter V**

**CRIMINAL AND CIVIL JURISDICTION OVER FOREIGN SHIPS  
IN THE TERRITORIAL SEA<sup>1</sup>**

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<sup>1</sup> No text concerning criminal and civil jurisdiction over foreign ships in the territorial sea was received during the period covered by this volume.

## Chapter VI

### STATUS OF FOREIGN WARSHIPS IN THE TERRITORIAL SEA

#### 1. GERMAN DEMOCRATIC REPUBLIC

##### REGULATION OF 11 AUGUST 1965 ON THE STAY OF FOREIGN WARSHIPS IN THE WATERS OF THE GERMAN DEMOCRATIC REPUBLIC<sup>1</sup>

In pursuance of article 8 of the ordinance of 19 March 1964 concerning the defence of the frontier of the German Democratic Republic (GB.1.II, p. 255), with a view to the uniform regulation of the stay of foreign warships in the waters of the German Democratic Republic it is hereby ordered as follows:

1. (1) The stay of foreign warships in the territorial waters, inland sea-waters and established roadsteads of the German Democratic Republic (hereinafter called "waters of the German Democratic Republic") is permissible only if duly authorized.

(2) The provisions of paragraph 1 shall also apply to the passage of foreign warships through the waters of the German Democratic Republic.

2. With regard to the stay of foreign warships in the waters of the German Democratic Republic, a distinction shall be drawn between:

(a) *Visits*

Official visits, conducive to the development of friendly relations between States;

Unofficial visits, usually by training and research ships; and

(b) *Cases of distress at sea*

3. (1) An application for authorization in accordance with article 1 must be submitted to the Ministry of Foreign Affairs of the German Democratic Republic not less than 30 days before the intended stay or intended passage.

(2) The following particulars must accompany the application;

(a) Purpose of the visit;

(b) Length of stay;

(c) Number, classes and names of the ships;

(d) Principal measurements (displacement, length, beam, draught);

(e) Name and rank of the commanding officer of the ship or ships;

(f) Port of call.

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<sup>1</sup> GB1.II, p. 638. In force as of 11 August 1965, in conformity with article 20. German text provided by the Permanent Mission of the German Democratic Republic to the United Nations in a note verbale of 19 December 1974. Translation by the Secretariat of the United Nations.

4. The provisions of articles 1 and 3 shall not apply to:

(a) Warships carrying or escorting a Head of State or Government. Such warships must be notified to the Ministry of Foreign Affairs of the German Democratic Republic 10 days before the intended visit;

(b) Warships in distress or forced by damage at sea to enter the waters of the German Democratic Republic.

In such cases, the warships concerned must comply with the instructions given by a ship or of the vessel of the People's Navy or of the Coast guard.

5. Not more than three foreign warships of a State may stay in the waters of the German Democratic Republic for a period not exceeding seven days, unless otherwise agreed.

6. Foreign submarines shall be permitted to stay in the waters of the German Democratic Republic only on condition that they remain on the surface.

7. During their stay in the waters of the German Democratic Republic, foreign warships shall not be permitted to enter areas closed to shipping, as announced in *Nautische Mitteilungen für Seefahrer*.

8. The ceremonial with which foreign warships entering the waters of the German Democratic Republic for a visit are received, and all related formalities, shall be settled in accordance with the relevant laws and regulations of the German Democratic Republic.

9. (1) A liaison officer shall be appointed by the officer of the People's Navy (hereinafter referred to as the senior local officer) to receive foreign warships entering the waters of the German Democratic Republic for a visit. It shall be his duty, in particular, to inform the commanding officer of the ship or ships of the existing rules and instructions.

(2) The commanding officer of a visiting foreign warship or warships shall be required to supply the liaison officer with the particulars called for in the annex to these regulations, unless they have already been transmitted previously.

10. During the stay in a port of the German Democratic Republic, unarmed cutters or dinghies of the foreign warship may move about only with the authorization of the competent senior local officer and in accordance with the relevant harbour regulations.

11. (1) Shore leave for the crew shall require the approval of the senior local officer.

The following particulars must be supplied:

(a) Number of persons taking shore leave (ratings, petty officers, officers);

(b) Commencement of the shore leave;

(c) End of the shore leave.

(2) While on shore leave, members of the crew must observe the rules for the wearing of uniforms applicable to them.

(3) Members of the crew shall be forbidden to carry weapons while on shore leave. The foregoing shall not apply to officers who wear a sword or poniards as part of their uniform.

12. The conditions under which persons not belonging to the crew may board or leave a foreign warship shall be laid down by the senior local officer with the agreement of the commanding officer of the ship or ships.

13. During the stay in the waters of the German Democratic Republic, the crews of foreign warships shall not perform in particular, the following activities:

- (a) Research work, measurements and surveys;
- (b) Production of photographs and the like, drawings, sketches, descriptions of harbour areas, installations and military equipment;
- (c) Movement of armed cutters or dinghies or boat manoeuvres with an armed crew and disembarkation of landing parties;
- (d) Firing practice with any kind of weapons (except gun salutes);
- (e) Searchlight exercises;
- (f) Laving and clearing of mines;
- (g) Exercises in the use of chemicals;
- (h) Underwater explosions;
- (i) Take-off or landing of aircraft, launching of balloons, etc.;
- (k) Work with direction-finding apparatus and other radio and hydro-acoustic devices (except for navigational safety when the ship is in motion);
- (l) The taking of any kind of fish or other aquatic fauna;
- (m) Pollution of the waters by oil or other substances.

14. At the request of the commanding officer of the foreign warship or warships, the senior local officer may grant authorization for:

- (a) The use of the radio equipment for radio communication with the ship's own country;
- (b) Underwater work for inspection or repair of the ship;
- (c) The landing of armed or unarmed troops, not in marching order, to take part in parades, funeral ceremonies or marches.

15. During their stay in the waters of the German Democratic Republic, foreign warships shall be exempt from all charges (including customs duties) except for services rendered.

16. (1) In the event of violation or non-observance of the laws, regulations or instructions of the German Democratic Republic by foreign warships or members of their crews, the senior local officer shall notify the commanding officer of the ship or ships of the violation.

(2) Foreign warships which disregard such a notification may be required to leave the waters of the German Democratic Republic.

(3) In exceptional circumstances, foreign warships may at any time be ordered to leave the waters of the German Democratic Republic within a specified period.



17. The provisions of articles 3, 4, 5, 6, 7, 13, 15 and 16 shall apply *mutatis mutandis* to passage through the waters of the German Democratic Republic.

18. This regulation shall also apply to the naval auxiliary vessels and armed ships of the fisheries protection service of a State.

19. This regulation shall be published annually in the first issue of the *Nautische Mitteilungen für Seefahrer*.

20. This regulation shall enter into force on its publication.

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## Chapter VII

### POLLUTION OF THE TERRITORIAL SEA

#### 1. CANADA

(a) [OIL POLLUTION PREVENTION REGULATIONS OF 21 SEPTEMBER 1971, AS AMENDED IN 1973]<sup>1</sup>

(b) [NON-CANADIAN SHIPS COMPLIANCE CERTIFICATE REGULATIONS OF 6 MARCH 1973]<sup>2</sup>

#### 2. DENMARK

(a) [ACT NO. 285 OF 7 JUNE 1972 CONCERNING THE EXPLOITATION OF STONE, GRAVEL AND OTHER NATURAL DEPOSITS IN THE GROUND IN THE TERRITORIAL SEA, Article 1 (2)]<sup>3</sup>

(b) [EXECUTIVE ORDER NO. 141 OF 13 MARCH 1974 CONCERNING PIPELINE INSTALLATIONS IN THE AREA OF THE DANISH CONTINENTAL SHELF FOR THE TRANSPORT OF HYDROCARBONS]<sup>4</sup>

#### 3. FINLAND

(a) [ACT NO. 668 OF 22 SEPTEMBER 1972 FOR THE PREVENTION OF OIL DAMAGE CAUSED BY SHIPS, Articles 1-6, 8, 10, 13-20 and 25]<sup>5</sup>

(b) [ORDER NO. 710 OF 26 OCTOBER 1972 FOR THE PREVENTION OF OIL DAMAGE CAUSED BY SHIPS, Articles 1-4, 7 and 12]<sup>6</sup>

#### 4. FRANCE

[LOI No 64-1331 DU 26 DECEMBRE 1964 REPRIMANT LA POLLUTION DES EAUX DE LA MER PAR LES HYDROCARBURES, MODIFIEE PAR LA LOI No 73-477 DU 16 MAI 1973, articles 1-3, 3 bis, 5 et 6]<sup>7</sup>

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<sup>1</sup> *Infra* Division III, 1 (a).

<sup>2</sup> *Ibid.*, 1 (b).

<sup>3</sup> *Infra*, Chapter IX, 3.

<sup>4</sup> *Infra*, Division II, 4.

<sup>5</sup> *Infra*, Division III, 2 (a).

<sup>6</sup> *Ibid.*, 2 (b).

<sup>7</sup> *Infra* Division III, 3.

## 5. GERMANY, FEDERAL REPUBLIC OF

### (a) FEDERAL WATER ACT OF 27 JULY 1957,<sup>1</sup> AS AMENDED UP TO 1970<sup>2</sup>

The following Act has been enacted by the Bundestag, with the consent of the Bundesrat:

#### INTRODUCTION

##### Article 1. *Matters to which this Act applies*

(1) This Act shall apply to the following waters

1. Water which permanently or temporarily stands or flows in beds or which flows from natural springs (surface waters);
- 1a. The sea between the coast line at medium flood water level or the seaward limitation of the surface waters and the seaward limitation of the coastal sea (coastal waters);
2. Underground water.

(2) The *Länder* may exclude from the provisions of this Act small waters which are economically of minor importance as well as springs which have been declared to be healing mineral springs. This provision shall not, however, apply to article 22.

(3) The *Länder* shall determine the seaward limitation of those surface waters which are not inland waterways of the Federation.

#### PART I. GENERAL PROVISIONS RELATING TO WATERS

##### Article 2. *Basic principle*

(1) Waters may not be used without a permit (*Erlaubnis*) (art. 7) or a licence (*Bewilligung*) (art. 8) issued by the authorities, subject however to any provisions to the contrary contained in this Act or in the regulations issued by a *Land* in accordance with the provisions of this Act.

(2) The grant of a permit or a licence does not confer a title to a supply of water in any specific quantity or quality. Notwithstanding article 11, they shall not affect any claims under private law to a supply of water of any specific quantity or quality.

##### Article 3. *Uses of water*

(1) For the purpose of this Act uses of water are defined as

1. The withdrawal or diversion of water from surface waters;
2. The impounding or draw-down of surface waters;
3. The withdrawal of solid matter from surface waters, so far as this has any effect on the condition of such waters or their flow;

<sup>1</sup> *BGBI* 1957, part 1, p. 1110. In force as of 1 March 1960 in accordance with article 45. English text provided by the Permanent Representative of the Federal Republic of Germany to the United Nations in a note verbale dated 4 March 1975.

<sup>2</sup> Amended in 1959, 1964, 1967, 1968 and 1970. For the latest amendment see *BGBI* 1970, part 1, p. 805.

4. The introduction or discharge of matter into surface waters;
  - 4a. Introduction and discharge of substances into coastal waters, if such substances
    - (a) Were introduced or discharged from the main land or from plants which have been established or moored in coastal waters not only temporarily; or
    - (b) Were brought into coastal waters to be disposed of there;
  5. The discharge of matter into underground water;
  6. The withdrawal, bringing or drawing-off to the surface, or the diversion of underground water.
- (2) The following shall also be deemed to constitute uses of water
1. The impounding, draw-down or diversion of underground water by means of installations designed for, or suitable for, such purposes;
  2. Any measures which are likely to cause, either permanently or to a not merely insignificant degree, harmful changes in the physical, chemical or biological constitution of water.
- (3) Any measures which serve to maintain or improve surface waters shall not be deemed to constitute uses thereof.

*Article 4. Conditions of use*

(1) A permit or a licence may be granted subject to the imposition of conditions. Conditions may also be imposed in order to prevent or make good any effects which are detrimental to other persons.

(2) Further, conditions may be imposed with the following particular objects

1. The institution of measures for the observation or ascertainment of the condition of the water before use and of the extent of any damage done or harmful effects caused by their use;
2. Prescribing the appointment of responsible agents of the enterprise;
3. Requiring the enterpriser to make appropriate contributions towards the cost of measures taken, or to be taken, by a public corporation in order to prevent or make good any damage to the common weal arising out of the use of the water.

*Article 5. Reservation*

Permits or licences are granted subject to the reservation that at a subsequent date

1. Additional requirements may be made as to the constitution of any matter which is to be introduced or discharged into waters;
2. Measures may be ordered for the observation of the use of water and the result arising therefrom;
3. Measures may be ordered to ensure the economical use of water, which is called for by the actual state of the supply.

Where the water is used by virtue of a licence, any measures taken under 2 or 3 must be economically justified and compatible with the respective use.

*Article 6. Refusal.*

The grant of a permit or a licence shall be refused in a case where the proposed use is likely to lead to injury to the common weal and, in particular, where it would endanger the public water supply, and where such injury or danger cannot be prevented or made good by the imposition of conditions or by action taken by a corporation under public law (No. 3 of para. 2 of art. 4).

*Article 7. Permit*

The grant of a permit confers authority to use any water for a specific purpose, in a definite way and to a definite extent; a permit may be granted for a limited period only, and it may be withdrawn.

*Article 8. Licence*

(1) The grant of a licence confers authority to use waters in a definite way and to a definite extent. It does not confer on the licensee the right to make use of objects which belong to another person or to use land and installations which are in the possession of another person.

(2) A licence may be granted only if

1. The enterpriser cannot be expected to carry out his project without his legal position being assured; and
2. The use of water is for a specific purpose which is pursued in accordance with a definite plan.

(3) If the use of the water is likely to have a detrimental effect on the rights of another person, and if the person concerned raises objections, then the licence shall be granted only if the detrimental effects are prevented or made good by the imposition of conditions. Should this not be possible, the licence may nevertheless be granted on the ground that it operates for the common weal, but in such a case the person concerned shall be granted compensation.

(4) The *Länder* may specify other cases in which persons are entitled to raise objections on the grounds that they are detrimentally affected. In such cases para. 3 shall apply correspondingly. The *Länder* may nevertheless lay down that a licence may also be granted in a case where the benefit which may be expected to arise from the use of the water greatly exceeds the disadvantage which is likely to accrue to the person concerned.

(5) A licence shall be granted for a definite, and an appropriate, period; in special cases such period of time may exceed thirty years.

(6) If there is any change in the ownership of installations for the use of water, the licence shall be transferred at the same time. If the licence is attached to real property and a change of ownership occurs, the licence shall be transferred to the legal successor at the same time, provided that nothing to the contrary is stipulated in the licence.

*Article 11. Exclusion of claims*

(1) The person concerned (paras. 3 and 4 of art. 8) cannot make any claim against the holder of a licence in respect of the detrimental effects

arising from the exercise of that licence the object of which is the removal of the disturbance, the refraining to make use of the water, the establishment of protective arrangements or the award of damages. Nothing herein contained shall however preclude claims for damages from being made in respect of any detrimental effects arising from the fact that the licensee has not complied with conditions imposed on him.

(2) The first sentence of paragraph 1 shall not apply in the case of claims based on a contract.

*Article 12. Limitation and withdrawal of licence*

(1) If the continued unrestricted use of the water is likely to cause considerable injury to the common weal, and in particular to the public water supply, the licence may be limited or withdrawn; in such a case compensation shall be awarded, unless action can be taken under article 5 without payment of compensation.

(2) Apart from the provisions contained in article 5, a licence cannot be limited or withdrawn without the award of compensation, unless the enterpriser

1. Obtained the licence on the basis of evidence which was incorrect or incomplete on material points, and was aware of the incorrectness or incompleteness;
2. Did not begin to use the water within the appropriate period laid down, or did not use it for a consecutive period of three years;
3. Has changed the purpose for which the water is used so that it no longer conforms to the plan (No. 2 of para. 2 of art. 8);
4. Notwithstanding a warning that the licence may be withdrawn, repeatedly uses the water considerably in excess of the limits of his licence, or has not complied with conditions which have been imposed.

...

*Article 22. Liability for changes in the constitution of water*

(1) Any person who introduces or discharges any matter into waters or takes any action which results in their physical, chemical or biological constitution being changed shall be liable to make good damage caused to any other person as a result of his action. If several persons were responsible for the action, they shall be jointly and severally liable for any damage.

(2) If any material from any installation which is designed to manufacture, process, store, mature, transport or conduct elsewhere such material, reaches any waters without being knowingly put or discharged into them, the owner of the installation shall be liable to make good any damage caused thereby to another person; sentence 2 of paragraph 1 shall apply correspondingly. Liability to make good damage shall not, however, arise if such damage has been caused by an Act of God.

(3) If a claim for damages cannot be made under article 11, the person concerned shall be compensated under paragraph 2 of article 10. Such a claim may be admitted even after the expiration of the period of thirty years.

*PART II. REGULATIONS FOR SURFACE WATERS*

...

*Section 2. Preservation of the purity of waters*

*Article 26. Introduction, storage and transport of materials*

(1) Solid matter shall not be introduced into waters for the purpose of getting rid of it. Muddy matter shall not be deemed to be solid matter.

(2) If materials are stored near waters, they shall be placed in such a way that there is no pollution of the water and that the quality of the water which flows away is not otherwise detrimentally affected. The same shall apply to the conveyance of liquids or gases through pipes. This is without prejudice to any existing provisions which are more far-reaching.

*Article 27. Orders for the preservation of the purity of waters*

(1) Where the physical, chemical or biological constitution of surface waters or part thereof is harmfully affected to a considerable degree by the introduction of materials—either alone or in conjunction with the withdrawal of water or by other measures—orders for the preservation of purity of waters may be issued in the form of statutory regulations or administrative regulations. This shall also apply where such injurious effects are to be anticipated. Such orders may prescribe in particular

1. To what minimum standards the constitution of water shall conform;
2. What amount of water may be withdrawn altogether depending upon the available flow of water;
3. That certain materials shall not be introduced;
4. That certain materials which are introduced shall satisfy certain minimum requirements;
5. What other effects shall be prevented, by which the quality of the water might be detrimentally affected.

...

*PART III. PROVISIONS GOVERNING COASTAL WATERS*

*Article 32a. Utilizations not subject to permits*

The *Länder* may determine that a permit or a licence is not required

1. For the introduction of substances for the purposes of fishery;
2. For the discharge of ground, spring and rain-water;
3. For the introduction and discharge of any other substances if the properties of a coastal water are not, or only to an inconsiderable extent, impaired thereby.

*Article 32b. Conservation*

Along coastal waters, substances must only be stored or deposited in such way as not to cause any concern about a pollution of the water or any other

disadvantageous alteration of its properties. The same shall apply to the conveyance of liquids and gases by means of pipe lines.

...

#### PART VI. PENALTIES AND FINES

##### *Article 38. Harmful pollution of waters*

(1) Any person who deliberately

1. And without authority or by failure to comply with a condition, introduces or discharges any matter into waters, thus causing harmful pollution of such waters or some other detrimental change in its qualities;
2. Stores materials or conveys liquids or gases through pipes in such a way that harmful pollution of the waters or some other detrimental change in the properties of the water is caused,

shall be liable to imprisonment for a term not exceeding two years and to a fine, or to either of those penalties.

(2) A person who commits such an offence through negligence shall be liable to imprisonment for a term not exceeding six months or to a fine.

##### *Article 39. Causing danger to life or health*

(1) Any person who deliberately commits any of the offences specified in article 38 and thereby endangers the life or the health of others shall be liable to imprisonment for a term not exceeding five years and to a fine or to either of these penalties.

(2) Any person who commits such an act through negligence shall be liable to imprisonment for a term not exceeding three years or to a fine.

...

#### b) WASTE DISPOSAL ACT OF 7 JUNE 1972<sup>1</sup>

The Bundestag, with the consent of the Bundesrat, has adopted the following Act:

##### *Article 1*

###### *Definition of terms and sphere of application*

(1) For the purpose of this Act, the term "wastes" means movable objects, which the possessor wishes to dispose of or the orderly disposal of which is necessary for the safeguarding of the general welfare.

(2) For the purposes of this Act, waste disposal is deemed to include the collection, transport, handling, storage and dumping of wastes.

<sup>1</sup> *BGBI* 1972, part I, p. 873. In force as of 8 June 1972, the day following its promulgation, in accordance with article 34. Text provided by the Permanent Representative of the Federal Republic of Germany to the United Nations in a note verbale dated 4 March 1975. Translation by the Secretariat of the United Nations.



- (3) The provisions of this Act shall not apply with respect to:
1. Substances to be disposed of under the Act on the Disposal of Animal Carcasses, dated 1 February 1939 (*Reichsgesetzblatt I*, p. 187), under the Meat Inspection Act, in the wording of the Announcement of 29 October 1940 (*Reichsgesetzblatt I*, p. 1463), last amended by the Act Amending the Executive Act concerning the EEC Guidelines on Fresh Meat, dated 14 December 1970 (*Bundesgesetzblatt I*, p. 1711), under the Communicable Animal Diseases Act, in the wording of the Announcement of 27 February 1969 (*Bundesgesetzblatt I*, p. 158), under the Plant Protection Act, dated 10 May 1968 (*Bundesgesetzblatt I*, p. 352), last amended by the Act Amending the Plant Protection Act, dated 27 July 1971 (*Bundesgesetzblatt I*, p. 1161), and under the administrative orders issued in pursuance of the aforesaid Acts;
  2. Nuclear fuels and other radioactive substances within the meaning of the Nuclear Materials Act, dated 23 December 1959 (*Bundesgesetzblatt I*, p. 814), last amended by the Expenditure Authorizations Amending Act, dated 23 June 1970 (*Bundesgesetzblatt I*, p. 805), and of the administrative orders issued in pursuance of the Nuclear Materials Act;
  3. Wastes produced in connexion with the prospecting, extraction, preparation and further processing of minerals at plants which are within the jurisdiction of the mining inspection authorities;
  4. Gaseous substances which are not confined in containers;
  5. Waste water which is discharged into bodies of water or waste-water treatment facilities;
  6. Used oil, provided that it is not hauled away in accordance with article 3, paragraph (1), of the Used-Oil Act, dated 23 December 1968 (*Bundesgesetzblatt I*, p. 1419).

## *Article 2*

### *Basic principle*

Wastes must be disposed of in such a way that the general welfare is not adversely affected and especially so that:

1. Human health is not endangered, nor human well-being adversely affected;
2. Domestic animals, birds, wild animals and fish are not endangered;
3. Bodies of water, the soil and useful plants suffer no harmful effects;
4. No harmful impact on the environment is caused by air pollution or noise;
5. The interests of nature protection and landscape maintenance and the interests of town planning are safeguarded; and
6. Public safety and order are not endangered or disturbed in any other way.

The purposes and requirements of land management and land use planning must be taken into account.

*Article 3**Obligation to dispose of wastes*

(1) Persons in possession of wastes must deliver them to those responsible for waste disposal.

(2) The public-law corporations competent to do so under *Land* law shall dispose of the wastes which are found in their area of competence. They may employ third parties in order to fulfil this obligation.

(3) The corporations referred to in paragraph (2) may, with the consent of the competent authority, exclude from disposal such wastes as cannot, because of their nature or quantity, be disposed of together with household wastes.

(4) In the cases covered by paragraph (3), the person in possession of the wastes shall be required to dispose of them. Paragraph (2), second sentence, shall apply as appropriate.

(5) The operator of a waste-disposal facility may be required by the competent authority to make the waste-disposal facility available for joint use to any person responsible for the disposal of wastes under paragraph (2) or (4) above in return for appropriate compensation, provided that the said person cannot otherwise properly dispose of the wastes or can do so only at considerably higher cost and provided that such joint use is reasonable for the operator. Where compensation cannot be agreed upon, it shall be determined by the competent authority.

(6) Upon application by the operator of a waste-disposal facility who can dispose of wastes more economically than a corporation referred to in paragraph (2), the competent authority may assign to him the responsibility for the disposal of such wastes, provided that this is not contrary to overriding considerations of the public interest. Such assignment may be made subject to the reservation that the applicant should dispose of all wastes found in the area of competence of the said corporation in return for reimbursement of expenses if the corporation cannot remove the remaining wastes or can do so only at disproportionately high cost; this provision shall not apply if the applicant states that he cannot reasonably undertake such disposal.

(7) The holder of a mining franchise or the operator of a mineral extraction enterprise and the owner, occupant or other person authorized to dispose of land for mining operations may be required by the competent authority, within reasonable limits, to permit the disposal of wastes in open diggings at his installation or on his land, to permit access to the said installation or land and also, where absolutely necessary, to make available the operational installations or facilities or portions thereof. The expenses incurred thereby shall be reimbursed to him by the person responsible for disposal. The competent authority shall define the extent of such obligation. The priority of mineral extraction over waste disposal must not be prejudiced. The person required to permit waste disposal shall not be liable for any damages caused thereby.

#### Article 4

##### *Procedure for waste disposal*

(1) Wastes may be processed, stored and dumped only at facilities or installations authorized for that purpose (hereinafter referred to as "waste-disposal facilities").

(2) In so far as animal carcasses, parts of animal carcasses or products of animal origin are excluded from disposal because of their nature and quantity in accordance with article 3, paragraph (3), they shall be utilized at animal-carcass disposal facilities if their characteristics make them suitable for that purpose. The Act on the Disposal of Animal Carcasses shall apply as appropriate. Article 1, paragraph (3), item 1, shall not be affected by this provision.

(3) The competent authority may, in individual cases and subject to revocation, permit exceptions to be made where the general welfare is not adversely affected thereby.

(4) Where the need arises and where there is no reason to fear that the general welfare will be adversely affected, the *Land* governments may, by administrative order, permit the disposal of specific wastes or specific quantities of wastes at places other than disposal facilities and prescribe the prerequisites for and the manner and method of disposal.

#### Article 5

##### *Wrecked automobiles and old tires*

The provisions relating to waste-disposal facilities shall apply to permanent facilities used for storing and processing wrecked automobiles or old tires.

#### Article 6

##### *Waste-disposal plans*

(1) The *Länder* shall draw up plans for waste disposal within their territory in accordance with criteria extending beyond the local level. Appropriate locations for waste-disposal facilities must be specified in such waste-disposal plans. Special consideration must be given to the wastes referred to in article 3, paragraph (3). The plans may further prescribe what carrier is to be engaged and what waste-disposal facility must be used by the persons responsible for disposal. The specifications in the waste-disposal plans may be declared to be binding on the persons responsible for disposal.

(2) The *Länder* shall determine the procedure for drawing up the plans.

#### Article 7

##### *Zoning*

(1) The construction and operation of permanent waste-disposal facilities and any substantial changes in such facilities or in their operation shall require a zoning decision by the competent authority.

(2) Instead of holding zoning proceedings, the competent authority may upon petition issue a permit for the construction and operation of small-scale waste-disposal facilities or for substantial changes in such facilities or in their operation, provided that no objections are made.

(3) In the case of waste-disposal facilities which are facilities within the meaning of article 16 of the Trade Regulations, the zoning and hearing authority shall be the authority whose permit, under article 16 of the Trade Regulations, is replaced by the zoning decision.

#### *Article 11*

##### *Obligation to give notification; supervision*

(1) Waste disposal shall be subject to supervision by the competent authority. The said authority may extend its supervision to include waste-disposal facilities which have been shut down where such extension is necessary to safeguard the general welfare.

(2) Any person operating a facility falling within the scope of article 16 or 24 of the Trade Regulations must notify the competent authority of the nature, composition and amount of the wastes received by the facility and any substantial change therein.

(3) The competent authority may require persons possessing wastes which are not disposed of together with household wastes to provide proof of the nature, amount and disposal of such wastes, to keep record-books and to retain and preserve documentary evidence. Record-books and documentary evidence must be produced for examination to the competent authority upon request. Detailed provisions concerning the establishment, maintenance and production of record-books and the retention of documentary evidence, as well as the time-limits for preserving them, shall be prescribed by the Federal Minister of Interior, with the approval of the Bundesrat, by means of an administrative order.

(4) Persons in possession of wastes and those responsible for disposing of wastes must provide information to the designated representative of the supervisory authority concerning the operation, facilities, installations and all other matters subject to supervision. In order to determine whether they are in compliance with their obligations under this Act, such persons must permit entry into premises and, in so far as is necessary to prevent an immediate threat to public safety or order, into their homes; the fundamental right of inviolability of the home (article 13 of the Basic Law) shall be limited to this extent. Those responsible for waste disposal must further permit access to waste-disposal facilities, make available such workers, tools and documents as are necessary for purposes of supervision and also, when so ordered by the competent authority, allow the condition and operation of the waste-disposal facility to be inspected at their own expense.

(5) A person having the obligation to provide information may refuse to answer questions to which the answer might expose him or one of the defendants specified in article 383, paragraph (1), items 1 to 3, of the Code

of Civil Procedure to a risk of criminal prosecution or to a proceeding under the Act on Disciplinary Offences.

...

#### Article 16

##### *Criminal offences*

(1) Any person who:

1. Contrary to article 4, paragraph (1), processes, stores or dumps wastes containing or capable of producing poisonous substances or pathogenic agents of communicable diseases;
2. Contrary to article 4, paragraph (1), processes, stores or dumps wastes in the vicinity of food-stuffs in such a manner that the latter may become contaminated; or
3. Contrary to article 7, sets up or operates a waste-disposal facility or effects substantial changes in a facility or the operation thereof, thereby endangering the life or health of other persons, shall be liable to a penalty of imprisonment for a period not exceeding five years and/or a fine.

(2) If the person concerned has behaved negligently, he shall be liable to a penalty of imprisonment for a period not exceeding three years or a fine.

...

(c) [REGULATIONS OF 3 MAY 1971 BY THE MINISTER OF TRANSPORT GOVERNING MARITIME SHIPPING ROUTES, AS AMENDED, Articles 41-42] <sup>1</sup>

## 6. GHANA

[MINERALS (OFFSHORE) REGULATIONS 1963, AS AMENDED IN 1968, Regulations 10, 11 and 16 (2)] <sup>2</sup>

## 7. IRELAND

[OIL POLLUTION OF THE SEA ACT, 1956] <sup>3</sup>

## 8. MEXICO

[FEDERAL ACT OF 10 MAY 1972 ON FISHERIES DEVELOPMENT, Article 79] <sup>4</sup>

<sup>1</sup> *Supra*, Chapter II, 4 (b).

<sup>2</sup> *Infra* Chapter IX, 4 (b).

<sup>3</sup> *Infra* Division III, 6 (a).

<sup>4</sup> *Infra* Division IV, 9 (b).

## 9. MONACO

### a) LOI No 954 DU 19 AVRIL 1974 CONCERNANT LA LUTTE CONTRE LA POLLUTION DE L'EAU ET DE L'AIR<sup>1</sup>

*Article premier.* Sont interdits, hors des limites et dans les conditions déterminées par les Ordonnances souveraines prévues par l'article 3 ci-après, tous faits, tels que l'immersion, le déversement, le jet ou le rejet direct ou indirect, dans les eaux de la mer intérieure et de la mer territoriale ou dans les eaux superficielles ou souterraines, de matières, d'objets ou de substances quelconques, lorsque ces faits sont de nature à avoir un ou plusieurs des effets suivants :

- Provoquer, accroître ou maintenir la dégradation de ces eaux;
- Compromettre la faune et la flore marines dans leur rôle naturel ou leur rôle d'auto-épuration;
- Nuire à la santé publique;
- Mettre en cause le développement économique ou touristique.

*Article 2.* Sont interdits, hors des limites et dans les conditions déterminées par les Ordonnances souveraines prévues par l'article 3 ci-après, tous faits, tels que l'émission dans l'atmosphère, quelle qu'en soit la source, de fumées, suies, poussières, gaz et tous autres produits ou matières, lorsque ces faits sont, en raison de leurs caractéristiques propres, de nature à avoir un ou plusieurs des effets suivants :

- Provoquer, accroître ou maintenir la pollution de l'air;
- Nuire à la sécurité ou à la santé publique ou incommoder, de façon sensible, la population;
- Porter atteinte à la bonne conservation des immeubles ou au caractère du site;
- Mettre en cause le développement économique et touristique.

*Article 3.* Des ordonnances souveraines, prises après avis de la Commission technique pour la lutte contre la pollution et pour la sauvegarde de la sécurité, de l'hygiène, de la salubrité et de la tranquillité publiques ainsi qu'après consultation, le cas échéant, du Comité supérieur de la santé publique, fixeront les conditions d'application de la présente loi.

Elles préciseront notamment :

a) Le délai au terme duquel s'appliquera l'interdiction des faits prévus par les articles 1 et 2 et qui sont nés antérieurement à la publication de la présente loi; ce délai ne pourra toutefois être prévu que pour les faits qui seront la conséquence directe et nécessaire d'une activité économique;

b) Les conditions auxquelles sont assujetties ou dans lesquelles peuvent être interdites l'importation, la fabrication, la diffusion, la mise en vente et l'utilisation d'appareils ou de produits pouvant donner naissance à des pollutions;

c) Les dispositions auxquelles seront subordonnées la construction et la mise en fonctionnement d'ouvrages, l'installation et la mise en service

<sup>1</sup> *Journal de Monaco* du 26 avril 1974, p. 304-306.

d'appareillages ainsi que l'ouverture ou l'exploitation d'établissements qui peuvent être la source de pollutions;

d) Les conditions dans lesquelles seront effectués les contrôles des caractéristiques physiques, chimiques, biologiques et bactériologiques des eaux et de l'air, ainsi que les prélèvements et analyses d'échantillons.

*Article 4.* Au cas où la sécurité ou la salubrité publiques seraient mises en péril par suite des effets de phénomènes polluants ou au cas d'urgence, des arrêtés ministériels, réglementaires ou individuels, pourront ordonner l'exécution immédiate de toutes mesures destinées à faire cesser les troubles et à réparer les dégradations lorsqu'un retard dans l'exécution entraînerait une atteinte irréversible au milieu ambiant.

*Article 5.* Les fonctionnaires ainsi que les agents assermentés de l'Etat, de la commune ou d'un établissement public chargés d'effectuer les contrôles ou prélèvements prescrits pour l'application de la présente loi seront spécialement habilités à cet effet par arrêté ministériel; ils constateront les infractions concurremment avec les officiers et agents de police judiciaire.

*Article 6.* Ceux qui auront enfreint les dispositions de la présente loi ou celles des ordonnances souveraines et arrêtés ministériels pris pour son application seront passibles d'un emprisonnement de un à cinq jours et de l'amende prévue au chiffre 3 de l'article 29 du Code pénal ou de l'une de ces deux peines seulement.

Si toutefois les infractions aux dispositions susvisées sont commises en raison du fonctionnement d'un ouvrage, de l'exploitation d'un établissement industriel ou commercial ou de l'utilisation d'un appareillage de même nature, leurs auteurs seront passibles d'un emprisonnement de six jours à un mois et de l'amende prévue au chiffre 1 de l'article 26 du Code pénal ou de l'une de ces deux peines seulement.

Lorsque, dans tous les cas, les infractions auront provoqué des dommages irréversibles au milieu ambiant, leurs auteurs encourront un emprisonnement de un à six mois et l'amende prévue au chiffre 2 de l'article 26 du Code pénal ou l'une de ces deux peines seulement.

Le tribunal ordonnera, s'il y a lieu et dans le délai qu'il fixera, d'exécuter tous travaux et aménagements ou de prendre toutes mesures nécessaires pour qu'il soit satisfait aux dispositions légales.

*Article 7.* Ceux qui n'exécuteront pas les travaux et aménagements à réaliser ou ne prendront pas les mesures ordonnées en application de l'article précédent seront passibles d'un emprisonnement de trois mois à un an et de l'amende prévue au chiffre 3 de l'article 26 du Code pénal.

Sur réquisition du procureur général et après audition de l'agent qualifié représentant le Ministre d'Etat, le tribunal pourra, en outre et jusqu'à ce que soient exécutés les travaux et aménagements ou prises les mesures utiles :

- Soit prononcer une astreinte dont il fixera le taux,
- Soit interdire d'utiliser les ouvrages et appareils ou d'exploiter les établissements qui sont la source de phénomènes polluants,

- Soit prononcer les interdictions visées ci-dessus et autoriser l'Administration à faire exécuter les travaux et aménagements ou prendre les mesures nécessaires aux frais des contrevenants.

Le tribunal pourra également les obliger à verser, pendant toute la durée des interdictions visées aux deux alinéas précédents, les rémunérations, salaires ou indemnités de toute nature qu'ils payaient jusqu'alors aux travailleurs ainsi que les cotisations sociales y afférentes.

*Article 8.* Seront punis d'un emprisonnement de six mois à trois ans et de l'amende prévue au chiffre 4 de l'article 26 du Code pénal ceux qui, malgré les interdictions visées à l'article précédent, auront utilisé les ouvrages et installations ou exploité les établissements en cause ou qui se seront opposés ou auront tenté de s'opposer aux travaux, aménagements ou mesures que l'administration aura été autorisée à faire exécuter ou prendre.

*Article 9.* Ceux qui auront mis ou tenté de mettre un obstacle à l'exercice des fonctions des agents visés à l'article 5 seront punis d'un emprisonnement de six mois à trois ans et de l'amende prévue au chiffre 4 de l'article 26 du Code pénal.

*Article 10.* La loi n° 232 du 8 avril 1937 ainsi que toutes dispositions contraires à la présente loi sont abrogées.

**b) ORDONNANCE SOUVERAINE No 4.884 DU 7 MARS 1972  
RELATIVE A LA LUTTE CONTRE LA POLLUTION DES EAUX<sup>1</sup>**

*Article premier.* Les dispositions de la présente Ordonnance ont pour objet la lutte contre la pollution des eaux. Elles s'appliquent au déversement et au rejet direct ou indirect de matières ou objets de toute nature dans les cours d'eau traversant la Principauté ainsi que dans les eaux intérieures ou la mer territoriale de Monaco, et, plus généralement, à tout fait susceptible de provoquer ou d'accroître la dégradation des eaux en modifiant leurs caractéristiques physiques, chimiques, biologiques ou bactériologiques.

*Article 2.* Est interdit le déversement ou le rejet de matières ou objets de toute nature susceptible de porter atteinte à la santé publique ainsi qu'à la faune et la flore marines et de mettre en cause le développement touristique de la Principauté.

*Article 3.* Les prélèvements et déversements d'eau de mer par des installations nouvelles sont subordonnés à une approbation préalable du projet technique des dispositifs d'épuration correspondant auxdites installations et à une autorisation de mise en service délivrée par l'Administration après érection effective des dispositifs d'épuration conformes au projet technique préalablement approuvé.

*Article 4.* Des ordonnances souveraines prises après avis de la Commission pour la lutte contre la pollution et pour la sauvegarde de la sécurité, de l'hygiène, de la salubrité et de la tranquillité publique déterminent les conditions dans lesquelles peuvent être réglementées la mise en vente et la diffusion de certains produits susceptibles de donner satisfaction à des

<sup>1</sup> *Journal de Monaco* No 5.972, du 10 mars 1972, p. 185.



déversements qui ont fait l'objet d'une interdiction ou d'une réglementation en vertu des articles 1 et 2 ci-dessus.

*Article 5.* Les infractions aux prescriptions de la présente Ordonnance et des textes pris pour son application sont constatées par les officiers et agents de police judiciaire ainsi que par tous les fonctionnaires et agents de l'Etat ou de la commune, assermentés à cet effet.

*Article 6.* Notre Secrétaire d'Etat, notre Directeur des services judiciaires et notre Ministre d'Etat sont chargés, chacun en ce qui le concerne, de la promulgation et de l'exécution de la présente Ordonnance.

c) ORDONNANCE SOUVERAINE No 4.885 DU 7 MARS 1972 INTERDISANT LE DEVERSEMENT DE CERTAINS PRODUITS DANS LES COURS D'EAU TRAVERSANT LA PRINCIPAUTE AINSI QUE DANS LES EAUX INTERIEURES OU LA MER TERRITORIALE DE MONACO ET REGLEMENTANT LA MISE EN VENTE ET LA DIFFUSION DE CERTAINS DETERGENTS DANS LES PRODUITS DE LAVAGE ET DE NETTOYAGE<sup>1</sup>

...

Vu notre ordonnance No 4.884, du 7 mars 1972, relative à la lutte contre la pollution des eaux<sup>2</sup> ;

...

*Article premier.* Le déversement dans les cours d'eau de la Principauté, ainsi que dans les eaux intérieures ou dans la mer territoriale de Monaco, de tout produit détergent appartenant à l'une des catégories suivantes :

- Détergents anioniques,
- Détergents cationiques,
- Détergents ampholytes,
- Détergents non ioniques,

est interdit lorsque la biodégradabilité de ces produits n'atteint pas 80 p. 100.

*Article 2.* Ne peuvent être mis en vente ni diffusés les produits de lavage ou de nettoyage contenant des détergents de l'une ou de plusieurs des catégories visées à l'article 1 ci-dessus, dont la biodégradabilité n'atteint pas 80 p. 100 pour chacune des catégories.

*Article 3.* Un arrêté ministériel déterminera :

- Les modalités de mesure de biodégradabilité de chacune des 4 catégories de détergents définies à l'article 1 ci-dessus qui peuvent être contenues dans les produits de lavage ou de nettoyage,
- La liste des laboratoires agréés pour procéder à ces mesures.

*Article 4.* Notre Secrétaire d'Etat, notre Directeur des services judiciaires et notre Ministre d'Etat sont chargés, chacun en ce qui le concerne, de la promulgation et de l'exécution de la présente ordonnance.

<sup>1</sup> *Ibid.*, p. 185 et 186.

<sup>2</sup> *Supra*, b.

## 10. NORWAY

[ACT NO. 46 OF 16 JUNE 1972 CONCERNING MEASURES TO BE ADOPTED IN PURSUANCE OF THE INTERNATIONAL CONVENTION OF 29 NOVEMBER 1969 RELATING TO INTERVENTION ON THE HIGH SEAS IN CASES OF OIL POLLUTION CASUALTIES, Sections 1 and 2]<sup>1</sup>

## 11. OMAN

### MARINE POLLUTION CONTROL LAW<sup>2</sup>

#### *Chapter I*

#### *General provisions*

*Article 1.1.* It is the declared policy of His Majesty the Sultan and the Government of the Sultanate to prevent, abate and eliminate all forms of pollution of the waters which are adjacent to the territory of the Sultanate of Oman so as to preserve the ecology of the area.

*Article 1.2.* The terms used in this Law and any regulations promulgated hereunder shall have the following meaning unless otherwise specified:

“Discharge” includes, but is not limited in its meaning to, any spilling, leaking, pumping, pouring, emitting, emptying, throwing or dumping.

“Minister” means the Minister of Communications and Public Services or any person or persons appointed by the Minister, including a pollution control officer as defined herein, to administer and enforce this Law and any regulations promulgated hereunder; provided, however, that no person or persons so appointed shall have the authority to promulgate regulations hereunder or to authorize the sinking or destruction of a vessel or the destruction of a place on land pursuant to Article 5.7 of this Law.

“Occupier” in relation to any place on land means the person actually occupying the place on land, the person in charge of the place on land, or the owner of the place on land; and, in relation to road vehicle, means the person in charge of or the owner of the vehicle and not the occupier or owner of the place on land on which the vehicle stands.

“Oil” means oil or liquid hydrocarbon of any kind and without limiting the generality of the foregoing, includes petroleum of any description, crude oil, furnace oil, lubricating oil, diesel oil, sludge and oil refuse.

“Oil Transmission Apparatus” includes but is not limited to any pipe or pipeline used to carry oil from one place or vessel to another, any pumping or other equipment or storage facilities necessary to utilize such pipes or pipelines and any other devices such as those commonly used in the operation

<sup>1</sup> *Infra*, Division III, 9.

<sup>2</sup> Text provided by the Permanent Representative of Oman to the United Nations in a note verbale of 2 December 1974. In accordance with the information provided in this note, the Law was to enter into force on 1 January 1975.

of single-buoy mooring systems for loading or off-loading oil or any facility for storing, pumping or transferring oil in a deep-water port facility.

“Oily Mixture” means any mixture with an oil content of 100 parts or more in 1,000,000 parts of the mixture.

“Owner” in relation to a vessel means the person registered as the owner of the vessel, the person having for the time being either by law or by contract the rights of the owner of the vessel as regards the possession and use thereof, including, but not limited to a charterer of the vessel, and the master of the vessel; and in relation to an oil transmission apparatus, means the owner or the person in charge of the apparatus.

“Place on Land” means anything resting on or anchored to the bed or shore of the sea or of any waters within the pollution-free zone or situated on the mainland of the Sultanate and includes any storage tank or facilities or drilling platforms or rigs, and anything afloat other than a vessel if it is so resting or anchored.

“Pollutant” means (i) oil or oily mixture; (ii) any substance of a dangerous or noxious nature such as sewage, refuse, waste or garbage, which, if added to any waters would degrade or alter or form part of a process of degradation or alteration of the quality of those waters to any extent that is detrimental to their use by man or by any animal, fish or plant that is useful to man; provided, however, that such discharges which do not originate from a commercial or industrial source shall not be deemed to be pollutants unless the Minister shall provide otherwise by regulations promulgated hereunder; (iii) any water which contains such a substance in such quantity or concentration, or that has been so treated, processed or changed, by heat or other means, from a natural state that it would, if added to any waters, degrade, alter or form part of a process of degradation or alteration of the quality of those waters to an extent that is detrimental to their use by man or by any animal, fish or plant that is useful to man; and (iv) any substance which may be designated by the Minister to be a pollutant pursuant to any regulations promulgated hereunder.

“Pollution Control Officer” means any person or persons appointed by the Minister of Communications and Public Services to carry out those specific duties relating to the enforcement of this Law and any regulations promulgated hereunder.

“Pollutant Reception Facilities” means such facilities which the Minister may authorize to be constructed or maintained for purposes of receiving the discharge or deposit of any ballast or any pollutant.

“Pollution-Free Zone” means that body of water encompassing the Territorial Sea of the Sultanate and those waters extending 38 nautical miles seaward, measured from the outer limits of the Territorial Sea of the Sultanate; provided, however, where the coast of another state is opposite or adjacent to the coast of the Sultanate, the outer limits of the pollution-free zone shall not extend beyond such limits as may have been agreed to with such other states or, if there is no such agreement, the median line every point of which is equidistant from the nearest points on the baselines from which the breadth of the Territorial Sea of the Sultanate and the territorial sea of such other state is measured.

“Vessel” means any ship or boat used in navigation including floating barges whether automotive or towed.

## Chapter II

### *Application of law*

*Article 2.1. (a)* It shall be unlawful for any person to discharge a pollutant into the pollution-free zone from a vessel, a place on land, or an oil transmission apparatus, and each such discharge or, in the case of a continuous discharge, each day the unlawful discharge continues, shall be deemed a separate violation.

*(b)* Any person who violates this Article shall be liable upon being found guilty to a fine not exceeding 5,000 Rials Omani for each violation. The amount of the fine to be imposed pursuant to this Article shall be determined on the basis, *inter alia*, of the degree of culpability of the wrongdoer.

*Article 2.2. (a)* It shall be unlawful for any vessel to discharge a pollutant into the pollution-free zone, and each discharge or, in the case of a continuous discharge, each day the unlawful discharge continues, shall be deemed a separate violation.

*(b)* Any vessel which violates this Article shall be liable upon being found guilty to a fine which shall not exceed the aggregate amount of .05 Rials Omani for each ton of the vessel's tonnage, but in no event shall such fine exceed 25,000 Rials Omani for each violation. Each of the owners of the vessel, as defined herein, shall be jointly and severally liable for the payment of any such fine imposed on the vessel pursuant to this Article.

*Article 2.3. (a)* It shall be unlawful for any owner of a vessel or owner or occupier of a place on land or oil transmission apparatus to fail to comply with and carry out all of their obligations under: (i) Chapter Six of this Law relating to the payment of any costs incurred or damages suffered as a result of an unlawful discharge of a pollutant; (ii) Chapter Four of this Law relating to reporting, record-keeping and insurance requirements; or (iii) any regulations promulgated hereunder.

*(b)* Any person who violates this Article shall be liable upon being found guilty to a fine not exceeding 2,000 Rials Omani. The amount of the fine to be imposed pursuant to this Article shall be determined on the basis, *inter alia*, of the degree of culpability of the wrongdoer.

*Article 2.4. (a)* It shall be unlawful for any vessel registered in the Sultanate to discharge a pollutant into any waters beyond the pollution-free zone, and each such discharge or, in the case of a continuous discharge, each day the unlawful discharge continues, shall be deemed a separate violation.

*(b)* Any vessel which violates this Article shall be liable upon being found guilty to a fine which shall not exceed the aggregate amount of .05 Rials Omani for each ton of the vessel's tonnage, but in no event shall such fine exceed 25,000 Rials Omani for each violation. Each of the owners of the vessel, as defined herein, shall be jointly and severally liable for the payment of any such fine imposed on the vessel pursuant to this Article.

*Article 2.5.* In addition to the penalties imposed by Articles 2.1 (b) and 2.3 (b) of this Law, if a master of a vessel has violated Article 2.1 (a) or 2.3 (a) of this Law, or if any vessel or vessels of which he is master has or have violated Article 2.2 (a) or 2.4 (a) of this Law, or any combination of such violations, more than three times, such master shall be liable upon being found guilty to an additional fine of not less than 3,000 Rials Omani or imprisonment for a period not exceeding six months, or both.

*Article 2.6.* For purposes of prosecuting a vessel for violation of Article 2.2 (a) or 2.4 (a) of this Law, it shall be presumed that the unlawful discharge of a pollutant was committed by the master of the vessel or any other person on board the vessel who appears to be in charge of the vessel whether or not such person has been or can be identified and such discharge shall be deemed to be the act of the vessel.

*Article 2.7.* A written notice stating that Article 2.1 (a), 2.3 (a) or 2.5, of this Law, as the case may be, has been violated and that a fine in a specified amount has been imposed shall be delivered by hand, or, if that is impracticable, by mail, to the person against whom the fine is to be imposed.

*Article 2.8.* A written notice stating that Article 2.2 (a) or 2.4 (a) of this Law, as the case may be, has been violated and that a fine in a specified amount has been imposed upon a vessel shall either be delivered by hand to the master of such vessel, or affixed or posted on a conspicuous part of such vessel and, unless payment of such fine or security for the payment thereof is delivered to the Minister or his representative within twenty-four hours of the delivery or affixing of such written notice, a pollution control officer may seize the vessel in accordance with Article 5.8 of this Law.

*Article 2.9.* If any owner of a vessel or owner or occupier of a place on land or oil transmission apparatus violates the provisions of this Law or any regulations promulgated hereunder, such owner or occupier shall, in addition to any sanction imposed pursuant to Article 2.1 (b) or 2.3 (b) of this Law and any civil liability accruing under Chapter VI of this Law, be subject, on the basis of the Minister's recommendation subsequent to the third offence, to the temporary or permanent forfeiture of any or all rights granted to such owner or occupier pursuant to any permit, registration or authorization by or from, or any agreement with, the Government of the Sultanate; provided the ministry, department or agency of the Government of the Sultanate which issued any such permit or authorization or which maintains such registration or is a party to or responsible for such agreement, concurs with the recommendation.

*Article 2.10.* In the event that a determination is made pursuant to Article 5.1 of this Law that there has been a violation of any of the provisions of this Chapter II or that any sanctions may be imposed upon any person or vessel pursuant to this Chapter II such person or vessel shall have the right to appeal such determination to the Committee for the Settlement of Maritime Disputes on or before the 45th day after notice of such violation or sanctions has been served by hand upon or mailed to such person or vessel. If the determination is affirmed by the Committee, the person or vessel shall have a final right of recourse to the Council of Ministers. The decision of the Council shall be final.

*Article 2.11.* In the event that a determination is made pursuant to Article 5.1 of this Law to impose a fine for the violation of any one or more of Articles 2.1 (a), 2.3 (a) or 2.5 of this Law, such fine shall be paid on or before the 45th day after the notice thereof has been served by hand upon or mailed to the person upon whom the fine has been imposed unless, prior to such date, such determination has been appealed pursuant to Article 2.10 of this Law. In the event that, in any such appeal, the determination to impose a fine is affirmed, in whole or in part, the amount of the fine so affirmed shall be paid to the Minister or his representative on or before the seventh day after the decision on appeal has become final.

### Chapter III

#### *Special defences*

*Article 3.1.* Where a person or a vessel is charged with an offence under Article 2.1 (a), 2.2 (a) or 2.4 (a) of this Law, respectively, it shall be a defence to prove that the pollutant in question was discharged for the purpose of:

- (a) Saving life;
- (b) Securing the safety of any vessel; or
- (c) Preventing serious damage to any vessel, its cargo, any place on land or any oil transmission apparatus;

provided, however, that a defence under this Article shall not be available if the Minister is satisfied that the discharge of a pollutant was not necessary for the purpose alleged in the defence or was not a reasonable step to take in the circumstances.

*Article 3.2.* Where a person or vessel is charged with an offence under Article 2.1 (a), 2.2 (a) or 2.4 (a) of this Law, respectively, it shall also be a defence to prove that the pollutant in question was discharged:

(a) As a direct consequence of accidental damage to the vessel, place on land or oil transmission apparatus, as the case may be, when the accident did not occur as a result of negligence on the part of the person asserting the defence; or

(b) By reason of leakage which was not due to negligence on the part of the person asserting the defence;

provided, however, that as soon as practicable after the damage occurred or the leak was discovered, all reasonable steps were taken to prevent, or (if it could not be prevented) to stop or reduce the discharge of the pollutant, and that the events were immediately reported to the Minister in accordance with Articles 4.4 and 4.5 of this Law.

*Article 3.3.* Where an owner or occupier of a place on land or an oil transmission apparatus is charged with an offence under Article 2.1 (a) of this Law, it shall be a defence to prove that the discharge was caused by the act of a person who was in that place without the permission (express or implied) of the owner or occupier, as the case may be.

*Article 3.4.* Where a discharge of a pollutant occurs or is intensified as a direct result of actions taken by or at the direction of a pollution control officer pursuant to Article 5.7 of this Law, to prevent, reduce or stop pollution, then no offence shall be charged under Article 2.1 (a), 2.2 (a), 2.4 (a) or 2.5 of this Law for such discharge or such intensification of a discharge, as the case may be.

*Article 3.5.* Where a discharge of a pollutant occurs at a pollutant reception facility or any other place selected by the Minister to receive the discharge of any ballast or any pollutant and at such times and in such manner as the Minister may prescribe, then such a discharge shall not constitute an offence under Article 2.1 (a), 2.2 (a), 2.4 (a) or 2.5 of this Law.

#### *Chapter IV*

##### *Record-keeping, reporting and insurance requirements*

*Article 4.1.* Every vessel registered in the Sultanate shall maintain an oil record book within which the owner, master or other person in charge of the vessel shall record the name, number and capacity of the cargo and fuel tanks in the vessel. In addition, such person shall record in the oil record book the date, hour and specific geographical position of the vessel at the time of each of the following events:

(a) The carrying out of the loading, delivery or other transfer of oil cargo, indicating the specific type of oil involved;

(b) The ballasting of oil cargo or fuel tanks, the discharging of ballast from, and the cleaning of such oil tanks, indicating the specific type of oil carried or utilized by the vessel as the case may be, both prior to ballasting and after discharging ballast;

(c) The separating of oil from water, or from other substances, in any mixture containing oil;

(d) The discharging of oil or oily mixtures from the vessel for the purpose of securing the safety of the vessel, or of preventing damage to any vessel or cargo, or of saving lives, indicating the specific type of oil involved; and

(e) The discharging of oil or oily mixtures from the vessel as a result of a collision or accident, indicating the specific type of oil involved.

*Article 4.2.* Every vessel not registered in the Sultanate but which receives or delivers oil from or to a port facility or oil transmission apparatus within the territorial waters of the Sultanate, shall maintain an oil record book within which the owner, master or other person in charge of the vessel shall record the name, number and capacity of the cargo and fuel tanks in the vessel. In addition, such person shall record in the oil record book the date, hour and specific geographical position of the vessel at the time of each of the events set forth in subparagraphs (a) through (e) in Article 4.1 of this Law, to the extent that any of such events occur while the vessel is within the pollution-free zone.

*Article 4.3.* The owner, master or other person in charge of a vessel required to maintain an oil record book under Article 4.1 or 4.2 of this Law

shall, upon the request of the Minister, or a pollution control officer, make such book available for inspection either while the vessel is in port in the Sultanate or while the vessel is within the territorial waters of Oman.

*Article 4.4.* The owner, master or other person in charge of any vessel travelling through the waters of the pollution-free zone shall report to the Minister forthwith, the occurrence of any of the events set forth in Article 4.1 of this Law to the extent any of such events occur while the vessel is travelling within the pollution-free zone. Such reports shall be made as soon as practicable after the occurrence of the event or in such manner as the Minister shall prescribe by regulation.

*Article 4.5.* The owner or occupier of a place on land or an oil transmission apparatus located within Omani territorial waters from which a discharge of a pollutant into the pollution-free zone originates, shall report to the Minister forthwith the occurrence of any such discharge. Such reports shall include the type of pollutant, the time, the date and the specific geographical location where the event occurred and shall be made as promptly as possible after the occurrence of the event.

*Article 4.6.* Subject to such regulations as may be promulgated by the Minister, the owner of any Omani-registered vessel which carries a pollutant in bulk or any non-Omani vessel which carries a pollutant in bulk to or from any Omani port, shall submit to the Minister on or before the vessel's entry into the pollution-free zone or, in the case of a vessel which regularly receives or delivers oil from or to a port facility or oil transmission apparatus within the territorial waters of the Sultanate, on or before the vessel's first entry into the pollution-free zone and thereafter on or before January 1st of each year such vessel is subject to the terms of this Article, evidence of financial responsibility in the form of insurance or an indemnity bond or any other evidence of financial responsibility satisfactory to the Minister in an amount equal to the lesser of (i) the aggregate amount of ten Rials Omani for each ton of the vessel's tonnage or (ii) 4,000,000 Rials Omani. Such insurance, indemnity bond or other undertaking of financial responsibility shall remain in effect in accordance with its terms as submitted to the Minister and any changes or amendments thereto shall promptly be filed with the Minister.

## *Chapter V*

### *Administration and enforcement*

*Article 5.1.* A pollution control officer or any other person designated by the Minister for this purpose shall investigate and review the facts relating to any alleged violation of this Law and such person or persons shall, upon the completion thereof, determine: (i) whether a violation of this Law occurred and the sanctions, if any, to be imposed therefor; and (ii) whether civil liability accrued under Chapter VI hereof as a result of the discharge from a vessel, a place on land or an oil transmission apparatus as the case may be.



*Article 5.2.* The Minister may, independently or in conjunction with other interested ministries, departments and agencies of the Government of the Sultanate, do one or both of the following:

(a) Construct and maintain pollutant reception facilities on land or within the territorial waters of the Sultanate; and

(b) Promulgate regulations requiring vessels using ports within the Sultanate or travelling through the pollution-free zone to discharge or deposit in such pollutant reception facilities any ballast or any pollutant.

*Article 5.3.* The Minister may, independently or in conjunction with other interested ministries, departments and agencies of the Government of the Sultanate, promulgate regulations prescribing the type of equipment with which Omani-registered vessels and all or certain classes of non-Omani vessels which use Omani ports or pass through the pollution-free zone must be fitted in order to minimize the risk of pollution.

*Article 5.4.* Subject to the limitations set forth in this Article and such regulations as may be promulgated hereunder, the Minister shall authorize one or more pollution control officers to enforce a prohibition on the transfer of oil or other pollutants to or from vessels in the Omani territorial waters between the hours of 6:00 p.m. and 6:00 a.m. where such transfers have not been authorized by the Director General of Petroleum and Mineral Resources. The Minister may, however, upon reasonable notice to the Minister or a pollution control officer from persons wishing to effect night transfers of oil, suspend the prohibition in this Article.

*Article 5.5.* For purposes of taking emergency actions to eliminate pollution or ascertaining whether a provision of this Law or any regulation promulgated hereunder has been or is being complied with, any pollution control officer is empowered to go on board a vessel or an oil transmission apparatus in the pollution-free zone or enter a place on land in the Sultanate, to examine equipment or records, to require a person to answer questions relating to compliance with this Law, or to effect emergency measures under Article 5.7 of this Law regarding the elimination of any pollutant from the pollution-free zone.

*Article 5.6.* Any pollution control officer is empowered to arrest without warrant any person who has committed an offence under this Law or any regulations made hereunder for which a sentence of imprisonment may be imposed, and to take such person into custody to be dealt with according to the law.

*Article 5.7.* In the event of an accident to or in a vessel, a place on land or an oil transmission apparatus which results in or could result in large-scale pollution of the pollution-free zone, the Minister may authorize one or more pollution control officers for purposes of preventing, stopping or reducing pollution or the risk of pollution, to direct the owner, master, occupier or person in charge of such vessel, place on land or apparatus, as the case may be, to take or refrain from taking specific actions, or, if such actions prove to be inadequate, to take any and all necessary independent action, including but not limited to the sinking or the destruction of the vessel or the destruction of the place on land or oil transmission apparatus as the case may be.

*Article 5.8.* The Minister or any pollution control officer authorized by the Minister shall be empowered to detain or seize a vessel within the pollution-free zone in the name of the Government of the Sultanate:

(a) When a vessel violates Article 2.2 (a) or 2.4 (a) of this Law and the payment of the fine imposed under subparagraph (b) of each of those Articles or security for the payment of such fine is not delivered to the Minister in accordance with the conditions of Article 2.8 of this Law;

(b) When an accident to or in a vessel occurs which could result in large-scale pollution of the pollution-free zone and the Minister or a pollution control officer issue directives to the vessel under Article 5.7 of this Law which are not immediately carried out;

(c) When an owner, master or person in charge of the vessel to be seized violates Article 2.1 (a), 2.3 (a) or 2.5 of this Law and payment of the fine imposed under Article 2.1 (b), 2.3 (b) or 2.5 of this Law or security for the payment of such fine is not delivered to the Minister in accordance with the conditions of Article 2.11 of this Law; or

(d) When an owner, master, or person in charge of the vessel to be seized is civilly liable under Article 6.1 of this Law and payment of the amount due or security for payment of said amount is not delivered to the Minister in accordance with the conditions of Article 6.3 of this Law; or

(e) When the Minister shall have reason to believe that the fines which may be or have been imposed under Chapter II of the Law would not be paid if so imposed or will not be paid in accordance with the provisions of this Law.

*Article 5.9.* Where a vessel is seized or detained pursuant to Article 5.8 of this Law, the Minister or a pollution control officer so authorized by the Minister may order re-delivery of the vessel to the person(s) from whom it was seized if any amounts payable by such person(s) or security for the payment of said amounts are delivered to the Minister.

*Article 5.10.* Where a vessel is seized or detained pursuant to Article 5.8 of this Law and any fines imposed or any liability accrued under this Law are not paid within thirty days of the seizure, the Minister may recover such amounts, with costs, out of the proceeds of a public sale of the vessel and its cargo to be held pursuant to this Article not earlier than ten days after notice thereof has been published in the Official Gazette, or out of any security given pursuant to this Law, and any seized property not so sold and any surplus funds arising from any sale shall thereupon be re-delivered or paid as the case may be, to the person(s) from whom the property was seized.

*Article 5.11.* The Minister may demand any monies due as a result of: (i) a fine imposed under Article 2.1 (b), 2.2 (b), 2.3 (b), 2.4 (b) or 2.5 of this Law or (ii) civil liability imposed under Article 6.1 of this Law. If such demand is not satisfied in accordance with the procedures set forth in this Law, the Minister may initiate a money action in the appropriate forum either within the Sultanate or in any other jurisdiction, to recover all monies due. Such an action may be brought by the Minister on behalf of either the Sultanate or any person injured by the pollution discharge, or both. In the event the Minister sues on behalf of an injured individual or class of persons,

he shall maintain any proceeds recovered as a fund for the benefit of and distribute such funds to the person or persons who suffered damages.

*Article 5.12.* The Minister shall promptly remit to the Department of Finance of the Government of the Sultanate all monies collected pursuant to Article 5.11 of this Law except such amounts as are held for the benefit of person or persons who suffered damages.

*Article 5.13.* The Minister may appoint that number of pollution control officers and other persons which may be necessary to carry out the provisions of this Law and any regulations promulgated hereunder.

*Article 5.14.* The Minister may promulgate regulations exempting any vessels or classes of vessels or any person or classes of persons from any provision of this Law or of any regulation promulgated hereunder, either absolutely or subject to such conditions as the Minister shall determine, specifying the basis or other reason for such exemption and why such exemption is in the interest of the Sultanate.

*Article 5.15.* The Minister may, if so authorized by His Majesty the Sultan, represent the Government of the Sultanate in negotiations with any other government or international organization concerning any agreement or treaty which would assist the Minister in accomplishing the general pollution control objectives of this Law; provided, however, that accession to and ratification of any such agreement or treaty will require the express written approval of His Majesty the Sultan.

*Article 5.16.* The Minister shall promulgate such additional rules and regulations as may be required to carry out the policies, purposes and terms of this Law.

*Article 5.17.* Regulations promulgated by the Minister, amendments thereto and cancellations thereof shall become effective on the 30th day after publication thereof in the Official Gazette unless:

(a) His Majesty the Sultan decrees that such proposed regulations, amendments or cancellations shall become effective on some other date and such other date is published in the Official Gazette;

(b) His Majesty the Sultan amends such proposed regulations, amendments or cancellations in which case the regulations, amendments or cancellations, as so amended, shall be published in the Official Gazette and shall become effective on such 30th day or on such other day as may be set by His Majesty the Sultan; or

(c) His Majesty the Sultan revokes such proposed regulations, amendments or cancellations and such revocation is published in the Official Gazette.

## *Chapter VI*

### *Civil liability for costs and damages*

*Article 6.1.* If a determination is made pursuant to Article 5.1 of this Law that a discharge of a pollutant into the pollution-free zone originated from a vessel, a place on land, or oil transmission apparatus, then the owner

of such vessel or the owner or occupier of such place on land or oil transmission apparatus, as the case may be, shall, subject to the limitations set forth in Articles 6.2 and 6.4 of this Law and without regard to whether there is a finding of culpability or negligence, be liable:

(a) For the costs incurred by the Government of the Sultanate or any other person in preventing, stopping, reducing or eliminating the pollution from the waters of the pollution-free zone and in restoring the ecology of the area to the condition existing prior to the discharge; and

(b) For the damages suffered by the Government of the Sultanate or any other person as a result of the discharge, in addition to the costs referred to in subparagraph (a) of this Article.

*Article 6.2.* Notwithstanding any other provision of this Law, the aggregate amount recoverable under Article 6.1 (b) of this Law in respect of any discharge of a pollutant into the pollution-free zone, whether it is a single discharge or a continuous discharge from a single source, from a vessel, place on land or oil transmission apparatus, or the imposition of liability on any person or persons in connexion with such discharge shall not exceed an aggregate of 4,000,000 Rials Omani, and in the case of liability arising from a discharge by a vessel, the lesser of an aggregate of 4,000,000 Rials Omani or the aggregate amount of ten Rials Omani for each ton of the vessel's tonnage.

*Article 6.3.* A written notice that a person is liable for specified costs incurred or damages suffered under Article 6.1 of this Law shall be delivered to the person by hand, or if that is impracticable, by mail or some other method of service reasonably designed to apprise the person of the liability, and unless payment of the amount or amounts specified in the notice or security for the payment of such amount or amounts is delivered to the Minister within 45 days of the service of such notice, the Minister may take such additional actions as are authorized and appropriate under this Law; unless, prior to such date, such person has appealed such determination in accordance with Article 6.6 of this Law.

*Article 6.4.* The occupier of a place on land shall be exempted from the liability to pay the costs or damages set forth in Article 6.1 of this Law, if it is proven that the discharge of a pollutant was caused by the act of a person who was in that place without the permission (express or implied) of the occupier.

*Article 6.5.* Nothing in this Law shall prohibit any private person from seeking compensation against any other person for damages suffered as a result of a discharge of a pollutant.

*Article 6.6.* If a determination is made pursuant to Article 6.1 of this Law, that a person is civilly liable, the person or persons adversely affected by such determination shall have the right to appeal that determination to the Committee for the Settlement of Maritime Disputes. If the determination is affirmed by the Committee, the person shall have a final right of recourse to the Council of Ministers. The decision of the Council shall be final.

*Chapter VII*

*Effectiveness*

*Article 7.1.* The provisions of any decree, law or regulation inconsistent with any provision hereof are hereby revoked.

...

**12. SINGAPORE**

CIVIL LIABILITY (OIL POLLUTION) ACT 1973<sup>1</sup>

...

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

“Authority” means the Port of Singapore Authority established under the Port of Singapore Authority Act;

“damage” includes loss;

“Director” means the Director of Marine appointed under section 6 of the Merchant Shipping Act and includes the Deputy Director of Marine appointed under that section;

“master” includes every person, except a pilot, having command or charge of a ship;

“offshore facility” means any facility of any kind located in, on or under any of the territorial waters of Singapore other than a ship;

“oil” means oil of any description and includes spirit produced from oil of any description, coal tar, oil refuse and oil mixed with waste;

“onshore facility” means any facility (but not limited to motor vehicles and rolling stock) of any kind located in, on or under any land within Singapore other than submerged land;

“owner”, in relation to a ship, means the person registered as the owner of the ship, or in the absence of registration the person owning the ship except that, in relation to a ship owned by a State which is operated by a person registered as the ship’s operator, it means the person registered as the operator;

“owner or operator”, in relation to an offshore facility and an onshore facility, means any person owning or operating such offshore facility or onshore facility and in the case of an abandoned offshore facility, the person who owned or operated such facility immediately prior to such abandonment;

“port” has the same meaning as is assigned to it in the Port of Singapore Authority Act;

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<sup>1</sup> Act No. 43 of 1973. All the provisions of this Act, except sections 6 and 11, have been brought into force in accordance with the information provided by the Chargé d’Affaires, a.i. of the Permanent Mission of Singapore to the United Nations in a note verbale of 9 July 1974.

“Port Master” means the Port Master appointed under section 35 of the Port of Singapore Authority Act and includes any Deputy Port Master appointed under that section;

“ship” includes every description of vessel used in navigation and includes a dump-barge and also includes an air cushioned vehicle;

“Surveyor-General” means the Surveyor-General of Ships appointed under section 8 of the Merchant Shipping Act.

(2) In relation to any damage or loss resulting from the discharge or escape of any oil from a ship references in this Act to the owner of the ship are references to the owner at the time of the occurrence or first of the occurrences resulting in the discharge or the escape.

(3) References in this Act to the area of Singapore include the territorial waters of Singapore.

(4) Any reference in this Act to the measures reasonably taken after the discharge or escape of oil for the purpose of preventing or reducing any damage caused by contamination resulting from such discharge or escape shall include actions taken to remove the oil from the water and foreshores or the taking of such other actions as may be necessary to minimize or mitigate damage to the public health or welfare, including but not limited to fish, shellfish, wildlife, and public and private property, foreshores and beaches.

(5) Any reference in this Act to the discharge or escape of any oil from a ship, offshore facility or onshore facility shall be construed as a reference to the discharge or escape of the oil from the ship, offshore facility or onshore facility at any place in or outside the area of Singapore.

3. (1) Where any oil is discharged or escapes from any ship (whether carried as part of a cargo of a ship or otherwise), offshore facility, or onshore facility—

(a) The owner of the ship; or

(b) The owner or operator of the offshore facility or onshore facility, shall be liable, except as otherwise provided by this Act;

(c) For any damage caused in the area of Singapore by contamination resulting from the discharge or escape;

(d) For the cost of any measures reasonably taken after the discharge or escape for the purpose of preventing or reducing any such damage in the area of Singapore; and

(e) For any damage caused in the area of Singapore by any measures so taken.

(2) Where any oil is discharged or escapes from two or more ships and—

(a) A liability is incurred under this section by the owner of each of them; but

(b) The damage or cost of which each of the owners would be liable cannot reasonably be separated from that for which the other or others would be liable,

the owners shall be liable, jointly and severally with the other or others, for the whole of the damage or cost for which the owners together would be liable under this section.

(3) For the purposes of this Act, where more than one discharge or escape results from the same occurrence or from a series of occurrences having the same origin, they shall be treated as one; but any measures taken after the first of them shall be deemed to have been taken after the discharge or escape.

(4) The Contributory Negligence and Personal Injuries Act shall apply in relation to any damage or cost for which a person is liable under this section, but which is not due to his fault, as if it were due to his fault.

4. The owner or operator of a ship, offshore facility, or onshore facility, from which oil has been discharged or has escaped, shall not incur any liability under section 3 if he proves that the discharge or escape—

(a) Resulted from an act of war, hostilities, civil war, insurrection or an exceptional, inevitable and irresistible natural phenomenon;

(b) Was due wholly to anything done or left undone by another person, not being a servant or agent of the owner or operator with intent to do damage; or

(c) Was, in the case of the discharge or escape of oil from a ship, due wholly to the negligence or wrongful act of the Government or the Authority in exercising its function of maintaining lights or other navigational aids for the maintenance of which it was responsible.

5. Where, as a result of any oil being discharged or escaping from a ship, offshore facility or onshore facility then, whether or not the owner or operator thereof incurs a liability under section 3,

(a) He shall not be liable otherwise than under that section for any such damage or cost as is mentioned therein; and

(b) No servant or agent of the owner or the operator nor any person performing salvage or cleaning operations with the agreement of the owner or operator shall be liable for any such damage or cost.

6. (1) Where the owner of a ship incurs a liability under section 3 by reason of a discharge or escape which occurred without his actual fault or privity—

(a) Section 295 of the Merchant Shipping Act shall not apply in relation to that liability; but

(b) His liability (that is to say, the aggregate of his liabilities under section 3 resulting from the discharge or escape) shall not exceed three hundred and seventy-five dollars for each ton of the ship's tonnage nor (where that tonnage would result in a greater amount) fifty million dollars.

(2) For the purposes of this section the tonnage of a ship shall be ascertained as follows:

(a) If the ship is a Singapore ship or British registered ship (whether registered in the United Kingdom or elsewhere) or a ship to which an Order under section 84 of the Merchant Shipping Act 1894 applies, its tonnage shall be taken to be its registered tonnage increased, where a deduction has been made for engine room space in arriving at that tonnage, by the amount of that deduction;

(b) If the ship is not such a ship as is mentioned in paragraph (a) and it is possible to ascertain what would be its registered tonnage if it were registered in Singapore, that paragraph shall apply (with the necessary modifications) as if the ship were so registered;

(c) If the ship is not such a ship as is mentioned in paragraph (a) and it is not possible to ascertain its tonnage in accordance with paragraph (b), its tonnage shall be taken to be forty per cent of the weight (expressed in tons of two thousand two hundred and forty pounds) of oil which the ship is capable of carrying;

(d) If the tonnage of the ship cannot be ascertained in accordance with paragraph (a), (b) or (c) the Surveyor-General shall, if so directed by the court, certify what, on the evidence specified in the direction, would in his opinion be the tonnage of the ship if ascertained in accordance with those paragraphs, and the tonnage stated in his certificate shall be taken to be the tonnage of the ship.

7. No action to enforce a claim in respect of a liability incurred under section 3 shall be entertained by any court in Singapore unless the action is commenced not later than three years after the claim arose nor later than six years after the occurrence or first of the occurrences resulting in the discharge or escape by reason of which the liability was incurred.

8. Paragraph (d) of subsection (1) of section 3 of the High Court (Admiralty Jurisdiction) Act shall be construed as extending to any claim in respect of a liability incurred by the owner of a ship under this Act.

9. The provisions of this Act shall not apply in relation to any warship or any ship for the time being used by the government of any foreign country for other than commercial purposes.

10. (1) Where—

(a) After an escape or discharge of oil from a ship, offshore facility, or onshore facility, measures are reasonably taken for the purpose of preventing or reducing damage in the area of Singapore which may be caused by contamination resulting from the discharge or escape; and

(b) Any person incurs, or might but for the measures have incurred, a liability, otherwise than under section 3, for any such damage,

then, notwithstanding that paragraph (d) of subsection (1) of that section does not apply, he shall be liable for the cost of the measures, whether or not the person taking them does so for the protection of his interests or in the performance of a duty.

(2) For the purposes of section 295 of the Merchant Shipping Act, any liability incurred under this section shall be deemed to be a liability to damages in respect of such loss, damage or infringement mentioned in paragraph (d) of subsection (1) of that section.

11. (1) Where any liability is alleged to have been incurred by the owner of a Singapore or foreign ship in respect of any occurrence in respect of which his liability is limited under section 6, and several claims are made or apprehended in respect of that liability, then the owner may apply to the High Court, and the Court may determine the amount of the owner's liability



and may distribute that amount rateably among the several claimants, and may stay any proceedings pending in any other court in relation to the same matter, and may proceed in such manner and subject to such regulations as to making persons interested parties to the proceedings, and as to the exclusion of any claimants who do not come in within a certain time, and as to requiring security from the owner, and as to payment of any costs as the Court thinks just.

(2) No lien or other right in respect of any ship or property shall affect the proportions in which any amount is distributed among several claimants under this section.

12. Where the Director or the Port Master has reasonable cause to believe that any oil has been discharged or has escaped from any ship and the owner of the ship has incurred a liability under section 3, the Director or the Port Master may detain the ship and the ship may be so detained until the owner of the ship deposits with the Government or the Authority a sum of money or furnishes such security which would in the opinion of the Director or the Port Master be adequate to meet the owner's liability under that section.

13. (1) If any ship is detained under section 12 and the ship proceeds to sea before it is released by the Director or the Port Master, the master of the ship, and also the owner thereof and any person who sends the ship to sea, if that owner or person is party or privy to the act of sending the ship to sea, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding fifty thousand dollars or to imprisonment for a term not exceeding two years or to both such fine and imprisonment.

(2) Any person authorized under this Act to detain a ship may, if he thinks it necessary, place a police guard on board.

14. (1) The Director, the Port Master or a police officer may arrest without warrant any person who has committed or whom he reasonably believes to have committed an offence under this Act and take him before a Magistrate's Court or a District Court, as the case may be, to be dealt with according to law.

(2) Any article concerning, by or for which an offence has been committed may be seized and taken to a police station, unless given up sooner by order of a Magistrate's Court or a District Court, until the charge is decided in due course of law.

15. No matter or thing done by the Director, the Port Master or an officer employed in the administration of this Act or other person acting under the direction of the Director or the Port Master shall, if the matter or thing was done *bona fide* for the purpose of executing this Act, subject them or any of them personally to any action, liability, claim or demand whatsoever.

16. (1) Proceedings for an offence under this Act may be brought only by or with the sanction of the Public Prosecutor.

(2) Any employee of the Authority or any police officer may conduct such a prosecution on behalf of the Authority.

(3) Any offence under this Act may be tried by a District Court or by a Magistrate's Court and such court shall, notwithstanding the provisions of the Criminal Procedure Code and any other written law, have jurisdiction to impose the maximum penalty provided for by this Act.

(4) Where a body corporate is guilty of an offence under this Act and the offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity he, as well as the body corporate, shall be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

17. The Prevention of Pollution of the Sea Act, 1971 is hereby amended in the manner set out in the Schedule to this Act.<sup>1</sup>

### 13. SWEDEN

- (a) [ACT NO. 1154 OF 17 DECEMBER 1971 TO PROHIBIT THE DISCHARGE (DUMPING) OF WASTE MATTER INTO WATER, AS AMENDED IN 1972, Articles 1-6 and 8]<sup>2</sup>
- (b) [ACT NO. 275 OF 2 JUNE 1972 CONCERNING MEASURES TO PREVENT THE POLLUTION OF WATER BY VESSELS, AS AMENDED ON 17 DECEMBER 1973]<sup>3</sup>
- (c) [ACT NO. 1198 OF 17 DECEMBER 1973 CONCERNING LIABILITY FOR OIL DAMAGE AT SEA]<sup>4</sup>
- (d) [ACT NO. 1199 OF 17 DECEMBER 1973 CONCERNING COMPENSATION FROM THE INTERNATIONAL OIL POLLUTION COMPENSATION FUND]<sup>5</sup>
- (e) [ROYAL ORDER NO. 278 OF 2 JUNE 1972 CONCERNING MEASURES TO PREVENT THE POLLUTION OF WATER BY VESSELS]<sup>6</sup>
- (f) [ORDER OF 6 JUNE 1972 BY THE NATIONAL ADMINISTRATION OF SHIPPING AND NAVIGATION CONCERNING MEASURES TO PREVENT THE POLLUTION OF WATER BY VESSELS, Paragraphs 1-3, 5 and 7-8]<sup>7</sup>

### 14. TOGO

[LOI No 64-14 DU 11 JUILLET 1964 PORTANT REGLEMENTATION DE LA PECHE, articles 3 et 13]<sup>8</sup>

<sup>1</sup> *Infra* Division III, 11.

<sup>2</sup> *Infra* Division III, 12 (a).

<sup>3</sup> *Ibid.*, 12 (b).

<sup>4</sup> *Ibid.*, 12 (c).

<sup>5</sup> *Ibid.*, 12 (d).

<sup>6</sup> *Ibid.*, 12 (e).

<sup>7</sup> *Ibid.*, 12 (f).

<sup>8</sup> *Infra* Division IV, 13.

## 15. UNION OF SOVIET SOCIALIST REPUBLICS

**(a) DECREE NO. 5590-VIII of 26 FEBRUARY 1974, OF THE PRESIDIUM OF THE SUPREME SOVIET OF THE USSR RELATING TO GREATER RESPONSIBILITY FOR POLLUTION OF THE SEA BY SUBSTANCES HARMFUL TO HUMAN HEALTH OR TO THE LIVING RESOURCES OF THE SEA<sup>1</sup>**

In order to intensify action to counter pollution of the internal maritime and territorial waters of the USSR and of the high seas by substances harmful to human health or to the living resources of the sea, the Presidium of the Supreme Soviet of the USSR hereby decrees that:

1. Pollution of the internal maritime and territorial waters of the USSR as a result of the unlawful discharge into such waters from ships or other floating structures, or as a result of failure to take the requisite steps to prevent the escape therefrom, of substances harmful to human health or to the living resources of the sea, or of mixtures containing more than the permitted concentration of such substances, or pollution of the high seas as a result of the discharge from Soviet ships or other floating structures, or as a result of failure to take the requisite steps to prevent the escape therefrom, of the aforementioned substances or mixtures in violation of international agreements to which the USSR is a party, shall be punishable by imprisonment for a term of not more than two years, or by correctional labour for a term of not more than one year, or by a fine of not more than 10,000 roubles.

Where such acts cause substantial harm to human health or to the living resources of the sea, they shall be punishable by imprisonment for a term of not more than five years, or by a fine of not more than 20,000 roubles.

2. Failure by the master of a ship or other floating structure to notify the administration of the nearest Soviet port of the imminent or actual emergency discharge from such ship or structure, or of the unavoidable escape therefrom, within the limits of the internal maritime or territorial waters of the USSR, of substances harmful to human health or to the living resources of the sea, or of mixtures containing more than the permitted concentration of such substances, shall be punishable by correctional labour for a term of not more than one year or by a fine of not more than 500 roubles.

3. The master or any other officer of a ship or other floating structure who is found guilty of failure to comply with the obligations prescribed by the laws in force with regard to entering in the ship's documents any operations relating to substances that are harmful to human health or to the living resources of the sea, or relating to mixtures containing more than the permitted concentration of such substances, of making false entries in the ship's documents concerning such operations, or of unlawfully refusing to

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<sup>1</sup> Gazette of the Supreme Soviet of the Union of Soviet Socialist Republics, 1974, No. 10, p. 161. In force on 1 March 1974 in conformity with Article 4. Russian text provided by the Permanent Mission of the Union of Soviet Socialist Republics to the United Nations in a note verbale of 14 January 1975. Translation by the Secretariat of the United Nations.

produce such documents to the proper authorities shall be liable to an administrative fine of not more than 100 roubles.

The fines provided for in this article shall be levied in the manner prescribed by the Decree of the Presidium of the Supreme Soviet of the USSR, dated 21 June 1961, on the further limitation of the use of administrative fines.

(b) DECISION NO. 118 OF 14 FEBRUARY 1974 OF THE COUNCIL OF MINISTERS OF THE USSR RELATING TO GREATER EFFORTS TO COUNTER POLLUTION OF THE SEA BY SUBSTANCES HARMFUL TO HUMAN HEALTH OR TO THE LIVING RESOURCES OF THE SEA<sup>1</sup>

In order to encourage greater efforts to counter marine pollution, to safeguard human health and to protect the living resources of the sea, the Council of Ministers of the USSR has decided that:

1. It shall be an obligation of Ministries and government departments to take steps to prevent pollution of the internal maritime and territorial waters of the USSR and of the high seas by oil, petroleum products and other substances harmful to human health or to the living resources of the sea as a result of the discharge or escape from ships and other floating structures of such substances or of mixtures containing such substances.

A list of the substances whose discharge is prohibited and of the limits of the permitted concentration of such substances in mixtures discharged shall be drawn up by the USSR Ministry of Land Improvement and Water Management in consultation with the USSR Ministry of Health and the USSR Ministry of Fisheries.

2. Operations relating to the substances and mixtures mentioned in paragraph 1 of this Decision which are carried out on board ships and other floating structures within the limits of the internal maritime or territorial waters of the USSR must be entered in the ship's documents in the cases and in the manner prescribed by the USSR Ministry of Land Improvement and Water Management in consultation with the USSR Ministry of Merchant Marine and the USSR Ministry of Fisheries, and operations as aforesaid carried out on board Soviet ships or other floating structures on the high seas shall be so entered in accordance with the rules laid down in international agreements to which the USSR is a party.

3. The masters of ships and other floating structures shall notify the administration of the nearest Soviet port of the imminent or actual emergency discharge from such ships or structures, or of the unavoidable escape therefrom, within the limits of the internal maritime or territorial waters of the USSR, of substances harmful to human health or to the living resources of the sea, or of mixtures containing more than the permitted concentration of such substances.

<sup>1</sup> Legislative Series of the Government of the Union of Soviet Socialist Republics, 1974, No. 6, p. 26. Russian text provided by the Permanent Mission of the Union of Soviet Socialist Republics to the United Nations in a note verbale of 14 January 1975. Translation by the Secretariat of the United Nations.

4. The masters of Soviet sea-going vessels and other floating structures and the captains of Soviet civil aircraft shall inform the competent Soviet authorities of all cases observed by them, either in the internal maritime or territorial waters of the USSR or on the high seas, which constitute violations of regulations for the prevention of water pollution laid down by the legislation of the USSR and the Union Republics and by international agreements to which the USSR is a party, and shall take action to substantiate evidence of such violations. The procedure for the transmittal of information as aforesaid shall be determined by the USSR Ministry of Land Improvement and Water Management in consultation with the USSR Ministry of Merchant Marine, the USSR Ministry of Fisheries and the USSR Ministry of Civil Aviation.

5. The competent officials of the authorities responsible for regulating the use of and safeguarding the waters subject to the jurisdiction of the USSR Ministry of Land Improvement and Water Management within the limits of the internal maritime and territorial waters of the USSR shall be empowered to:

(a) Stop, board and inspect ships and other floating structures in order to ascertain the reasons for and circumstances of the discharge or escape of substances harmful to human health or to the living resources of the sea or of mixtures containing more than the permitted concentration of such substances, and to verify the accuracy of entries in the ship's documents concerning operations relating to such substances and mixtures;

(b) Give binding instructions for the cessation of violations of established rules governing operations relating to substances harmful to human health or to the living resources of the sea or relating to mixtures containing more than the permitted concentration of such substances;

(c) Detain ships and other floating structures in the event of the unlawful discharge therefrom, or of failure to take the requisite steps to prevent the escape therefrom, within the limits of the internal maritime and territorial waters of the USSR, of substances harmful to human health or to the living resources of the sea or of mixtures containing more than the permitted concentration of such substances; draw up reports in the prescribed manner on violations of rules for the prevention of water pollution; institute administrative proceedings against offenders and bring charges for the criminal prosecution of offenders in accordance with the laws of the USSR and of the Union Republics.

Where necessary, the frontier guard in the areas where they are serving, shall assist the authorities responsible for regulating the use of and safeguarding waters in their activities to protect the internal maritime and territorial waters of the USSR from pollution.

6. The present Decision shall not apply to military vessels or military auxiliary vessels, to which special rules apply.

7. A draft decree on greater responsibility for pollution of the sea by substances harmful to human health or to the living resources of the sea shall be submitted by the Council of Ministers of the USSR to the Presidium of the Supreme Soviet of the USSR.

**16. UNITED KINGDOM OF GREAT BRITAIN  
AND NORTHERN IRELAND**

(a) [PROTECTION OF WRECKS ACT 1973, Sections 2 and 3]<sup>1</sup>

(b) [DUMPING AT SEA ACT 1974]<sup>2</sup>

1. (1) Subject to the provisions of this section, no person, except in pursuance of a licence granted under section 2 below and in accordance with the terms of that licence—

(a) Shall dump substances or articles in United Kingdom waters; or

(b) Shall dump substances or articles in the sea outside United Kingdom waters from a British ship, aircraft, hovercraft or marine structure; or

(c) Shall load substances or articles on to a ship, aircraft, hovercraft or marine structure in the United Kingdom or United Kingdom waters for dumping in the sea, whether in United Kingdom waters or not; or

(d) Shall cause or permit substances or articles to be dumped or loaded as mentioned in paragraphs (a) to (c) above.

(2) Subject to subsections (3) to (5) below, substances and articles are dumped in the sea for the purposes of this Act if they are permanently deposited in the sea from a vehicle, ship, aircraft, hovercraft or marine structure, or from a structure on land constructed or adapted wholly or mainly for the purpose of depositing solids in the sea.

(3) A discharge incidental to or derived from the normal operation of a ship, aircraft, vehicle, hovercraft or marine structure or of its equipment does not constitute dumping for the purposes of this Act unless the ship, aircraft, vehicle, hovercraft or marine structure in question is constructed or adapted wholly or mainly for the purpose of the disposal of waste or spoil and the discharge takes place as part of its operation for that purpose.

(4) A deposit made by, or with the written consent of, a harbour authority or lighthouse authority, for the purpose of providing moorings or securing aids to navigation, does not constitute dumping for the purposes of this Act.

(5) A deposit made by or on behalf of a harbour authority in the execution of works of maintenance in their harbour does not constitute dumping for the purposes of this Act if it is made on the site of the works.

(6) Subject to subsections (7) to (9) below, any person who contravenes subsection (1) above shall be guilty of an offence and liable—

(a) On summary conviction to a fine of not more than £400 or to imprisonment for a term of not more than six months or to both; or

(b) On conviction on indictment, to imprisonment for not more than five years, or a fine, or to both.

<sup>1</sup> *Supra* Chapter II, 7 (a).

<sup>2</sup> 1974 Chapter 20, 27 June 1974. Text provided by the Permanent Representative of the United Kingdom of Great Britain and Northern Ireland to the United Nations in a note verbale of 12 December 1974.

(7) It shall be a defence for a person charged with an offence under subsection (6) above to prove—

(a) That the substances or articles in question were dumped for the purpose of securing the safety of a ship, aircraft, hovercraft or marine structure or of saving life; and

(b) That he took steps within a reasonable time to inform the Minister that the dumping had taken place and of the locality and circumstances in which it took place and the nature and quantity of the substances or articles dumped,

unless the court is satisfied that the dumping was not necessary for any of the purposes mentioned above and was not a reasonable step to take in the circumstances.

(8) It shall be a defence for a person charged with an offence under subsection (6) above to prove—

(a) That he acted under instructions given to him by his employer; or

(b) That he acted in reliance on information given to him by others without any reason to suppose that the information was false or misleading, and in either case that he took all such steps as were reasonably open to him to ensure that no offence would be committed.

(9) It shall be a defence for a person charged with an offence under subsection (6) above in relation to substances or articles dumped outside United Kingdom waters from a British ship, aircraft or hovercraft to prove that they were loaded on to it in a Convention State and that the dumping was authorized by a licence issued by the responsible authority in that State.

2. (1) In determining whether to grant a licence a licensing authority shall have regard to the need to protect the marine environment and the living resources which it supports from any adverse consequences of dumping the substances or articles to which the licence, if granted, will relate; and the authority shall include such conditions in a licence as appear to the authority to be necessary or expedient for the protection of that environment and those resources from any such consequences.

(2) The licensing authority may revoke a licence if it appears to the authority that the holder is in breach of a condition included in it.

(3) The licensing authority may vary or revoke a licence if it appears to the authority that the licence ought to be varied or revoked because of a change of circumstances relating to the marine environment or the living resources which it supports, including a change in scientific knowledge.

(4) The licensing authority may require an applicant for a licence to pay such fee on applying for it as may be determined by the authority with the consent of the Treasury.

(5) The licensing authority may require an applicant to supply such information and permit such examination and sampling of the substances or articles which he desires to dump, or of similar substances or articles, and to supply such information about the method of dumping which he desires to use, as in the opinion of the authority is necessary to enable the authority to

decide whether a licence should be granted and the conditions which any licence that is granted ought to contain.

(6) The licensing authority may require an applicant for a licence to pay such amount, in addition to any fee under subsection (4) above, as the licensing authority may, with the consent of the Treasury, determine, towards the expense of any tests which in the opinion of the authority are necessary to enable the authority to decide whether a licence should be granted and the conditions which any licence that is granted ought to contain, and in particular expense incurred in connexion with any monitoring to determine the effect that dumping may have or has had on the marine environment and the living resources which it supports.

(7) A licence—

(a) Shall specify the person to whom it is granted;

(b) Shall state whether it is to remain in force until revoked or is to expire at a time specified in the licence;

(c) Shall specify the quantity and description of substances or articles to which it relates; and

(d) May make different provision as to different descriptions of substances or articles.

(8) The licensing authority may transfer a licence from the holder to any other person on the application of that person or of the holder, but shall have power to include additional conditions in a licence on transferring it.

(9) Any person who for the purpose of procuring the grant or transfer of a licence, or in purporting to carry out any duty imposed on him as a condition of a licence, knowingly or recklessly makes a false statement or knowingly or recklessly produces, furnishes, signs or otherwise makes use of a document containing a false statement shall be guilty of an offence and liable on summary conviction to a fine not exceeding £400.

(10) A person who at the passing of this Act is authorized in writing by a licensing authority to dump substances or articles in the sea may continue to do so, so long as he complies with any conditions subject to which the authorization is given, until the authorization expires or is revoked, as if the authorization were a licence under this Act.

3. (1) Where a licensing authority proposes—

(a) To refuse a licence; or

(b) To include a condition in a licence, whether on granting or transferring it; or

(c) To require a payment under section 2 (6) above; or

(d) To vary or revoke a licence,

it shall be the authority's duty, when notifying the applicant for or holder of the licence of the proposal, also to notify him—

(i) Of the reason for it; and

(ii) Of his right under this section to make written representations relating to it.



(2) A notification of a proposal to vary or revoke a licence shall also include a notice that any written representations must be received by the licensing authority within 28 days of the receipt of the notification.

(3) A person who receives a notification of a proposal such as is mentioned in subsection (1) above may make written representations about it to the licensing authority.

(4) If a licensing authority receives such representations, and in the case of a proposal to vary or revoke a licence receives them within 28 days of the receipt of the notification of the proposal, the authority shall constitute a committee to consider the representations and shall appoint one of the members of the committee to be its chairman.

(5) Each licensing authority shall draw up and from time to time revise a panel of persons who are specially qualified in the authority's opinion to be members of such committees, and any such committee constituted by a licensing authority shall be drawn from members of the authority's panel.

(6) It shall be the duty of the chairman of a committee—

(a) To serve upon the person who made the representations under subsection (3) above a notice in writing requiring him to state within 14 days of the receipt of the notice whether he wishes to make oral representations to the committee; and

(b) To give him, not earlier than the date of the notice under paragraph (a) above, notice in writing of the place, date and time of the meeting of the committee.

(7) A notice under subsection (6) (b) above shall not specify a date for the meeting of the committee earlier than 21 days from the date of the notice, unless the person who made the representations has agreed to an earlier meeting.

(8) If the person who made the representations expresses a wish to make oral representations to the committee, they shall afford him an opportunity of so doing, either in person or by any person authorized by him in that behalf.

(9) The committee shall consider any representations made under subsection (3) or (8) above and shall make a report to the licensing authority after the close of their consideration, giving their findings of fact and their recommendations.

(10) Where representations relating to a proposal have been made under this section, the licensing authority may make a final decision relating to the proposal only after receiving and considering the committee's report on it.

(11) The licensing authority shall notify the person who made the representations of the authority's decision and the reasons for it and shall send him a copy of the committee's report.

(12) Subject to subsection (13) below, a licensing authority may pay to a person who makes representations under this section such sum as the authority considers appropriate in respect of costs or expenses incurred by him in connexion with the making of the representations and their consideration under this section.

(13) No payment shall be made under subsection (12) above where the final decision confirms the authority's original proposal without modifications.

(14) Each licensing authority, with the consent of the Minister for the Civil Service as to numbers, may appoint such staff for committees under this section as the authority thinks fit, and may make arrangements for securing that such of the authority's officers as the authority considers are required are available to assist any such committee.

4. (1) A licensing authority shall compile and keep available for public inspection free of charge at reasonable hours the notifiable particulars of any dumping licensed by them under this Act, and shall furnish a copy of any such notifiable particulars to any person on payment of such reasonable sum as the authority may with the consent of the Treasury determine.

(2) In subsection (1) above "notifiable particulars" means particulars which Her Majesty's Government in the United Kingdom are required to notify to the international organizations.

5. (1) Each licensing authority, with the consent of the Minister for the Civil Service as to numbers, may appoint enforcement officers for the purposes of this Act.

(2) An enforcement officer appointed under subsection (1) above is referred to in this Act as a "British enforcement officer".

(3) A British enforcement officer may be either an inspector appointed for the purposes of this Act or an officer of the licensing authority appointed to exercise and perform the powers and duties and such an inspector subject to such limitations as may be specified in the instrument appointing him; and the following provisions of this Act shall be construed, in reference to such an officer, as subject to any such limitations.

(4) A British enforcement officer may, for the purpose of enforcing this Act exercise, in relation to places and things liable to inspection under this Act, the powers conferred by subsections (7) to (10) below.

(5) Subject to subsection (6) below, the places and things liable to inspection under this Act are—

(a) Land (including land submerged at mean high water springs and buildings on land), vehicles, aircraft and hovercraft in the United Kingdom;

(b) Ships in ports in the United Kingdom; and

(c) British ships, aircraft, hovercraft and marine structures, wherever they may be,

in which a British enforcement officer has reasonable cause to believe that any substances or articles intended to be dumped in the sea are or have been present.

(6) The places liable to inspection under this Act do not include any private dwelling not used by or by permission of the occupier for the purpose of a trade or business.

(7) A British enforcement officer may at any reasonable time enter any place liable to inspection under this Act, and board any vehicle, ship, aircraft,

hovercraft or marine structure which is so liable, with or without persons and equipment to assist him in his duties.

(8) A British enforcement officer—

(a) May open any container and examine and take samples of any substances or articles;

(b) May examine equipment and require any person in charge of it to do anything which appears to the officer to be necessary for facilitating examination;

(c) May require any person to produce any licenses, records or other documents which relate to the dumping of substances or articles in the sea and which are in his custody or possession;

(d) May require any person on board a ship, aircraft, hovercraft or marine structure to produce any records or other documents which relate to it and which are in his custody or possession; and

(e) May take copies of any document produced under paragraph (c) or (d) above.

(9) For the purpose of boarding a vehicle, ship, aircraft, hovercraft or marine structure, a British enforcement officer may require the person in charge to do anything which will facilitate boarding, and the power conferred by this subsection includes power, in the case of a vehicle, ship or hovercraft, to require the person in charge to stop it.

(10) A British enforcement officer may require the attendance of a master of a ship, the commander of an aircraft, the captain of a hovercraft or the person in charge of a marine structure on board that ship, aircraft, hovercraft or structure, and may make any examination and inquiry which appears to him to be necessary.

(11) A British enforcement officer shall be furnished with a certificate of his appointment and on entering or boarding for the purposes of this Act any place or thing liable to inspection under this Act, shall, if so requested, produce the said certificate.

6. (1) The Minister and the Secretary of State may jointly by order declare—

(a) That any procedure which has been developed for the effective application of the London Convention, the Oslo Convention or any designated Convention and is specified in the order is an accepted procedure as between Her Majesty's Government in the United Kingdom and the Government of any Convention State so specified; and

(b) That the powers conferred by subsections (7) to (10) of section 5 above may be exercised, for the purpose of the enforcement of that procedure outside United Kingdom waters—

(i) In relation to a British ship or hovercraft, by a person of any specified class appointed to enforce it by the Government of that state; and

(ii) In relation to a ship or hovercraft of that State, by a British enforcement officer.

(2) A person belonging to a class specified in an order under this section is referred to in this Act as a "foreign enforcement officer", but any reference to a foreign enforcement officer in the following provisions of this Act shall be construed, in relation to any person of a class so specified, as applying to him only for the purposes of the procedure specified in the order as the procedure for whose enforcement his Government appointed him.

7. (1) A British or foreign enforcement officer shall not be liable in any civil or criminal proceedings for anything done in purported exercise of the powers conferred on him by this Act if the court is satisfied that the act was done in good faith and that there were reasonable grounds for doing it.

(2) Any person who—

(a) Without reasonable excuse fails to comply with any requirement imposed, or to answer any question asked, by a British or foreign enforcement officer under this Act;

(b) Without reasonable excuse prevents, or attempts to prevent, any other person from complying with any such requirement or answering any such question; or

(c) Assaults any such officer while exercising any of the powers conferred on him by or by virtue of this Act or obstructs any such officer in the exercise of any of those powers,

shall be guilty of an offence.

(3) A person guilty of an offence under this section shall be liable on summary conviction in the case of a first offence thereunder to a fine not exceeding £200 and in the case of a second or subsequent offence thereunder to a fine not exceeding £400.

8. (1) In any civil or criminal proceedings a written statement purporting to be a report made by a British or foreign enforcement officer on matters ascertained in the course of exercising his powers under this Act shall be admissible as evidence to the like extent as oral evidence to the like effect by that officer.

(2) Subsection (1) above shall be taken to be in addition to and not to derogate from the provisions of any other enactment relating to the reception or admissibility of documentary evidence.

9. (1) Where an offence under this Act which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, he, as well as the body corporate, shall be guilty of that offence and be liable to be proceeded against and punished accordingly.

(2) Where the affairs of a body corporate are managed by its members, subsection (1) above shall apply in relation to the acts and defaults of a member in connexion with his functions of management as if he were a director of the body corporate.

(3) Proceedings for any offence under this Act may be taken, and the offence may for all incidental purposes be treated as having been committed, in any place in the United Kingdom.

10. (1) The powers conferred by subsection (7) to (10) of section 5 above shall be exercisable, with the consent of the appropriate authority, in relation to land in which there is a Crown interest or a Duchy interest but in which there is also an interest held otherwise than by or on behalf of the Crown.

(2) In subsection (1) above "Crown interest" means any interest belonging to Her Majesty in right of the Crown, or belonging to a government department, or held in trust for Her Majesty for the purposes of a government department; "Duchy interest" means an interest belonging to Her Majesty in the right of the Duchy of Lancaster, or belonging to the Duchy of Cornwall, and for the purposes of that subsection "the appropriate authority", in relation to any land—

(a) In the case of land belonging to Her Majesty in right of the Crown and forming part of the Crown Estate, means the Crown Estate Commissioners, and, in relation to any other land belonging to Her Majesty in right of the Crown, means the government department having the management of that land;

(b) In relation to land belonging to Her Majesty in right of the Duchy of Lancaster, means the Chancellor of the Duchy;

(c) In relation to land belonging to the Duchy of Cornwall, means such person as the Duke of Cornwall, or the possessor for the time being of the Duchy of Cornwall, appoints;

(d) In the case of land belonging to a government department or held in trust for Her Majesty for the purposes of a government department, means that department;

and, if any question arises as to what authority is the appropriate authority in relation to any land, that question shall be referred to the Treasury, whose decision shall be final.

11. (1) There shall be paid out of money provided by Parliament all sums required for the purpose of making payments on behalf of Her Majesty's Government in the United Kingdom to the international organizations.

(2) There shall also be paid out of money provided by Parliament—

(a) Such fees and allowances for members of committees under section 3 above;

(b) Such salaries and allowances for the staff of such committees;

(c) Such other expenses of such committees; and

(d) Such salaries or other remuneration for British enforcement officers, as the licensing authority constituting any such committee or appointing such staff or officers may, with the consent of the Minister for the Civil Service, determine.

(3) There shall also be paid out of money provided by Parliament any expenses incurred under this Act by a licensing authority and not mentioned in subsection (1) or (2) above.

(4) Any receipts of a licensing authority under this Act shall be paid into the Consolidated Fund.

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

“British aircraft” means an aircraft registered in the United Kingdom;

“British enforcement officer” has the meaning assigned to it by section 5 (2) above;

“British hovercraft” means a hovercraft registered in the United Kingdom;

“British marine structure” means a marine structure owned by or leased to an individual resident in or a body corporate under the law of any part of the United Kingdom;

“British ship” means a vessel registered in the United Kingdom, or a vessel exempted from such registration under the Merchant Shipping Act 1894;<sup>1</sup>

“captain”, in relation to a hovercraft, means the person who is designated by the operator to be in charge of it during any journey, or, failing such designation, the person who is for the time being lawfully in charge of it;

“commander”, in relation to an aircraft, means the member of the flight crew designated as commander of that aircraft by the operator thereof, or, failing such a person, the person who is for the time being the pilot in command of the aircraft;

“Convention” includes an agreement or other arrangement;

“Convention State”, in relation to the London Convention, the Oslo Convention or a designated Convention, means a State declared to be a party to that Convention by an order for the time being in force under subsection (3) below;

“designated Convention” means a Convention declared to be a designated Convention by an order for the time being in force under that subsection;

“dumping” has the meaning assigned to it by section 1 above;

“foreign enforcement officer” has the meaning assigned to it by section 6 (2) above;

“government department” includes a department of the Government of Northern Ireland;

“harbour authority” has the meaning assigned to it by section 57 of the Harbours Act 1964 or in Northern Ireland, section 38 of the Harbours Act (Northern Ireland) 1970;

“hovercraft” means a hovercraft within the meaning of the Hovercraft Act 1968;

“international organizations” means any organization established in pursuance of Article XIV of the London Convention or Article 16 of the Oslo Convention and any similar organization established in pursuance of a designated Convention;

“licensing authority” means—

(a) In relation to substances or articles which have been or are to be loaded in England or Wales, or in United Kingdom waters adjacent to England or Wales, the Minister;

<sup>1</sup> Reproduced in part in ST/LEG/SER.B/5 and Add.1, pp. 180-186.

(b) In relation to substances or articles which have been or are to be loaded in Scotland, or in United Kingdom waters adjacent to Scotland, the Secretary of State;

(c) In relation to substances or articles which have been or are to be loaded in Northern Ireland, or in United Kingdom waters adjacent to Northern Ireland, the Department of the Environment for Northern Ireland; and

(d) In relation to substances or articles which have been or are to be loaded outside the United Kingdom and outside United Kingdom waters, the Minister;

“lighthouse authority” means a local lighthouse authority or a general lighthouse authority within the meaning of section 634 of the Merchant Shipping Act 1894;

“Load” means load for dumping;

“the London Convention” means the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter concluded at London in December 1972;<sup>1</sup>

“marine structure” means a platform or other man-made structure at sea;

“master”, in relation to any ship, includes the person for the time being in charge of the ship;

“the Minister” means the Minister of Agriculture, Fisheries and Food;

“the Oslo Convention” means the Convention for the Prevention of Marine Pollution by Dumping from Ships and Aircraft concluded at Oslo in February 1972;<sup>2</sup>

“sea” includes any area submerged at mean high water springs, and also includes, so far as the tide flows at mean high water springs, an estuary or an arm of the sea and the waters of any channel, creek, bay or river; and

“United Kingdom waters” means any part of the sea within the seaward limits of United Kingdom territorial waters.

(2) Any reference in this Act to any other enactment is a reference thereto as amended, and includes a reference thereto as extended or applied by or under any other enactment, including this Act.

(3) The Minister and the Secretary of State may jointly by order declare—

(a) That any Convention relating to dumping in the sea to which Her Majesty’s Government in the United Kingdom is a party is a designated Convention for the purposes of this Act; and

(b) That any State specified in the order is a party to the London Convention, the Oslo Convention or a designated Convention.

...

<sup>1</sup> Reproduced in ST/LEG/SER.B/16, p. 464.

<sup>2</sup> *Ibid.*, p. 457.

(c) [MERCHANT SHIPPING ACT 1974]<sup>1</sup>

(d) [OIL IN NAVIGABLE WATERS (EXCEPTIONS) REGULATIONS 1972,  
Regulations 3-5]<sup>2</sup>

(e) [OIL IN NAVIGABLE WATERS (RECORDS) REGULATIONS 1972,  
Regulations 2-5]<sup>3</sup>

(f) [PREVENTION OF OIL POLLUTION ACT 1971  
(COMMENCEMENT) ORDER 1973]<sup>4</sup>

(g) [OFFSHORE INSTALLATIONS (CONSTRUCTION  
AND SURVEY) REGULATIONS 1974]<sup>5</sup>

<sup>1</sup> *Infra* Division III, 13 (b).

<sup>2</sup> *Infra* Division III, 13 (c).

<sup>3</sup> *Ibid.*, (d).

<sup>4</sup> See foot-note under the same title, *ibid.*, (e).

<sup>5</sup> *Infra*, Chapter IX, 6 (c).

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**Chapter VIII**  
**BROADCASTS FROM SHIPS IN THE TERRITORIAL SEA<sup>1</sup>**

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<sup>1</sup> No text concerning broadcasts from ships in the territorial sea was received during the period covered by this volume.

## Chapter IX

### EXPLOITATION OF MINERAL RESOURCES AND THE LAYING OF CABLES AND PIPELINES UNDER THE TERRITORIAL SEA<sup>1</sup>

#### 1. BURMA

PETROLEUM RESOURCES (DEVELOPMENT AND REGULATION) ACT, 1957<sup>2</sup>

...

2. In this Act, unless there is anything repugnant in the subject or context—

(a) "Concession" includes an exploring licence, a prospecting licence or a mining lease granted under the provisions of this Act;

(b) "Concessionaire" means a person to whom a concession has been granted under the provisions of this Act and any other person deriving title under him;

(c) "Continental Shelf" means the sea-bed and subsoil of the submarine areas adjacent to the coast but outside the area of the territorial sea, to a depth of 200 metres (approximately 100 fathoms), or, beyond that limit, to where the depth of the superjacent waters admits of the exploitation of the natural resources of the said areas;

(d) "Exploring Licence" means a licence granted under the provisions of this Act conferring the right to search by geological or geophysical methods for rock strata that appear likely to contain petroleum and whose geological structure is favourable for its accumulation in commercial quantities and includes trenching, pitting and drilling for geological information but not test drilling for petroleum;

(e) "Mining Lease" means a lease granted under the provisions of this Act conferring the right to mine, bore, dig, drill, search for, win, work and extract petroleum and to carry away the same or refined products thereof;

(f) "Petroleum" includes any mineral oil or natural gas or relative hydro-carbon existing in its natural condition in rock strata. It does not include coal, oil-shale or other stratified deposits from which oil can be extracted;

(g) "President" means the President of the Union of Burma;

(h) "Prospecting Licence" means a licence granted under the provisions of this Act conferring the right to conduct the operations necessary for determining whether any geological structures favourable for accumulation of

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<sup>1</sup> See also *infra* Divisions II and III. Some of the texts reproduced there may also be of relevance in relation to mineral resources exploitation and to the laying of cables and pipelines under the territorial sea.

<sup>2</sup> Act No. 55 of 1957. Text provided by the Permanent Representative of Burma to the United Nations in a note verbale of 30 April 1973.

petroleum are present and capable of yielding petroleum in commercial quantities. It includes detailed geological and geophysical investigation and the drilling of test wells to discover the configuration of the structure and the drilling of such number of wells as may be necessary to prove the extent of any apparently productive strata that may be discovered;

(i) "Union" means the Union of Burma.

3. All natural resources of petroleum in the Union, whether such natural resources are found—

- (a) On, in, or under the surface of any land; or
- (b) Under any water; or
- (c) In any submerged land within the territorial waters of the Union; or
- (d) Under the continental shelf; or
- (e) The analogue in any island within the Union

shall be deemed to belong to the Union.

Provided that this section shall not affect the rights conferred by any existing grant in respect of petroleum.

4. (1) No person shall explore or prospect for or exploit any petroleum except under and in accordance with the conditions contained in a concession issued under this Act.

*Explanation:* For the purpose of this section any concession previously issued under any law for the time being in force and which is still valid shall be deemed to be a concession issued under this Act.

(2) Whoever contravenes the provisions of subsection (1) shall, on conviction before a Magistrate, be punishable with imprisonment for a term not exceeding six months or with fine not exceeding Kyat 1,000 or with both, and in addition the plant, machinery, tool, equipment, material and structure used in exploring or prospecting for petroleum or exploiting petroleum shall be liable to confiscation.

5. The operations of a concessionaire under the provisions of this Act shall always be subject to subsisting rights, if any, of any other person in respect of petroleum or other minerals.

6. Subject to the rights expressly granted in the concession, the President shall be at liberty to use or permit the use of the land in respect of which the concession has been granted for any purpose other than that for which such concession is granted.

7. (1) The President may by notification make rules consonant with this Act, and such rules shall have the force of law.

...

9. (1) For the purpose of ascertaining the position of the working, actual or prospective, of any area covered by a concession or an abandoned concession or for any other purpose mentioned in this Act or the rules made thereunder any officer authorized by the President in this behalf shall have the right to—

- (a) Enter and inspect any area covered by a concession;

(b) Order the production of any document, book, register or record in the possession or power of any person having the control of or connected with petroleum operation in any such area; or

(c) Orally examine any person having the control or connected with petroleum operation in any such area.

10. No suit, criminal prosecution or other legal proceedings whatever shall lie against any public servant for having done or in good faith intended to be done under this Act or under any rule made thereunder.

11. The President shall not be responsible for any loss or damage which may occur owing to any action taken in good faith by any public servant under this Act or under any rule made thereunder.

12. The provisions of this Act and of any rule made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force; but save as aforesaid the provisions of this Act shall be in addition to and not in derogation of any other law for the time being applicable to petroleum.

## 2. CAMBODIA

DECRET No 261/72-PRK EN DATE DU 20 MAI 1972 RELATIF A L'APPLICATION DE LA LOI MINIERE<sup>1</sup>

### *Titre I*

#### *Dispositions préliminaires*

*Article premier.* Les modalités d'application du Kram No 380/68-CE<sup>2</sup> portant réglementation minière de la République khmère<sup>3</sup> sont fixées comme suit :

*Article 2.* Les gîtes de substances minérales ou fossiles renfermés dans le sein du territoire de la République khmère et de son plateau continental, ainsi que les gîtes existant à la surface du territoire et de son plateau continental, qui sont classés en mines, sont soumis au droit minier prévu à l'article 7 du Kram.

*Article 3.* L'octroi des permis de recherches ainsi que l'octroi des concessions des mines, permis ou concessions accordés à toute personne physique ou morale possédant les capacités techniques et financières pour la recherche ou l'exploitation des substances minérales ou fossiles classées en mines d'après l'article 3 de la loi, est soumis aux dispositions dans le présent Kret.

*Article 4.* Les zones désignées ou délimitées par Kret comme étant "zone interdite" ou "zone réservée" peuvent inclure des permis de recherches et des

<sup>1</sup> Texte communiqué par lettre en date du 11 septembre 1974 du représentant permanent de la République khmère auprès de l'Organisation des Nations Unies.

<sup>2</sup> Reproduit dans le document ST/LEG/SER.B/16, p. 88-90.

<sup>3</sup> Titre utilisé pour la période allant du 9 octobre 1970 au 30 avril 1975.

concessions antérieurement accordées; dans ce cas, l'Etat annule ces permis ou concessions pour la partie qui empiète sur la zone interdite ou réservée et verse une juste indemnisation aux permissionnaires ou concessionnaires; l'indemnité est établie par un accord amiable entre les intéressés et le Service des mines, ou à défaut d'accord amiable, par décision du Ministre chargé des mines sur rapport et proposition du chef du Service des mines.

*Article 5.* En application de l'article 5 du Kram No 380/68-CE, l'Etat a droit d'option pour la participation dans l'exploitation des substances minérales découvertes à la poursuite de l'exploration dans le cadre d'une association à créer avec le titulaire.

La quote-part de participation de l'Etat cambodgien avec le titulaire, à la date à laquelle il demande au Gouvernement la transformation du permis de recherches en concession, ne doit pas être inférieure à 20 p. 100 du capital investi.

*Article 6.* Les droits coutumiers visés par l'article 10 de loi, et qui sont relatifs à la recherche ou l'exploitation de substances classées en mines, se limitent à des travaux superficiels exécutés avec des moyens rudimentaires, à l'exclusion de tout travail de fouille en profondeur tel que tranchée, puits ou galerie.

*Article 7.* Dans le cas où des titulaires de concessions ou de permis se heurteraient à certaines personnes ou collectivités jouissant de droits coutumiers concernant l'exploitation de mines dans le périmètre couvert par ces concessions ou permis, les titulaires des titres miniers devront affranchir de ces droits coutumiers en payant aux intéressés une indemnité fixée, après examen sur place, par le Service des mines et ne pourront commencer les travaux qu'après paiement de cette indemnité.

*Article 8.* Les personnes physiques ou morales étrangères accréditées, au titre de l'article 12 de la loi, à rechercher ou à exploiter en République khmère des substances minérales ou fossiles classées en mines, ne peuvent exercer leurs activités qu'après acceptation, si le Ministre chargé des mines le juge nécessaire, de la nomination de techniciens khmers du Service des mines en poste permanent sur les lieux de recherche ou d'exploitation.

Ces techniciens désignés par le Ministre chargé des mines sur proposition du chef du Service des mines, devront remettre au Service des mines des rapports techniques de contrôle mensuels sur les travaux de recherche ou d'exploitation effectués.

*Article 9.* Les personnes physiques ou morales étrangères visées à l'article 12 de la loi ne pourront exercer leurs activités qu'après avoir prouvé qu'elles sont capables techniquement et financièrement de conduire elles-mêmes les travaux prévus, toute utilisation d'un prête-nom sur ce point est rigoureusement interdite.

...

## *Titre II*

### *Les permis de recherches*

*Article 12.* Le droit exécutif de recherche conféré par le permis de recherches est limité dans l'espace :

- a) En surface, à l'étendue matérialisée par le périmètre accordé;

b) En profondeur, par les faces d'une pyramide ayant pour base le carré du permis et pour sommet le centre du globe terrestre.

...

### *Titre III*

#### *La concession des mines*

**Article 32.** Le droit exclusif d'exploitation conféré par la concession des mines est limité géographiquement :

a) En superficie, à l'étendue matérialisée par le périmètre accordé;

b) En profondeur, par les faces d'une pyramide ayant pour base la surface du carré du permis et pour sommet le centre du globe terrestre.

**Article 33.** Le droit à une concession ne peut être invoqué par le titulaire d'un permis de recherches de validité non expirée que pour les gisements qui ont été découverts au cours de cette validité à l'intérieur du périmètre de ce permis et pour la ou les substances pour lesquelles ce permis avait été délivré.

Aucune découverte ne pourra être prise en considération si le Service des mines n'a pas été mis en mesure d'en constater la réalité avant l'expiration dudit permis ou, le cas échéant, de son renouvellement ou de sa prorogation.

Après remise au Service des mines d'un rapport technique dont le bien-fondé est vérifié sur le terrain par les ingénieurs du Service des mines, le titulaire d'un permis de recherches pourra néanmoins étendre sa demande de concession à un seul bloc constituant le prolongement naturel du gisement découvert en dehors du périmètre du permis de recherches.

....

**Article 39.** La durée de validité d'une concession, conformément à l'article 40 de la loi, est de 4 ans au minimum et de 50 ans au maximum, pour les concessions d'une durée comprise entre 10 et 50 ans, le concessionnaire devra, avant l'expiration de la dixième année au plus tard, réduire de moitié la superficie de sa concession, et avant l'expiration de la vingtième année au plus tard, réduire de moitié cette nouvelle superficie de concession.

...

**Article 45.** Lorsque l'intérêt général l'exige, le Gouvernement peut se porter acquéreur exclusif des substances déjà extraites par un concessionnaire légal; dans ce cas, les tarifs de base réglant l'acquisition seront au moins égaux à ceux des cours moyens en vigueur au moment de l'opération. Les Services gouvernementaux chargés de l'acquisition devront aviser le concessionnaire de la décision au moins trois mois avant la date fixée pour l'opération. Cette décision devra dans tous les cas être prise en Conseil des ministres sur proposition du Ministre chargé des mines.

...

### *Titre IV*

#### *Relations entre titulaires de titres miniers et propriétaires du sol*

**Article 53.** Le permissionnaire ou concessionnaire doit respecter et entretenir les voies de communication d'intérêt public qui existaient dans

son permis ou sa concession antérieurement à l'obtention du titre minier; il doit laisser au public la libre utilisation de ces voies de communication sans prétendre indemnité.

...

#### *Titre VI*

##### *Sécurité et hygiène des mines*

*Article 73.* D'une manière générale, les exploitants de mines sont tenus de se conformer aux instructions réglementaires dans le cadre de la prévention des accidents du travail et de sauvegarde de la santé des travailleurs, telles qu'elles sont édictées dans le code du travail et prescrites par le Ministère de l'action sociale, du travail et de l'emploi, et conformément à la loi sur les explosifs.

De même, les responsables de recherches et d'exploitation minière sont tenus de se conformer à toutes dispositions adoptées sur le plan international en matière de prévention des risques de pollution pouvant résulter des travaux qu'ils entreprennent.

...

#### *Titre VII*

##### *Pierres et métaux précieux et semi-précieux*

*Article 86.* Les modalités relatives à la recherche, l'exploitation et la commercialisation des pierres et métaux précieux ou semi-précieux ainsi que des substances utiles à l'énergie atomique, font l'objet de Prakas pris par le Ministre chargé des mines.

*Article 87.* Les dispositions prévues par l'article 5 de la loi sont applicables à la recherche, l'exploitation et la commercialisation des pierres et métaux précieux et semi-précieux, ainsi que des substances utiles à l'énergie atomique; dans ce cas, les zones intitulées "zone à déterminer" à l'article 85 de la loi correspondent aux "zones réservées" de l'article 5; dans tous les cas, la recherche, l'exploitation ou la commercialisation des substances définies au titre VII et au titre VIII de la loi dans les zones réservées, sont monopoles d'Etat; en dehors des zones réservées, la recherche, l'exploitation et la commercialisation de ces substances sont libres dans la limite des permis ou concessions accordés et tombent sous le régime de la loi générale.

...

#### *Titre VIII*

##### *Les hydrocarbures*

*Article 98.* En plus des dispositions au titre VI de la loi minière du 16 décembre 1968, sont également applicables aux hydrocarbures (liquides ou gazeux), les dispositions générales du présent Kret en ce qui n'est pas contraire aux dispositions des articles suivants :

*Article 99.* Le permis "H" de recherches d'hydrocarbures et la concession "H" d'hydrocarbures sont accordés par Krets séparés pris en Conseil

des ministres. Ces Krets seront pris après enquête et examen d'une convention d'établissement entre le Gouvernement et l'entreprise désireuse de rechercher ou d'exploiter des hydrocarbures sur le territoire khmer ou son plateau continental.

*Article 100.* Cette convention d'établissement sera établie comme un marché entre le Gouvernement cambodgien représenté par le Ministre chargé des mines, d'une part, l'entreprise pétitionnaire représentée par sa plus haute autorité hiérarchique responsable, d'autre part. Elle fixera les conditions dans lesquelles le titulaire procédera à la recherche d'hydrocarbures à l'intérieur du permis de recherches demandé ou de tout autre permis demandé ultérieurement : elle fixera également les conditions dans lesquelles, en cas de découverte, seront effectués l'exploitation des gisements, le stockage, le transport, l'évacuation et l'utilisation des produits extraits.

*Article 101.* Le titulaire signataire de cette convention d'établissement s'engagera à respecter les conventions et résolutions internationales en matière de pollution et notamment :

- La Convention de 1954 pour la prévention de la pollution des eaux de mer par les hydrocarbures,
- La Convention de 1958 sur le plateau continental, en ce qui concerne les dispositions relatives à la protection du milieu marin,
- La résolution 2467 B (XXIII) du 21 décembre 1968 de l'Assemblée générale des Nations Unies, relative à la prévention des risques de pollution pouvant résulter de l'exploitation des ressources minérales au large des côtes.

...

*Article 107.* La durée de validité d'une concession "H" conformément à l'article 82 de la loi est de quarante ans; cependant le concessionnaire devra, avant l'expiration de la dixième année de validité au maximum, réduire de moitié la superficie de sa concession, et avant l'expiration de la vingtième année de validité au maximum, réduire de moitié cette nouvelle superficie de concession.

...

*Article 108.* L'autorisation spéciale prévue à l'article 84 de la loi modifiant la superficie maximale qui peut être obtenue pour un permis "H" ou une concession "H", devra figurer expressément sur le Kret accordant le permis ou la concession demandé; la superficie accordée et les coordonnées du permis ou de la concession devront également figurer sur le Kret.

## *Titre IX*

### *Fouilles et levés géophysiques*

*Article 109.* On entend par fouille, dans le présent Kret, tout travail de creusement à partir de la surface du sol ou d'un escarpement vertical ou oblique, quel que soit le but poursuivi par le travail.

*Article 110.* La déclaration de tout travail de fouille d'une amplitude verticale, horizontale ou oblique supérieure à dix mètres est obligatoire, quel



qu'en soit le maître d'oeuvre ou l'entrepreneur : simple particulier, entreprise privée, services publics.

*Article 111.* La déclaration de tout levé de mesures géophysiques est obligatoire sur toute l'étendue du territoire khmer et de son plateau continental, quel qu'en soit le maître d'oeuvre ou l'entrepreneur.

### *Titre X*

#### *Infractions et pénalités*

*Article 116.* Les contraventions aux dispositions du présent Kret et toutes autres infractions à la loi minière seront poursuivies et jugées conformément aux dispositions du titre X de la loi et aux dispositions du Code de procédure en matière pénale en vigueur en République khmère.

*Article 117.* La procédure du jugement de tels délits se fera en collaboration étroite du Ministère chargé des mines et du Ministère de la justice; au cours des procédures, le chef du Service des mines, les ingénieurs et les techniciens dudit Service pourront être appelés à représenter l'autorité du Ministre chargé des mines en tant que plaignants, témoins, partie civile ou pour toute expertise pour laquelle ils seront requis par les autorités judiciaires.

*Article 118.* Sont abrogées toutes dispositions antérieures contraires à celles du présent Kret.

*Article 119.* Le Ministre d'Etat chargé de l'intérieur, le Ministre d'Etat chargé de la justice, le Ministre des finances, le Ministre de l'agriculture, le Ministre des travaux publics, le Ministre du travail et de l'action sociale et le Ministre de l'industrie, des ressources minières et des pêches maritimes, sont chargés, chacun en ce qui le concerne, de l'exécution du présent Kret.

## 3. DENMARK

ACT No. 285 of 7 JUNE 1972 CONCERNING THE EXPLOITATION OF STONE, GRAVEL AND OTHER NATURAL DEPOSITS IN THE GROUND IN THE TERRITORIAL SEA<sup>1</sup>

### *Chapter 1*

#### *Scope of the Act*

*Article 1.* 1. The Act applies to stone, gravel, sand, clay, limestone, chalk, peat and similar specific deposits in the ground and to non-living natural deposits on the sea-bed and in the subsoil thereof. The Act is valid only with regard to raw materials which were subject to private economic exploitation in Denmark before 23 February 1932.

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<sup>1</sup> Danish text provided by the Ministry of Foreign Affairs of Denmark in a note verbale of 4 January 1974. Translation by the Secretariat of the United Nations.

2. The purpose of the Act is to ensure:

(1) That the exploitation of these deposits is preceded by a comprehensive appraisal of the relevant social considerations, including in particular the extent of the resources, business and employment interests, the risk of damage or prejudice to health or to the water supply, the preservation of scenic beauty, scientific interests, the promotion of suitable urban development, attention to agricultural considerations, and the risk of coastal degradation, marine pollution, alteration of the pattern of currents and interference with navigation and fishing;

(2) Co-ordination of the treatment by the authorities of questions concerning the extraction of raw materials covered by the Act.

3. The Minister of Public Works may lay down regulations concerning the extraction of raw materials from the ground and the taking thereof from the territorial sea with due regard for the considerations set forth in paragraph 2.

...

## *Chapter 2*

### *Deposits in the ground*

...

## *Chapter 3*

### *Deposits in the territorial sea*

*Article 9.* Deposits in the territorial sea (marine materials) may be explored and exploited only under a permit from the Minister of Public Works.

*Article 10.* An exploration permit under article 9 may, *inter alia*, be made subject to the condition that the results of the exploration shall be reported to the Minister of Public Works and that they shall, in accordance with his detailed directions, be made available to the public.

*Article 11.* 1. An exploitation permit under article 9 shall be issued for a period of up to five years at a time and may, *inter alia*, specify the following conditions:

(1) That the Minister of Public Works may at any time impose restrictions as to the nature and quantity of the materials which may be taken, restrict or completely halt operations in particular areas or set general or local limits on the depth to which or short of which material may be taken;

(2) That the materials taken shall be discharged in a Danish port or at another landing place approved by the Minister;

(3) That the holder of the permit shall report, along lines laid down by the Minister, on the extraction operations and in particular on the sites and depths of excavation and the nature and quantity of the materials taken;

(4) That the holder of the permit shall submit to supervision of compliance with the instructions given in accordance with the Minister's detailed directions and shall bear the cost of such supervision; and

(5) That the holder of the permit shall pay a royalty to the State in connexion with the extraction operations.

#### Chapter 4

##### *Penal provisions and provisions concerning entry into force*

*Article 12.* 1. Any person who:

...

(4) Prospects for or takes marine materials without a permit under article 9; or

(5) Violates the conditions laid down under articles 10 and 11

shall be liable to a fine unless a severer penalty is incurred under other legislation.

2. Regulations issued under the Act may provide a penalty in the form of a fine for any breach of provisions in the regulations.

3. If the offence is committed by a joint-stock company or the like, the company as such may be held liable to a fine.

*Article 13.* 1. The date of entry into force of the Act shall be fixed by the Minister of Public Works.

2. Article 9 of Act No. 149 of 18 May 1906 on preservation of the coast, article 4, paragraph 1, sub-paragraph (3), of Act No. 195 of 26 May 1965 on salt water fishing and article 44, paragraphs 2 and 3, and article 45, paragraph 2, of Act No. 314 of 18 June 1969 on the preservation of nature are hereby repealed.

*Article 14.* The Act does not apply to the Faroe Islands or Greenland.

## 4. GHANA

### *(a) MINERALS ACT, 1962,<sup>1</sup> AS AMENDED UP TO 1968<sup>2</sup>*

1. *Minerals, etc., to be vested in President.* Subject as hereinafter expressly provided, the entire property in and control of all minerals in, under or upon, any lands in Ghana, all rivers, streams and watercourses throughout Ghana and land covered by territorial waters, and of the continental shelf, are hereby declared to be vested in the President on behalf of the Republic of Ghana in trust for the People of Ghana:

Provided that nothing in this Act shall be deemed to affect—

*(a)* The validity of any prospecting, mining, dredging, water or ferry right, lawfully held by any person immediately before the commencement of

<sup>1</sup> Act 126 of 1962, 14 June 1962 (amended in 1963 and 1968). This Act as amended by the Territorial Waters and Continental Shelf Act, 1963 is reproduced in part in ST/LEG/SER.B/15, p. 359.

<sup>2</sup> The 1968 amendment was made by the Minerals Act and Regulations (Amendment) Decree, 1968 (N.L.C.D. 308 of 1968). Text provided by the Permanent Representative of Ghana to the United Nations in a note verbale of 5 July 1973.

this Act under any law (customary or otherwise), such person being hereinafter in this Act referred to as an "existing holder"; or

(b) Any lawful rights or interests in the land in, under or upon which the minerals are situated.

The rights or interests referred to in paragraph (a) or paragraph (b) immediately preceding, shall continue, subject to the provisions of any other enactment and to such conditions as may be prescribed.

2. *President to grant mining licences, etc.* (1) The President, subject to this Act and any other enactment, may after holding such inquiry as may be prescribed—

(a) Grant, upon payment of the appropriate rents and royalties and compliance with such conditions as may be prescribed, licences for—

(i) prospecting minerals;

...

(iii) winning or obtaining minerals from any land;

...; and

(b) Declare that any land is required for the purposes of such licence, subject to such conditions as may be prescribed, if the holder of such licence is unable to secure the use of such land by private agreement.

...

(3) Where a declaration has been made in respect of land other than stool land under section 2 (1) (b), the first-mentioned land shall be deemed to be vested in the President on behalf of the Republic of Ghana in trust for the People of Ghana. The President may prescribe, by executive instrument in the form of an order, the terms for the use of land referred to in the preceding provisions of this subsection by the holder of a licence. . . .

...

5. *Government's right of pre-emption of minerals, etc.* (1) Subject to subsection (3) of this section, the Government shall, on behalf of the Republic of Ghana in trust for the People of Ghana, have the right of pre-emption of all minerals raised, won, or gotten in Ghana or from lands covered by territorial waters and the continental shelf by any existing holder or by any holder of a licence granted under this Act and of products derived from the refining or treatment of such minerals.

(2) The Government may, by executive instrument in the form of an order, appoint any statutory corporation to act as the Government's agent for the exercise of the right of pre-emption conferred on the Government by subsection (1) of this section.

(3) The said right of pre-emption shall not be exercised with respect to petroleum or petroleum products except in the event of war or an emergency declared by the Government.

...

12. *Interpretation.* In this Act, unless the context otherwise requires—

"minerals" includes minerals and ores of all kinds including precious stones, coal and petroleum;

...  
 "petroleum" means any petroleum fluid with or without sulphur content whether liquid or gaseous, and includes oil, natural gas, natural gasoline, condensates and related fluid hydro-carbons, and also asphalt and other solid petroleum hydro-carbons when dissolved in and producible with fluid petroleum;

...  
 "territorial waters" means the territorial waters of Ghana below low water mark;

(b) MINERALS (OFFSHORE) REGULATIONS, 1963,<sup>1</sup> AS AMENDED IN 1968<sup>2</sup>

1. *Application of regulations.* (1) These Regulations shall apply to the application for and grant of licences under the Act<sup>3</sup> to win or obtain minerals under the territorial waters of Ghana and from the continental shelf (such licences being hereinafter referred to collectively as "offshore licences" and individually as an "offshore prospecting licence" and an "offshore winning licence" respectively).

(2) Save as may be hereinafter expressly provided the Minerals Regulations, 1962 (L.I. 231) (hereinafter referred to as "the principal regulations") shall not apply to licences to which these Regulations apply.

2. *Applications for offshore licences.* (1) Every application for an offshore licence shall be made to the Minister in writing and shall—

(a) In the case of an application for an offshore prospecting licence be in Form 1 of the First Schedule to the principal regulations; or

(b) In the case of an application for an offshore winning licence, be in Form 3 of that Schedule,

and in each case shall contain the further particulars specified in the First Schedule to these Regulations.

(2) The provisions of paragraph (b) of regulation 1 of the principal regulations (which paragraph relates to applications by bodies corporate and persons not resident in Ghana) shall apply to applications for offshore licences.

<sup>1</sup> L.I. 257 of 1963; 12 March 1963.

<sup>2</sup> Amended by the Minerals Act and Regulations (Amendment) Decree, 1968 (N.L.C.D. 308 of 1968) and the Minerals Act and Regulations (Amendment) (No. 2) Decree, 1968 (N.L.C.D. 315 of 1968). Texts of these Decrees, together with that of the original Regulations, provided by the Permanent Representative of Ghana to the United Nations in a note verbale of 5 July 1973.

<sup>3</sup> "The Act" in these regulations means the Minerals Act, 1962 (Act 126 of 1962). The Act, as amended up to 1968 is reproduced in part *supra* (a).

(3) Every application for an offshore licence shall be accompanied by the appropriate fee specified in the Second Schedule<sup>1</sup> hereto and shall be made by reference to any official plan issued for the purpose of the grant of offshore licences. Where no such official plan has been issued, the application shall be accompanied by a sketch plan identifying the area of the sea-bed in respect of which a licence is sought.

(4) Five copies of all applications, documents and sketch plans shall be submitted.

3. *Restrictions on grant of offshore licences.* (1) An offshore licence shall not be granted to any person unless that person is—

(a) Over the age of 21 or, where the licence is granted to a partnership, all the partners are over 21; and

(b) A citizen of Ghana, or in the case of partnership each partner is a citizen of Ghana, or where the licence is granted to a body corporate, that body has been established in accordance with the laws of Ghana and has its registered office in Ghana.

5. *Helium and radio-active minerals.* (1) No offshore licence shall include the right to extract helium from any gas produced in the course of operations under the licence, and, subject to any directions by the Minister, the right to such helium shall be reserved to the Republic.

(2) Such directions by the Minister may include a direction to the licensee to extract and deliver helium upon the payment to the licensee of the costs of separation and transport, to such organs of the Republic as the Minister may specify.

(3) The foregoing provisions of this regulation shall apply to any mineral containing uranium or thorium or other fissionable material, being a mineral won in the course of operations under a licence, as they apply to helium.

(4) Where any such mineral or helium is discovered in the course of operations under an offshore licence the licensee shall, without prejudice to the requirements of any other enactment,—

(a) Forthwith notify the Minister of such discovery; and

(b) Ensure that such mineral or helium is not removed from the site of such operations without the prior approval of the Minister.

6. *Agreements and arrangements between licensees.* (1) Any unit plan, pooling or drilling agreement or any other agreement or arrangement between two or more licensees to share or make common use of any of the facilities of any of those licensees for the purpose of, or in connexion with, the discovery, winning, development or transport of any mineral under an offshore licence shall be submitted to the Minister for his approval before that unit plan, agreement or arrangement is put into effect.

(2) The foregoing subregulation shall apply to any agreement or arrangement which relates solely to matters of a financial character if such

<sup>1</sup> Not reproduced here.

matters arise out of, or are connected with, any unit plan, arrangement or agreement referred to in that subregulation, and to any agreement for securing the conservation of any minerals or facilities.

7. *Limitations on term of offshore licences.* An offshore licence shall be granted for a term of not more than five years in the case of a prospecting licence or 10 years in the case of a winning licence, and may be renewed if the Minister is of the opinion, in the case of the last-mentioned licence, that operations under the renewed licence will produce economic quantities of the relevant mineral, or if drilling or well reworking operations are to be conducted thereunder, and if, in every case, the Minister grants his approval of the renewal.

7A. *Term of petroleum winning licences.* (1) An offshore licence for the winning of petroleum may be granted for a term of not more than 30 years and may be renewed for a further term of not more than 10 years, notwithstanding regulation 7 of these Regulations.

(2) The grant of the Commissioner's approval under the said regulation 7 shall not be required in the case of any licensee who complies fully with all the provisions of any such offshore licence concerning the renewal of the licence.

8. *Ancillary works.* (1) No licensee shall construct, place or maintain within the licensed area any building, structure or works of any description, whether fixed or floating, or dredge any channel or part of the sea-bed, or lay any pipeline, telephone line, electric line or cable, unless he has first submitted to the Minister five copies of a plan of the proposed building, structure or works, and that plan has been approved by the Minister.

(2) In approving a plan under this regulation the Minister may, following consultation with the Ministers responsible for Defence, Shipping, Ports, Public Construction, Telecommunications and Mining (or any of them), attach such conditions to the approval as he thinks fit.

(3) Where it is provided in any offshore licence that the licensee shall be entitled to exercise any rights and powers reasonably incidental to the rights granted him under that offshore licence the Commissioner shall not refuse to approve any plan of any proposed building, structure or works submitted to him under this regulation being a building, structure or works the construction, maintenance or placing of which within the licensed area is reasonably incidental to the exercise by the licensee of his rights under the said offshore licence.

9. *Directional drilling.* No licensee shall carry out any directional drilling unless the place from which the drilling commences and the parts of the sea-bed through which the drill penetrates are within or under an area covered by an offshore licence.

10. *Prohibition of pollution.* (1) Every licensee shall so conduct his operations as to ensure that—

- (a) The sea is not polluted thereby;
- (b) No organic life is damaged thereby; and
- (c) That no mineral or water-bearing formations of the sea-bed are damaged thereby by the introduction therein of any extraneous matter.

(2) In order to comply with, but without prejudice to, the generality of the foregoing subregulation all waste products of wells shall be suitably disposed of.

11. *Interference with navigation and research.* No building, structure or works shall be erected or constructed by a licensee within the area of an offshore licence so as to interfere with, endanger or prejudice fishing, navigation or any oceanographic or scientific research.

12. *Subsurface storage of oil and gas.* (1) The subsurface storage of oil or gas within the area of the territorial waters of Ghana is hereby prohibited unless such oil or gas is stored under and in accordance with the terms and conditions of an authorization granted expressly in that behalf by the Minister.

14. *Information obtained by licensee.* Every licensee shall ensure that any geographical, geological, geophysical, seismographic or oceanographic information obtained by him in the course of operations under or in connexion with an offshore licence is furnished forthwith, in the case of information relating to the conformation of the sea-bed, to the Ministers responsible for Defence and Shipping, and in any other case to the Commissioners respectively responsible for Lands and Mineral Resources and for national research, or to any person designated by any of the aforesaid Ministers.

16. *Cesser of operations.* (1) Except where a shorter period of notice is specified in his offshore licence, every licensee shall give to the Commissioner not less than six months notice in writing of the licensee's intention to cease operations under his licence.

(2) Unless the Minister in any particular case otherwise directs, all wells, shafts boreholes, pipes and other openings shall, upon cesser of operations, be plugged by the licensee, and all buildings, structures and works removed so as not to interfere with, endanger, or prejudice fishing, navigation or any oceanographic or scientific research.

17. *Restriction on plugging and abandonment.* (1) Subject to the last foregoing regulation a licensee shall not abandon or plug any well, shaft or pipe unless he has satisfied the Minister on technical and economic grounds, that good reasons exist for doing so, and the Minister has granted his approval to the plugging or abandonment (as the case may be).

(2) In the event of a contravention of the foregoing subregulation by a licensee the Minister may direct the immediate termination of the licence.

(3) An approval under subregulation (1) of this regulation shall not be necessary in the case of a licensee who complies fully with all the terms of his offshore licence with respect to the abandonment or plugging of any wells, shafts boreholes, pipes and other openings.

18. *Restriction of operations in an emergency.* (1) Notwithstanding the terms of any offshore licence operations under that licence may be restricted or suspended if, either—



(a) The Minister responsible for Defence, for the purpose of the defence of the Republic; or

(b) The Minister of the Interior, for securing the internal security of the Republic,

so directs.

(2) Where any direction is given under the foregoing subregulation, the licensee concerned shall comply with that direction and with any conditions attached thereto.

19. *Platforms and other structures.* (1) No platform or other structure (whether fixed or floating) used by a licensee in an area covered by an offshore licence shall be manned by persons who are not citizens of Ghana except under and in accordance with the terms of an approval granted by the Minister responsible for the Interior after consultation with the Minister responsible for Defence.

(2) The licensee shall ensure that any such platform or other structure is lit at night in such manner as the Commissioner responsible for the Interior may direct.

(3) The licensee shall ensure that access to any such platform or other structure is given at all times to any public officer acting in the course of his duty and to any other person duly authorized as a servant or agent of the Republic to have access thereto.

...

20. *Ancillary rights.* (1) Where an applicant for an offshore licence is desirous of being granted an easement or other ancillary right or an authorization for the subsurface storage of oil or gas under regulation 12 a request in that behalf shall be included in the application.

...

21. *Application of the principal regulations.* (1) Regulation 2 of the principal regulations (which relates to publication of notices of applications) shall apply to applications for offshore licences subject to the modification that the District Commissioner referred to in paragraph (b) of that regulation shall be such District Commissioner as the Minister may think fit.

(2) Regulations 3 and 4 of the principal regulations (which relate respectively to the establishment of a Board to consider applications and the publication of decisions to grant or refuse applications) shall apply to applications and grants under these Regulations.

(3) Regulation 5 of the principal regulations (which relates to the renewal of prospecting licences) shall apply to the renewal of offshore prospecting licences and offshore winning licences.

(4) Regulation 10 of the principal regulations (which restricts the export of samples of minerals) shall apply to samples obtained in the exercise of rights under an offshore licence.

(5) Regulation 15 of the principal regulations (which relates to the execution of licences) shall apply to offshore licences.

21A. *Certain regulations not to apply to petroleum licences.* Unless the Commissioner otherwise decides regulations 3 (1) (b), 4, 6 and 21 (1) (2) and (4) of these Regulations shall not apply in the case of offshore licences for the prospecting or winning of petroleum.

22. *Reports to Minister.* The holder of an offshore licence, subject to the terms of the licence, shall—

(a) Forthwith report in writing to the Minister the finding of any deposit of minerals; and

(b) Without prejudice to the foregoing paragraph, and subject to any directions by the Minister, furnish the Minister with a written report, by not later than the twentieth day of each month, of the results of the operations carried on by the licensee during the immediately preceding month.

...

#### FIRST SCHEDULE

#### Regulation 2

#### *Application for an Offshore Licence*

#### *Additional Information*

1. Particulars of operations which applicant proposes to undertake.
2. Particulars of structure which applicant proposes to construct or erect.
3. Particulars of the means of communication which applicant proposes to establish—
  - (a) Between any structure in the licensed area and the shore;
  - (b) Between any one such structure and any other such structure; and
  - (c) Between any such structure and any vessel.
4. Whether applicant proposes to maintain a rescue service and, if so, particulars of that service.
5. Whether applicant proposes to tow into the licensed area any floating structure and, if so, from where and under what flag.
6. Particulars of all vessels applicant proposes to operate in connexion with the licence, including port of registration, flag, and net registered tonnage of the vessel.
7. Particulars of means proposed for conveying minerals to the shore (e.g. pipeline, overhead ropeway, barge, etc.)
8. Whether applicant requests an authorization under regulation 12 for subsurface storage.

## 5. TONGA

### PETROLEUM MINING ACT 1969<sup>1</sup>

...

2. In this Act, unless the context otherwise requires—

<sup>1</sup> Act No. 3 of 7 August 1969. Given Royal assent on 28 January 1970. Text transmitted to the Secretary-General of the United Nations by the Acting Prime Minister and Minister for Foreign Affairs of Tonga, in a letter dated 25 June 1974.

“Minister” means the Minister of Lands;

“land” means any area of on-shore land within the Kingdom of Tonga and includes off-shore land adjacent to and contiguous with such on-shore land;

“on-shore land” means the surface area of the islands of Tongatapu, 'Eua, Ha'apai, Vava'u and other islands within the Kingdom of Tonga, including the foreshores of these islands;

“off-shore land” means all submerged lands lying within the extent and boundaries of the Kingdom of Tonga as defined by the Royal Proclamation of 11 June 1887,<sup>1</sup> namely, between the fifteenth and twenty-third and half degrees of south latitude and between the one hundred and seventy-third and one hundred and seventy-seventh degrees of west longitude;

“foreshore” means the land adjacent to the sea alternately covered and left dry by the ordinary flow and ebb of the tides and all land adjoining thereunto lying within fifty feet of the high water mark of the ordinary tides;

“licensee” means a person to whom an exploration licence under Section 7 is issued and includes his successors in title and the persons deriving title under him;

“exploration licence” means a licence issued under Section 7 authorising the licensee thereof to explore for petroleum;

“exploration work” means any work carried out in connection with exploration for petroleum;

“person” includes a company;

“petroleum” means—

(a) Any naturally occurring hydrocarbons, whether in gaseous, liquid or solid state, but excluding coal or bituminous shales or other stratified deposits from which oil can be extracted by destructive distillation;

(b) Any naturally occurring mixture of hydrocarbons, whether in gaseous, liquid or solid state;

(c) Any naturally occurring mixture of one or more hydrocarbons, whether in gaseous, liquid or solid state, and one or more of the following that is to say, hydrogen sulphide, nitrogen, helium and carbon dioxide and includes any petroleum as defined by paragraphs (a), (b) or (c) of this definition that has been returned to its natural reservoir;

“petroleum agreement” means an agreement entered into by His Majesty in Council with any person who desires to explore, prospect and mine for petroleum in the Kingdom of Tonga in accordance with Sections 8 and 9.

3. (1) No persons shall explore, prospect or mine for petroleum or do any act with a view to such exploring, prospecting or mining upon any land except by virtue of an exploration licence or a petroleum agreement issued or entered into under the provisions of this Act.

(2) Any person who acts in contravention of this section shall be guilty of an offence and shall on conviction be liable to a term of imprisonment not

<sup>1</sup> *Supra* chapter 1, 17 (a).

exceeding two years, or to a fine not exceeding five thousand pa'anga or to both such imprisonment and fine; and all machinery, tools, plant, buildings and other property together with any minerals or other products which may be found upon or proved to have been obtained from the land so unlawfully explored, prospected or mined shall be liable to forfeiture.

4. (1) Any person desirous of exploring, prospecting or mining for petroleum may apply in accordance with the provisions of this Act for an exploration licence or a petroleum agreement in respect of any area of land.

(2) Every application for an exploration licence or for a petroleum agreement under this Act shall be considered and approved or refused, as the case may be, by His Majesty in Council.

5. (1) Every application shall be made in writing in the form set out in the Schedule<sup>1</sup> to this Act and shall be addressed to the Minister for consideration by His Majesty in Council.

(2) Every application made under this section shall be accompanied by such fees as may be prescribed.

(3) There shall be attached to the application two copies of a recognised official map of the lands or any part thereof upon which shall be delineated the boundaries of the area in respect of which an exploration licence or petroleum agreement, as the case may be, is applied for; and in the case of an application for an exploration licence, such application shall be supported by evidence that the applicant intends to carry out exploration work on a serious basis over the area of land applied for.

(4) The applicant shall, upon request by the Minister, furnish such evidence as His Majesty in Council may consider necessary as to his financial and technical qualifications and as to his ability to comply with any terms and conditions in the exploration licence or, as the case may be, in the clauses of the petroleum agreement; and if such evidence shall not have been so furnished within three months of the request thereof, the application shall, unless His Majesty in Council otherwise determines, be deemed to have lapsed and become void.

(5) All information comprised in or furnished to His Majesty in Council in pursuance of an application made under this Act shall be treated as confidential.

(6) Where any person requires an exploration licence or a petroleum agreement in respect of two or more separate areas, a separate application shall be made in respect of each such area.

6. If a petroleum agreement has not been signed by the applicant company or its successor and such applicant company or its successor has not paid the fee in accordance with regulations within six months following the approval date of the application, the right of the applicant to such petroleum agreement shall lapse, unless His Majesty in Council considers that the delay is not attributable to the fault of such company.

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<sup>1</sup> Not reproduced here.

7. (1) His Majesty in Council may issue an exploration licence in respect of the whole or any part of the area of land applied for, and every exploration licence issued under this Act may, subject to the following provisos, authorise the licensee thereof to explore for petroleum over the whole or any part of the area of land specified in that licence:

Provided that an exploration licence shall not be issued in respect of an area of land which has already been covered by a petroleum agreement entered into under Section 8:

And provided further that nothing in this section shall prevent His Majesty in Council from issuing in respect of the same area of land more than one exploration licence or another exploration licence or licences to other person or persons.

(2) Every licensee of an exploration licence shall enjoy rights and liberty granted under his licence during the continuance thereof in common with other licensees to whom exploration licences in respect of the same area may have been issued or may hereafter be issued.

(3) Every exploration licence shall be for an initial period of two years and thereafter may be extended from time to time upon an application for the extension thereof made and supported by evidence that the licensee had in fact carried out during the currency of the licence exploration work upon a reasonable scale.

(4) The licensee of an exploration licence may at any time apply to His Majesty in Council for a petroleum agreement in respect of the whole or any part of the area held under his exploration licence; and upon the issue of a petroleum agreement covering such area or any part thereof all exploration licences covering such area or any part thereof shall determine without the Government of Tonga being liable to pay any compensation to licensees.

(5) An exploration licence shall be in the form and shall contain the terms and conditions of the model exploration licence to be made by His Majesty in Council under Section 12 (1) (i):

Provided that, in respect of any exploration licence, His Majesty in Council may make such modifications and exclusions and may add such additional clauses covering ancillary matters as His Majesty in Council may deem fit.

8. (1) Upon an application made in that behalf by any person desirous of exploring, prospecting and/or mining for petroleum His Majesty in Council may, subject to the provisions of Section 9 and the following subsection, enter with such person into a petroleum agreement in respect of any area or areas of land for which such application therefor has been made as herein provided.

(2) Save as provided in Section 9, every petroleum agreement shall cover an area of land not exceeding 4,000 square miles, or areas of land which in the aggregate do not exceed 4,000 square miles, and shall be in the form and shall contain terms and conditions of the model petroleum agreement to be made by His Majesty in Council under Section 12 (1) (i):

Provided that in respect of any petroleum agreement His Majesty in Council may make such modifications and exclusions and may add such

additional clauses covering ancillary matters as to His Majesty in Council may seem fit.

9. (1) Subject to the provisions of subsection (2), His Majesty in Council may enter into a single petroleum agreement in respect of an area or areas of land notwithstanding that the total areas to be covered by such petroleum agreement may exceed 4,000 square miles as required by subsection (2) of section 8.

(2) Where the total area or areas covered by a single petroleum agreement which has been entered into exceeds 4,000 square miles, the obligations which the other party to such single petroleum agreement shall perform as expenditure commitments and fixed yearly payments under the agreement shall be increased proportionately in the same proportion as the area in excess thereof bears to the area of 4,000 square miles.

10. Nothing in this Act shall prevent more than one exploration licence or petroleum agreement being issued to or entered into with the same person.

11. His Majesty in Council shall, as soon as may be after the execution, surrender, determination or assignment of any petroleum agreement or the rights thereunder, issue a public notification of the fact stating the name of the person with whom such petroleum agreement was made, the name of any assignee and the situation of the area concerned.

12. (1) His Majesty in Council may make and when made vary, alter, amend, revoke or cancel regulations generally for the purposes of carrying into effect the provisions of this Act, and in particular such regulations may provide for—

- (i) The model exploration licence and the model petroleum agreement;
- (ii) The appointment, duties, privileges and powers of officers to enforce the provisions of this Act including an exploration licence and any petroleum agreement issued or entered into thereunder;
- (iii) The prescribing of fees to be paid in respect of the issue of an exploration licence and the entering into of any petroleum agreement;
- (iv) The prevention of fires in areas where oil mining is being carried on;
- (v) The establishment of safety areas around any petroleum reserve installations erected on the sea bed provided that no safety area around petroleum mining installations erected on the off-shore land shall exceed five hundred metres in radius;
- (vi) The general safety, health, working conditions and welfare of persons engaged in oil mining whether on-shore or off-shore; and
- (vii) The amendment of the Schedule.

(2) Any rules made in pursuance of paragraph (vi) of subsection (1) may provide that such rules shall be in addition to or in substitution for the provisions of the written law of the Kingdom relating to labour and any rules made thereunder relating to the matters specified in that paragraph.

(3) Any person who contravenes a provision of any regulations made under subsection 1 (iv), (v) and (vi) of this section shall be guilty of an offence and shall on conviction be liable to a term of imprisonment not

exceeding 2 years or to a fine not exceeding five thousand pa'anga or to both such imprisonment and fine.

13. (1) Where a licensee or a person who is a party to a petroleum agreement has been refused entry upon an alienated land by the holder thereof, such licensee or such person may make an application to the Minister for permission to enter upon such alienated land; and the Minister may subject to subsection (2) grant the permission applied for on condition that the applicant undertakes to pay compensation for all the damage which may have been caused to the land or crops or property therein or on such other conditions as the Minister may deem fit to impose.

(2) Before granting the permission referred to under subsection (1), the Minister shall grant to the holder of such alienated land the right of being heard, and the permission so granted shall be final and shall not be questioned in any court of law.

(3) Upon the production to the holder of such alienated land of the permission granted under subsection (1), such holder shall allow the person in whose favour the permission is granted or a person authorised by him to enter upon such land.

(4) If, after having been produced to him the permission referred to under subsection (1) the holder of such alienated land refuses or fails to allow entry upon his land by the person in whose favour the permission is granted or a person authorised by him, such holder shall be guilty of an offence and upon conviction shall be liable to a fine not exceeding one thousand pa'anga and a further fine not exceeding twenty pa'anga for every day during which the refusal or the failure continues.

(5) For the purpose of this section the expression "holder" includes chargee, lessee, occupier or any person having interest in the land; and the expression "entry" includes the exercising of any rights contained in the licence or the petroleum agreement.

14. The basic financial, fiscal and other considerations stipulated in any petroleum agreement executed under this Act shall not be changed during its term by unilateral legislative or executive measures.

15. All references to petroleum exploration and prospecting licences and to petroleum mining leases occurring in the Minerals (Temporary Provisions) Act 1919-1968 shall on the coming into force of this Act be deemed to have been repealed.

## 6. UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND

### (a) OFFSHORE INSTALLATIONS (LOGBOOKS AND REGISTRATION OF DEATH) REGULATIONS 1972<sup>1</sup>

*Citation, commencement and interpretation*

1. (1) . . .

<sup>1</sup> Dated 16 October 1972. *Statutory Instruments*, 1972 No. 1542. Came into operation on 30 November 1972.

## (2) In these Regulations—

“installation logbook” means a logbook obtained from the Department of Trade and Industry; and

“manager” includes, where no manager is appointed pursuant to section 4 of the Act,<sup>1</sup> any person made responsible by the owner for safety, health and welfare on board an offshore installation.

(3) These Regulations shall not apply to installations registered as vessels (whether so registered in the United Kingdom or elsewhere) which are dredging installations or which are in transit to or from a station, or in relation to installations which are unmanned.

(4) The Interpretation Act 1889<sup>2</sup> shall apply to the interpretation of these Regulations as it applies to the interpretation of an Act of Parliament.

*Logbooks*

2. (1) An installation logbook shall be maintained on every offshore installation at all times when the installation is in waters to which the Act applies:

Provided that in the case of a fixed installation under construction or in course of assembly or dismantlement it shall be sufficient compliance with this Regulation to maintain the installation logbook on an attendant vessel.

(2) An installation logbook shall be maintained on an offshore installation notwithstanding that another logbook may be required to be maintained on it as a registered vessel.

3. (1) There shall be entered in every installation logbook before any other entry is made in the book—

(a) The registered name or other designation of the relevant installation;

(b) The name of the owner and the address to which communications for him are to be sent;

(c) The name of the person or persons appointed as manager;

and if at any time while the logbook is in use these entries are no longer correct they shall be amended appropriately.

(2) Entries shall be made in the installation logbook regarding every occurrence affecting or likely to affect the safety of the installation or the safety, health and welfare of persons on or working from the installation or involving the installation and endangering persons in its neighbourhood and in particular, but without prejudice to the generality of the foregoing, of—

(a) The assumption and relinquishment of responsibility by managers, manning changes, visits by vessels, aircraft and hovercraft and, in the case of a mobile offshore installation, of its movements and locations;

<sup>1</sup> “The Act” in these Regulations means the Mineral Workings (Offshore Installations) Act 1971, reproduced in part in ST/LEG/SER.B/16, pp. 107-112.

<sup>2</sup> 1889 c. 63.



(b) Adverse weather conditions, collisions, structural changes and major repairs, surveys and any other occurrence relevant to the safety, seaworthiness or stability of the installation;

(c) Safety drills, accidents and injuries to persons, and the occurrence of disease and death;

(d) Emergencies and apprehended emergencies and measures taken to meet or avoid them, whether relating to the installation or to personnel;

(e) The placing under restraint of any person pursuant to section 5 (6) of the Act;

(f) Any visit of an inspector appointed under section 6 (4) of the Act or other person acting at the direction of the Secretary of State and any action taken as a result of investigations made or notices served by such inspector or other person.

5. Where an entry is made in an installation logbook recording that a person has been placed under restraint on an installation the owner of the installation shall as soon as practicable notify the Secretary of State for Trade and Industry of the relevant occurrence.

*Records of persons at an installation*

7. (1) At all times when there is an obligation to maintain an installation logbook on any installation there shall also be maintained on the installation a separate continuous record of the persons on or working from the installation which shall include:

(a) The full names of every such person;

(b) The date and time of his arrival and, if he is no longer on or working from the installation, of his departure;

(c) The reason for his presence there;

(d) The name and address of his employer;

Provided that in the case of a fixed installation under construction or in course of assembly or dismantlement it shall be sufficient compliance with this Regulation to maintain such record on an attendant vessel.

(3) The owner of the installation shall maintain at a place ashore in the United Kingdom a record of the persons on or working from the installation and such record shall include the information specified in paragraph (1) together with the nationality, the date of birth and the usual residence of those persons and the name, address and relationship of their next-of-kin (if any).

(4) The owner of the installation shall, on demand, produce to the Secretary of State a copy of the record of persons required to be maintained by the manager of the installation pursuant to paragraph (1) or, if this is not practicable, a copy of the record of persons required to be maintained by the owner pursuant to paragraph (3), being in either case a copy certified by the owner or a person authorized by him as a true copy.

*Registration of deaths and persons lost*

## 8. Where any person

(a) Dies on an offshore installation or is lost from an installation in circumstances such that it is reasonable to believe that he has died; or

(b) Dies in or on a lifeboat, liferaft or other emergency survival craft belonging to an offshore installation or is lost therefrom in such circumstances as aforesaid; or

(c) Otherwise dies or is lost in such circumstances as aforesaid in the neighbourhood of an offshore installation while engaged in any operation connected with the installation;

and the death or loss is not required to be registered under the Merchant Shipping Act 1894<sup>1</sup> or under any regulations made under section 72 of the Merchant Shipping Act 1970<sup>2</sup> (which relates to returns of births and deaths in ships), a return of death in the form set out in the Schedule hereto shall be made in accordance with Regulation 9.

...

*Offences and penalties*

12. (1) A contravention of any requirement of Regulation 2 (1), 3, 6 (1), 7 (1) or 9 (1) shall be an offence for which the manager of the relevant installation at the time of the contravention shall be liable on summary conviction to a fine not exceeding £100.

(2) A contravention of any requirement of Regulation 2 (1), 5, 6, 7, 9 (2) or 10 shall be an offence for which the owner of the relevant installation shall be liable on summary conviction to a fine not exceeding £100.

...

(4) If any person wilfully refuses to give any information necessary for the maintenance of the records required to be maintained by Regulation 7, he shall be liable on summary conviction to a fine not exceeding £50.

(5) If any person wilfully enters any false information in a logbook or record required to be maintained by Regulation 7 or makes any false certificate in any return of death or, knowing such certificate to be false, sends the same as true to any person, he shall be liable on summary conviction to a fine not exceeding £400.

(6) It shall be a defence in any proceedings for an offence under paragraphs (1) and (2) of this Regulation for the person charged to prove:

(a) That he exercised all due diligence to prevent the commission of the offence; and

(b) That the relevant contravention was committed without his consent, connivance or wilful default.

<sup>1</sup> 1894 c. 60.

<sup>2</sup> 1970 c. 36.

(b) OFFSHORE INSTALLATIONS (INSPECTIONS AND CASUALTIES)  
REGULATIONS 1973<sup>1</sup>

*Citation, commencement and interpretation*

1. (1) These Regulations may be cited as the Offshore Installations (Inspectors and Casualties) Regulations 1973 and shall come into operation on 1 December 1973.

(2) In these Regulations unless the context otherwise requires—

“casualty” means a casualty or other accident involving loss of life or danger to life suffered by a person—

(a) Employed on, on or working from an offshore installation; or

(b) On or working from an attendant vessel, in the course of any operation undertaken on or in connexion with an offshore installation;

“disease” includes any ailment or adverse condition, whether of body or mind;

“equipment” means any plant, machinery, apparatus or system used, formerly used or intended to be used (whether on or from an offshore installation or on or from an attendant vessel) in the assembly, reconstruction, repair, dismantlement, operation, movement or inspection of an offshore installation of the inspection of the sea bed under or near an offshore installation;

“inspector” means a person appointed as an inspector under section 6 (4) of the Act;<sup>2</sup>

“manager” includes, where no manager is appointed pursuant to section 4 of the Act, any person made responsible by the owner for safety, health and welfare on board an offshore installation;

“offshore installation” includes any part of an offshore installation whether or not capable of being manned by one or more persons; and

“vessel” includes an aircraft, a hovercraft and any floating structure other than an offshore installation.

(3) The Interpretation Act 1889 shall apply to the interpretation of these Regulations as it applies to the interpretation of an Act of Parliament.

PART I

*Inspection of offshore installations*

*Functions and powers of inspectors*

2. (1) For the purpose of ensuring that the provisions of the Act and of regulations thereunder are complied with, of investigating a casualty and

<sup>1</sup> Dated 2 November 1973. Statutory Instruments, 1973 No. 1842. Came into operation on 1 December 1973.

<sup>2</sup> Mineral Workings (Offshore Installations) Act 1971, partially reproduced in document ST/LEG/SER.B/16, pages 107-112.

generally assisting the Secretary of State in the execution of the Act, an inspector, at any time—

- (a) May board an offshore installation and obtain access to all parts of it;
- (b) May inspect an offshore installation and any equipment;
- (c) May inspect the sea bed and subsoil under or near an offshore installation;
- (d) May inspect and take copies from any certificate of insurance issued under regulations made under paragraph 4 (2) (b) or (3) of the Schedule to the Act or any copy thereof so required to be maintained on an offshore installation, from any installation logbook or other record required to be maintained under regulations made under paragraph 11 of that Schedule or from any other document relating to the operation or safety of an offshore installation or of any equipment;
- (e) May test any equipment;
- (f) Where a casualty has occurred or is apprehended, may dismantle any equipment or test to destruction or take possession of any equipment;
- (g) May require the owner or manager or any person on board or near to an offshore installation to do or to refrain from doing any act as appears to the inspector to be necessary or expedient for the purpose of averting a casualty (whether the danger is immediate or not), or minimizing the consequences of a casualty.

(2) An inspector shall permit the owner or manager or any person nominated by the owner or manager to be present when any inspection, test or dismantlement is carried out under this Regulation.

(3) A requirement under paragraph (1) (g) above shall cease to have effect at the expiration of 3 days after the date on which it is given, unless the Secretary of State by notice given to the owner of the offshore installation extends its operation (with or without variation) for a further period or periods:

Provided that, before giving notice extending the operation of the requirement, the Secretary of State shall consult with the owner of the installation and shall consider any representations made by him.

3. (1) In connexion with any of his functions under Regulation 2 an inspector—

(a) May make such requirements of any person (including the owner and manager of the installation) as appear to the inspector to be required for the performance of those functions whether by himself or any other person acting at the direction of the Secretary of State:

Provided that before making a requirement in connexion with any of paragraphs (1) (e), (f) or (g) of that Regulation, the inspector shall consult with the owner or manager with a view to maintaining safety and to minimizing interference with the operation of the installation;

(b) May require any person to produce to the inspector any article to which this Regulation applies and which is in his possession or custody;

(c) May make notes, take measurements, make drawings and take photographs of an offshore installation and of any article to which this Regulation applies;

(d) May require the owner or manager of the installation to furnish to him any article to which this Regulation applies (other than a document), or, in the case of any article on any vessel, may so require the master, captain or person in charge of the vessel;

(e) May require the owner or manager of an offshore installation or any person employed on or in connexion with the installation or equipment to carry out or to assist in carrying out any inspection, text or dismantlement of the offshore installation or of any equipment;

(f) May require the owner or manager of an offshore installation or the concession owner concerned to assist him in carrying out an inspection of the sea bed or subsoil under or near the installation; and

(g) May require the owner or manager to provide at any reasonable time conveyance to or from the installation of the inspector, any other person acting at the direction of the Secretary of State, any equipment required by the inspector for testing and any article of which he has taken possession pursuant to these Regulations.

(2) This Regulation applies to articles of the following descriptions, that is to say, any equipment or part thereof, a specimen of any material or substance (including a natural substance) on or near an offshore installation and any document of a description referred to in Regulation 2 (1) (d).

4. (1) An inspector may require an owner or a manager of an offshore installation or any other person to furnish to him or to a person acting at the direction of the Secretary of State such information as he may reasonably demand in exercise of the inspector's functions under Regulation 2.

(2) Information required to be furnished under paragraph (1) may, and if so required by the inspector shall, be furnished in writing, and if furnished orally may be so furnished in the presence of any person whom the person furnishing the information reasonably desires to be present and, if practicable and that person so wishes, in the presence of the manager of the installation.

#### *Duties of owners of offshore installations and others*

5. (1) The owner or manager of an offshore installation shall provide an inspector and any other person acting at the direction of the Secretary of State with reasonable accommodation and means of subsistence while on board an offshore installation for the purposes of these Regulations.

(2) The owner or manager of an offshore installation and any other person, in relation to any offshore installation in any area in respect of which he is the concession owner, shall afford generally or so cause to be afforded to an inspector and any other person acting at the direction of the Secretary of State all such facilities and assistance (including the carrying out of any procedures by way of demonstration) as an inspector or such other person may reasonably require in performing the functions of an inspector under these Regulations; and an inspector or such other person may require accordingly.

*Disclosure of information*

6. A person acting at the direction of the Secretary of State (not being a person holding office under Her Majesty) shall not disclose to any other person any information obtained or received by him while acting at such direction—

(a) By virtue of these Regulations other than Regulation 4 (1), without the consent of the owner; or

(b) By virtue of Regulation 4 (1), without the consent of the person who furnished the information; or

(c) Under any provision of these Regulations, without the consent of the Secretary of State.

*Offences under Part I*

7. (1) Any person—

(a) Who fails to comply with any requirements made of him under this Part of these Regulations; or

(b) Who obstructs any other person in the performance of his functions, powers or duties under, or in complying with any requirement made of that person under, this Part of these Regulations, or

(c) Who, without permission granted by an inspector or other person acting at the direction of the Secretary of State, removes, conceals or tampers with any article of which possession has been taken by an inspector or such a person;

shall be guilty of an offence.

(2) An owner or manager who fails to provide accommodation and means of subsistence pursuant to Regulation 5 (1) shall be guilty of an offence.

(3) An owner, manager or concession owner who fails to afford or cause to be afforded facilities and assistance pursuant to Regulation 5 (2) shall be guilty of an offence.

(4) A person acting at the direction of the Secretary of State who discloses any information in contravention of Regulation 6 shall be guilty of an offence.

8. (1) It shall be a defence to a charge—

(a) Under Regulation 7 (1) (a) relating to failure to comply with a requirement made under Regulation 5 (2); or

(b) Under Regulation 7 (3) relating to failure to afford facilities or assistance under Regulation 5 (2);

to show that the person charged, being the manager of the offshore installation to which the charge relates, was acting, in respect of the facts alleged, under and in accordance with the provisions of subsections (4) or (6) of section 5 of the Act (which confers powers on the manager of an offshore installation).

(2) The fine which may be imposed under Regulation 7 (2) shall not exceed £100 and proceedings on indictment thereunder shall be excluded.

(3) The variations or revocation of any requirement given or made under any provision of these Regulations shall not affect liability for any offence committed before the variation or revocation takes effect.

...

(c) OFFSHORE INSTALLATIONS (CONSTRUCTION AND SURVEY)  
REGULATIONS 1974<sup>1</sup>

...

2. (1) In these Regulations and the Schedules hereto, unless the context otherwise requires—

“Certificate of Fitness” means a certificate issued by a Certifying Authority under Regulation 9;

“Certifying Authority” means the Secretary of State or any person, committee, society or other body of persons appointed by the Secretary of State pursuant to Regulation 4;

“environmental factors” mean the matters referred to in Part II of Schedule 2;

“equipment” means any plant, machinery, apparatus or system attached to or forming part of an offshore installation;

“fixed installation” means an offshore installation which is not a mobile installation;

“mobile installation” means an offshore installation which can be moved from place to place without major dismantling or modification, whether or not it has its own motive power;

“operations manual” means written particulars provided by the owner of an offshore installation for the information, guidance and instruction of the manager thereof in securing, in the case of a fixed installation, the safety of the installation when established at a station and, in the case of a mobile installation, the safety, seaworthiness and stability of the installation when moving to or from, or being located on, or removed from, or maintained at, a station;

“primary structure” means all structural components of an offshore installation, the failure of which would seriously endanger the safety of the installation;

“relevant waters” mean waters to which the Act<sup>2</sup> applies;

“seaworthiness” means the capacity of a mobile installation to withstand, while floating, all relevant environmental factors;

“survey” means an examination conducted by a surveyor of an offshore installation or any part thereof or of any equipment, including the scrutiny of

<sup>1</sup> Dated 17 February 1974. *Statutory Instruments* 1974 No. 289. Came into operation on 1 May 1974.

<sup>2</sup> Mineral Workings (Offshore Installations) Act 1971, partially reproduced in document ST/LEG/SER.B/16, pages 107-112.

any document, relevant thereto, and the conducting of any tests which a surveyor considers necessary in order to assess the integrity or safety of any item and whether any requirement of these Regulations has been complied with; and

“surveyor” means a surveyor appointed by a Certifying Authority.

(2) Nothing in these Regulations shall apply to an offshore installation which is a dredging installation and which is registered as a vessel (whether so registered in the United Kingdom or elsewhere) or to an offshore installation which can be navigated or operated when wholly submerged in water.

(3) The Interpretation Act 1889 shall apply to the interpretation of these Regulations as it applies to the interpretation of an Act of Parliament.

*Certification of offshore installations*

3. (1) On or after 31 August 1975:—

(a) No fixed installation shall be established in the relevant waters;

(b) No mobile installation shall be brought into those waters with a view to its being stationed there; and

(c) No fixed or mobile installation shall be maintained in those waters; unless there is in force in respect thereof a valid Certificate of Fitness.

(2) On or after the date specified in paragraph (1), no mobile installation shall be moved to a station in the relevant waters unless prior to moving the owner of the installation has obtained from a competent person a report on the environmental factors at that station and the owner has reasonable grounds for believing that the installation is capable of withstanding those factors.

4. The Secretary of State may appoint any person, committee, society or other body of persons to cause surveys and assessments to be made pursuant to these Regulations and to certify offshore installations as fit for any of the purposes specified in these Regulations.

5. (1) An application for a Certificate of Fitness in respect of an offshore installation, or for a renewal thereof, shall:—

(a) Be made by or on behalf of the owner of that installation;

(b) Be made to a Certifying Authority in the form specified in Part I of Schedule 1 duly completed and signed;

(c) Be accompanied by such information as may be necessary to enable the fees to be calculated in accordance with Regulation 13;

(d) Be accompanied by sufficient plans, drawings, specifications, reports and other documents and information to enable the Certifying Authority to ascertain whether the requirements specified in Schedule 2, or such of the same as are applicable to the installation and its equipment, have been complied with; and

(e) Be accompanied by the operations manual relating to the installation:

Provided that it shall be permissible to submit any document referred to in paragraphs (d) and (e) at any date prior to the grant of the Certificate of Fitness.



(2) If upon receipt of an application for a Certificate of Fitness in respect of an offshore installation, or for a renewal thereof, the Certifying Authority shall be of opinion that the application and the supporting documents and information comply with the requirements of paragraph (1), the Authority shall:—

(a) Cause to be carried out, or ensure that there has already been carried out, by a competent person, an independent assessment of the design and method of construction of the installation to ascertain whether the requirements specified in Schedule 2 hereto, or such of the same as are applicable to the installation and its equipment, have been complied with, and an independent assessment of the provisions of the operations manual to ascertain whether the information, guidance and instructions contained therein are adequate and appropriate in relation to the installation; and

(b) Cause to be carried out a major survey of the installation and its equipment in accordance with Regulation 8 (1) in order to ascertain whether the installation conforms to the design and method of construction referred to in sub-paragraph (a) and whether the requirements specified in Schedule 2, or such of the same as are applicable to the installation and its equipment, have been complied with.

#### *Surveys of offshore installations*

6. (1) A certifying Authority shall appoint, from among persons appearing to the Authority to be suitably qualified, surveyors whose duty it shall be to conduct the surveys required by these Regulations.

(2) In carrying out any such survey, a surveyor shall be accorded all necessary facilities therefor by the owner and manager of the installation concerned, and the installation and any of its equipment shall be submitted to such tests as may in the opinion of the surveyor be necessary to ascertain whether the requirements specified in Schedule 2, or such of the same as are applicable, have been complied with.

(3) On completing a survey, a surveyor shall make a declaration to the Certifying Authority giving the date of completion of his survey, the results thereof and his findings as to whether the installation complies with the requirements of Schedule 2, or such of the same as may be applicable, on a form specified by the Authority for that purpose, which form shall remain in the Authority's custody.

7. (1) If at any time while an application for a Certificate of Fitness is being considered by a Certifying Authority or while a Certificate of Fitness is in force any alteration should be made to any plan, drawing, specification or other document (apart from an operations manual), a copy of which was previously submitted pursuant to these Regulations, the owner of the installation concerned shall forthwith upon such alterations send particulars thereof to the Certifying Authority which is considering the application or which issued the certificate in force or both those Authorities (as the case may be).

(2) No alterations shall be made to the provisions of any operations manual, which has previously been submitted to a Certifying Authority, without the consent of that Authority.

(3) If at any time while an application for a Certificate of Fitness is being considered by a Certifying Authority or while a Certificate of Fitness is in force there occurs in respect of the offshore installation to which the application of certificate (as the case may be) relates any of the following events:—

(a) It is damaged, or is suspected of having been damaged, in a manner likely to impair the safety, strength, stability and, in the case of a mobile installation, seaworthiness of the installation; or

(b) It demonstrates signs of deterioration in its structure to an extent likely to impair the safety, strength, stability and, in the case of a mobile installation, seaworthiness of the installation; or

(c) Its equipment is subjected to any alteration, repair or replacement; the owner of the installation shall forthwith notify in writing the Certifying Authority which is considering the application or which issued the certificate in force or both those Authorities (as the case may be) of the occurrence of that event, giving whatever particulars may be required to enable the Authority concerned to determine whether or not an additional survey should be carried out.

(4) No repair, replacement, alteration or dismantlement shall be carried out in respect of any offshore installation at any time while a Certificate of Fitness is in force in respect of that installation unless the procedures specified in sub-paragraphs (a), (b) and (c) of paragraph 1 of Part VII of Schedule 2 are observed in respect thereof, the references in those sub-paragraphs to “the Certifying Authority” being taken to refer to the Certifying Authority which issued the before-mentioned Certificate of Fitness and the reference therein to “such work” being taken to refer to such repair, replacement, alteration or dismantlement (as the case may be).

8. (1) In respect of every offshore installation in relation to which there is no Certificate of Fitness in force or in respect of which a Certificate of Fitness is in force and a renewal thereof is sought, there shall be carried out a survey (herein referred to as a “major survey”) which shall include a thorough examination of the installation and its equipment in order to ascertain the matters specified in Regulation 5 (2) (b):

Provided that a Certifying Authority may accept as part of a major survey the results of a survey carried out otherwise than under these Regulations if satisfied that the results so obtained are equivalent to those which would have been obtained in the course of a major survey:

Provided further that at any time after the installation has been subjected to a major survey a Certifying Authority may accept, instead of a subsequent major survey, a series of continuous surveys conducted in rotation in conjunction with the annual surveys required under paragraph (2) if satisfied that the results so obtained are equivalent to those which would have been obtained in the course of a major survey.

(2) (a) In respect of every installation in relation to which a Certificate of Fitness is in force, there shall be carried out on behalf of the Certifying Authority which issued that certificate surveys (hereinafter referred to as “annual surveys”) of a selection of the members, joints and areas of the

primary structure of the installation, the parts of the installation referred to in Part V of Schedule 2 and its equipment, the selection being sufficient in number, disposition or extent (as the case may be) to provide reasonable evidence as to whether the installation and its equipment continue to comply with the requirements of Schedule 2, or such of the same as may be applicable.

(b) The first annual survey shall be carried out within not less than 9 nor more than 18 months after the date of issue of the Certificate of Fitness and thereafter similar surveys shall be carried out within not less than 9 nor more than 15 months of each anniversary of the date of issue of the certificate during the period in which it is in force.

(3) Upon receipt of a notification pursuant to Regulation 7 (3) of the occurrence in respect of an installation of any of the events specified therein, or if the Certifying Authority otherwise has reason to believe that any such event has occurred, the Certifying Authority may cause such additional survey of the installation and its equipment to be carried out as the Authority thinks fit to ascertain, in the case of an installation in respect of which an application for a certificate is being considered, whether any changes have been made or taken place sufficient to render no longer accurate the data which accompanied the application and, in the case of an installation in respect of which a Certificate of Fitness is in force, whether the installation and its equipment continue to comply with the requirements of Schedule 2, or such of the same as may be applicable.

#### *Certificates of Fitness*

9. (1) After considering all documents and other information submitted in pursuance of Regulation (5) (1) and all declarations of survey and the results of all assessments carried out in pursuance of Regulation (5) (2) the Certifying Authority may, if the Authority is satisfied that it is proper to do so, issue a Certificate of Fitness in accordance with these Regulations certifying that the offshore installation concerned is fit to be established or stationed (according to whether it is respectively a fixed or a mobile installation) and maintained in the relevant waters.

(2) A certificate of Fitness shall be in the form set out in Part II of Schedule 1 and may contain whatever limitations the Certifying Authority considers it appropriate to specify as respects the movement, location and operation of the installation to which it relates having regard to the design of the installation, the method of its construction, the materials employed in its construction and the environmental factors. The Certifying Authority shall issue two copies of the Certificate of Fitness to the owner of the installation.

(3) One copy of the current Certificate of Fitness shall be kept posted on board the installation to which it relates in such a position that it can be conveniently read, save for occasions when in pursuance of these Regulations any amendment or endorsement required to be made thereto is being effected.

(4) The Certifying Authority may amend any Certificate of Fitness by recording on the copy of the certificate referred to in paragraph (3) any changes which have occurred since it was issued, and a record of any survey

made in pursuance of Regulation 8 (2) or (3) in connexion with the installation to which the certificate relates shall be endorsed thereon on behalf of the Certifying Authority by the surveyor who carried it out. The surveyor shall also furnish the owner of the installation with a copy of the endorsement made by him.

10. (1) If, after considering the matters referred to in Regulation 9 (1), the Certifying Authority is not satisfied that a Certificate of Fitness may properly be issued, the Authority shall send a notification in writing to that effect to the owner of the offshore installation concerned giving the reasons for the conclusion, and shall at the same time send a copy of that notification to the Secretary of State.

(2) If, after considering any declaration of survey carried out in pursuance of Regulation 8 (2) or (3), or particulars of any alteration to a document submitted in pursuance of Regulation 7 (1), the Certifying Authority is of opinion that the installation is not, or is no longer, fit to be maintained in the relevant waters or in any part thereof to which it may be limited by the terms of the Certificate of Fitness issued in respect of it, the Authority shall send a notification in writing to that effect to the owner of the offshore installation concerned giving the reasons for forming that opinion, and shall at the same time send a copy of that notification to the Secretary of State.

11. (1) Subject to paragraph (2), the Secretary of State may terminate a Certificate of Fitness if he is satisfied that:—

(a) Information supplied in connexion with the application therefor was incorrect in a material particular; or

(b) The installation to which it relates is not, or is no longer, fit to be maintained in the relevant waters or in any part of such waters to which it may be limited by the terms thereof; or

(c) There has been a failure to observe any limitation contained therein respecting the movement, location or operation of the installation; or

(d) The installation to which it relates has been moved to a station contrary to the provisions of Regulation 3 (2); or

(e) There has been a failure to comply with any Regulation; or

(f) It has been superseded by a new Certificate of Fitness, or by an exemption made by the Secretary of State, issued in respect of the same installation; or

(g) The installation has in the opinion of the Secretary of State changed in character to such an extent that the issue of a new Certificate of Fitness is desirable.

(2) Before a Certificate of Fitness is terminated in accordance with paragraph (1), both the owner of the installation to which it relates, and the Certifying Authority which issued the certificate, shall be given notification in writing of the reasons for such termination, and the date on which it is to take effect, which shall not be less than 30 days after the date of issue of the said notification.

(3) A Certificate of Fitness shall be valid for such period as the Certifying Authority may specify, not exceeding 5 years from the date of completion of

the last major survey carried out pursuant to Regulation 8 (1) or of the last equivalent survey carried out in accordance with the second proviso to that Regulation, unless it is previously terminated by the Secretary of State in accordance with paragraph (1). The date of expiration shall be recorded on the certificate by the Certifying Authority.

#### *Exemptions*

12. (1) The Secretary of State may exempt any offshore installation or part of an offshore installation from all or any of the provisions of these Regulations and any such exemption may be made subject to any conditions which the Secretary of State sees fit to impose.

(2) Where an installation or part of an installation has been exempted in accordance with paragraph (1) but subject to a condition and the condition is not observed, the exemption shall not have effect and proceedings may be brought in respect of any breach of duty as if the exemption had not been made.

(3) When an installation or part of an installation has been exempted in accordance with paragraph (1), the Certifying Authority shall endorse a note of such exemption and of any conditions to which it is made subject on the Certificate of Fitness (if any) relating to that installation issued in accordance with Regulation 9.

...

### SCHEDULE 2

...

#### *Part II*

#### *Environmental considerations*

1. Every offshore installation shall be capable of withstanding any combination of—

- (a) Meteorological and oceanological conditions; and
- (b) Properties and configuration of the sea bed and subsoil;

to which the installation may foreseeably be subjected at the place at which it is, or is intended to be, located, as assessed in accordance with paragraphs 2 and 3.

2. An assessment of the matters referred to in paragraph 1 shall be made by an competent person and (to such extent as may be relevant to the installation concerned) shall take into consideration—

- (a) The water depth, the tidal range and the height of wind-induced and pressure-induced wave surges;
- (b) The frequency and direction of winds and their respective speeds, averaging periods and heights above the surface of the sea;
- (c) The heights, directions and periods of waves, the probability of their occurrence and the effect of currents, sea bed topography and other factors likely to modify their characteristics;
- (d) The direction, speed and duration of tidal and other currents;
- (e) Characteristics of the sea bed which may affect the foundations of the installation;
- (f) Air and sea temperature extremes;

(g) The extent to which marine growth may form on the submerged sections of the installation; and

(h) The extent to which snow and ice may accumulate on or against the installation.

3. In assessing the matters referred to in paragraph 2—

(a) The minimum values to be ascribed by the competent person shall not be less than those likely to be exceeded on average once only in any period of 50 years; and

(b) Full account shall be taken of the records, predictions and other information available from the Institute of Oceanographic Science, the Meteorological Office of the Ministry of Defence or from any other body of comparable status fulfilling substantially the same functions or any of them.

...

(d) [OFFSHORE INSTALLATIONS (DIVING OPERATIONS)  
REGULATIONS 1974]<sup>1</sup>

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<sup>1</sup> Dated 22 July 1974. *Statutory Instruments* 1974 No. 1229. Came into operation on 1 January 1975. Text not reproduced herein.

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## **Subdivision B. The Contiguous Zone**

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### **1. DENMARK**

[CUSTOMS ACT OF 1972, Article 110]<sup>1</sup>

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### **2. TOGO**

[RENSEIGNEMENTS CONCERNANT LA LEGISLATION  
SUR LE DROIT DE LA MER]<sup>2</sup>

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<sup>1</sup> *Supra* Subdivision A, Chapter IV, 1 (a).

<sup>2</sup> *Supra* Subdivision A, Chapter I, 17 (a).