

# SHARED NATURAL RESOURCES

[Agenda item 5]

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## Comments and observations received from Governments

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### Multilateral instruments cited in the present report

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Convention on the Continental Shelf (Geneva, 29 April 1958)	United Nations, <i>Treaty Series</i> , vol. 499, No. 7302, p. 311.
Convention for the Protection of the Mediterranean Sea against Pollution (Barcelona, 16 February 1976)	<i>Ibid.</i> , vol. 1102, No. 16908, p. 27.
Convention on Wetlands of International Importance especially as Waterfowl Habitat (Ramsar, 2 February 1971)	<i>Ibid.</i> , vol. 996, No. 14583, p. 245.
International Convention for the prevention of pollution from ships, 1973 (MARPOL Convention) (London, 2 November 1973)	<i>Ibid.</i> , vol. 1340, No. 22484, p. 184.
Protocol of 1978 relating to the International Convention for the prevention of pollution from ships, 1973 (London, 17 February 1978)	<i>Ibid.</i> , vol. 1340, No. 22484, p. 61.
Convention on the Conservation of Migratory Species of Wild Animals (Bonn, 23 June 1979)	<i>Ibid.</i> , vol. 1651, No. 28395, p. 333.
United Nations Convention on the Law of the Sea (Montego Bay, 10 December 1982)	<i>Ibid.</i> , vol. 1833, No. 31363, p. 396.
Vienna Convention for the Protection of the Ozone Layer (Vienna, 22 March 1985)	<i>Ibid.</i> , vol. 1513, No. 26164, p. 293.
Montreal Protocol on Substances that Deplete the Ozone Layer (Montreal, 16 September 1987)	<i>Ibid.</i> , vol. 1522, No. 26369, p. 28.
Convention on Environmental Impact Assessment in a Transboundary Context (Espoo, 25 February 1991)	<i>Ibid.</i> , vol. 1989, No. 34028, p. 309.

\* Incorporating A/CN.4/607/Corr.1.

## Source

United Nations Framework Convention on Climate Change (New York, 9 May 1992)	<i>Ibid.</i> , vol. 1771, No. 30822, p. 107.
Kyoto Protocol to the United Nations Framework Convention on Climate Change (Kyoto, 11 December 1997)	<i>Ibid.</i> , vol. 2303, No. 30822, p. 162.
Convention on Biological Diversity (Rio de Janeiro, 5 June 1992)	<i>Ibid.</i> , vol. 1760, No. 30619, p. 79.
Convention for the Protection of the Marine Environment of the North-East Atlantic (Paris, 22 September 1992)	<i>Ibid.</i> , vol. 2354, No. 42279, p. 67.
Stockholm Convention on Persistent Organic Pollutants (Stockholm, 22 May 2001)	<i>Ibid.</i> , vol. 2256, No. 40214, p. 119.

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## Introduction

1. At its fifty-ninth session, in 2007, the International Law Commission requested the Secretariat to circulate to Governments a questionnaire, prepared by the Working Group on Shared Natural Resources, seeking information on State practice, in particular treaties or other arrangements existing regarding oil and gas.<sup>1</sup> In a circular note dated 17 October 2007, the Secretariat transmitted the questionnaire to Governments.

2. Responses to the questionnaire were received from the following 35 States: Algeria, Argentina, Australia, Austria, the Bahamas, Bosnia and Herzegovina, Canada, Chile, Cuba, Cyprus, the Czech Republic, Guyana, Hungary, Iraq, Ireland, Jamaica, Kuwait, Lebanon, Mali, Mauritius, Myanmar, the Netherlands, Norway, Oman, Portugal, the Republic of Korea, Saint Vincent and the Grenadines, Slovakia, Tajikistan, Thailand, Tunisia, Turkey, the United Kingdom of Great Britain and Northern Ireland, the United States of America and Uruguay. The responses are organized, to the extent possible, on the basis of the questions contained in the questionnaire.

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<sup>1</sup> *Yearbook ... 2007*, vol. II (Part Two), p. 56, para. 159.

## Comments and observations on the questionnaire on oil and gas received from Governments

### A. General comments

#### 1. CANADA

1. A number of bilateral maritime delimitation agreements concluded internationally incorporate provisions regarding the possibility of finding a natural resource that straddles across a maritime boundary, as well as a procedure to be followed in the event of such a discovery. The obligations generally focus firstly on advising the other State that a transboundary field has been discovered, and secondly, on the necessity for States to seek to reach an agreement on some form of joint exploitation.

2. For the purposes of the present questionnaire, however, Canada will focus on the *only* agreement that Canada has entered into relating to the exploration and exploitation of transboundary hydrocarbons, entitled the Agreement between the Government of Canada and the Government of the French Republic relating to the Exploration and Exploitation of Transboundary Hydrocarbon Fields (signed in Paris, 17 May 2005). The Agreement governs the apportionment of the reserves found in transboundary hydrocarbon fields straddling the maritime boundary between Canada and France.

3. Canada would like to note that providing answers to the Commission should not be interpreted as either agreement or acquiescence by Canada for the Commission to provide a set of draft articles on a subject matter, such as oil and gas, that is essentially bilateral in nature, highly technical, politically sensitive, encompasses diverse regional situations and requires a case-by-case solution.

4. Canada considers that any matters relating to offshore boundary delimitation should not be considered by the Commission.

#### 2. GUYANA

1. Exploration for oil and gas in Guyana dates back to early Dutch colonial explorers. The structure of a still-emerging oil and gas sector has its roots in near pre-independence arrangements, which have evolved to what currently prevails. Guyana has an undisputable petroleum discovery in the Takutu Basin of no commercial consequence. There is no oil and gas production from Guyana.

2. The frontiers for oil and gas exploration in Guyana are: (a) the extent of Guyana's maritime area, which is part of the regional geological feature referred to as the Guyana-Suriname Basin; (b) the extension of the same basin onto the coastal onshore; and (c) the section of the Takutu Basin in Rupununi Guyana.

3. The States that share boundaries with Guyana's oil and gas frontiers are: (a) in the maritime area: Barbados, the Bolivarian Republic of Venezuela, Suriname, and Trinidad and Tobago; (b) in the coastal extension onshore: Suriname and the Bolivarian Republic of Venezuela; and (c) in the Takutu Basin, Rupununi District: Brazil.

#### 3. REPUBLIC OF KOREA

1. The Republic of Korea considers that the valuable work on this topic (Shared natural resources) by the International Law Commission represents a timely

contribution to the progress development through codification in this field of law.<sup>1</sup>

2. An important decision is before the Commission as to whether it needs to move beyond transboundary aquifers and then to deal also with other shared natural resources. It is advisable that the Commission exercise caution in this matter. States and industries have immense economic and political stakes in the allocation and regulation of oil and gas resources, and any proposal by the Commission is likely to be highly controversial. States in the international community already have considerable experience and practices in dealing with transboundary oil and gas reservoirs. It is doubtful whether the Commission should go beyond the issue of transboundary aquifers.

3. The Republic of Korea entered “none” on comments and observations on the questionnaire on shared resources.

<sup>1</sup> The reply by the Republic of Korea also included comments on the Commission’s draft articles on the law of transboundary aquifers, which have been omitted.

## B. Question 1

**Do you have any agreement(s), arrangement(s) or practice with your neighbouring State(s) regarding the exploration and exploitation of transboundary oil and gas resources or for any other cooperation for such oil or gas?**

**Such agreements or arrangements should include, as appropriate, maritime boundary delimitation agreements, as well as unitization and joint development agreements or other arrangements.**

**Please provide a copy of the agreement(s) or arrangement(s) or describe the practice.**

### 1. ALGERIA

There are no agreements regarding the exploration and exploitation of transboundary deposits. However, on 29 December 2005 a framework agreement was signed between the Algerian national company Sonatrach and the Libyan national company, the National Oil Corporation, to launch a joint study on the exploitation of the deposits at Alrar in Algeria and Wafa in the Libyan Arab Jamahiriya.

### 2. ARGENTINA

Agreements in force for the Argentine Republic that relate to oil and gas within the “Shared natural resources” framework include:<sup>1</sup>

(a) Supplementary Agreement to the Treaty concerning the Río de la Plata and the Corresponding Maritime Boundary (signed in Montevideo, 19 November 1973, United Nations, *Treaty Series*, vol. 295, No. 21424, p. 293) regarding the line marking the maritime lateral limit, the common fishing zone and the common area within which the discharge of hydrocarbons and other polluting actions are prohibited, signed: Montevideo, 15 July 1974; entry into force: 15 July 1974;

(b) Cooperation Agreement between the Argentine Republic and the Eastern Republic of Uruguay to prevent and combat incidents of contamination of the aquatic environment by hydrocarbons and other harmful substances, signed: Buenos Aires, 16 September 1987; enactment: Act No. 23,829; entry into force: 29 October 1993;

(c) Specific Additional Protocol on the protection of the Antarctic environment between the Argentine Republic and the Republic of Chile, signed: Buenos Aires, 2 August 1991; entry into force: 17 November 1992;

(d) Treaty between the Argentine Republic and the Republic of Bolivia on the environment, signed: Buenos Aires, 17 March 1994; enactment: Act No. 24,774; entry into force: 1 June 1997;

(e) Agreement between the Argentine Republic and the Federative Republic of Brazil on cooperation in environmental matters (with Annex A), signed: Buenos Aires, 9 April 1996; enactment: Act 24,930; entry into force: 18 March 1998;

(f) Additional Protocol to the Treaty on the Environment between the Government of the Argentine Republic and the Government of the Republic of Bolivia, signed: Tarija, 22 July 2004; entry into force: 22 July 2004;

(g) Memorandum of Understanding between the Argentine Republic, the Republic of Bolivia and the Eastern Republic of Uruguay on energy and economic integration, signed: Brasilia, 20 August 2004; entry into force: 20 August 2004;

(h) Additional Protocol to the Agreement of Partial Scope on energy integration between Argentina and Bolivia for the supply of natural gas from the Republic of Bolivia to the north-east Argentina gas pipeline, signed: Sucre, 14 October 2004; entry into force: 27 May 2005;

(i) Framework Agreement between the Argentine Republic and the Republic of Bolivia for the sale of natural gas and the realization of energy integration projects, signed: Buenos Aires, 29 June 2006; entry into force: 29 June 2006 (United Nations, *Treaty Series*, vol. 2446, No. 44022, p. 129);

(j) Agreement for work to be started on the north-east Argentina gas pipeline and natural gas liquids plant (Republic of Bolivia), signed: Santa Cruz de la Sierra, 26 March 2007;

(k) Framework Agreement between the Argentine Republic and the Republic of Bolivia on energy integration, signed: Tarija, 10 August 2007;

(l) Financing Agreement between the Argentine Republic and the Republic of Bolivia: Pre-investment and construction studies for the natural gas liquids plant and associated distribution and marketing system, signed: Tarija, 10 August 2007; entry into force: 10 August 2007;

(m) Organization of South American Gas Producing and Exporting Countries (OPPEGASUR): Tarija agreement on gas integration between the Bolivarian Republic

<sup>1</sup> The texts of the agreements, in Spanish, are available for consultation at the Codification Division of the Office of Legal Affairs.

of Venezuela, the Argentine Republic and the Republic of Bolivia, within the framework of OPPEGASUR, signed: Tarija, 10 August 2007;

(n) Cooperation Agreement between the Eastern Republic of Uruguay and the Argentine Republic on energy-related matters, signed: Buenos Aires, 5 July 2007.

### 3. AUSTRALIA

1. Australia is an island State with a lengthy coastline. It has a number of bilateral maritime delimitations with its neighbouring States. Several of these delimitation treaties include a provision that deals with the possibility of finding a natural resource that straddles across a boundary. The provisions are all similar to the following:

If any single accumulation of petroleum, whether in a gaseous, liquid or solid state, or if any other mineral deposit beneath the seabed, extends across the lines described in [the] Treaty, and the part of such accumulation or deposit that is situated on one side of the line is recoverable wholly or in part from the other side of the line, the two Parties will seek to reach agreement on the manner in which the accumulation or deposit shall be most effectively exploited and on the equitable sharing of the benefits arising from such exploitation.

2. The bilateral treaties between Australia and its neighbours and their relevant provisions include the following (together with links to websites where the treaties can be found online):

(a) Treaty between the Government of Australia and the Government of New Zealand establishing Certain Exclusive Economic Zone Boundaries and Continental Shelf Boundaries (art. 4), done at Adelaide on 25 July 2004 (entry into force: 25 January 2006), United Nations, *Treaty Series*, vol. 2441, No. 43985, p. 235 (also available from [www.austlii.edu.au/au/other/dfat/treaties/2006/4.html](http://www.austlii.edu.au/au/other/dfat/treaties/2006/4.html));

(b) Agreement between the Government of the Commonwealth of Australia and the Government of the Republic of Indonesia establishing Certain Seabed Boundaries (art. 7), done at Canberra on 18 May 1971 (entry into force: 8 November 1973), *ibid.*, vol. 974, No. 14122 (also available from [www.austlii.edu.au/au/other/dfat/treaties/1973/31.html](http://www.austlii.edu.au/au/other/dfat/treaties/1973/31.html));

(c) Agreement between the Government of the Commonwealth of Australia and the Government of the Republic of Indonesia establishing Certain Seabed Boundaries in the Area of the Timor and Arafura Seas, supplementary to the Agreement of 18 May 1971 (art. 7), done at Jakarta on 9 October 1972 (entry into force: 8 November 1973), *ibid.*, vol. 974, No. 14123 (also available from [www.austlii.edu.au/au/other/dfat/treaties/1973/32.html](http://www.austlii.edu.au/au/other/dfat/treaties/1973/32.html));

(d) Treaty between Australia and the Independent State of Papua New Guinea concerning Sovereignty and Maritime Boundaries in the area between the two Countries, including the area known as Torres Strait, and Related Matters (art. 6), done at Sydney on 18 November 1978 (entry into force: 15 February 1985) (“Torres Strait Treaty”), *ibid.*, vol. 1429, No. 24238 (also available from [www.austlii.edu.au/au/other/dfat/treaties/1985/4.html](http://www.austlii.edu.au/au/other/dfat/treaties/1985/4.html));

(e) Agreement between the Government of Australia and the Government of Solomon Islands establishing

Certain Sea and Seabed Boundaries (art. 2), done at Honiara on 13 September 1988 (entry into force: 14 April 1989), *ibid.*, vol. 1536, No. 26661 (also available from [www.austlii.edu.au/au/other/dfat/treaties/1989/12.html](http://www.austlii.edu.au/au/other/dfat/treaties/1989/12.html));

(f) Treaty between the Government of Australia and the Government of the Republic of Indonesia establishing an Exclusive Economic Zone Boundary and Certain Seabed Boundaries (art. 9), done at Perth on 14 March 1997 (not yet in force) (“Perth Treaty”), ILM, vol. 36, p. 1053 (also available from [www.austlii.edu.au/au/other/dfat/treaties/notinforce/1997/4.html](http://www.austlii.edu.au/au/other/dfat/treaties/notinforce/1997/4.html)).

3. There are currently no known offshore oil and gas resources that exist across the boundaries established by the treaties mentioned above.

4. Australia and Timor-Leste have not established permanent maritime boundaries but have a number of interim treaties in force that provide for practical maritime arrangements between them. The Timor Sea Treaty, done at Dili on 20 May 2002 (entry into force: 2 April 2003), United Nations, *Treaty Series*, vol. 2258, No. 40222, p. 3, establishes an area of joint petroleum development in the Timor Sea. The Treaty provides that Australia and Timor-Leste are to jointly control, manage and facilitate the exploration, development and exploitation of the petroleum resources of the joint area for the benefit of the peoples of Australia and Timor-Leste. The Treaty can be found at: [www.austlii.edu.au/au/other/dfat/treaties/2003/13.html](http://www.austlii.edu.au/au/other/dfat/treaties/2003/13.html).

5. Australia and Timor-Leste have a unitization agreement between them that applies to the “Greater Sunrise” field that lies in both the joint development area and an area in which Australia regulates activities in relation to the resources of the seabed and subsoil: Agreement between the Government of Australia and the Government of the Democratic Republic of Timor-Leste relating to the Unitisation of the Sunrise and Troubadour Fields, done at Dili on 6 March 2003 (entry into force: 23 February 2007). The Agreement can be found at: [www.austlii.edu.au/au/other/dfat/treaties/2007/11.html](http://www.austlii.edu.au/au/other/dfat/treaties/2007/11.html).

6. Further information on the maritime arrangements between Australia and Timor-Leste can be found at: [www.dfat.gov.au/geo/timor-leste/fs\\_maritime\\_arrangements.html](http://www.dfat.gov.au/geo/timor-leste/fs_maritime_arrangements.html).

### 4. AUSTRIA

1. Austria has concluded only one agreement on the exploration of transboundary oil and gas resources: the Agreement between the Austrian Federal Government and the Government of Czechoslovakia on the exploitation of the common oil and gas deposits (Prague, 23 January 1960), United Nations, *Treaty Series*, vol. 495, No. 7242, p. 134, now being in force between Austria and the Czech Republic, and Austria and the Slovak Republic.

2. The cooperation with the Czech Republic has already come to an end, since the oil and gas resources have already been fully exploited. The cooperation with the Slovak Republic will come to an end within the next few years, since these resources are about to be fully exploited.

## 5. BAHAMAS

Presently the Bahamas does not have any such agreements or arrangements with neighbouring States, but it realizes the true importance of having such legally binding treaties. The Bahamas commenced work on its archipelagic baseline with the use of United Nations-approved software (CARISLOTS), which would produce the median line between the Bahamas and its neighbouring States. The Government's intention is to submit these baseline coordinates to the United Nations by April 2008.

## 6. BOSNIA AND HERZEGOVINA

Bosnia and Herzegovina responded "No". At the moment there is no such agreement or arrangement between Bosnia and Herzegovina and the neighbouring States.

## 7. CANADA

1. Pursuant to the decision of the Arbitral Tribunal in the case concerning the *Delimitation of Maritime Areas between Canada and the French Republic of June 10, 1992*, Court of Arbitration, UNRIIAA, vol. XXI, p. 265, Saint-Pierre-et-Miquelon only has jurisdiction over a narrow strip of maritime area that is 10 nautical miles in width and extends 200 nautical miles south of the islands, which is completely enclosed by Canada's exclusive economic zone.

2. As the 1992 Arbitral Tribunal definitively decided the permanent boundary between Canada and France (for Saint-Pierre-et-Miquelon) for all purposes, a need was felt for an agreement triggered by the possibility of petroleum fields straddling the Canadian-French boundary. Canada approached France in 1998 to suggest that both sides enter into a treaty to manage possible transboundary fields. Finally, in 2005, Canada and France signed an agreement to provide a management regime for hydrocarbon exploration and exploitation offshore Newfoundland, Nova Scotia and Collectivité de Saint-Pierre-et-Miquelon. The Agreement between the Government of Canada and the Government of the French Republic relating to the Exploration and Exploitation of Transboundary Hydrocarbon Fields, containing 21 articles and 6 annexes, recognizes the need for a common approach to oil and gas management to ensure the conservation and management of hydrocarbon resources that straddle the maritime boundary, to apportion between the two countries the reserves found in transboundary fields and to promote safety and the protection of the environment.

3. The Agreement acknowledges that nothing is to prejudice or restrict the sovereignty or jurisdiction of either party over their respective internal waters and territorial seas, or the exercise of sovereign rights, in accordance with international law, over their respective exclusive economic zones.

4. The Agreement was inspired by the 1976 Markham Agreement, United Nations, *Treaty Series*, vol. 1098, No. 16878, p. 4, which was used as a "framework" arrangement adapted to Canadian and French respective circumstances.

5. The Agreement has yet to enter into force, and Canada would therefore refrain from disclosing it at this time. That said, the relevant paragraphs will provide a general outline of the Agreement.

## 8. CHILE

1. The only international agreement concluded by the Republic of Chile in relation to this subject area is the Treaty with the Argentine Republic on Mining Integration and Complementarity, signed on 29 December 1997 and currently in force.<sup>1</sup>

2. While the Treaty was not intended to address integration or complementarity in relation to hydrocarbons, its content does not exclude that possibility. In any event, it should be noted that the treatment of hydrocarbons exploitation in the domestic legislation of Chile differs from the regime governing metallic and some non-metallic minerals. Whereas hydrocarbons are subject to State concessions or special operating contracts, minerals can be subject to mining concessions under the Chilean Mining Code.

3. In addition, it should be noted that the scope of application of the above-mentioned Treaty is geographically limited to the area defined by the set of coordinates listed in annex I to the Treaty and represented on the reference map contained in annex II. This area excludes any and all maritime areas and island territories, as well as the coastline as defined in each State party's domestic legislation.

<sup>1</sup> The text of the treaty, in Spanish, is available for consultation at the Codification Division of the Office of Legal Affairs.

## 9. CUBA

1. Cuba has no agreements, arrangements or practices with neighbouring States related to prospecting for or exploitation of transboundary oil and gas resources, or to their distribution, because to date there is no evidence of any transboundary oil and gas resources shared with Haiti, Jamaica, Mexico or the United States of America.

2. There are bilateral maritime delimitation agreements between Cuba and Haiti, Jamaica, Mexico and the United States, but they do not refer to transboundary oil and gas resources or any other kind of cooperation regarding such resources.

## 10. CYPRUS

1. Cyprus has signed the following agreements:

(a) Agreement between the Republic of Cyprus and the Arab Republic of Egypt on the Delimitation of the Exclusive Economic Zone (ratified);

(b) Agreement between the Republic of Cyprus and the Republic of Lebanon on the Delimitation of the Exclusive Economic Zone (not yet ratified);

(c) Framework Agreement between the Republic of Cyprus and the Arab Republic of Egypt concerning the Development of Cross-Median Line Hydrocarbon Resources (not yet ratified).

2. A copy of the Agreement between the Republic of Cyprus and the Arab Republic of Egypt on the Delimitation of the Exclusive Economic Zone is provided, as it has been ratified by the House of Representatives.<sup>1</sup> Copies of the other two agreements are not provided as they have not yet been ratified by the House of Representatives (they are in the process of ratification).

<sup>1</sup> Text available for consultation at the Codification Division of the Office of Legal Affairs.

#### 11. CZECH REPUBLIC

1. An Agreement between the Government of the Czechoslovak Republic and the Austrian Federal Government on the Exploitation of Shared Natural Gas and Oil Deposits, negotiated in 1960, United Nations, *Treaty Series*, vol. 495, No. 7242, p. 125, specified the international legal and technical parameters for the exploitation of deposits of these raw materials. The shared deposits concerned were at Vysoká pri Morave (now in the territory of Slovakia), Zwerndorf (in the territory of Austria), and in Nový Přerov (now in the territory of the Czech Republic) and Altprerau (in the territory of Austria).

2. After its establishment in 1993, the Czech Republic succeeded to the 1960 Agreement between the Government of the Czechoslovak Republic and the Austrian Federal Government on the Exploitation of Shared Natural Gas and Oil Deposits.

#### 12. GUYANA

1. The Guyana Geology and Mines Commission, as the Government agency responsible for the regulation of petroleum operations, is unaware of any Government agreements or practice with neighbouring States regarding oil and gas exploration and exploitation of transboundary oil and gas resources. The Commission for and/or on behalf of the Government of Guyana has not entered into agreements with sister agencies of neighbouring States or companies operating under the jurisdiction of neighbouring States.

2. The Commission is aware that, within the purview of the Ministry of Foreign Affairs, there is an initiative for cooperation between Suriname and Guyana, which includes technical cooperation in the petroleum sector. The Petroleum Division of the Commission and Staatsolie of Suriname have visited each other and Petroleum Division staff have had exchanges of a technical nature for capacity-building of skills. No understanding is in place to deal with possible transboundary oil and gas resources, such as unitization and joint development arrangements. Technical cooperation in the petroleum sector ceased following the maritime dispute between Guyana and Suriname, and has not been revived since.

#### 13. IRAQ

Iraq has several oil fields shared with its neighbouring States, some of which are in production and some of which are partially non-producing. Shared hydrocarbons with the Islamic Republic of Iran, Kuwait, Saudi Arabia and the Syrian Arab Republic also appear to exist. Nevertheless, Iraq has not concluded any agreement regarding the exploration and exploitation of the shared oil fields.

#### 14. IRELAND

1. Ireland responded “Yes”—article 3 of the Agreement between the Government of Ireland and the Government of the United Kingdom concerning the Delimitation of Areas of the Continental Shelf between the Two Countries, United Nations, *Treaty Series*, vol. 1564, No. 27204, p. 217, signed at Dublin on 7 November 1988, and entered into force on 11 January 1990, specifically deals with cross-boundary fields.

2. This Agreement was supplemented by the Protocol supplementary to the Agreement between the Government of Ireland and the Government of the United Kingdom concerning the Delimitation of Areas of the Continental Shelf between the Two Countries of 7 November 1988, done at Dublin on 8 December 1992, United Nations, *Treaty Series*, vol. 1745, No. 27204, p. 473. The Agreement referred to above, as supplemented, is a Maritime Boundary Delimitation Agreement. No unitization or joint development agreements have been necessary to date. Drilling in the Irish sector is not permitted within 125m of any boundary line.

3. An oil and gas discovery (named Dragon) in the St. George’s Channel area was for a time a candidate for development, and part of the structural closure was mapped as crossing the agreed continental shelf boundary between Ireland and the United Kingdom. Preliminary discussions were held with counterparts in the United Kingdom prior to appraisal drilling but since the appraisal drilling was not successful no further discussions took place and Ireland understands there are currently no plans for further drilling or development.

#### 15. JAMAICA

1. The Maritime Delimitation Treaty between the Government of Jamaica and the Government of Colombia, signed on 12 November 1993, United Nations, *Treaty Series*, vol. 1776, No. 30943, p. 18, provides, *inter alia*, for the exploitation, management and conservation of the maritime areas between the two countries. Pursuant to article 3 of the Treaty, the parties established a “joint regime area”, pending the determination of their jurisdictional limits in the area designated in that article. Under article 3, the joint regime area is designated as a zone of joint management, control, exploration and exploitation of the living and non-living resources.

2. In the joint regime area, either party may, *inter alia*, carry out activities for the exploration and exploitation of the natural resources, whether living or non-living, and other activities for the economic exploitation and exploration of the joint regime area.

3. Under the Treaty, activities relating to exploration and exploitation of non-living resources must be carried out on a joint basis agreed by both parties.

#### 16. KUWAIT

1. *Wafra Joint Operations*. There is a divided zone marked between Saudi Arabia and Kuwait where the oil and gas resources are shared 50 per cent by each State.

2. *Khaffi Joint Operations*. There are agreements, arrangements and practices with neighbouring States regarding the exploration and exploitation of transboundary oil and gas resources or for any other cooperation in respect of such oil and gas. There is a Joint Petroleum Production Operations Agreement for the shareholders, which lays down the principles and guidelines for the management and operations of the oil and gas fields within the offshore divided zone. This Agreement also stipulates the formation and functioning of two high-level committees, the Joint Executive Committee and the Joint Operating Committee, which are the main authorities for strategic and operating decisions in the offshore divided zone for the exploration and exploitation of transboundary oil and gas resources. The Agreement defines and describes the roles and authority of these Committees.

#### 17. LEBANON

The Government of Lebanon signed an agreement with the Government of Cyprus in 2007 concerning the joint economic border. This agreement has not yet been ratified.

#### 18. MALI

With the exception of the Framework Agreement on Cooperation signed with Mauritania, which covers, among other things, exploration, production, transport, storage and refining activities in the sedimentary basins shared by the two countries (Nara and Taoudéni), no other such agreement or arrangement has been signed or concluded between Mali and its other neighbours. A framework agreement covering only training and exchanges of information and experience has been signed with Senegal.

#### 19. MAURITIUS

Mauritius responded “No”.

#### 20. MYANMAR

As Myanmar does not have transboundary oil and gas resources with neighbouring States, presently there are no agreements, arrangements or practices with neighbouring States regarding the exploration and exploitation of transboundary oil and gas resources.

#### 21. NETHERLANDS

The Netherlands has concluded the following bilateral agreements relating to shared natural resources:

(a) Supplementary Agreement between the Kingdom of the Netherlands and Federal Republic of Germany of 14 May 1962 to the Treaty of 8 April 1960 concerning arrangements for cooperation in the Ems Estuary (Ems-Dollard Treaty) (United Nations, *Treaty Series*, vol. 509, No. 7404, p. 140);

(b) Agreement between the Government of the Kingdom of the Netherlands and the Government of the United Kingdom of Great Britain and Northern Ireland of 6 October 1965 relating to the exploitation of single geological structures extending across the dividing line on the continental shelf under the North Sea (*ibid.*, vol. 595, No. 8615, p. 105);

(c) Agreement between the Kingdom of the Netherlands and the United Kingdom of Great Britain and Northern Ireland of 26 May 1992 relating to the exploitation of the Markham Field Reservoirs and the offtake of petroleum therefrom (*ibid.*, vol. 1731, No. 30235, p. 155);

(d) Memorandum of Understanding between the Government of the United Kingdom of Great Britain and Northern Ireland and the Kingdom of the Netherlands of 25 July 2007 concerning the Minke Main Development (not published).

#### 22. NORWAY

Norway has entered into the following agreements:

(a) Agreement between Norway and the United Kingdom relating to the exploitation of the Frigg Field Reservoir and the transmission of gas therefrom to the United Kingdom, 10 May 1976 (United Nations, *Treaty Series*, vol. 1098, No. 16878, p. 3);

(b) Agreement relating to the amendment of the Agreement between Norway and the United Kingdom relating to the exploitation of the Frigg Field Reservoir and the transmission of gas therefrom to the United Kingdom, 25 August 1998 (*ibid.*, vol. 2210, No. 16878, p. 94);

(c) Exchange of notes regarding the amendment of the Agreement between Norway and the United Kingdom relating to the exploitation of the Frigg Field Reservoir and the transmission of gas therefrom to the United Kingdom, 21 June 2001 (United Kingdom, *Treaty Series*, No. 43 (2001), cm 5258);

(d) Agreement between Norway and the United Kingdom relating to the exploitation of the Statfjord Field Reservoirs and the offtake of petroleum therefrom, 16 October 1979 (United Nations, *Treaty Series*, vol. 1254, No. 20551, p. 379);

(e) Amendments to the Agreement between Norway and the United Kingdom relating to the exploitation of the Statfjord Field Reservoirs and the offtake of petroleum therefrom, 24 March 1995 (*ibid.*, vol. 1914, No. 20551, p. 509);

(f) Agreement between Norway and the United Kingdom relating to the exploitation of the Murchison Field Reservoir and the offtake of petroleum therefrom, 16 October 1979 (*ibid.*, vol. 1249, No. 20387, p. 173);

(g) Agreement supplementary to the Agreement between Norway and the United Kingdom relating to the exploitation of the Murchison Field Reservoir and the offtake of petroleum therefrom, 22 October 1981 (*ibid.*, vol. 1288, No. 20387, p. 447);

(h) Second agreement supplementary to the Agreement between Norway and the United Kingdom relating to the exploitation of the Murchison Field Reservoir and the offtake of petroleum therefrom, 22 June 1983 (*ibid.*, vol. 1352, No. 20387, p. 357);

(i) Amendments to the Agreement between Norway and the United Kingdom relating to the exploitation of the Murchison Field Reservoir and the offtake of petroleum therefrom, 9 August 1999 (*ibid.*, vol. 2142, No. 20387, p. 215);

(j) Agreement between Norway and the United Kingdom relating to the delimitation of the continental shelf between the two countries, 10 March 1965 (*ibid.*, vol. 551, No. 8043, p. 213);

(k) Protocol supplementary to the Agreement between Norway and the United Kingdom relating to the delimitation of the continental shelf between the two countries, 22 December 1978 (*ibid.*, vol. 1202, No. 8043, p. 363);

(l) Agreement between Norway and the United Kingdom concerning the Playfair and Boa petroleum fields, 4 October 2004 (*ibid.*, vol. 2309, No. 41167, p. 217);

(m) Framework Agreement between Norway and the United Kingdom concerning cross-boundary petroleum cooperation, 4 April 2005 ;

(n) Agreement between Norway and Iceland concerning transboundary hydrocarbon deposits, 3 November 2008 (not yet in force as at 17 March 2009);

(o) Agreement relating to the delimitation of the continental shelf between Norway and Denmark, signed at Oslo on 8 December 1965 (United Nations, *Treaty Series*, vol. 634, No. 9052, p. 71);

(p) Exchange of notes of 24 April 1968 constituting an agreement amending the agreement relating to the delimitation of the continental shelf between Norway and Denmark of 8 December 1965 (*ibid.*, vol. 643, No. 9052, p. 414);

(q) Exchange of notes of 4 June 1974 constituting an agreement amending the agreement relating to the delimitation of the continental shelf between Norway and Denmark of 8 December 1965 (*ibid.*, vol. 952, No. 9052, p. 390);

(r) Agreement between Norway and Sweden relating to the delimitation of the continental shelf, 24 July 1968 (*ibid.*, vol. 968, No. 14015, p. 235);

(s) Agreement between Norway and Denmark concerning the delimitation of the continental shelf in the area between Norway and the Faroe Islands and concerning the boundary between the fishery zone near the Faroe Islands and Norwegian Economic Zone, 15 June 1979 (*ibid.*, vol. 1211, No. 19512, p. 163);

(t) Agreement between Norway and Denmark concerning the delimitation of the continental shelf in the area between Jan Mayen and Greenland and concerning the boundary between the fishery zones in the area, 18 December 1995 (*ibid.*, vol. 1903, No. 32441, p. 171);

(u) Additional Protocol to the agreement of 18 December 1995 between Norway and Denmark concerning the delimitation of the continental shelf in the area between Jan Mayen and Greenland and the boundary between the fishery zones in the area, 11 November 1997 (*ibid.*, vol. 2100, No. 32441, p. 180);

(v) Agreement between Norway on the one hand, and Denmark together with the Home Rule Government of Greenland on the other hand, concerning the delimitation of the continental shelf and the fisheries zones in the area between Greenland and Svalbard, 20 February 2006 (*ibid.*, vol. 2378, No. 42887, p. 21);

(w) Agreement between the Russian Federation and the Kingdom of Norway on the maritime delimitation in the Varangerfjord area, 11 July 2007 (*ibid.*, vol. 2526, No. 45114, p. 33).

### 23. OMAN

1. Oman responded "Yes". There are arrangements regarding oil, gas and minerals between the Government of the Sultanate of Oman, represented by the Ministry of Oil and Gas, and some neighbouring States, such as the United Arab Emirates, Yemen and the Islamic Republic of Iran. However, no agreements have yet been signed regarding the joint utilization or development of any shared fields.

2. There are maritime boundary delimitation agreements, but such agreements are within the purview of the Ministry of the Interior.

### 24. PORTUGAL

Portugal responded "No".

### 25. SAINT VINCENT AND THE GRENADINES

Saint Vincent and the Grenadines responded "Nil" with respect to oil exploitation.

### 26. SLOVAKIA

Slovakia has concluded two agreements regarding the exploration and the exploitation of transboundary resources:

(a) Agreement concerning the principles of geological co-operation between the Czechoslovak Republic and the Republic of Austria (with exchange of notes) of 23 January 1960, United Nations, *Treaty Series*, vol. 495, No. 7241, p. 99. Slovakia is a successor State in respect of this agreement, which determines the exchange of geological records and their common review as well as the coordination of common geological exploration in the border areas;

(b) Agreement concerning the working of common deposits of natural gas and petroleum between the Czechoslovak Socialist Republic and the Republic of Austria, signed in 1960, United Nations, *Treaty Series*, vol. 495, No. 7242, p. 125 (Slovakia is a successor State in respect of this agreement). It determines the conditions of exploitation and sharing of gas.



## 27. TAJIKISTAN

Tajikistan has no agreements, arrangements, or practices with its neighbouring States regarding the exploration and exploitation of transboundary oil and gas resources or for any other cooperation for such oil and gas.

## 28. THAILAND

Thailand has entered into the Agreement between the Government of the Kingdom of Thailand and the Government of Malaysia on the Constitution and other Matters relating to the Establishment of the Malaysia-Thailand Joint Authority.

## 29. TURKEY

Turkey does not have any agreement, arrangement or practice with its neighbouring States regarding the exploration and exploitation of transboundary oil/gas resources.

## 30. UNITED KINGDOM

The United Kingdom has entered into the following agreements:

(a) 1965, United Kingdom-Norway agreement on delimitation of the continental shelf (United Kingdom, *Treaty Series*, No. 71 (1965), Cmnd 2757), signed in London, 10 March 1965;

(b) 1965, United Kingdom-Netherlands agreement on delimitation of the continental shelf under the North Sea (*ibid.*, No. 23 (1967) Cmnd 3253), signed in London, 6 October 1965;

(c) 1965, United Kingdom-Netherlands agreement on exploitation of single geological structures extending across the dividing line on the North Sea continental shelf (*ibid.*, No. 24 (1967) Cmnd 3254), signed in London, 6 October 1965;

(d) 1966, United Kingdom-Denmark agreement on delimitation of areas of the continental shelf (*ibid.*, No. 35 (1967) Cmnd 3278), signed in London, 3 March 1966;

(e) 1971, United Kingdom-Netherlands protocol amending the agreement on delimitation of the continental shelf under the North Sea agreement (*ibid.*, No. 130 (1972) Cmnd 5173), signed in London, 25 November 1971;

(f) 1971, United Kingdom-Denmark agreement on the delimitation of areas of the continental shelf (*ibid.*, No. 6 (1973) Cmnd 5193), signed in London, 25 November 1971;

(g) 1971, United Kingdom-Germany agreement on the delimitation of the continental shelf (*ibid.*, No. 7 (1973) Cmnd 5192), signed in London, 25 November 1971;

(h) 1973, United Kingdom-Norway agreement on the transmission of petroleum by pipeline from Ekofisk and neighbouring areas (*ibid.*, No. 101 (1973) Cmnd 5423), signed in Oslo, 22 May 1973;

(i) 1976, United Kingdom-Norway agreement on the exploitation of the Frigg Field Reservoir and the transmission of gas therefrom (*ibid.*, No. 113 (1977) Cmnd 7043), signed in London, 10 May 1976;

(j) 1978, United Kingdom-Norway protocol supplementary to the agreement on the delimitation of the continental shelf (*ibid.*, No. 31 (1980) Cmnd 7853), signed in Oslo, 22 December 1978;

(k) 1979, United Kingdom-Norway agreement on the exploitation of the Statfjord Field Reservoirs (*ibid.*, No. 44 (1981) Cmnd 8282), signed in Oslo, 16 October 1979;

(l) 1979, United Kingdom-Norway agreement on the exploitation of the Murchison Field Reservoir (*ibid.*, No. 39 (1981) Cmnd 8270), signed in Oslo, 16 October 1979;

(m) 1981, United Kingdom-Norway agreement supplementary to the Murchison Field Reservoir agreement (*ibid.*, No. 25 (1982) Cmnd 8577), signed in Oslo, 22 October 1981;

(n) 1982, United Kingdom-France agreement on the delimitation of the continental shelf in the area east of 30 minutes west of the Greenwich Meridian (*ibid.*, No. 20 (1983) Cmnd 8859), signed in London, 24 June 1982;

(o) 1983, United Kingdom-Norway second agreement supplementary to the Murchison Field Reservoir agreement (*ibid.*, No. 71 (1983) Cmnd 9083), signed in Oslo, 22 June 1983;

(p) 1985, United Kingdom-Norway Heimdal treaty (*ibid.*, No. 39 (1987) Cm 201), signed in Oslo, 21 November 1985;

(q) 1988, United Kingdom-Ireland agreement on the delimitation of areas of the continental shelf (*ibid.*, No. 20 (1990) Cm 990), signed in Dublin, 7 November 1988;

(r) 1991, United Kingdom-Belgium agreement on the delimitation of the continental shelf (*ibid.*, No. 20 (1994) Cm 2499), signed in Brussels, 29 May 1991;

(s) 1991, United Kingdom-France agreement on the completion of the delimitation of the continental shelf in the southern North Sea (*ibid.*, No. 46 (1992) Cm 1979), signed in London, 23 July 1991;

(t) 1992, United Kingdom-Netherlands agreement on the exploitation of the Markham Field Reservoirs (*ibid.*, No. 39 (1993) Cm 2254), signed in The Hague, 26 May 1992;

(u) 1992, United Kingdom-Ireland protocol supplementary to the agreement on the delimitation of areas of the continental shelf (*ibid.*, No. 47 (1993) Cm 2302), signed in Dublin, 8 December 1992;

(v) 1993, United Kingdom-Ireland agreement on the transmission of natural gas by pipeline (*ibid.*, No. 73 (1993) Cm 2377), signed in Dublin, 30 April 1993;

(w) 1995, United Kingdom-Norway exchange of notes on the amendment of the agreement on the exploitation of the Statfjord Field Reservoir (*ibid.*, No. 57 (1995) Cm 2941), signed in Oslo, 24 March 1995;

(x) 1997, United Kingdom-Belgium agreement on the transmission of natural gas by pipeline (*ibid.*, No. 3 (2003) Cm 5738), signed in Brussels, 10 December 1997;

(y) 1998, United Kingdom-Norway agreement on the amendment of the agreement on the exploitation of the Frigg Field Reservoir and the transmission of gas therefrom to the United Kingdom (*ibid.*, No. 21 (2002) Cm 5513), signed in Stavanger, 25 August 1998;

(z) 1998, United Kingdom-Norway framework agreement on the laying, operation and jurisdiction of interconnecting submarine pipelines (*ibid.*, No. 9 (2003) Cm 5762), signed in Stavanger, 25 August 1998;

(aa) 1999, United Kingdom-Denmark agreement on the delimitation of areas of the continental shelf in the area between the United Kingdom and the Faroe Islands (*ibid.*, No. 76 (1999) Cm 4514), signed in Tórshavn Faroe Islands, 18 May 1999;

(bb) 1999, United Kingdom-Norway exchange of notes amending the agreement on the Murchison Field Reservoir (*ibid.*, No. 110 (2000) Cm 4857), signed in Oslo, 9 August 1999;

(cc) 2001, United Kingdom-Norway exchange of notes on the amendment of the agreement on the exploitation of the Frigg Field Reservoir and the Transmission of Gas therefrom to the United Kingdom (*ibid.*, No. 43 (2001) Cm 5258), signed in Oslo, 21 June 2001;

(dd) 2004, United Kingdom-Netherlands exchange of notes amending the agreement on the delimitation of the continental shelf under the North Sea (as amended) (*ibid.*, No. 2 (2006) Cm 6749), signed in The Hague, 28 January and 7 June 2004;

(ee) 2004, United Kingdom-Ireland agreement on the transmission of natural gas through a second pipeline (*ibid.*, No. 2 (2005) Cm 6674, not yet in force), signed in Gormanstown, 24 September 2004;

(ff) 2004, United Kingdom-Norway exchange of notes on the Playfair and Boa petroleum fields (*ibid.*, No. 48 (1999) Cm 6412), signed in Oslo, 4 October 2004;

(gg) 2004, United Kingdom-Norway agreement on the amendment of the Heimdal treaty (*ibid.*, No. 1 (2005) Cm 6694, not in force), signed in Oslo, 1 November 2004;

(hh) 2005, United Kingdom-Netherlands agreement on the transmission of natural gas through a pipeline (*ibid.*, No. 2 (2005) Cm 6675, not yet in force), signed in The Hague, 21 March 2005;

(ii) 2005, United Kingdom-Norway framework agreement concerning cross-boundary petroleum co-operation (*ibid.*, No. 20 (2007) Cm 7206, not yet in force), signed in Oslo, 4 April 2005;

(jj) 2005, United Kingdom-Belgium exchange of notes amending the agreement on the delimitation of the continental shelf under the North Sea (*ibid.*, No. 18 (2007) Cm 7204), signed in Brussels, 21 March and 7 June 2005.

### 31. UNITED STATES

1. Aside from certain provisions in one maritime boundary treaty with Mexico (described below), the United States has not entered into any international agreements or arrangements, nor established any practice with neighbouring States, in relation to transboundary oil and gas reservoirs along the United States maritime or continental shelf boundaries with Mexico or Canada. The United States is not aware that any such transboundary reservoirs have been identified. The United States also has identified no agreements, arrangements or established practice with its neighbouring States specific to the exploration and exploitation of transboundary oil and gas resources along its land boundaries.

2. The United States has two maritime boundary and delimitation agreements with Mexico. The first is the United States-Mexico Treaty on Maritime Boundaries (signed at Mexico City on 4 May 1978 and entered into force on 13 November 1997), United Nations, *Treaty Series*, vol. 2143, No. 37399, p. 405, which establishes the maritime boundary between the United States and Mexico out to 200 miles in the Gulf of Mexico and the Pacific Ocean, using the principle of equidistance. The agreement does not address the exploration or exploitation of transboundary oil and gas resources. In addition, the agreement left two “gaps”, or areas outside the exclusive economic zone of either State: one in the eastern Gulf, which concerned Cuba, Mexico and the United States, and one in the western Gulf, which concerned Mexico and the United States.

3. To address the gap in the western Gulf, the United States and Mexico concluded the Treaty on the Delimitation of the Continental Shelf in the Western Gulf of Mexico beyond 200 Nautical Miles, with annexes (signed at Washington, D.C., on 9 June 2000 and entered into force on 17 January 2001) (the Western Gap Treaty), United Nations, *Treaty Series*, vol. 2143, No. 37400, p. 417. Again applying the principle of equidistance, the Treaty allots 62 per cent of the 17,190 km<sup>2</sup> area to Mexico and 38 per cent to the United States. The Treaty also established a buffer zone extending 1.4 nautical miles on either side of the boundary in the Western Gap, within which neither party may engage in drilling or exploitation of the continental shelf for a period of 10 years.

4. While unitization and joint development arrangements were not part of the Western Gap Treaty, it does address the subject of possible oil and gas transboundary reservoirs. In particular, the Treaty requires each party, in accordance with its national laws and regulations, to facilitate requests from the other party to authorize geological and geophysical studies to help determine the possible presence and distribution of transboundary reservoirs. In addition, each party is required to share geological and geophysical information in its possession in order to determine the possible existence and location of transboundary reservoirs. In the event any transboundary reservoir is identified, the Treaty obligates the parties “to seek to reach agreement for the

efficient and equitable exploitation of such transboundary reservoirs” (see article V, paragraph 1 (b)).

### 32. URUGUAY

Uruguay has no knowledge of the existence of any treaties or other agreements, arrangements or practices subscribed to or undertaken by Uruguay with neighbouring countries in relation to the exploration and exploitation of transboundary oil and gas resources.

## C. Question 2

**Are there any joint bodies, mechanisms or partnerships (public or private) involving exploration, exploitation or management of the transboundary oil or gas? Please provide information describing the nature and functioning of such arrangements, including governing principles.**

### 1. AUSTRALIA

1. The Timor Sea Treaty establishes a joint management and regulation regime for the joint development area in the Timor Sea. The Timor Sea Designated Authority is the day-to-day regulator of the joint area and is based in Dili.

2. The Designated Authority is responsible to a Joint Commission, currently constituted by two Timor-Leste officials and one Australian official, which oversees the work of the Designated Authority and establishes policies and regulations relating to petroleum activities in the joint area. The ultimate decision-making body established by the Timor Sea Treaty is a Ministerial Council, constituted by an equal number of ministers from Australia and Timor-Leste. The Designated Authority, Joint Commission and Ministerial Council operate in accordance with the terms of the Timor Sea Treaty.

### 2. AUSTRIA

The above-mentioned agreement (see section B above) provides for a “mixed committee” which is composed of a representative of the Austrian Federal Ministry of Economics and Labour and a representative of the OMV oil and gas corporation on the Austrian side, and a representative of the Slovak Ministry of Economics and a representative of the NAFTA company on the Slovak side. This committee decides, among others, on the share of the oil and gas—which is exploited exclusively on Austrian territory—to be given to the Slovak side.

### 3. BAHAMAS

There are no such joint programmes, mechanisms or partnerships concerning exploration or management of transboundary oil or gas in the Bahamas.

### 4. BOSNIA AND HERZEGOVINA

Bosnia and Herzegovina does not have any local or transboundary sources of gas or oil, or contract related to that issue. There were certain researches regarding sources of crude oil in Bosnia and Herzegovina by 1990, but they have never been exploited.

### 5. CANADA

1. The Agreement between the Government of Canada and the Government of the French Republic relating to the Exploration and Exploitation of Transboundary Hydrocarbon Fields envisages the creation of a joint Technical Working Group to examine technical issues that arise from the implementation of the Agreement or from any Exploitation Agreement (explained further below), including information related to the regional geological setting and geological basins as well as any question related to the implementation of the Development Plan or Benefits Plan (explained further below). The Working Group must allow the parties to review information related to the regional geological setting and, at the request of one party, meet to facilitate approval of a Development Plan or Benefits Plan by reviewing concerns or issues regarding such a plan or a preliminary version of it. The Unit Operator is normally to be invited to all or part of any such meetings.

2. The Working Group consists of individuals nominated by each party (two chairs and two secretaries), as well as other persons which either party considers should be present at any Working Group meeting.

### 6. CUBA

Cuba has no joint body, mechanism or partnership for transboundary oil and gas resource prospecting, exploitation or management with neighbouring States.

### 7. CYPRUS

The Framework Agreement between the Republic of Cyprus and the Arab Republic of Egypt concerning the Development of Cross-Median Line Hydrocarbon Resources provides that when a cross-median line hydrocarbon reservoir is identified and may be exploited, each party (the Republic of Cyprus and the Arab Republic of Egypt) shall require the concerned licensees to meet and reach a unitization agreement for the joint development and exploitation of the said reservoir. The unitization agreement shall define the cross-median line hydrocarbon reservoir taking into account the following elements: (a) the geographical extent and the geological features of the cross-median line reservoir and the proposed area for joint development and exploitation of the said reservoir (the “unit area”); (b) the total amount of the hydrocarbons in place and reserves, and the methodology used for the calculations; (c) the apportionment of reserves between each side of the median line; (d) the procedure for the determination of any of the above items, where appropriate, by an independent third-party expert; and (e) the procedure for periodical redetermination of the above items, where appropriate. The unitization agreement shall be submitted to the parties for their approval.

### 8. CZECH REPUBLIC

1. In conformity with the 1960 Agreement between the Government of the Czechoslovak Republic and the Austrian Federal Government on the Exploitation of Shared Natural Gas and Oil Deposits, there existed a Czechoslovak-Austrian Mixed Commission defined in article 2 of the said Agreement. The Mixed Commission

was composed of representatives of the two Contracting Parties. The task of the Mixed Commission was to calculate the total reserves in individual deposits and to specify the share of each Contracting Party, to specify the conditions for exploitation, in particular to establish long-term exploitation programmes, as well as the ways of removing potential difficulties that might arise within the implementation of the Agreement.

2. The Czechoslovak side was represented in the Mixed Commission by representatives of the competent ministry and by the Nafta Hodonín mining company. After the disintegration of Czechoslovakia, a Czech-Austrian Mixed Commission was set up to continue to fulfil the tasks arising from the 1960 Agreement between the Government of the Czechoslovak Republic and the Austrian Federal Government on the Exploitation of Shared Natural Gas and Oil Deposits. Participating in the work of the Mixed Commission on the Czech side are representatives of the Ministry of Industry and Trade and of the Moravské naftové doly mining company.

#### 9. GUYANA

The Guyana Geology and Mines Commission has no joint body convened for the purpose of exploration, exploitation or management of transboundary oil or gas.

#### 10. HUNGARY

The Hungarian Oil and Gas Company (MOL) has concluded two partnership agreements with the Croatian National Oil and Gas Company (INA) to jointly explore cross-border Croatian-Hungarian plays. One of the agreements covers the Podravska Slatina-Zalata area (signed in 2006), the other agreement concerns the Novi Gradac-Potony area (signed in 2007). Both companies have 50–50 share in the exploration projects. The partnership is governed by the Management Committee, which consists of the representatives of MOL and INA, and all decisions are made on a consensual basis. The Steering Committee decides on the annual work programme and the necessary budget. INA is the operator on the Croatian side, and MOL undertakes the responsibilities and tasks of the operator on the Hungarian side. The agreements are governed by English law.

#### 11. IRAQ

Technical committees have been formed and are working to establish formulas for joint cooperation between Iraq and its neighbouring countries.

#### 12. IRELAND

Not at the moment. However, Ireland is in regular contact with its counterparts in the United Kingdom (Department for Business, Enterprise and Regulatory Reform (BERR, formerly Department of Trade and Industry)) regarding issues of mutual interest. Ireland responded “Not applicable” to the question “Please provide information describing the nature and functioning of such arrangements, including governing principles”.

#### 13. JAMAICA

Pursuant to article 4 of an agreement with Colombia, the parties have established a joint commission to develop the modalities for activities for the exploration and exploitation of natural resources, whether living or non-living; ensure compliance with regulations and measures adopted by the parties for exploration and exploitation activities in the joint regime area; and carry out any functions assigned to the commission by the parties to implement the agreement. The joint commission consists of one representative of each party, who may be assisted by such advisers as considered necessary. The commission makes recommendations to the parties, which become binding when adopted by the parties.

#### 14. KUWAIT

1. *Wafra Joint Operations*. Exploration, exploitation and management of oil and gas resources is the joint responsibility of two companies, the Kuwait Gulf Oil Company and Saudi Arabian Chevron, with joint operations performed by Wafra Joint Operations, organized by the Joint Operations Committee. The Joint Operations Committee consists of representatives from both companies with equal voting rights. It provides guidance to asset management teams in joint operations and approves business plans and budgets.

2. *Khafji Joint Operations*. Joint bodies, mechanisms and partnerships exist for the exploration, exploitation and management of transboundary oil and gas. In the offshore divided zone, Khafji Joint Operations is the entity established to operate and manage the oil and gas field on behalf of both shareholders in an equal partnership. The Joint Executive Committee and Joint Operations Committee are two high-level committees, with equal representation by both shareholders, which act as the main authority to approve and monitor all major activities within the joint operations and to ensure that best practices are used for the exploration, exploitation and management of the oil and gas reserves in the offshore divided zone.

#### 15. MALI

1. A steering committee comprising representatives of Mali and Mauritania has been established to implement the Framework Agreement on oil-related activities in the shared sedimentary basins.

2. The steering committee meets at least twice annually or as necessary to consider project and budget proposals for activities within a mutually agreed area.

#### 16. MAURITIUS

Mauritius responded “No”.

#### 17. MYANMAR

Since Myanmar does not have any agreements, arrangements or practices with neighbouring States regarding the exploration and exploitation of transboundary oil and gas resources, there are no joint bodies, mechanisms or partnerships (public or private) involving exploration, exploitation or management of transboundary oil and gas.

## 18. NETHERLANDS

The Netherlands responded “No”.

## 19. NORWAY

Any transboundary oil and gas resources belonging partly to Norway are exploited as a unit by commercial companies having been awarded exclusive rights to do so by the Government of Norway and the Government on the other side of the delimitation line respectively. Such exploitation is subject to a unit agreement being entered into by the relevant companies on both sides of the delimitation line and to such unit agreement being approved by the two relevant Governments. Upon receipt of such approval, the relevant companies on both sides of the delimitation line form a joint venture for the purpose of exploiting the transboundary oil and gas deposit as a unit.

## 20. OMAN

1. The Ministry of Oil and Gas is not involved with any joint bodies, mechanisms or partnerships (public or private) engaged in the exploration, exploitation or management of transboundary oil or gas.

2. However, there are understandings on bilateral exchange of technical information. Such understandings are implemented as needed by companies on both sides under the supervision of the Ministry.

## 21. PORTUGAL

Portugal responded “No”.

## 22. SLOVAKIA

A bilateral commission has been established under the provisions of the Common Oil and Gas Resources Exploitation Agreement between the Czechoslovak Republic and the Republic of Austria. The Commission calculates the capacity of all underground fields and the amounts of each participant’s share. The Commission also sets the conditions for exploitation.

## 23. TAJIKISTAN

There are no joint bodies, mechanisms or partnerships (public or private) involving exploration, exploitation or management of transboundary oil or gas in Tajikistan.

## 24. THAILAND

The Malaysia-Thailand Joint Authority has been established as a statutory body to assume all rights and responsibilities on behalf of the two Governments (Thailand and Malaysia) to explore and exploit non-living resources, particularly petroleum, in the offshore overlapping continental shelf area claimed by the two countries and known as the “joint development area” for a period of 50 years commencing from the date the memorandum of understanding came into force (22 February 1979). The Joint Authority consists of two joint-chairpersons, one from each country, and an equal number of members from each country.

## 25. TURKEY

Turkey does not have joint bodies, mechanisms or partnerships involving exploration, exploitation or management of the transboundary oil or gas.

## 26. UNITED KINGDOM

Bilateral agreements for the exploitation of transboundary structures or fields on the United Kingdom continental shelf usually include provisions for the Governments to meet, as required, in a consultative commission or other forum to facilitate the implementation of the agreement, address matters that may be raised by either Government, or consider licensee disputes raised under the licensee agreements. The commission or forum will generally be limited to a specified number of Government representatives, but the agreements may also provide for reference to external arbitration. An example can be found in the new framework agreement between the United Kingdom and Norway.

## 27. UNITED STATES

The United States has identified no joint bodies, partnerships or formal mechanisms with Mexico or Canada to address exploration, exploitation and management of transboundary oil or gas. Along its maritime boundary, the United States itself does not engage in these forms of activity, but instead issues outer continental shelf leases within United States jurisdiction on a competitive basis to private oil and gas companies. These leases and their operators must adhere to United States laws and regulations and to the terms of the lease. (See the Outer Continental Shelf Lands Act and its implementing regulations, the most pertinent of which are found at Code of Federal Regulations, Title 30, parts 250, 256 and 260.)

## D. Question 3

**If the answer to question 1 is yes, please answer the following questions on the content of the agreements or arrangements and regarding the practice:**

**(a) Are there any specific principles, arrangements or understandings regarding allocation or appropriation of oil and gas, or other forms of cooperation? Please provide a description of the principles, provisions, arrangements or understandings;**

**(b) Are there any arrangements or understandings or is there any practice regarding prevention and control of pollution or regarding other environmental concerns, including mitigation of accidents? Please provide further description.**

## 1. ALGERIA

1. There is an agreement of friendship and cooperation between the Algerian and Libyan Arab Jamahiriya Governments regarding the development and exploitation of the deposits at Alrar and Wafa.

2. The firm Oil Spill Response Company (OSPREC) was created in January 2007. Its shareholders include

Algeria and Morocco, soon to be joined by Tunisia. The firm's objective is to prevent and combat hydrocarbon pollution in an area extending from the southern Mediterranean coast to the west coast of Africa.

## 2. AUSTRALIA

1. In relation to question 3 (a), the provisions quoted above (see paragraph 1 of Australia's response to question 1 above) in several of Australia's delimitation agreements make it clear that for any transboundary petroleum resource found, the two parties are to seek to reach agreement on the manner in which the resource is to be most effectively exploited and on the equitable sharing of the benefits arising from such exploitation.

2. In relation to question 3 (b):

(a) In those areas where Australia exercises seabed jurisdiction and Indonesia exercises water column jurisdiction, the parties will be required by article 7 of the Perth Treaty, when it enters into force, to take effective measures as may be necessary to prevent, reduce and control pollution of the marine environment;

(b) Article 13 of the Torres Strait Treaty between Australia and Papua New Guinea provides obligations on the parties to protect and preserve the marine environment in and in the vicinity of the Protected Zone. Under article 15, Australia and Papua New Guinea have agreed to extend a moratorium on mining and drilling of the seabed and subsoil for the exploration or exploitation of the resources within the Protected Zone for an indefinite period;

(c) Article 10 of the Timor Sea Treaty places obligations on Australia and Timor-Leste to cooperate to protect the marine environment of the joint petroleum development area, so as to prevent and minimize pollution and other environmental harm from petroleum activities. In the Greater Sunrise unit area, article 21 of the unitization agreement between Australia and Timor-Leste provides that certain specified Australian environmental protection legislation will apply and will be administered by the regulatory authorities designated by the unitization agreement;

(d) The Australian Maritime Safety Authority, responsible for maritime safety, marine environment protection, and maritime and aviation search and rescue in Australia, has several memorandums of understanding with Australia's neighbours (New Caledonia, New Zealand, Papua New Guinea and Indonesia) which relate to responses to major oil spills.

## 3. AUSTRIA

1. Since the gas is exploited exclusively on Austrian territory, Austrian laws and regulations apply.

2. There are no specific arrangements.

## 4. BAHAMAS

The Bahamas indicated that the question was "Not applicable".

## 5. CANADA

1. The Agreement between the Government of Canada and the Government of the French Republic relating to the Exploration and Exploitation of Transboundary Hydrocarbon Fields is a framework arrangement which does not contemplate a single unified regime but instead is a means to facilitate the requirements of French and Canadian legislation to be fulfilled for any transboundary field.

2. In addition to reiterating the definitive boundary between Canada and France for all purposes, the Agreement's preamble recognizes proportionality based on respective share of reserves in a transboundary field as the basis of the Agreement and highlights the importance of good oil field practice, safety, protection of the environment and the conservation of resources in transboundary fields.

3. The following are the main features of the Agreement regarding allocation or appropriation of oil and gas, or other forms of cooperation:

(a) The Agreement envisages provision of information with a more comprehensive exchange once accumulation has been determined to be transboundary. The Agreement imposes a requirement for information exchange upon the drilling of any well within 10 nautical miles of the maritime boundary. Information exchanged cannot be further disclosed without the consent of the party that provided it;

(b) The Agreement speaks about the notice to be given to the other party, with evidence, if data shows that accumulation is (or is not) transboundary. If the other party is not convinced, that party can: (i) request a meeting of the Technical Working Group; and/or (ii) send the disagreement to a single expert for determination in accordance with procedure and timelines for using the expert outlined in the Agreement;

(c) The Agreement provides for determination and redetermination of hydrocarbon reserves in a transboundary field. Indeed, the Unit Operator is to submit specific proposals on which both parties shall agree upon in a specific time frame. Should such an agreement not be reached, the disagreement is submitted to a single expert for determination, in accordance with procedure and timelines for using the expert outlined in the Agreement;

(d) Once agreement is reached or the expert determines that the accumulation is transboundary, the parties must delineate an area for the exchange of comprehensive data. If a Holder of Mineral Titles, meaning a person or firm to whom one of the parties has granted a subsisting mineral title or exclusive right to explore or exploit hydrocarbons in a particular area, is interested in production from the transboundary field, the parties will start negotiation of an Exploitation Agreement. The Exploitation Agreement is defined as any agreement entered into between Canada and the French Republic in respect of a transboundary field;

(e) The Agreement envisages a separate Exploitation Agreement for each transboundary field. It imposes a

time limit for the parties to enter into an Exploitation Agreement since any commercial production in a transboundary field cannot commence until an Exploitation Agreement has been concluded. If the parties are unable to conclude an Exploitation Agreement within a particular time frame, either party may refer the finalization of the Exploitation Agreement to arbitration, in accordance with the arbitration procedure outlined in the Agreement. This provides certainty as to time frames in which the Exploitation Agreement will be finalized;

(f) The Agreement requires that Mineral Title Holders conclude a Unitization Agreement that provides for: (i) combining respective rights in the transboundary field's hydrocarbon resources; (ii) sharing costs and benefits; (iii) operating the field as a single unit. The Unitization Agreement is subject to the prior written approval of both parties. This is an operator-led confidential arrangement which incorporates provisions to ensure that, in the event of a conflict between the Unitization Agreement and the Exploitation Agreement, the terms of the Exploitation Agreement shall prevail;

(g) Exploitation of any transboundary field is to be undertaken in accordance with the Exploitation Agreement and the Unitization Agreement;

(h) A Development Plan and a Benefits Plan must be agreed upon for a particular transboundary field before production can commence. A Development Plan sets out in detail the approach to the development and operation of the transboundary field while a Benefits Plan ensures that, in developing the transboundary field, and subject to all applicable domestic and international legal obligations of the parties, best efforts are made to ensure economic benefits are shared between Canada and France, taking into account the apportionment of hydrocarbon reserves as between the parties. Upon submission from the Unit Operator, parties have a specific time frame in which to approve a Development Plan and a Benefits Plan. Should the time period expire, either party can refer the matter to arbitration, in accordance with the arbitration procedure outlined in the Agreement;

(i) The parties must ensure that exploitation of the transboundary field is in accordance with approved Development and Benefits Plans;

(j) The Agreement provides that all disputes are to be resolved through negotiation except for disputes which are specifically to be submitted to an expert or to arbitration.

4. The Agreement contains provisions that address environmental considerations, including transboundary environmental impact assessments. The Agreement provides for parties to conclude arrangements or agreements dealing with search and rescue, marine pollution and transboundary impact environmental assessments. For instance, the parties are required to enter into a side arrangement on implementation of the Convention on Environmental Impact Assessment in a Transboundary Context, Espoo, Finland, 1991.

5. The parties have a duty to take all necessary measures to minimize adverse impact on the environment. The

Agreement imposes a requirement for Mineral Title Holders to provide security, as determined by the party having jurisdiction over them, to meet environmental damage caused by any hydrocarbon exploration or exploitation activity.

6. On a separate note, environmental considerations are part of the approval process for oil and gas activities under Canada's domestic legislation, and this would be true in the case of transboundary fields as well.

## 6. CUBA

There is no arrangement or practice with Cuba's neighbouring States (Mexico and the United States) for the prevention or control of pollution or other environmental problems. To date, no agreements on cooperation in salvage rescue or intervention in the case of accidents have been signed.

## 7. CYPRUS

1. The apportionment of reserves on each side of the median line and the allocation or appropriation of oil and gas is determined by the licensees in the unitization agreement and is subject to the approval of the States. The assistance of an independent, third-party expert may be called upon.

2. The framework agreement provides that the States shall take all necessary measures so that the concerned licensees comply with the health, safety and environmental requirements provided for in their respective applicable legislation and shall in particular ensure that the performance of the relevant activities, including the construction and operation of facilities and pipelines, shall prevent damage to the marine environment, and that relevant procedures are established for the safety of navigation and the safety and health of personnel. Furthermore, there are provisions in national legislation (the Hydrocarbons [Prospecting, Exploration and Exploitation] Law and the Hydrocarbons [Prospecting, Exploration and Exploitation] Regulations) for the protection of the environment. Cyprus has also conducted a strategic environmental assessment concerning the hydrocarbon activities within its exclusive economic zone, in which the likely significant environmental effects of implementing hydrocarbon exploration and exploitation activities are identified, described and evaluated. The licensees are bound to follow and comply with the recommendations of the study and must prepare an environmental impact assessment prior to the granting of an exploitation licence. The strategic environmental assessment was conducted in accordance with the relevant European Union directive (2001/42/EC), *Official Journal of the European Communities*, L 197 (27 June 2001), pp. 30–37. Cyprus is a party to a number of international conventions and protocols, such as the International Convention for the Prevention of Pollution from Ships (MARPOL), 1973 and its Protocol of 1978; the Convention for the Protection of the Mediterranean Sea against Pollution; the Convention on Wetlands of International Importance, especially as Waterfowl Habitat; the Convention on the Conservation of Migratory Species of Wild Animals;

the United Nations Convention on the Law of the Sea; the Vienna Convention for the Protection of the Ozone Layer; the Montreal Protocol on Substances that Deplete the Ozone Layer; the United Nations Framework Convention on Climate Change; Agenda 21, adopted at the United Nations Conference on Environment and Development [Rio de Janeiro, Brazil, 3 to 14 June 1992 (A/CONF.151/26/Rev.1)(vol.I/Corr.1, vol. II, vol. III/Corr.1)], the Convention on Biological Diversity; the Kyoto Protocol to the United Nations Framework Convention on Climate Change and the Stockholm Convention on Persistent Organic Pollutants.

#### 8. CZECH REPUBLIC

1. A specific feature of the 1960 Agreement between the Government of the Czechoslovak Republic and the Austrian Federal Government on the Exploitation of Shared Natural Gas and Oil Deposits was that the raw material was used only by one Contracting Party (Austria) with regard to the technically rational system of mining. The other Contracting Party (Czechoslovakia/Czech Republic) had at its disposal an observation well to monitor the observation of technical parameters. As the raw material comes also from the Czechoslovak/Czech territory, Czechoslovakia/the Czech Republic was entitled to certain financial compensation. The recipient of the compensation was the mining company that had the mining licence for the area, namely, the Nafta Hodonín company (now the Moravské naftové doly mining company).

2. The 1960 Agreement provides for the duty of notification in the event of any special circumstances requiring immediate measures (art. 4). The mining companies of the Contracting Parties cooperate in the exploitation and are expected to exchange information also on the environmental impacts of the exploitation.

#### 9. IRELAND

1. Ireland responded "Yes"—article 3 of the Agreement between the Government of Ireland and the Government of the United Kingdom concerning the Delimitation of Areas of the Continental Shelf between the Two Countries, as supplemented, reads as follows:

"If any oil, gas or condensate field extends across Line A or Line B and the part of such field which is situated on one side of the line is exploitable, wholly or in part, from the other side of the line, the two Governments shall make determined efforts to reach agreement as to the exploitation of such field."

2. Ireland indicated that question 3 (a) was "Not applicable".

3. As regards, question 3 (b) an Oil Spill Contingency Plan is put in place before any drilling takes place. Strategic environmental assessments also include a section on transboundary impact assessment.

#### 10. JAMAICA

1. There are no express provisions in the Maritime Delimitation Treaty between Jamaica and Colombia concerning specific principles, arrangements or

understandings in respect of the allocation or appropriation of oil or gas in the joint regime area. Article 3 of the Treaty provides, however, that activities in the area shall be carried out on a joint basis as agreed by both parties.

2. Under article 3 of the Treaty, the parties may carry out activities in the joint regime area for the protection and preservation of the marine environment. The article further provides that this shall be done on a joint basis as agreed by both parties. There are no current arrangements regarding the prevention and control of pollution in the joint regime area. Both parties are, however, engaged in ongoing discussions on the exploration and exploitation of non-living resources in the area and will begin discussions on modalities for the preservation and protection of the environment in the area.

#### 11. KUWAIT

1. For Wafra Joint Operations, the Kuwait Gulf Oil Company and Saudi Arabian Chevron share 50 per cent in all aspects related to expenses, manpower and all produced fluids.

2. Specific principles, arrangements and understandings regarding allocation of appropriation of oil and gas are in place for the Khafji Joint Operations.

3. Under the terms of the Joint Petroleum Production Operations Agreement, both partners have an equal and undivided 50 per cent interest in all petroleum acquired or produced in connection with the joint operations. The Agreement also states that each party shall have the right to receive in kind its proportionate share of each grade and quality of crude oil and natural gas acquired or produced through the joint operations.

4. Wafra Joint Operations, a joint venture of the Kuwait Gulf Oil Company and Saudi Arabian Chevron, complies with the Kuwait Petroleum Corporation health, safety and environment management system and the Kuwait Environment Public Authority and Chevron Operational Excellence standards, which are aimed at controlling pollutants and reducing the release of environmental hazards into the atmosphere. For example, Wafra Joint Operations has started projects to recycle paper and control hazardous material as part of its waste management systems. In addition, to reduce oil leaks, Wafra Joint Operations has been implementing a project to replace flow lines. There is also a project on pit remediation as part of a zero discharge project. The Wafra Central Gas Utilization Project is under study to reduce gas flaring.

5. There are arrangements, understandings and practices in respect of Khafji Joint Operations regarding prevention and control of pollution or regarding other environmental concerns, including mitigation of accidents. Khafji Joint Operations complies with relevant environmental regulations and other requirements applicable to its operating activities. In particular, Khafji Joint Operations complies with the environmental standards specified by Saudi Arabia and Kuwait and has developed appropriate guidelines and an environment management system compatible with the objectives of environmental protection prevailing in the region.



6. Khafji Joint Operations has a well-defined performance management system to monitor and mitigate issues pertaining to environment, health and safety incidents. It has also implemented ISO 14001 for its environment management system to establish international standards for management of the environment in its operations.

#### 12. MALI

Mali responded “No”—the Framework Agreement with Mauritania does not include any specific principles or arrangements regarding allocation or appropriation of oil and gas, nor does the Framework Agreement include any such understandings or arrangement.

#### 13. MAURITIUS

Mauritius indicated that the question was “Not applicable”.

#### 14. NETHERLANDS

1. In relation to question 3 (a):

(a) Articles 5 to 9 of the 1962 Supplementary Agreement to the Ems-Dollard Treaty;

(b) Articles 5 and 6 of the 1992 Markham Agreement (United Nations, *Treaty Series*, vol. 1731, No. 30235, p. 156);

(c) Paragraph (f) of the Minke Main Memorandum of Understanding.

2. As regards question 3 (b):

(a) Article 17 of the 1992 Markham Agreement;

(b) Paragraph (d) of the Minke Main Memorandum of Understanding.

#### 15. NORWAY

1. Any exclusive right to explore for and produce oil and gas on the Norwegian continental shelf is subject to a production licence being awarded to eligible companies. This licence is exclusive and gives the holders the right, within a specified time limit, to explore for and produce any oil and gas discovered in the area covered by the licence.

2. Any production of oil and gas from a transboundary deposit is subject to a unit agreement being entered into by the relevant companies on both sides of the delimitation line and to such unit agreement being approved by the two relevant Governments. Upon receipt of such approval, the relevant companies on both sides of the delimitation line form a joint venture for the purpose of exploiting the transboundary oil and gas deposit as a unit.

3. Any profits resulting from the exploitation of transboundary oil and gas deposits are, in the case of Norway, subject to taxation of the individual companies holding the relevant production licence on the Norwegian side of the delimitation line.

4. The legal basis for the joint operations is always a unitization agreement between the two or more Governments on each side of the delimitation line. In the case of Norway, its delimitation agreements with Denmark, the United Kingdom and Iceland all foresee that transboundary oil and gas deposits will be exploited on the basis of unitization agreements between the Governments in question.

5. Norway and its neighbouring countries all have national legislation providing that pollution resulting from oil and gas activities is subject to strict liability on the oil companies holding the exclusive rights to conduct exploration for and exploitation of oil and gas in the area where the pollution occurred. These oil companies are also strictly liable to mitigate the effects of accidents resulting in such pollution. Other kinds of accidents shall be mitigated and compensated as far as the oil company holding the relevant exclusive right is responsible and liable for the accident.

#### 16. OMAN

1. In relation to question 3 (a), there are arrangements to foster cooperation in the oil and gas sectors between the Sultanate and some neighbouring States. For example, there is a joint Omani-Yemeni technical committee on oil and gas. That committee has held four meetings since its creation in 1993. The most important things that were agreed on during that period are:

(a) Exchange of information and maps on common border zones in relation to oil and gas;

(b) Bilateral exchange of technical information on areas adjoining the borders and the provision of facilities to Omani and Yemeni companies wishing to invest in the oil and gas sectors; such investment must take place in accordance with the procedures followed in both countries;

(c) Training of Yemeni technicians in various areas by Petroleum Development Oman (PDO) and Occidental Petroleum Corporation in the year 2000;

(d) Exchange of visits between officials and technical personnel from both countries as well as visits to oil facilities and companies operating in the country.

2. The committee met most recently in Sana'a from 1 to 4 July 2007. Many important matters were discussed at the meeting, such as the formation of a joint working group of the Petroleum Exploration and Production Authority (PEPA) of Yemen and the Oman Oil Company (OOC) to study the possibility of investing in available areas in Yemen. Also discussed was Omani use of Yemeni expertise in the development of a centralized database, which the Ministry intends to create in the near future. A delegation from the Ministry recently visited Yemen to discuss the matter.

3. In relation to question 3 (b), in respect of environmental affairs, the Ministry of the Environment and Climate Affairs is the competent body.

## 17. PORTUGAL

Portugal responded “Not applicable”.

## 18. SAINT VINCENT AND THE GRENADINES

A draft energy policy has been adopted by Cabinet for discussions with stakeholders.

## 19. SLOVAKIA

Slovakia has no arrangements, understandings or practices regarding the prevention and control of pollution or regarding other environmental concerns, including mitigation of accidents.

## 20. THAILAND

1. All costs incurred and benefits to be derived by the Malaysia-Thailand Joint Authority from activities carried out in the joint development area are to be equally borne and shared by the two Governments (Malaysia and Thailand).

2. Under the Malaysia-Thailand Joint Authority Agreement, the Malaysia-Thailand Joint Authority Act 1990 and relevant petroleum income tax acts, the Joint Authority is empowered to award, with the approval of the Governments, contracts for the exploration and exploitation of petroleum resources in the joint development area. Contracts have to be in the form of a production-sharing contract.

3. Further information is available in the Agreement between the Government of the Kingdom of Thailand and the Government of Malaysia on the Constitution and other Matters relating to the Establishment of the Malaysia-Thailand Joint Authority, article 9, finance, chapter III: financial provisions.

4. In relation to question 3 (b), the Procedures for Drilling Operations and Procedures for Production Operations of the Malaysia-Thailand Joint Authority contain further information.<sup>1</sup>

<sup>1</sup> The texts of the agreements are available for consultation at the Codification Division of the Office of Legal Affairs.

## 21. UNITED KINGDOM

1. A common feature of bilateral agreements delimiting the United Kingdom continental shelf is a requirement to reach further agreement on the manner in which a transboundary petroleum field or structure shall be effectively exploited and the costs and proceeds apportioned. These further agreements provide for both Governments to approve matters relating to development. These will usually include commercial agreements between the appropriate licensees of each State that are relevant to exploitation of the structure/field; technical arrangements for determining the geological extent of the field or structure and for apportionment between the licence groups; appointment of the operator for any field development and decommissioning plans; the role of the Governments and the extent that each Government has jurisdiction over

installations and field facilities; the arrangements for measuring petroleum produced; arrangements for maintaining the safety of installations and pipelines; arrangements for third party use of the field and associated facilities; arrangements for environmental protection; and arrangements for dispute settlement.

2. Under Council Directive 85/337/EEC of 27 June 1985 on the assessment of the effects of certain public and private projects on the environment (*Official Journal of the European Communities*, L 175/40, 5 July 1985) and the Directive of the European Parliament and the Council concerning integrated pollution prevention and control (15 January 2008) (2008/1/EC) (*Official Journal of the European Communities*, L 24/8, 29 January 2008), member States of the European Union are obliged to advise bordering States of any proposals that could have an impact on the environment in those States and there is therefore a formal procedure for exchanging applications relating to environmental impact assessments and atmospheric emissions. A similar, though less formal, exchange procedure is also in force in relation to discharges to the marine environment controlled under binding agreements made under the Convention for the Protection of the Marine Environment of the North-East Atlantic. In addition to these agreements, the United Kingdom regulators meet with the regulators of bordering States on a regular basis, to discuss general policy issues and specific development proposals.

3. As regards other environmental concerns, including mitigation of accidents, the United Kingdom is party to several international agreements that provide for cooperation in dealing with major marine pollution incidents. Appendix B of the National Contingency Plan provides details of these agreements, which set out roles and responsibilities with regard to notification and response to marine pollution incidents (see [www.mcga.gov.uk](http://www.mcga.gov.uk)). United Kingdom offshore oil and gas operators are required to notify regulatory authorities in the event of any oil or chemical spill in the sea, regardless of volume. The Maritime Coastguard Agency has the responsibility, through the previously mentioned international agreements, to notify border States if any pollution is likely to enter their waters.

## 22. UNITED STATES

1. There are no principles, arrangements or understandings regarding allocation or appropriation of oil and gas production from transboundary reservoirs, as no transboundary reservoirs have been identified along the United States maritime boundary. The only forms of cooperation concern data sharing and other limited forms of cooperation described in the Western Gap Treaty with regard to possible transboundary reservoirs.

2. Because the United States has no arrangements or practices regarding the exploration and exploitation of transboundary oil and gas resources, there are no related arrangements or understandings regarding pollution prevention and control or other environmental concerns. As a domestic matter, oil and gas operators operating in areas under United States jurisdiction are required to follow all United States laws and regulations, many

of which relate to pollution and environmental issues. For example, see generally the Outer Continental Shelf Lands Act, and specifically its implementing regulations at the Code of Federal Regulations, Title 30, Part 250. In addition, United States Government inspectors visit and inspect offshore facilities regularly to ensure that all equipment and facilities comply with regulatory requirements.

#### E. Question 4

**Please provide any further comments or information, including legislation or judicial decisions, which you consider to be relevant or useful to the Commission in the consideration of issues regarding oil and gas.**

##### 1. AUSTRALIA

Australia responded “No response”.

##### 2. BAHAMAS

Bahamas indicated that the question was “Not applicable”.

##### 3. BOSNIA AND HERZEGOVINA

Bosnia and Herzegovina cited the following:

(a) Decision of the Council of Ministers of Bosnia and Herzegovina on the quality of oil products (2002);

(b) Decree on the organization and regulation of the gas sector in the Federation of Bosnia and Herzegovina (2007); and the Gas Law relating to the Republic of Srpska (2007). Activities are ongoing on drafting of the national gas law and improving of the existing legislation on the entity level.

##### 4. CANADA

1. The Canadian area covered by the Agreement between the Government of Canada and the Government of the French Republic relating to the Exploration and Exploitation of Transboundary Hydrocarbon Fields is governed domestically by the Canada-Newfoundland Offshore Petroleum Board, an independent body that regulates the offshore area on behalf of Canada and the Province of Newfoundland and Labrador. The pertinent legislation is the Canada-Newfoundland Atlantic Accord Implementation Act, available from: <http://laws.justice.gc.ca/en/C-7.5/index.html>.

2. In addition, there is a small transboundary area that could be subject to the Canada-Nova Scotia Offshore Petroleum Resources Accord Implementation Act.

3. Both pieces of legislation provide for the management of offshore oil and gas resources on behalf of the federal and provincial governments.

##### 5. CUBA

By decision of the Government of Cuba, the State Commission on the Outer Limit of the Continental Shelf

was established to extend the present maritime limit beyond the 200 nautical miles from the baselines from which the breadth of the territorial sea is measured, in accordance with article 76 of the United Nations Convention on the Law of the Sea and, therefore, beyond Cuba’s exclusive economic zone in the Gulf of Mexico. That Commission is currently in the process of organizing its submission to the United Nations Commission on the Limits of the Continental Shelf, which will in the future examine oil and gas prospecting and exploitation.

##### 6. CYPRUS

The following national legislation has been harmonized with Directive 94/22/EC of the European Parliament and of the Council of 30 May 1994 on the conditions for granting and using authorizations for the prospecting, exploration and production of hydrocarbons (*Official Journal of the European Communities*, L 164/3, 30 June 1994):

(a) Hydrocarbons (Prospecting, Exploration and Exploitation) Law of 2007 (Law 4(1)/2007);

(b) Hydrocarbons (Prospecting, Exploration and Exploitation) Regulations of 2007 (Regulatory Administrative Act 51/2007).

##### 7. CZECH REPUBLIC

The Czech Republic has oil and natural gas deposits only in a small part of its territory, practically only in the southern and northern border areas in the east of the Czech Republic. Therefore, what is taken into consideration are the transboundary oil and natural gas deposits shared only with Austria and possibly perhaps carboniferous gas deposits shared with Poland. With regard to the really thorough (unique in the world) geological exploration of the territory of the Czech Republic, no new oil or natural gas deposits are likely to be found and requiring a new international agreement that would regulate their shared exploitation and/or use.

##### 8. HUNGARY

There are only few precedents of cross-border development of petroleum resources; therefore Hungary is not aware of relevant treaties or judicial decisions. However, the adaptation of the unitization principles elaborated by the international oil and gas industry is worth considering.

##### 9. IRELAND

Ireland indicated that the question was “Not applicable”.

##### 10. JAMAICA

Legislation has been enacted in Jamaica only in respect of areas within Jamaica’s exclusive jurisdiction<sup>1</sup> and the legislation is not, therefore, applicable to the joint regime area.

<sup>1</sup> The Maritime Areas Act (1996) and the Exclusive Economic Zone Act (1991).

## 11. MALI

In preparation for the possible discovery of hydrocarbon reserves, the question of its transport in border areas is currently being studied. The Government is seeking to define an appropriate legal framework for this activity.

## 12. MAURITIUS

Mauritius responded “None”.<sup>1</sup>

<sup>1</sup> However, the Government of Mauritius annexed to its response the Petroleum Act, Act No. 6 of 16 April 1970, the text of which, in English, is available for consultation at the Codification Division of the Office of Legal Affairs.

## 13. NETHERLANDS

1. The 1962 Supplementary Agreement to the 1960 Ems-Dollard Treaty on the allocation of oil and gas is an exceptional agreement in that it provides for the division of oil and gas reserves in an area where no inter-State boundary exists. In the 1960 Ems-Dollard Treaty, the Netherlands and Germany “agreed to disagree” with regard to a boundary in the Ems-Dollard area, which had been under dispute for several hundred years. Taking into account this exceptional situation, it was agreed in 1962 to equally divide the oil and gas reserves between the two countries in an area defined as the “border area”. The agreements that have been concluded with respect to the Ems-Dollard estuary are regarded by many as exemplary of how to deal with a situation where no agreement concerning a boundary can be reached between two countries.

2. The 1992 Markham Agreement was a specific agreement for a specific situation, which resulted in an elaborate and detailed agreement.

## 14. NORWAY

Reference was made above to the texts of relevant agreements with neighbouring countries.

## 15. OMAN

Oman responded that no information relevant to question 4 was currently available.

## 16. PORTUGAL

1. As far as is known, there is no agreement on maritime boundaries delimitation with Spain. An agreement with Spain on the definition of the maritime boundaries is important, but it should not prejudice Portugal as far as current legislation is concerned, i.e. it should take into account the Portuguese legislation in force and keep the median line criterion. The 1958 Convention on the Continental Shelf, which uses the median line for the delimitation of the maritime boundary in areas in dispute, was ratified by Portugal and Spain.

2. Portuguese Act No. 33/77 of 28 May 1977 establishes the width and the limits of the territorial sea and a 200-mile exclusive economic zone. It also stipulates that in case of lack of formally valid agreement between both countries,

the limit of the zone is the median line. This law is in accordance with the rule established in the Convention on the Continental Shelf. Subsequently, Portuguese Decree Law No. 119/78 of 1 June 1978 settled the external limits of the exclusive economic zone based on the geographic coordinates of the points that determine the limits, defining the median lines between Portugal and the countries with which it has boundaries (Spain and Morocco) (see map No. 1001-E at the Instituto Hidrográfico).

3. The rights that result from the Portuguese legislation were reaffirmed in the decree of the President of the Republic of Portugal No. 67-A/97 of 14 October 1997 for ratification of the United Nations Convention on the Law of the Sea.

4. In 2002, in accordance with Portuguese legislation, a bidding round was opened for the concession of oil (liquid and/or gas) exploration and production rights in 14 blocks of the deep offshore (published in the Portuguese *Official Gazette* and in the *Official Journal of the European Union*). Block 14 is limited on the east side by the exclusive economic zone line, in accordance with the above-referenced Decree Law No. 119/78.

5. The blocks were defined in the Universal Transverse Mercator-European Datum 1950 reference system, which is also used in Spain.

6. The Repsol/RWE group made applications for blocks 13 and 14. This group did not just accept and fulfil all requirements but exceeded them. The two blocks were awarded, the contract drafts were initialled and the contracts are expected to be signed.

## 17. SAINT VINCENT AND THE GRENADINES

Availability of the Petroleum Stabilization Fund of the Caribbean Community was established in 2004. The Energy Cooperation Agreement (PetroCaribe) was established in 2005.

## 18. TAJIKISTAN

The Republic of Tajikistan would like to draw the attention of the International Law Commission to the situation in the southern part of Tajikistan, in the Amu Darya District, bordering the Republic of Uzbekistan. There are 16 oil deposits which, due to unresolved demarcation problems, are being used by the Uzbek side. In this regard, Tajikistan is expecting the Commission to propose the best ways for addressing the existing dispute.

## 19. TURKEY

1. According to international law, the delineation of the continental shelf, as well as the exclusive economic zone in semi-enclosed seas such as the Eastern Mediterranean could only be possible through arrangements to be made among all the countries concerned and by observing the rights and interests of all the parties.

2. In this respect, Turkey’s views regarding the Greek Cypriot attempts that are contrary to international law and legitimacy, to delimit maritime jurisdiction areas and

to issue licences for exploring oil and gas in the Eastern Mediterranean Sea have been duly conveyed to the United Nations and other relevant international organizations, as well as to the international community, on every occasion.

3. In this context, following the signing of a delimitation agreement between Egypt and the Greek Cypriot side on 17 February 2003, it has been registered with the letter of the Permanent Mission of Turkey dated 2 March 2004, which was also circulated as a United Nations document (published in the *Law of the Sea Bulletin*, No. 54), that the attempts of the Greek Cypriot side to delimit maritime jurisdiction areas are unacceptable, and that Turkey also has legitimate rights and jurisdiction in areas to the west of the Island of Cyprus beyond the longitude 32° 16' 18" East. In this vein, it has been stated that the Greek Cypriot endeavours to create *de facto* situations through unilateral acts in the Eastern Mediterranean would not be accepted.

#### 20. UNITED KINGDOM

The United Kingdom responded that it had no further comments.

#### 21. UNITED STATES

There is no United States legislation or judicial decision specifically addressing transboundary reservoirs at this time and the relevant agency in the federal Government currently lacks domestic legislative authority to enter into a cooperative development arrangement (such as a joint plan, allocation or unitization arrangement) with a neighbouring State. United States outer continental shelf operators are subject to a number of laws and regulations, including provisions for domestic unitization arrangements between leaseholders in certain circumstances. In general, operators are allowed to explore, develop and produce hydrocarbons from their leased acreage pursuant to the "modern rule of capture", which requires, for example, resource conservation practices and maximizing ultimate recovery from resource reservoirs.

### F. Question 5

**Are there any aspects in this area that may benefit from further elaboration in the context of the Commission's work? Please indicate those aspects.**

#### 1. AUSTRALIA

1. Australia feels that the Commission should approach with caution any examination of areas of international law that directly engage matters that are essentially bilateral in nature. Australia acknowledges the valuable work undertaken by the Commission and especially the Special Rapporteur, Mr. Chusei Yamada, on the general topic of shared natural resources and, in particular, shared underground aquifers.

2. With respect to the Commission's proposed consideration of shared oil and gas, this is one of essential bilateral interest—that is, one to be resolved by negotiation between the particular States involved. The topic is

already adequately covered by international law principles and dealt with by States on a bilateral basis.

3. If the Commission proceeds with its consideration of shared oil and gas resources, Australia considers that it should not examine matters relating to offshore boundary delimitation. Whether such resources are in fact physically shared is first and foremost a question of delimitation of territory or maritime jurisdictions. Individual circumstances will impact on each situation and States will want to resolve any differences on a case-by-case approach. These differing circumstances will throw up a degree of complexity that would be difficult to succinctly distil. Maritime delimitation, and assessment of offshore resources, are matters for the States concerned and this is made clear by the 1982 United Nations Convention on the Law of the Sea. In addition, in Australia's experience delimitation agreements generally contain unitization clauses that deal with petroleum resources that straddle the agreed boundary.

#### 2. BAHAMAS

There is the issue of horizontal drilling regarding transboundary oil and gas resources that requires further dilation.

#### 3. BOSNIA AND HERZEGOVINA

Bosnia and Herzegovina responded "Not defined".

#### 4. CANADA

1. While there is a growing demand for rules governing the use of shared or transboundary natural resources, Canada believes that the oil and gas issue is essentially bilateral in nature, highly technical and politically sensitive and encompasses diverse regional situations. As such, it should be left for resolution by negotiation between States involved. As a result, Canada is not persuaded by the need for the Commission to develop any framework or model agreement(s) or arrangement(s) or draft articles on oil and gas.

2. However, Canada does see the benefit of the Commission outlining elements that could guide States when negotiating agreements on partition of oil and gas. A "template of elements" on the practice applicable, including a review of the existing agreements and State practice, along with an identification of common principles and features, best practices and lessons learned, would be very useful, not only to Canada, but also internationally. Such a template could separate (a) circumstances where there is no delimitation agreement in place; and (b) circumstances where a delimitation agreement is already in place.

3. Should the Commission proceed with the consideration of the topic of shared oil and gas resources, Canada would not endorse the Commission examining matters relating to offshore boundary delimitation.

#### 5. CUBA

Currently, Cuba considers the Commission's work in the examination of the matter in question to be adequate.

## 6. CYPRUS

With regard to the exploration and exploitation of transboundary oil and gas resources, one aspect that may benefit from further elaboration in the context of the Commission's work is that Israel, the Syrian Arab Republic and Turkey should sign the United Nations Convention on the Law of the Sea, which has been signed by more than 150 countries. The situation in the eastern Mediterranean would be much clearer if those States signed the Convention, since the relevant business environment would benefit from efforts by other States for exploration and exploitation of hydrocarbons in this region.

## 7. IRELAND

Ireland responded "No", and in relation to indicating those aspects, Ireland responded, "Not applicable".

## 8. MALI

Certain aspects of the transport of Malian oil and gas to terminals in neighbouring countries need more detailed study, namely: integration and harmonization of the regulations of the different countries; and understandings and/or arrangements with neighbouring countries with which Mali shares sedimentary basins.

## 9. MAURITIUS

Mauritius responded "No".

## 10. MYANMAR

Regarding additional information in the context of the Commission's work, Myanmar is pleased to inform the Commission of the current status of cooperation with neighbouring States on a bilateral basis. Myanmar is presently selling around 1.2 billion cubic feet of natural gas to Thailand from the Yadana and Yetagun gas fields in the Myanmar offshore Moattama area via pipeline to the Myanmar-Thailand border and sold at the border to

Thailand in accordance with an export gas sales agreement, since 1998 and 2000 respectively. In addition, oil companies from neighbouring States have signed production-sharing contracts with the Myanmar Oil and Gas Enterprise, the national oil company, to explore and develop the oil and gas resources of Myanmar onshore, offshore and in deepwater blocks. Plans are also under way to sell natural gas from Myanmar's Rakhine-specified offshore blocks via pipeline to China. Feasibility studies and front-end engineering and design are in progress.

## 11. NORWAY

Legal certainty is a key factor in dealing with transboundary oil and gas resources, and this is provided for as according to international law States have a sovereign right to the exploitation of these resources and, to the extent necessary, have entered into bilateral treaties made to handle the individual cases specifically.

## 12. OMAN

Oman responded that no information relevant to question 5 was currently available.

## 13. UNITED KINGDOM

The United Kingdom responded "Not in the view of the United Kingdom".

## 14. UNITED STATES

The United States believes that State practice in the area of transboundary oil and gas resources is divergent and relatively sparse, and that specific resource conditions likewise vary widely. In addition, development of oil and gas resources, including transboundary resources, entails very sensitive political and economic considerations. Given these factors, the United States does not believe it would be helpful or wise for the Commission to study this area further or attempt to extrapolate rules of customary international law from limited practice.