

**INTERNATIONAL COURT OF JUSTICE**

*Maritime Delimitation in the Indian Ocean*  
*(Somalia v Kenya)*

**COUNTER-MEMORIAL OF THE REPUBLIC OF KENYA**

**VOLUME IV**

**18 DECEMBER 2017**

**Annex 135**

Post-1992 maritime delimitations between States with adjacent coasts  
(other than those enumerated in the text of the Counter-Memorial).



## *Treaty Series*

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*Treaties and international agreements  
registered  
or filed and recorded  
with the Secretariat of the United Nations*

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VOLUME 1709

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## *Recueil des Traités*

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*Traités et accords internationaux  
enregistrés  
ou classés et inscrits au répertoire  
au Secrétariat de l'Organisation des Nations Unies*

United Nations • Nations Unies  
New York, 2001

**No. 29574**

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**OMAN  
and  
YEMEN**

**International Boundary Agreement (with annexes, joint letter dated 25 December 1992 and maps). Signed at San'a on 1 October 1992**

*Authentic text: Arabic.*

*Registered by Oman and Yemen on 4 February 1993.*

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**OMAN  
et  
YÉMEN**

**Accord interuational de délimitation (avec annexes, lettre commune en date du 25 décembre 1992 et cartes). Signé à Sana'a le 1<sup>er</sup> octohre 1992**

*Texte authentique : arabe.*

*Enregistré par l'Oman et le Yémen le 4 février 1993.*

كما لا يُعتمد بأى ادعاء بحق أو مطالبة لاحقة لإبرام هذه الإتفاقية لا يتفق مع نصوصها وأحكامها وتعتبر هذه الوثيقة جزء من الإتفاقية الأنفة الذكر فى جميع أحكامها وإلتزاماتها.

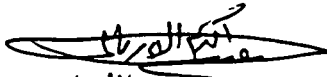
الرقم ١٠١/مسندم/م ت س ٩٢/٢٥


التاريخ غرة رجب ١٤٣١ هجرية

الموافق ٢٥ ديسمبر ١٩٩٢ ميلادية

- ٢ -

إن حكومة سلطنة عمان وحكومة الجمهورية اليمنية، إذ تتقدمان بهذا الإعلان الرسمى إنما تهدفان إلى حصر المسائل المتعلقة بالحدود بين البلدين بنصوص هذه الإتفاقية وأحكامها، وتطلبان من الأمين العام للأمم المتحدة تعميمه بوصفه وثيقة رسمية من وثائق الأمم المتحدة، كما يطالبانه بتسجيل الإتفاقية المبرمة بين البلدين لدى الامانة العامة وذلك بموجب المادة «١٠٢» من ميثاق الأمم المتحدة.

  
هشام الخزرجي  
وزير الخارجية  
الجمهورية اليمنية

  
يوسف بن علوى بن عبدالله  
وزير الدولة للشؤون الخارجية  
سلطنة عمان

٢٥ - ٩٢

## [JOINT LETTER — LETTRE COMMUNE]

الرقم ١٠١/مستند/م ت س ٩٢/٢٥

التاريخ غرة رجب ١٤٢١ هجرية

الموافق ٢٥ ديسمبر ١٩٩٢ ميلادية

- ١ -

معالي الدكتور بطرس بطرس غالى  
الامين العام للأمم المتحدة

تحية طيبة وبعد:

يسرنا إبلاغ معاليكم أن حكومة سلطنة عمان وحكومة الجمهورية اليمنية، إيماناً منهما بمبدأ حسن الجوار ومبدأ حل المسائل الدولية بالطرق السلمية عن طريق الحوار البناء وذلك وفقاً لمبادئ القانون الدولى وميثاق الأمم المتحدة، فقد تم فى مسقط بتاريخ ٢٧ ديسمبر ١٩٩٢م تبادل وثائق التصديق (الإبرام) على إتفاقية الحدود الدولية التى وقعها ممثلو الطرفين فى مدينة صنعاء فى الأول من أكتوبر عام ١٩٩٢م، حيث توصل الطرفان بموجب هذه الإتفاقية إلى تثبيت الحقوق وإنهاء المطالبات المتعلقة بمسائل الحدود بين سلطنة عمان والجمهورية اليمنية.

أنه بعد التوقيع على إتفاقية الحدود الدولية بين سلطنة عمان والجمهورية اليمنية فإنه لم يعد لدى الجمهورية اليمنية أية مطالبات تخالف أو تتعارض مع التحديد الوارد فى إتفاقية الحدود الدولية الموقعة بين البلدين يوم الخميس الموافق الأول من أكتوبر عام ١٩٩٢م.

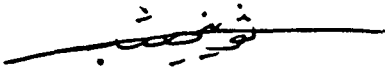
حرر في مدينة صنعاء في اليوم الثالث من شهر  
 ربيع الثاني سنة ١٤١٣ هجرية الموافق لليوم الأول من شهر أكتوبر  
 سنة ١٩٩٢ ميلادية .

صاحب السيف / ثويني بن شهاب آل سعيد

حيد رابو بكر العظاس

الممثل الخاص لجلالة السلطان

رئيس مجلس الوزراء





عن حكومة سلطنة عُمان

عن حكومة الجمهورية اليمنية

١

مادة ( ٦ ) :

إذا تفشى مرض حيواني معد أو وباء سار أو ما يماثلهما فلكل من الطرفين فرض التدابير البيطرية أو الصحية الضرورية وتطبق الأوامر الصادرة بمنع الاستيراد والتصدير ، وعلى السلطات المختصة في كلا البلدين التعاون في هذا المجال .

مادة ( ٧ ) :

يحق للأشخاص المشار إليهم في هذا الملحق الاستفادة في أراضي البلد المستقبل من الخدمات الصحية ، كما يسمح لهم بالتزود بالمواد الغذائية والإستهلاكية الضرورية في حدود المنطقة المسموح لهم الرعي فيها ماعدا الحالات الاسعافية فيتم إحالتها إلى أقرب مركز صحي بواسطة سلطات نقطة عبور في حالة عدم وجود مركز صحي في منطقة الرعي .

مادة ( ٨ ) :

يسري مفعول هذا الملحق لمدة خمس سنوات من تاريخ دخول الإتفاقية حيز التنفيذ ، ويتجدد هذا الملحق تلقائياً لنفس المدة ما لم يتم أحد الطرفين بإشعار الطرف الآخر بالطرق الدبلوماسية برغبته في تعديله ، وذلك قبل ستة أشهر من تاريخ إنتهاء المدة المعينة .

مادة ( ٩ ) :

يصيح هذا الملحق نافذ المفعول بعد التصديق عليه طبقاً للإجراءات المتبعة في كل من البلدين وتبادل وثائق التصديق عليه من قبل الحكومتين .



مادة ( ٤ ) :

مع عدم الاخلال بالاحكام الواردة في المادة (٢) من هذا الملحق يعفى مواطنو الطرفين عند الترخيص لهم من سلطات الحدود المختصة بالرعي والانتفاع من سوارد المياه في مناطق الرعي من :-

أ- القوانين والأنظمة المعمول بها بخصوص الإقامة وجوازات السفر وتصدر لهم وثيقة مرور من قبل السلطات الحدودية للطرف الذي يكونون من مواطنيه تسمح بإجتيازهم الحدود .

ب- الضرائب والرسوم على حيواناتهم وخيامهم وأدواتهم المضربية وما هو ضروري عادة من أثاثهم المنزلي ، وما يحملونه من المواد الغذائية والإستهلاكية وذلك دون مساس بحقوق الطرفين فيما يخص استيفاء الرسوم الجمركية على الحيوانات أو المواد المخصصة للمتاجرة بها في إقليم الطرف الآخر .

مادة ( ٥ ) :

يحتفظ كل من الطرفين بحقه في تحديد عدد السيارات التي يرغب ان يدخلها الرعاة إلى اراضيهم وكذلك تحديد عدد ونوعية الاسلحة النارية التي يسمح لهم بحملها على ان تكون الاسلحة المسموح بدخولها مرخصاً بحملها رسمياً من السلطات المعنية في البلدين بموجب وثائق رسمية تحدد هوية حامل السلاح وتصدر لهم سلطات الحدود وثائق بحمل هذه الاسلحة وإذا زاد عدد الاسلحة النارية على ما هو مرخص به فعليهم تسليمها مقابل ايصال إلى الجهة المسزولة عند نقطة العبور التي تعيدها إليهم عند عودتهم .

## الملحق الثاني

### إتفاقية الحدود الدولية بين سلطنة عُمان والجمهورية اليمنية بشأن تنظيم حقوق الرعي والتنقل والانتفاع من موارد المياه في منطقة الحدود

إن حكومة سلطنة عُمان وحكومة الجمهورية اليمنية تنفيذاً للمادة السابعة من إتفاقية الحدود الدولية بين سلطنة عُمان والجمهورية اليمنية الموقعة في ٣/٤/١٤١٣ هجرية الموافق ١/١٠/١٩٩٢ ميلادية

ورغبة منهما في تنظيم حقوق الرعي والتنقل والانتفاع من موارد المياه في منطقة الحدود فقد إتفقتا على ما يأتي :

مادة ( ١ ) :

تحدد منطقة الرعي لأغراض هذا الملحق بعمق خمسة وعشرين كيلومتراً كحد أقصى من خط الحدود المشترك في أراضي كل من البلدين .

مادة ( ٢ ) :

يحق للرعاة من مواطني الطرفين المتواجدين في المناطق الحدودية وما جاورها الإنتفاع من المراعي ، وموارد المياه في منطقة الرعي المحددة في المادة (١) من هذا الملحق طبقاً للأعراف القبلية السائدة في المنطقة .

مادة ( ٣ ) :

تحدد سلطات حدود الطرفين نطاق الرعي ونقاط العبور التي يمكن إستخدامها لأغراض هذا الملحق بالتشاور سنوياً وذلك في ضوء متطلبات الرعي.

مادة ( ١٨ ) :

يصح هذا الملحق نافذ المفعول بعد التصديق عليه طبقاً للإجراءات المتبعة  
في كل من البلدين وتبادل وثائق التصديق عليه من قبل الحكومتين .

حرر في مدينة صنعاء في اليوم الثالث من شهر ربيع الثاني  
سنة ١٤١٣ هجرية الموافق لليوم الأول من شهر أكتوبر  
سنة ١٩٩٢ ميلادية .

صاحبها السيد / توفيق بن شهاب آل سعيد

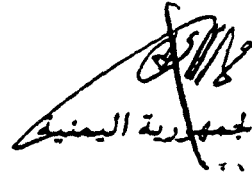
حيدر ابوبكر العظاس

الممثل الخاص لجلالة السلطان

رئيس مجلس الوزراء



عن حكومة سلطنة عُمان



عن حكومة الجمهورية اليمنية

٢- تجتمع سلطات الحدود المبينة في الفقرة (١-ب) من المادة (٣) من هذا الملحق بالتناوب في اقليم كل من الطرفين مرة واحدة كل سنة أو إذا اقترحت سلطات الحدود المبينة في الفقرة (١-أ) من المادة (٣) من هذا الملحق عقد إجتماع إستثنائي خلاف ذلك للتشاور وحسم القضايا المعلقة .

#### مادة ( ١٦ ) :

١- لاغراض المحافظة على مواقع علامات الحدود (دعامات) وصيانتها تقوم سلطات الحدود للبلدين المبينة في الفقرة (١-أ) من المادة (٣) من هذا الملحق بتبادل المعلومات بشأنها وتتولى الكشف الموقعي عليها قبل عقد الإجتماع نصف السنوي المنوّه عنه في الفقرة (١) من المادة (١٥) من هذا الملحق لبحث الموضوع خلاله ورفع التقارير اللازمة بشأن هذه العلامات ( الدعامات) إلى سلطات الحدود المبينة في الفقرة (١-ب) من المادة (٣) من هذا الملحق .

٢- إذا تبين لسلطات الحدود المبينة في الفقرة (١-ب) من المادة (٣) من هذا الملحق ان مواقع العلامات (الدعامات) قد تغيرت أو ان وضعها بحاجة إلى صيانة أو ترميم نتيجة التلف ، تشعر هذه السلطات الجهات المختصة للطرفين من أجل إتخاذ الإجراءات الفنية اللازمة لإعادة العلامات (الدعامات) إلى موقعها أو صيانتها أو ترميمها وفق المواصفات الفنية التي اتفق عليها الطرفان في محاضر اللجنة الفنية المشار إليها في المادة الرابعة من إتفاقية الحدود الدولية بين البلدين والمعتمدة بموجبها .

#### مادة ( ١٧ ) :

يسري مفعول هذا الملحق لمدة خمس سنوات إعتباراً من تاريخ دخول الإتفاقية حيز التنفيذ ويتجدد هذا الملحق تلقائياً لنفس المدة ما لم يقر أحد الطرفين باسعار الطرف الآخر بالطرق الدبلوماسية برغبته في تعديله وذلك قبل ستة أشهر من تاريخ إنتهاء المدة المعينة .

مادة ( ١٢ ) :

يجري اشعار مركز حدود الطرف المتعاقد الآخر الأكثر قريباً بيوم وساعة عبور الأشخاص الذين يقتضي عبورهم الحدود طبقاً لأحكام هذا الملحق في الوقت المطلوب قبل (٢٤) ساعة على الأقل . ويجوز تخفيض هذه المدة في حالات الضرورة القصوى بالاتفاق بين الطرفين المتعاقدين .

مادة ( ١٣ ) :

يتمتع أعضاء سلطات الحدود في أثناء قيامهم بمهمتهم بالحصانة اللازمة لاداء واجباتهم ، ولا تخضع المواد التي يحتاجونها لذلك الغرض إلى الضرائب والرسوم الجمركية .

مادة ( ١٤ ) :

يتم تقديم المساعدة اللازمة للأشخاص المذكورين في المادة (٩) من هذا الملحق خلال وجودهم في المنطقة الحدودية لأحد الطرفين .

مادة ( ١٥ ) :

١- تجتمع سلطات الحدود المبينة في الفقرة (١-أ) من المادة (٣) من هذا الملحق بالتناوب في اقليم كل من الطرفين مرة واحدة كل ستة أشهر أو كلما تستدعي الحاجة للإجتماع وبموافقة الطرفين لحسم القضايا المتعلقة بما يدخل في اختصاصها ، وإذا لم توفق السلطات المذكورة في حسم هذه القضايا ترفع عندئذ إلى سلطات الحدود المبينة في الفقرة (١-ب) من المادة (٣) من هذا الملحق لتقرر ماتراه بشأنها .

٣- إذا امتنعت سلطة الحدود المطلوب منها توقيف المتهم لأي سبب كان عن تسليمه خلال مدة عشرة أيام ، وجب عليها أن تحتفظ به موقوفاً إلى حين تسليم الوثائق المتعلقة بإعادته بالطرق الدبلوماسية ، وفي جميع الأحوال لا يجوز أن تتجاوز مدة توقيف المتهم أكثر من ستين يوماً .

مادة ( ٩ ) :

يجوز لسلطات الحدود بعد إتفاق سابق القيام بالتحقيق الوقعي المشترك في حادث حدودي بغية تثبيت الوقائع وفي هذه الحالة وإذا اقتضت الحاجة ذلك يمكن أن يصطحبوا معهم خبراء وشهوداً ، ويشرف على التحقيق الطرف الذي يجري التحقيق في اقليمه ، ويحرر بالتحقيق محضر موقع من قبل السلطات المختصة في البلدين تدرج فيه باختصار الوقائع والمداومات والنتائج التي توصل إليها التحقيق الذي تتم إحالته إلى السلطات القضائية المختصة .

مادة ( ١٠ ) :

تعين سلطات حدود الطرفين باتفاق مشترك نقاط اللقاء ، وتبادل الرسائل وكذلك نقاط تسليم الأشخاص والأموال والمنافذ الرسمية .

مادة ( ١١ ) :

يمكن لأعضاء سلطات الحدود ومساعدتهم والخبراء أن يجتازوا الحدود لممارسة الوظائف الناجمة عن أحكام هذا الملحق ويجتاز أعضاء سلطات الحدود ومساعدتهم الحدود بعد إبراز وثائق التفويض المذكورة في المادتين (٤) و (٥) من هذا الملحق بعد اخطار السلطات المختصة للطرف المتعاقد الآخر وموافقتها .

هـ- إتخاذ الإجراءات الوقائية ضد إنتشار الأوبئة أو الجوائح الحيوانية أو الطفيليات الزراعية إلى إقليم الطرف الآخر ولهذا الغرض تقوم سلطة حدود الطرف الذي ظهر في إقليمه وباء أو جائحة حيوانية بإشعار سلطة الطرف الآخر وفي حالة الشك في وجود جائحة حيوانية بين الحيوانات التي ينبغي أن تجتاز حدود الطرفين تتخذ الإجراءات اللازمة لمنع إنتشار الجائحة الحيوانية وفقاً لأنظمة التفتيش الصحي والبيطري لكل من الطرفين .

و- التحقيق في جميع حوادث الحدود .

ز- تسوية المنازعات التي قد تطرأ بشأن المخالفات والحوادث المذكورة في المادة (٦) من هذا الملحق ، والنظر ضمن حدود سلطاتهم في طلبات التعويض المقدمة على أثر حادث حدود من قبل أحد الطرفين أو من قبل اشخاص موجودين في منطقة الحدود التابعة لاختصاصهم .

#### مادة ( ٨ ) :

١- إذا التجأ أحد مواطني الطرفين إلى منطقة حدود الطرف الآخر بعد ارتكابه جريمة منصوصاً عليها في قانون الطرف الذي ينتمي إليه في منطقة حدود ذلك الطرف جاز لسلطة حدود الطرف الذي ارتكبت الجريمة في إقليمه ان يطلب توقيف المتهم ، وعلى سلطة حدود الطرف الآخر ان تبذل طاقتها للقبض على الشخص المطلوب ، وتخبر عند القبض عليه سلطة حدود الطرف صاحب الطلب .

٢- يجوز لسلطة حدود الطرف المطلوب منها توقيف المتهم إعادته خلال مدة أقصاها عشرة أيام إعتباراً من تاريخ توقيفه .

ز- إساءة إستعمال موارد المياه أو تلويثها وكل ما يؤدي إلى إعاقة الإنتفاع منها .

مادة ( ٧ ) :

يكون لسلطات الحدود لكل من الطرفين الإختصاصات المدرجة أدناه في منطقة حدوده :-

أ- إتخاذ الإجراءات اللازمة لمنع وقوع الحوادث .

ب- إتخاذ الإجراءات اللازمة وأشعار سلطات حدود الطرف الآخر لتجنب إرتكاب الجرائم وعمليات التهريب والتسلل في منطقة حدود الطرف الآخر من قبل الأشخاص ، ومنعهم من إجتياز الحدود ومقاومتهم إذا تطلب الأمر ذلك أو مطاردتهم للقبض عليهم ، وفي الحالة التي يجتاز فيها هؤلاء الأشخاص خط الحدود من منطقة حدود أحد الطرفين المتعاقدين إلى منطقة حدود المتعاقد الآخر فيجب أن توقف المطاردة ، وتشعر سلطة حدود الطرف الأول سلطة حدود الطرف الثاني ، وتتخذ هذه الأخيرة الإجراءات اللازمة للقبض عليهم وتسليمهم لسلطات حدود ذلك الطرف .

ج- إتخاذ الإجراءات اللازمة لمكافحة التهريب والتسلل عبر البلدين ، وتبادل المعلومات فيما بين سلطات الحدود عن مثل هذه العمليات لمكافحةها .

د- تبادل المعلومات في حالة الكوارث في المنطقة الحدودية والتعاون في سبيل حصرها .



مادة ( ٥ ) :

لكل عضو مخول من سلطات الحدود الحق في تعيين مساعدين له على أن يبلغ اسماؤهم ووظائفهم ووثائق تفويضهم إلى سلطات حدود الطرف الآخر .

مادة ( ٦ ) :

المخالفات والحوادث الخاصة بالحدود والتي تدخل في نطاق أحكام هذا الملحق هي :-

أ- التعرض لدعامات الحدود أو هدمها أو هدم المباني أو المنشآت الأخرى المتعلقة مباشرة بالحدود .

ب- إطلاق النار على المخافر وحرس الحدود أو على الأشخاص أو على دعامات الحدود أو منشآت الحدود الواقعة في أراضي الطرف الآخر .

ج- هروب متهمين بإرتكاب احدى الجرائم طبقاً لقانون الطرف المتعاقد الذي ينتمون إليه في منطقة الحدود ولجوؤهم إلى منطقة حدود الطرف المتعاقد الآخر .

د- حوادث السلب والنهب التي تقع من قبل مواطني أحد الطرفين المتعاقدين في منطقة الحدود لدى الطرف الآخر .

هـ- قيام شخص أو أشخاص بأعمال التهريب من اقليم أحد الطرفين المتعاقدين إلى اقليم الطرف المتعاقد الآخر .

و- صيد الحيوانات البرية ضمن منطقة الحدود .

مادة ( ٣ ) :

١- . يعين كل من الطرفين المتعاقدين سلطات الحدود المدرجة أدناه لممارسة تنفيذ أحكام هذا الملحق .

أ- سلطات الحدود من الدرجة الأولى :

عن سلطنة عُمان :

المفتش العثماني للشرطة والمجتمعات

عن الجمهورية اليمنية :

محافظ المحافظة المعنية

ب- سلطات الحدود من الدرجة الأعلى :

عن سلطنة عُمان :

وزير الداخلية

عن الجمهورية اليمنية :

وزير الداخلية والأمن

٢- يجوز تغيير سلطات الحدود المذكورة في الفقرة (١) من هذه المادة أو إستحداث سلطات أخرى باتفاق الطرفين المتعاقدين بالطرق الدبلوماسية .

مادة ( ٤ ) :

يبلغ الطرفان أحدهما الآخر بالطرق الدبلوماسية خلال شهر من دخول هذا الملحق حيز التنفيذ بالأسماء الكاملة لأعضاء سلطات الحدود ووظائفهم وصورة من وثائق تفويضهم وتتضمن وثيقة التفويض صورة صاحبها وتوقيعه ، ويتم بعد ذلك إبلاغ كل تغيير يجري في هذا الصدد بنفس الأسلوب .

## الملحق الأول

### إتفاقية الحدود الدولية بين سلطنة عُمان والجمهورية اليمنية بشأن تنظيم سلطات الحدود

إن حكومة سلطنة عُمان وحكومة الجمهورية اليمنية تنفيذاً للمادة السابعة من إتفاقية الحدود الدولية بين سلطنة عُمان والجمهورية اليمنية الموقعة في ٣ / ٤ / ١٤١٣ هجرية الموافق ١ / ١٠ / ١٩٩٢ ميلادية ورغبة منهما في تنظيم إختصاصات سلطات الحدود فقد اتفقتا على ما يأتي :-

#### مادة ( ١ ) :

إتفق الطرفان على أن تسوى الخلافات والمخالفات والحوادث التي تقع في منطقة الحدود المشمولة بهذا الملحق وفقاً للاحكام الواردة فيه .

#### مادة ( ٢ ) :

١- تعتبر منطقة الحدود هي المنطقة الممتدة من خط الحدود إلى عمق خمسة كيلو مترات داخل إقليم كل من الطرفين إعتباراً من خط الحدود المشترك بين البلدين .

٢- لا يجوز لأي من الطرفين إنشاء أو الإحتفاظ بأية إستحكامات أو منشآت أو مخيمات عسكرية أو ما يشابهها بإستثناء منشآت المنافذ الرسمية ومنشآت قوات الحدود في حدود المنطقة المشار إليها في الفقرة (١) من هذه المادة . وعلى الطرفين فور نفاذ إتفاقية الحدود بينهما إتخاذ ما يلزم لتنفيذ حكم هذه الفقرة خلال المدة التي يتفق عليها فيما يخص القائم من هذه الاستحكامات والمنشآت والمخيمات العسكرية .

المادة التاسعة :

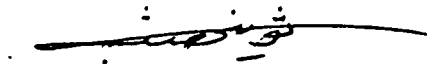
تصبح هذه الإتفاقية نافذة المفعول بعد التصديق عليها طبقاً للإجراءات المتبعة في كل من البلدين المتعاقدين وتبادل وثائق التصديق عليها من قبل الدولتين .

المادة العاشرة :

حررت هذه الإتفاقية في مدينة صنعاء في اليوم الثالث من شهر ربيع الثاني سنة ١٤١٣ هجرية الموافق لليوم الأول من شهر أكتوبر سنة ١٩٩٢ ميلادية .

صاحب السوaid / ثويني بن شهاب آل سعيد

الممثل الخاص لجلالة السلطان



عن حكومة سلطنة عُمان

حيدر ابوبكر العظام

رئيس مجلس الوزراء



عن حكومة الجمهورية اليمنية

ب- الإشراف على وضع علامات (دعامات) على خط الحدود المتفق عليه  
الفاصل بين أراضي البلدين ، والاتفاق على المسافة التي تفصل بين كل علامة  
(دعامه) وأخرى .

#### المادة الخامسة :

تسوى كافة المسائل المترتبة على ترسيم خط الحدود وأي مسائل تظهر  
بعد ذلك بالطرق الودية من خلال الإتصال المباشر بين الطرفين على أساس من  
مبدأ المساواة والمنفعة المتبادلة وعدم الاضرار بمصالح أي منهما .

#### المادة السادسة :

في حالة إكتشاف ثروات طبيعية مشتركة يتم الإتفاق على كيفية  
إستغلالها وإقتسامها وفقاً للقواعد والأعراف الدولية المستقرة ولمبادئ العدل  
والانصاف .

#### المادة السابعة :

يتم تنظيم سلطات الحدود وحقوق الرعي والتنقل والانتفاع من موارد  
المياه في منطقة الحدود وفقاً للملحقين المرفقين بهذه الاتفاقية . كما يتم تنظيم  
الانتفاع بالمتلكات الخاصة بالمواطنين في منطقة الحدود طبقاً للملحق خاص يتفق  
عليه الطرفان . وتعد جميع الملحق المذكورة في هذه المادة جزء لا يتجزأ من هذه الإتفاقية .

#### المادة الثامنة :

حررت هذه الإتفاقية وملحقها من نسختين أصليتين باللغة العربية  
وتحتفظ كل دولة بنسخة منهما .

\* النقطة رقم (٦) عند تقاطع دائرة العرض ١٧ درجة و ١٨ دقيقة و ٢١ ثانية شمالاً مع خط الطول ٥٢ درجة و ٤٥ دقيقة و ٢ ثانية شرقاً .

\* النقطة رقم (٧) عند تقاطع دائرة العرض ١٧ درجة و ٢٠ دقيقة و ٥٩ ثانية و ٠٤ من الثانية شمالاً مع خط الطول ٥٢ درجة و ٤٦ دقيقة و ٥٥ ثانية و ٨٣ من الثانية شرقاً .

### المادة الثالثة :

يستمر إمتداد الخط الحدودي الفاصل من آخر النقطة الرئيسية على الشاطئ (رأس ضربة علي) في اتجاه المياه الإقليمية وحتى نهاية المنطقة الاقتصادية ويحدد هذا الإمتداد وفقاً لقواعد القانون الدولي وإتفاقية الأمم المتحدة لقانون البحار .

ويعتبر هذا التحديد لخط الحدود البري والبحري الفاصل بين الدولتين حاسماً ونهائياً .

### المادة الرابعة :

تشكل لجنة فنية مشتركة من الجهات المختصة بالمساحة من كل من البلدين مهمتها القيام بما يلي :

أ- مسح وتعيين نقاط وخط الحدود الموضحة في المادة الثانية على الطبيعة ، واعداد الخرائط التفصيلية اللازمة لذلك بصفة نهائية وما يتعلق بها من بيانات أخرى لتكون تلك الخرائط - بعد توقيع ممثلي الطرفين عليها - هي الخرائط الرسمية المبينة للحدود بين البلدين وتلحق بهذه الإتفاقية كجزء لا يتجزأ منها .

دائرة العرض ١٩ درجة شمالاً مع خط الطول ٥٢ درجة شرقاً ويمتد خط الحدود بين النقطتين الرئيسيتين المحددة أحداثياتهما آنفاً مروراً بالنقاط (٢، ٣، ٤، ٤.أ، ٤.ب، ٥، ٦، ٧) وفقاً للاحداثيات التالية :-

\* النقطة رقم (٢) عند تقاطع دائرة العرض ١٧ درجة و ١٧ دقيقة و ٧ ثوان و ٩١ من الثانية شمالاً مع خط الطول ٥٢ درجة و ٤٨ دقيقة و ٤٤ ثانية و ٢٢ من الثانية شرقاً .

\* النقطة رقم (٣) عند تقاطع دائرة العرض ١٧ درجة و ١٧ دقيقة و ٤٠ ثانية شمالاً مع خط الطول ٥٢ درجة و ٤٤ دقيقة و ٤٥ ثانية شرقاً .

\* النقطة رقم (٤) عند تقاطع دائرة العرض ١٧ درجة و ١٨ دقيقة و ٦ ثوان و ٩٣ من الثانية شمالاً مع خط الطول ٥٢ درجة و ٤٤ دقيقة و ٣٣ ثانية و ٥٠ من الثانية شرقاً .

\* النقطة رقم (٤أ) المساندة للنقطة رقم (٤) عند تقاطع دائرة العرض ١٧ درجة و ١٨ دقيقة و ٨ ثوان و ٨٧ من الثانية شمالاً مع خط الطول ٥٢ درجة و ٤٤ دقيقة و ٣٤ ثانية و ٢٤ من الثانية شرقاً .

\* النقطة رقم (٤ب) المساندة للنقطة رقم (٤) عند تقاطع دائرة العرض ١٧ درجة و ١٨ دقيقة و ٨ ثوان و ٤٢ من الثانية شمالاً مع خط الطول ٥٢ درجة و ٤٤ دقيقة و ٣٥ ثانية و ٥٧ من الثانية شرقاً .

\* النقطة رقم (٥) عند تقاطع دائرة العرض ١٧ درجة و ١٨ دقيقة و ١٥ ثانية شمالاً مع خط الطول ٥٢ درجة و ٤٥ دقيقة و ٥ ثوان شرقاً .

[ARABIC TEXT — TEXTE ARABE]

**إتفاقية الحدود الدولية**  
**بين**  
**سلطنة عُمان والجمهورية اليمنية**

إن سلطنة عُمان والجمهورية اليمنية إذ تنطلقان من الروابط الأخوية والمصلحة المشتركة التي تجمع بين بلديهما وشعبيهما وعملاً بالشرعة الإسلامية الغراء، وإذ تحدهما الرغبة لتعزيز أواصر الأخوة وعلاقة الجوار القائم بين البلدين الشقيقين .

ونظراً لرغبة كل من الدولتين في تعيين الحدود بينهما بصفة نهائية فقد إتفق الطرفان المتعاقدان على ما يلي :-

**المادة الأولى :**

يكون خط الحدود الذي يفصل بين إقليم سلطنة عُمان وإقليم الجمهورية اليمنية هو الخط الوارد وصفه في المادة الثانية من هذه الإتفاقية والمبني على أساس النظام الجيوديسي ٨٤ .

**المادة الثانية :**

يبدأ خط الحدود بين سلطنة عُمان والجمهورية اليمنية من النقطة الرئيسية لرأس ضربة علي (الصخرة) المرقمة بالنقطة رقم (١) عند تقاطع الاحداثيات الجغرافية لدائرة العرض ١٦ درجة و ٣٩ دقيقة و ٣ ثوان و ٨٣ من الثانية شمالاً مع خط الطول ٥٣ درجة و ٦ دقائق و ٣٠ ثانية و ٨٨ من الثانية شرقاً وينتهي في النقطة الرئيسية المرقمة بالنقطة (٨) عند النسق الجغرافي لتقاطع



[TRANSLATION — TRADUCTION]

## INTERNATIONAL BOUNDARY AGREEMENT<sup>1</sup> BETWEEN THE SULTANATE OF OMAN AND THE REPUBLIC OF YEMEN

The Sultanate of Oman and the Republic of Yemen, proceeding from the fraternal links and the common interest that unite their two countries and peoples, in pursuance of the noble Islamic Shariah, prompted by the desire to strengthen the existing bonds of brotherhood and the relationship of neighbourliness between the two fraternal countries,

And in view of the desire of each of the two countries to establish the boundary between them in a definitive manner, have agreed as follows:

### *Article 1*

The boundary line separating the territory of the Sultanate of Oman and the territory of the Republic of Yemen shall be that described in article 2 of this Agreement and based on geodesic system 84.

### *Article 2*

The boundary line between the Sultanate of Oman and the Republic of Yemen begins from the principal point at Ra's Darbat Ali (the Rock), numbered as point No. 1, at the intersection of the geographical coordinates of parallel 16 degrees 39 minutes 3.83 seconds north and meridian 53 degrees 6 minutes 30.88 seconds east, and ends at the principal point numbered as point 8 at the geographical alignment of the intersection of parallel 19 degrees north with meridian 52 degrees east, and the boundary line extends between the two principal points whose coordinates are set forth above passing through points 2, 3, 4, 4a, 4b, 5, 6 and 7, in accordance with the following coordinates:

Point No. 2 is at the intersection of parallel 17 degrees 17 minutes 7.91 seconds north with meridian 52 degrees 48 minutes 44.22 seconds east.

Point No. 3 is at the intersection of parallel 17 degrees 17 minutes 40 seconds north with meridian 52 degrees 44 minutes 45 seconds east.

Point No. 4 is at the intersection of parallel 17 degrees 18 minutes 6.93 seconds north with meridian 52 degrees 44 minutes 33.50 seconds east.

Point No. 4a, ancillary to point number 4, is at the intersection of parallel 17 degrees 18 minutes 8.87 seconds north with meridian 52 degrees 44 minutes 34.24 seconds east.

Point No. 4b, ancillary to point number 4, is at the intersection of parallel 17 degrees 18 minutes 8.42 seconds north with meridian 52 degrees 44 minutes 35.57 seconds east.

<sup>1</sup> Came into force on 27 December 1992 by the exchange of the instruments of ratification, which took place at Muscat, in accordance with article 9.

Point No. 5 is at the intersection of parallel 17 degrees 18 minutes 15 seconds north with meridian 52 degrees 45 minutes 5 seconds east.

Point No. 6 is at the intersection of parallel 17 degrees 18 minutes 21 seconds north with meridian 52 degrees 45 minutes 2 seconds east.

Point No. 7 is at the intersection of parallel 17 degrees 20 minutes 59.04 seconds north with meridian 52 degrees 46 minutes 55.83 seconds east.

#### *Article 3*

The extension of the separating boundary line continues from the extremity of the principal point on the shore (Ra's Darbat Ali) in the direction of the territorial waters until the limit of the economic zone. This extension shall be demarcated in accordance with the rules of international law and the United Nations Convention on the Law of the Sea.<sup>1</sup>

This demarcation of the land and maritime boundary line separating the two countries shall be considered final and definitive.

#### *Article 4*

A Joint Technical Commission shall be formed of the survey authorities of the two countries and its task shall be:

(a) To survey and establish on the ground the boundary points and the boundary line set forth in article 2 and to prepare in a definitive manner the detailed maps and related data necessary for that purpose so that those maps — after signature by representatives of the two parties — shall be the official maps showing the boundaries between the two countries and shall be annexed to this Agreement as an integral part hereof.<sup>2</sup>

(b) To supervise the emplacement of markers (pillars) along the agreed boundary line separating the territories of the two countries, and to reach agreement on what distance shall separate one marker (pillar) from another.

#### *Article 5*

All issues arising out of the demarcation of the boundary line and any issues emerging thereafter shall be settled by amicable means through direct contact between the two Parties on the basis of the principles of equality, mutual advantage and the absence of prejudice to the interests of either Party.

#### *Article 6*

In the event of the discovery of common natural resources, agreement shall be reached on the manner of their exploitation and division in accordance with the established international norms and customs and the principles of justice and fairness.

#### *Article 7*

The border authorities and rights to grazing, movement and the use of water resources in the boundary zone shall be regulated in accordance with the two Annexes appended to this Agreement. Use of the property of residents in the border

<sup>1</sup> United Nations, *Treaty Series*, vols. 1833, 1834 and 1835, No. 1-31363.

<sup>2</sup> See insert in a pocket at the end of this volume.

zone shall also be regulated in accordance with a special annex to be agreed upon by the two Parties.<sup>1</sup> All of the annexes mentioned in this article shall be considered an integral part of this Agreement.

*Article 8*

This Agreement and its Annexes were drawn up in two original copies in the Arabic language, each State retaining one copy.

*Article 9*

This Agreement shall enter into force after ratification in accordance with the procedures followed in each of the contracting countries and the exchange of instruments of ratification by the two States.

*Article 10*

This Agreement was done at San'a on 3 Rabi' II A.H. 1413, corresponding to 1 October A.D. 1992.

For the Government  
of the Sultanate of Oman:

[Signed]

THUWAYNI BIN SHIHAB AL SAID  
Special Representative  
of His Majesty the Sultan

For the Government  
of the Republic of Yemen:

[Signed]

HAIDER ABUBAKER AL-ATTAS  
Prime Minister

<sup>1</sup> Not available.

## Bosnia-Herzegovina–Croatia

*Report Number 8-14*

### **Treaty on the State Border Between the Republic of Croatia and Bosnia and Herzegovina**

<i>Done:</i>	30 July 1999
<i>Entered into force:</i>	Provisionally in force only
<i>Published at:</i>	Unpublished

#### PRELIMINARY REPORT

On 30 July 1999 Bosnia-Herzegovina and Croatia signed in Sarajevo a treaty on the state boundaries between the two countries. The treaty, which includes a preamble and 23 articles, is based on the boundary situation existing at the time of the cessation of the former Socialist Federal Republic of Yugoslavia (1991). The treaty has not yet entered into force, but is provisionally applied from the date of its signature (article 22, para. 1).

The main purpose of the treaty is the delimitation of the land boundary, which is drawn on 86 sheets of maps (scale 1:25,000) annexed to the treaty. It is however provided that the expert bodies of the two countries shall elaborate a detailed description of the land and maritime boundary and a list of coordinates.

One provision (article 4, para. 3) relates to the maritime boundary, stating as follows: "The state boundary at sea is a median line between the land territories of Croatia and Bosnia-Herzegovina in accordance with the 1982 United Nations Convention on the Law of the Sea. The boundary at sea is shown on the topographical map 1:25,000 and on the navigational charts and maps" (unofficial translation from the original Serb-Croatian language). This is the first maritime boundary agreed upon by two of the successor States of the former Yugoslavia.

The maritime delimitation is to be understood in the light of the very particular geographic situation of Bosnia-Herzegovina in the Adriatic Sea. This country exercises sovereignty over a narrow strip of about 20 kilometers (km.) of coastline, the Neum corridor (called from the name of a small city located there), which is enclosed between two parts of the Croatian coastline. More precisely, the maritime areas adjacent to the territory of Bosnia-Herzegovina are composed of the waters of the Bay of Klek-Neum, a deep indentation closed by the small peninsula of Klek (belonging to Bosnia-Herzegovina), and part of the waters located between the peninsula of Klek and the much bigger and longer peninsula of Peljesac (belonging to Croatia). The width of the waters located between the two peninsulas ranges from 1.5 to 2 km.

The waters adjacent to the peninsula of Peljesac, both on the landward and the seaward side of it, fall within the straight baselines system established by the former Yugoslavia in 1948 and confirmed, with some modifications, by the successor State of Croatia (article 19 of the Maritime Code of 27 January 1994).<sup>1</sup> It follows that the maritime boundary established by the 1999 treaty possibly delimits two distinct legal regimes: the internal waters of Croatia from the territorial sea of Bosnia-Herzegovina.<sup>2</sup>

In regard to the method of delimitation, Bosnia-Herzegovina and Croatia, which are both parties to the United Nations Convention on the Law of the Sea (UNCLOS), rely on equidistance. Article 4, paragraph 3, of the bilateral treaty explicitly recalls the "median line" as a method which is "in accordance" with the UNCLOS. In fact, there is no provision in the UNCLOS dealing with the very peculiar case of a delimitation involving internal waters. However, article 15 of the UNCLOS (Delimitation of the territorial sea between States with opposite or adjacent coasts), which could be applied by analogy, is based on the rule of equidistance combined with the exception of historic title or other special circumstances.

No bilateral agreement has so far been concluded with regard to the access to and from the waters of Bosnia-Herzegovina through the surrounding Croatian internal waters. However, under another bilateral agreement Croatia has granted to Bosnia-

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1 42 LOS BULL. 31 (2000).

2 However, it seems that Bosnia-Herzegovina has so far made no official enactment or statement with regard to the legal status of the waters adjacent to its territory. See, for instance, the summary of national claims to maritime zones annexed to the report of the U.N. Secretary-General, *Oceans and the Law of the Sea*, U.N. Doc. A/56/58, p. 118 (9 March 2001), where no information is given on the breadth of the territorial sea of Bosnia-Herzegovina. This may be because, due to geography, Bosnia-Herzegovina cannot realize a territorial sea to the full 12 nautical mile distance from its coastline.

Herzegovina free and unimpeded transit through the port of Ploče, located in Croatia north of the coastline of Bosnia-Herzegovina.<sup>3</sup>

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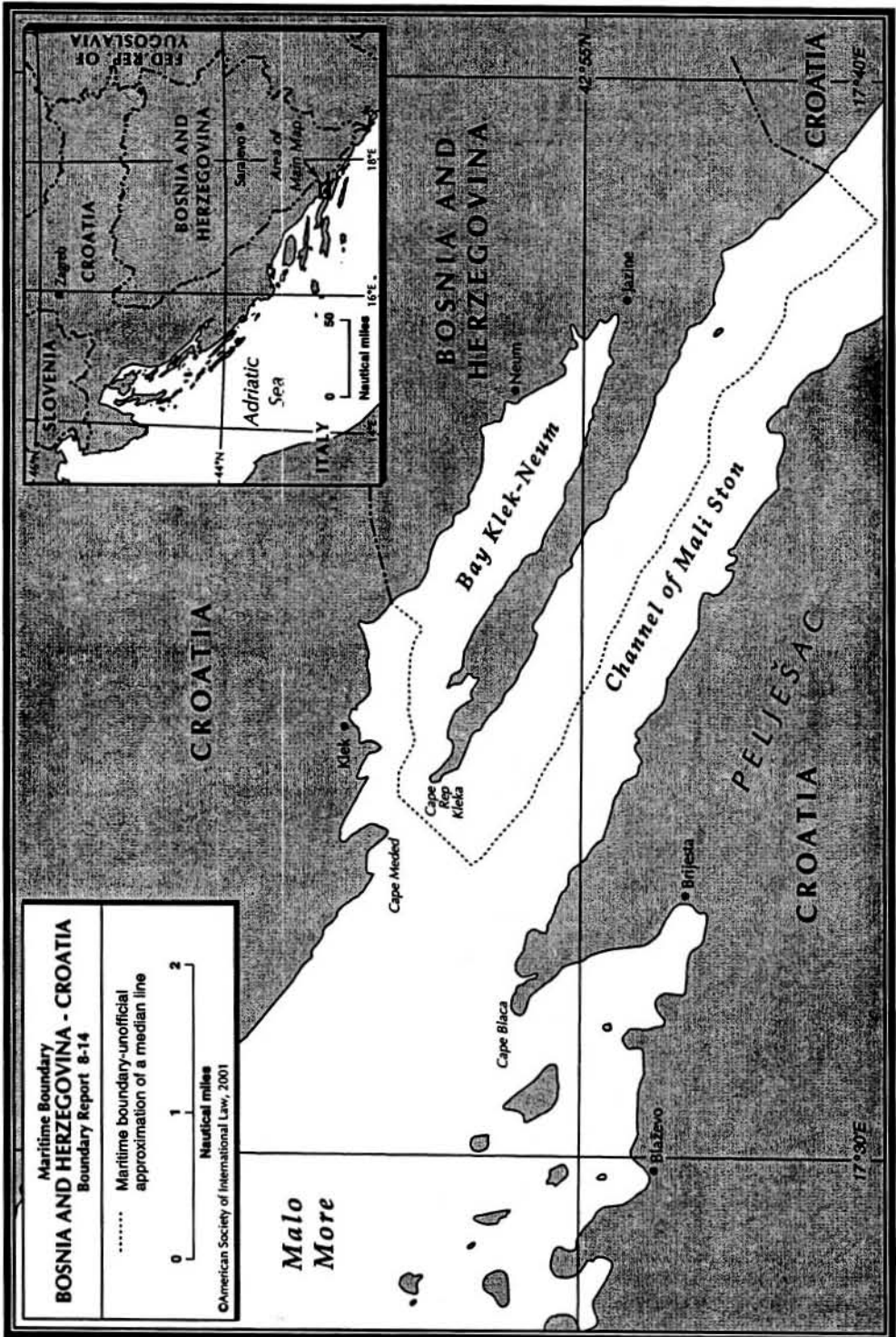
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*Prepared by*  
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<sup>3</sup> Agreement on Free Transit through the Territory of the Republic of Croatia to and from the Port of Ploče and through the Territory of Bosnia and Herzegovina at Neum, signed 22 November 1998, Letter dated 24 November 1998 from the Permanent Representatives of Bosnia and Herzegovina and Croatia to the United Nations addressed to the Secretary-General, UNGA Doc. A/53/702, Annex II (pp. 8-12) (25 Nov. 1998).



**Treaty on the State Border between  
the Republic of Croatia and Bosnia and Herzegovina<sup>1</sup>**

The Republic of Croatia and Bosnia and Herzegovina (later: “the Parties”),

Starting from the sovereignty, territorial integrity and political independence of the Republic of Croatia and Bosnia and Herzegovina;

Respecting the immutability of their mutually recognized borders,

Beginning with the provisions of the General Framework Peace Accords for Bosnia and Herzegovina, signed on December 14, 1995 in Paris and the Opinion No. 3 of the Arbitration Committee of the Conference on the former Yugoslavia;

Guided by a desire to regulate together all the issues pertaining to the identification, marking, maintenance and ensuring the visibility of the common state border;

In accordance with the decision of the Government of the Republic of Croatia and the Central Commission for the Identification and Marking of the State Border of Bosnia and Herzegovina, acting with the authorization of the Council of the Ministers of Bosnia and Herzegovina, regarding the identification, marking, maintenance and ensuring the visibility of the common state border, and based on the work of the Committee;

have agreed to the following:

*Article 1*

The state border between the Republic of Croatia and Bosnia and Herzegovina (later: “the state border”) is a plane which transverses vertically the border line on the surface of the Earth and divides the land, the sea and interior bodies of water, as well as the air space and underground space of the Republic of Croatia and Bosnia and Herzegovina.

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<sup>1</sup> Unofficial translation by the United States Department of State.



*Article 2*

- (1) The state border between the Republic of Croatia and Bosnia and Herzegovina is determined on the basis of the state of the borders at the time of the end of the Socialist Federal Republic of Yugoslavia in 1991 and the mutual recognition of the Republic of Croatia and Bosnia and Herzegovina in 1992, identified on the topographic map 1:25,000 and, in practice, on the basis of the borders between border land-registry municipalities, on the basis of the border towns and villages at the time of the 1991 Census and on the basis of the dividing line which divided the authorities of the Socialist Republic of Croatia and the Socialist Republic of Bosnia and Herzegovina.
- (2) The state border between the Republic of Croatia and Bosnia and Herzegovina stretches from the Croatian-Bosnian and Herzegovinian-Yugoslav three-border point in the North-East to the Croatian-Bosnian and Herzegovinian-Yugoslav three-border point in the South-East.
- (3) The data on the identification and marking of the border line, as well as on the shape, size and location of the border markings are to be found in the following documents on the border issues:
  - (a) The description of the border line on the state border between the Parties presented graphically in TK 25 (topographical map 25);
  - (b) The list and technical background (the situational plan, the list of surfaces, the list of coordinates) of the modifications of the stretch of the state line between the Parties;
  - (c) The list of the coordinates of the marked and determined break points on the state border between the Parties;
  - (d) The border plan on the state border between the Parties.
- (4) The Interstate Diplomatic Committee for the Identification, Marking and Maintenance of the state border between the Republic of Croatia and Bosnia and Herzegovina shall appoint expert panels authorized to produce a document mentioned in Paragraph 3. of this Article, as well as set deadlines to finalize their tasks and submit a report to be approved by the Interstate Diplomatic Committee.

- (5) After the border documents are produced in accordance with Paragraph 2. of this Article and approved in accordance with the legislatures of the Parties, they shall be considered an integral part of this Treaty.

#### *Article 3*

- (1) The Parties can agree to change the state border in order to facilitate and improve the living conditions of people living close to the border, as well as for other reasons. Any changes of the state border shall be included in the documents on border issues mentioned in Paragraph 3, Article 2 of this Treaty.
- (2) The documents on border issues mentioned in Paragraph 1 of the Article shall come into effect as stipulated in Paragraph 5, Article 2 of this Treaty.

#### *Article 4*

- (1) The Parties have agreed that the state border remain within the mutually defined coordinates, regardless of the man-made or natural changes in the terrain.
- (2) The state border on international navigable rivers with the regulated navigation course stretches along the kinet of the navigation course. Any changes to the kinet of the navigation course shall be approved by authorized agencies of the Parties.
- (3) The state border on the sea stretches along the median line of the sea between the territories of the Republic of Croatia and Bosnia and Herzegovina in accordance with the 1982 UN Convention on Sea Rights. The border line on the sea is represented in the topographical map 1:25,000 as well as on sea charts and plans.

#### *Article 5*

- (1) The border line on the Croatian-Bosnian and Herzegovinian border is marked by:

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- border pyramids on the three-state Croatian-Bosnian and Herzegovinian-Yugoslav border point;
  - border posts which directly or indirectly (by the roads, rivers, streams, canals and other characteristic locations) mark the break points in the border line;
  - border boards placed on bridge railings and other appropriate objects.
- (2) The coordinates of the marked and determined break points in the border line are to be found in the documents on border issues listed in Paragraph 3, Article 2 of this Treaty.

#### *Article 6*

The Parties shall maintain the border line in a good visible condition and undertake necessary steps to prevent damaging, destruction or unauthorized change of location of border markings.

#### *Article 7*

- (1) The Parties shall provide for the visibility of the state border and border markings in accordance with the Instructions on the Maintenance of the State Border and the Border Zone.
- (2) The Parties shall not authorize any construction within 2 meters on the both sides of the land border line. This ban does not include existing objects and facilities, as well as object and facilities the construction of which is authorized by the relevant agencies of the Parties.
- (3) The Parties can conduct activities defined in the Instruction mentioned in Paragraph 1 of this Article on their own territory at any time, but must inform the other Party as least ten days prior to the beginning of work.

*Article 8*

- (1) The obligations with respect to measuring the common state border, identification and marking of the border line, and maintenance, renovation and control of border markings (later: border work), as well as all costs resulting from honoring the above obligations, shall be divided between the parties on an equal basis.
- (2) Installation, maintenance, renovation and control of three-state border markings on the three-state Croatian-Bosnian and Herzegovinian-Yugoslav border point shall be carried out on the basis of an understanding of the relevant authorities, in the presence of representatives of the Parties and the Federal Republic of Yugoslavia.
- (3) Repairs and renovations of border markings on the territory of one of the Parties, which were damaged or destroyed through unauthorized destructive activities from the territory of the other Party, shall be paid for by the Party from the territory of which the unauthorized destructive activity was carried out.

*Article 9*

The Parties shall every five years after the completion of border work, defined in the Instruction on the maintenance of the border line and border zone, conduct a joint inspection of the border line, renovate and fill in the gaps in border markings and, if needed, install additional markings on the border line.

*Article 10*

- (1) Owners of real estate and other persons or entities with power of attorney regarding real estate close to the state border must allow border work, defined in the Instruction on the maintenance of the border line and border zone, to be carried out on the state border.
- (2) The Parties shall in a timely manner inform owners of real estate and other persons or entities with power of attorney regarding real estate close to the border of the work to be carried out on their real estate. The parties shall carry out border work respecting the interests of owners of real estate and other

persons or entities with power of attorney regarding real estate close to the border, on whose real estate the work is being carried out.

- (3) Damage claims regarding real estate close to the border and related to border work shall be settled according to the regulations of the Party on the territory of which the real estate in question is situated.

#### *Article 11*

- (1) To implement the provisions of this Treaty, the Government of the Republic of Croatia and the Central Commission on the Identification and Marking of the Border of Bosnia and Herzegovina, acting with the authorization of the Council of Ministers of Bosnia-Herzegovina, have founded the Interstate Diplomatic Committee for the Identification, Marking and Maintenance of the State Border between the Republic of Croatia and Bosnia and Herzegovina (later: the Interstate Diplomatic Committee). The Interstate Diplomatic Committee consists of a delegation of the Republic of Croatia and a delegation of Bosnia and Herzegovina. Each delegation has a chairman and five members.
- (2) The functioning and composition of the Interstate Diplomatic Committee are regulated by the Regulations for the Conduct of Work of the Interstate Diplomatic Committee, composed in accordance with the provisions of this Treaty.

#### *Article 12*

- (1) The tasks of the Interstate Diplomatic Committee are the following:
  - conduct a measuring of the Croatian-Bosnian and Herzegovinian state border;
  - produce new or supplemental documents on border issues in accordance with Paragraph 3, Article 2 of this Treaty;
  - carry out other work jointly assigned to it by the relevant authorities of the Parties.
- (2) For the direct work on the stated tasks the Interstate Diplomatic Committee creates: the Joint Expert Work Group for the Documentation and Identification

of the Border Line and the Joint Expert Work Group for the Marking and Maintenance of the Border Line. The Interstate Diplomatic Committee can also, if needed, create other work groups.

- (3) The functioning and composition of the Joint Expert Work Groups shall be regulated by the Instructions on the Functioning of Joint Expert Work Groups formulated by the Joint Expert Work Groups and approved by the Interstate Diplomatic Committee in accordance with this Treaty.

#### *Article 13*

- (1) The Interstate Diplomatic Committee shall conduct its work in sessions, in the field and by exchanging letters.
- (2) The Interstate Diplomatic Committee shall meet according to the agreement between the leaders of the delegations of the two Parties. The meetings shall be held alternately on the territory of one and then the other of the Parties.
- (3) The leader of each delegation can call for an emergency meeting or a field trip of the Interstate Diplomatic Committee or a Joint Expert Work Group.

#### *Article 14*

- (1) The Parties shall inform one another in writing and through diplomatic channels of the appointment and acquittal of duty of the delegations in the Interstate Diplomatic Committee.
- (2) The leaders of the delegations of the Parties shall inform one another of the appointment and acquittal of duty of other members of the delegations in the Interstate Diplomatic Committee.

#### *Article 15*

- (1) The Interstate Diplomatic Committee shall reach its decisions and conclusions by agreement. If there are differences between the two delegations, their points of view shall be recorded in the proceedings.

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- (2) Issues that cannot be resolved by reaching an agreement shall, with prior agreement of the chairmen of the two delegations, be submitted for resolution to the relevant authorities of the Parties.

#### *Article 16*

The Interstate Diplomatic Committee shall conduct negotiations and produce documents in the official languages of the Parties.

#### *Article 17*

The delegation of each of the Parties in the Interstate Diplomatic Committee can use the official seal with the state coat-of-arms of its country and the name of the delegation.

#### *Article 18*

Each Party shall bear the costs of the participation of its delegation in the Interstate Diplomatic Committee, in joint expert work groups and all other work groups, as well as the costs of participating in auxiliary work forces and other personnel employed to perform duties outlined in the Instructions on the Maintenance of the Border Line and the Border Zone.

#### *Article 19*

- (1) Members of the Interstate Diplomatic Committee, joint expert work groups and all other work groups, as well as auxiliary personnel can, during their duties duly announced to the other Party, in accordance with Paragraph 3, Article 7 of this Treaty, and with adequate identification, cross the state border at any point.
- (2) Identification mentioned in Paragraph 1 of this Article shall be issued by the adequate authorities of the Republic of Croatia and Bosnia and Herzegovina at the suggestion of the Interstate Diplomatic Committee.

*Article 20*

- (1) Members of the Interstate Diplomatic Committee, joint expert work groups and all other work groups, as well as auxiliary personnel of one of the Parties cannot, while carrying out their duties on the territory of the other Party, be detained and deprived of their personal belongings, personal identification, technical data carriers, materials, tools and vehicles. All the mentioned articles are exempt from customs and other fees, but the authorized personnel must declare them to customs officers and, with the exception of the articles used up on duty, return all of them to the territory of their country.
- (2) The Parties shall provide all the necessary help with respect to the transportation, lodging and access to communications equipment to the members of the Interstate Diplomatic Committee, joint expert work groups and all other work groups, as well as auxiliary personnel in order to facilitate their work.
- (3) Members of the Interstate Diplomatic Committee, joint expert work groups and all other work groups, as well as auxiliary personnel can during their duties on the border wear official uniform, but cannot be armed.

*Article 21*

- (1) All disputes regarding the interpretation and implementation of this Treaty shall be resolved by the Interstate Diplomatic Committee.
- (2) If the Interstate Diplomatic Committee is not able to resolve a dispute from Paragraph 1 of this Article through settlement, the said disputes shall be referred to the adequate authorities of the Parties.

*Article 22*

- (1) This Treaty shall be temporarily implemented as of its signing date.
- (2) This Treaty shall be in effect indefinitely.
- (3) Each Party can cancel this Treaty at any time with prior written notice to the other Party sent through diplomatic channels. In that case, the Treaty shall



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become void six months after the date of the receipt of the notice on the cancellation of the Treaty by the other Party.

*Article 23*

This Treaty comes into effect on the day of the receipt of the last written notice sent through diplomatic channels by which the Parties inform each other that all the conditions set forth by their legislatures regarding the coming into effect of this Treaty have been met.

Written in *Sarajevo*, on *July 30, 1999* in two originals, both in the official languages of the Parties. Both texts are equally valid.

For the Republic of Croatia  
(signed)

For Bosnia and Herzegovina  
(signed)

# Israel–Jordan

*Report Number 8–12*

## **Maritime Boundary Agreement between the Government of the State of Israel and the Government of the Hashemite Kingdom of Jordan**

*Signed:* 18 January 1996

*Entered into force:* 17 February 1996

*Published at:* 32 LOS BULLETIN 97 (1996)

This agreement between Israel and Jordan in the Gulf of Aqaba establishes the maritime boundary as the equidistant line. It begins at Boundary Pillar O on the seashore and follows a straight line for 2.84 kilometers where it meets the equidistant line and proceeds seaward on that line. The agreement calls for the establishment of a Joint Team of Experts (JTE) to delimit the maritime boundary by geographic coordinates. At the time this report was written the JTE had not issued its report. Furthermore, the exact coordinates of Boundary Pillar O are not known. Thus, the location, direction and nature of the straight 2.84 kilometer line cannot be ascertained at this time.<sup>1</sup>

The delimitation was expected to be completed by the end of 1996. Until the location of Boundary Pillar O and the delimitation by the JTE are known it is difficult to make a detailed analysis of the agreement. In fact, the short agreement is more in the nature of an agreement to agree. The land boundary between Israel and Jordan at the shore is located at the northern end of the Gulf. From this point the Gulf is long and narrow running south to the Red Sea. Based upon the limited information available and the geographical circumstances it appears that due to the generally even shoreline and the sharp curvature in the vicinity of the Israel–Jordan boundary; an equidistant line would not have any unusual characteristics. The straight line from Boundary Pillar O for the relatively short distance probably was designed to make the boundary easy to locate in the near shore area and to avoid any irregularities that might be created by minor variations in the shoreline.

Egypt and Saudi Arabia also have coastlines on the Gulf of Aqaba and a maritime delimitation between Israel as well as Jordan will also be necessary to complete the maritime boundaries in this water body. The Egypt–Israel land boundary also is located in the northern part of the Gulf. Israel has the shortest coastline among these

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1 Letter to Jonathan I. Charney from David Kornbluth, Director of International Law of the Sea and Israeli Law Division, Ministry of Foreign Affairs, Jerusalem, dated 30 July 1996.

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states on the Gulf. Jordan's is somewhat longer with the coastlines of Egypt and Saudi Arabia comprising most of the coastline along the western and eastern shores, respectively. A tri-junction of the Egyptian–Israeli–Jordanian maritime boundaries may very well be located in the northern sector, if and when the maritime boundary between Egypt and Israel is established. Thus, it would appear that Israel's maritime zone in this water body will not be as substantial as the others if the Egyptian–Israeli maritime boundary also is an equidistant line.

Interestingly, the Israeli shoreline is located on a concave coast and is flanked by Jordan on one side and Egypt on another. Thus, the situation is much like that of the shoreline Federal Republic of Germany in its relation to those of the Netherlands and Denmark on the North Sea that was addressed in the judgment of the International Court of Justice in the North Sea Continental Shelf cases (FRG v. Den., FRG v. Neth.), 1969 I.C.J. Rep. 3 (29 February). That judgment called for a maritime boundary delimitation that is more generous to the state in the middle (Israel in this situation) than equidistance. It is notable that Israel has here accepted an equidistant line. On the other hand, recognition of such an Israeli maritime zone in the Gulf has political connections to the current peace process and Israel's insistence on navigational and other rights in the Gulf.

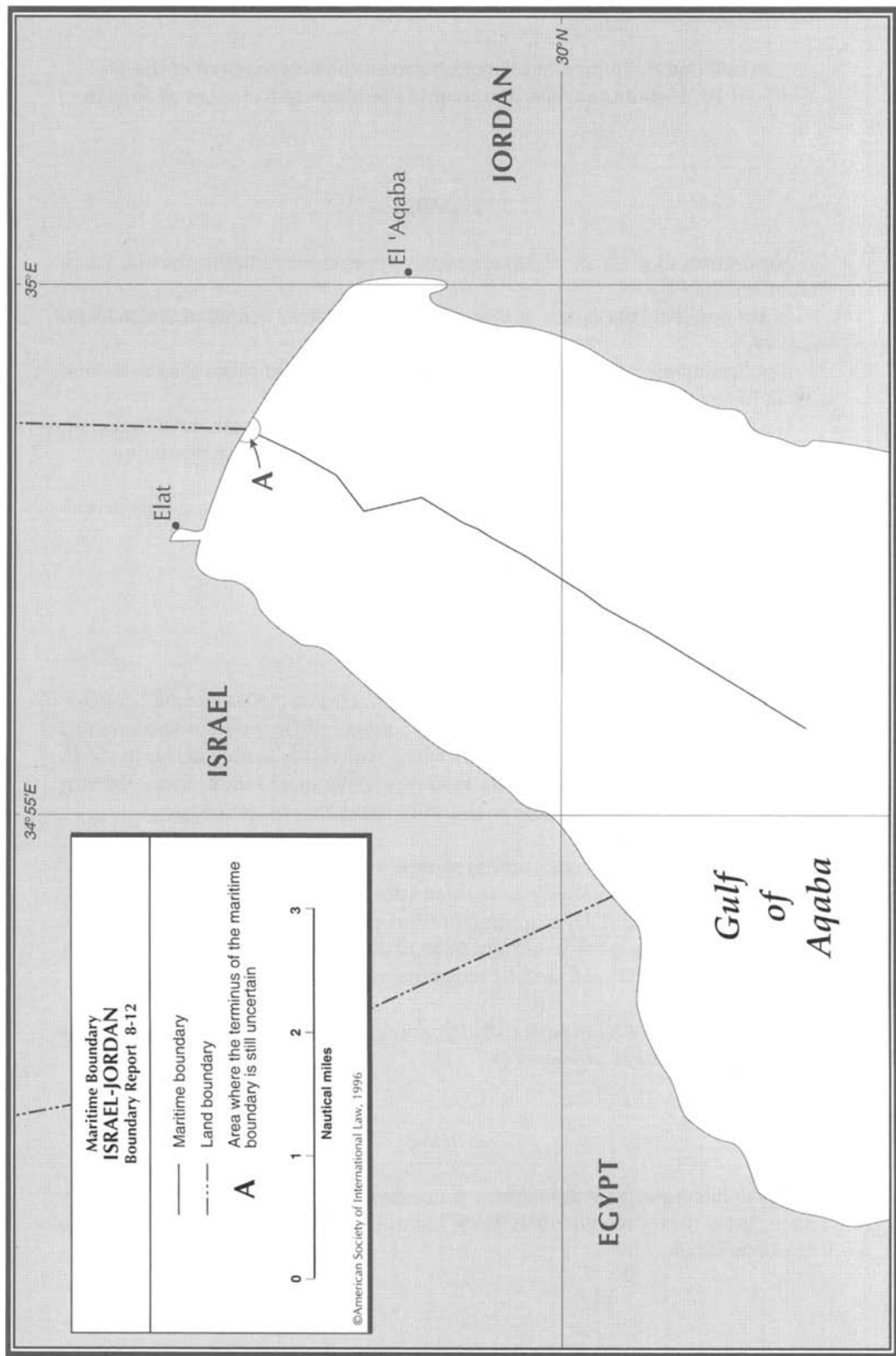
#### RELATED LAW IN FORCE

##### *Law of the Sea Conventions*

Israel: neither a signatory nor party to the 1982 LOS Convention

Jordan: party to the 1982 LOS Convention, 27 November 1995.

*Prepared by Jonathan I. Charney*



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**Maritime Boundary Agreement between the Government of the  
State Of Israel and the Government of the Hashemite Kingdom of Jordan**

PREAMBLE

The government of the State of Israel and the Government of the Hashemite Kingdom of Jordan:

Bearing in mind the Treaty of Peace between Israel and Jordan of the 26 October 1994;

Reaffirming their faith in their wish to live in peace with each other, as well as with all States, within secure and recognized boundaries;

Desiring to develop friendly relations and cooperation between them in accordance with the principles of international law governing international relations in time of peace;

In fulfillment of Article 3.7 of the Treaty of Peace between them on the delimitation of their maritime boundary in the Gulf of Aqaba;

Have agreed as follows:

*Article 1*

1. The maritime boundary in the Gulf of Aqaba between the Hashemite Kingdom of Jordan and the State of Israel begins at Boundary Pillar 0 on the seashore and follows a straight line for 2.84 Kilometers where it meets the medial line of the Gulf.

Thence the maritime boundary follows the medial line of the Gulf southwards until the last point of the maritime boundary between the two countries.

2. The Joint Team of Experts shall, as soon as possible after the date of the signature of this Agreement, jointly agree upon and document the methodology for defining the median line, and the procedure to fix the maritime boundary co-ordinates. The list of maritime boundary coordinates shall be in geographic and UTM co-ordinates based on IJBD-94 and shall be measured by GPS.

3. This list of co-ordinates shall be binding and take precedence with regard to the location of the maritime boundary.

*Article 2*

Nothing in this Agreement shall affect, or be affected by, the position of either Party with regard to the location of either Party's maritime boundary in the Gulf of Aqaba with another state.

*Article 3*

This Agreement shall enter into force thirty days from the date of its signature.

This Agreement shall be transmitted to the Secretary General of the United Nations for registration in accordance with the provisions of Article 102 of the Charter of the United Nations.

Done at Aqaba this day of 18 January 1996, which corresponds to the day of 26 Tevet, 5756 and to the 24th day of Sha'ban, 1416, in two original copies in the Hebrew, Arabic and English languages, all texts being equally authentic. In case of divergence of interpretation, the English text shall prevail.

For the Government of the  
State of Israel

For the Government of the  
Hashemite Kingdom of Jordan

## Belgium–Netherlands

*Report Number No 9-21*

- (1) **Agreement between the Kingdom of Belgium and the Kingdom of the Netherlands relating to the Delimitation of the Territorial Sea**
- (2) **Agreement between the Kingdom of Belgium and the Kingdom of the Netherlands relating to the Delimitation of the Continental Shelf**

*Signed:* 18 December 1996

*Entered into force:* 1 January 1999

*Published:* 42 LOS BULL. 170 (2000)

### I SUMMARY

These two agreements, which were negotiated, signed and approved together, establish a continuous, two-part, maritime boundary between two adjacent states which face the southern North Sea. The boundary extends for total distances of approximately 15 nautical miles (n.m.) through the territorial sea and approximately 28 n.m. across the continental shelf, making a total length of about 43 n.m. The boundary runs generally north-westwards from the terminus of the land frontier to an endpoint situated on the agreed boundary between the British and Dutch continental shelves (Netherlands-United Kingdom (1965 and 1971) No. 9-13). The territorial sea boundary is based on the principle of equidistance between the normal baselines of the two states. Its course was simplified on an area-compensated basis. Certain historic claims made in the past by the Netherlands appear to have been tacitly renounced by the agreement. The continental shelf boundary is a single line drawn on a similar basis, but with the difference that a Dutch basepoint, situated on a low-tide elevation, was accorded only one quarter weight vis-à-vis the Belgian basepoint (harbor works on the coast) in order to achieve an equitable result. An informal administrative accord, which had been observed in practice for some time, albeit without removing all differences between the two governments, was replaced by

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two new boundaries defined in two treaties. Special arrangements were made for the continuation of some sand and gravel concessions previously granted by the Netherlands in areas lying on the Belgian side of the new boundaries. The two agreements appear to have resolved some long-standing maritime differences between Belgium and the Netherlands going back to the creation of Belgium in 1830, differences which had prevented the reaching of agreement during the 1960s.

## II CONSIDERATIONS

### *1 Political, Strategic, and Historical Considerations*

Belgium and the Netherlands are closely bound politically and economically in groupings such as the Benelux, the European Union (of which they were founding members), and NATO. These close relations no doubt facilitated the conclusion of the two agreements, which finally put an end to long-standing differences which had existed for as long as the Kingdom of Belgium.

A political factor on the side of Belgium was its constitution. In recent years, Belgium became a federal state and the entire coast lies in the Region of Flanders. The authorities in that Region have competence over certain activities in the territorial sea and on the continental shelf and they were, no doubt, especially interested in achieving a favorable outcome to the outstanding boundary questions. For the Kingdom of Belgium, the negotiations with The Hague were conducted by the Ministry of Foreign Affairs, but in view of the constitutional aspects, representatives of the Region of Flanders were associated with the talks. There was no comparable situation on the part of the Netherlands.

The waters off the coasts of the two states are used extensively by international shipping in transit to and from Northern Europe or calling at major ports such as Antwerp and Rotterdam. Sea lanes have been agreed within the International Maritime Organization in these waters, but the sea lanes were not taken into account in drawing the boundaries.

Two historical issues were considered during the negotiations between the two governments, one relating to the territorial sea and the other to the continental shelf. The first such issue arose from the fact that the land frontier between Belgium and the Netherlands reaches the sea near the mouth of a wide river known as the Western Scheldt, a waterway at this point under the sovereignty of the Netherlands. The Netherlands had for many years asserted historic rights to a channel of deeper water running out seawards from the Western Scheldt and in a sense representing a natural



continuation or marine extension of the Western Scheldt.<sup>1</sup> This channel, known as the Wielingen, ran within 3 n.m. of the Belgian coast. The channel had strategic significance in former times and is still used by shipping entering the Western Scheldt in order to reach points in the Netherlands, as well as Antwerp. If Belgium had accepted the asserted Dutch historic rights over the Wielingen, the result would have been a boundary running much closer to the Belgian coast than an equidistant line. These rights were asserted by the Netherlands on two main grounds. First, the terms of the Treaty of Munster of 1648 had closed the Scheldt to the Belgian provinces to the benefit of the Netherlands. When, following pressure from France and England, the waterway was later opened to shipping, it was nevertheless agreed in the Treaty of London of 1839 that the Netherlands and Belgium would supervise navigation jointly, thereby accepting some Dutch interest in the waterway.<sup>2</sup> Second, the Netherlands contended that the Wielingen formed part, that is to say, a seaward extension of the Western Scheldt waterway and was thus under Dutch sovereignty. At the end of the maritime boundary negotiations, the historic claim of the Netherlands had been renounced, according to a report presented to the Belgian Senate during its consideration of the agreement.<sup>3</sup> The agreed boundary appears to be clearly inconsistent with the continuance of Dutch claims to historic rights or title.

The second historical issue concerned an informal understanding reached in 1965 between officials of the two Governments. Following the entry into force of the Convention on the Continental Shelf in 1964, the Netherlands held bilateral talks with all its neighbors about the delimitation of the Dutch continental shelf. The contacts with Belgium, an adjacent state, related to both the continental shelf and the territorial sea in view of the linkage between the two boundaries. These contacts resulted in an understanding upon a line of delimitation across the continental shelf starting at the limit of the territorial sea, which at that time was 3 n.m. for both states. This understanding did not represent a treaty or international agreement in the formal sense. Nonetheless, a text was agreed at official, as opposed to Minister-

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1 See, for example, the response of the Netherlands to the circular inquiry from the League of Nations in preparation for the Codification Conference held at The Hague in 1930, in *Bases de discussion, Vol. II: Eaux territoriales*, League of Nations doc. C.74.M.39 (1929). The Dutch reply argued that the rights of a coastal state over the belt of sea in front of its coast could be limited or excluded by special rights of a neighbor, giving the example of the Wielingen on the twin grounds of historic rights and navigational interests, whilst noting that Belgium contested them. For detailed accounts of Belgian and Dutch practice, see Erik Franckx, *Belgium and the Netherlands settle their last frontier disputes on land as well as at sea*, 1998 REV. BELGE DE DROIT INT'L 338 (No. 2).

2 A. PEARCE HIGGINS & C. JOHN COLOMBOS, *INTERNATIONAL LAW OF THE SEA* 150-152 (1943).

3 Parliamentary Papers, Senate (Session of 1997-1998) Report 1-843/2. During consideration of the agreements in the Dutch Parliament, the Minister of Foreign Affairs stated that the Weilingen would form partially part of the Belgian territorial sea: see the account in Erik Franckx, *La Frontière maritime récemment établie entre la Belgique et les Pays-Bas*, 1997 ANN. DU DROIT DE LA MER 118, at 145.

ial, level for the delimitation of the continental shelf. Furthermore, a draft text was drawn up for the delimitation of the territorial sea, but this text was expressly subject to Dutch reservations concerning historic rights. No texts were presented to the respective Legislatures for approval. On the side of Belgium, this was because the Netherlands maintained the claim to the Wielingen, a claim which Belgium continued to contest. In other words, in 1965 there was still some disagreement over the delimitation of the territorial sea.

The line of delimitation was a technical elaboration of the principle of equidistance accepted by both sides. Over many years, this informally agreed line across the continental shelf was generally (but not uniformly) followed in practice by both governments in several important ways. Thus, the leader of the Belgian delegation for the delimitation of the continental shelf between Belgium and the Netherlands had sent a diplomatic letter in 1967 to the leader of the Netherlands delegation for use by the latter in the International Court of Justice in connection with the *North Sea Continental Shelf* cases which were then pending before the Court.<sup>4</sup> This letter, dated 8 December 1967, asserted the principle of the 'median line' (*la ligne médiane*) between the nearest points on the baselines for measuring the breadth of the territorial sea and specified the coordinates of eight points to be joined by arcs of great circles in order to constitute the delimitation between Belgium and the Netherlands, all subject to the approval of the Belgian Parliament.<sup>5</sup> In subsequent years, Belgium twice enacted legislation based on that position: first in 1969 relating to the continental shelf, and then in 1978 relating to fisheries. The Law of 1969 referred expressly to Belgium's three outstanding delimitations of the continental shelf with France, the Netherlands and the United Kingdom and indicated that the principle of equidistance would be determinative in each case.<sup>6</sup> The Law of 1978 employed the equidistant line to define limits towards Belgium's three neighbors<sup>7</sup> and a Parliamentary Report set out as the boundary with the Netherlands the same eight points which had been informally listed in the understanding relating to the continental shelf.<sup>8</sup>

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4 *North Sea Continental Shelf* (FRG/Den.; FRG/Neth.), 1969 ICJ REP. 3 (20 February).

5 *See North Sea Continental Shelf* (FRG/Den.; FRG/Neth.), ICJ PLEADINGS, vol. I, at 546.

6 Article 2 of the *Loi sur le plateau continental de la Belgique*, 13 June 1969, MONITEUR BELGE 9479-80 (10 October 1969). Belgium did not become a party to the Convention on the Continental Shelf for reasons to do with the open-ended definition of the concept and its negative impact on Belgian interests in sedentary fisheries. *See* Erik Franckx, *Maritime Boundary Agreements: The Case of Belgium*, 1991 REV. BELGE DE DROIT INT'L 390, at 408 (No. 2).

7 *Loi portant établissement d'une zone de pêche de la Belgique*, 10 October 1978, MONITEUR BELGE 15992-93 (28 December 1978).

8 *Rapport fait au nom de la Commission des affaires étrangères et de la coopération au développement*, Doc. Parl. Chambre No. 263-2, at 3 (1977-1978).

For its part, the Netherlands also acted on the basis of the understanding with Belgian officials. Thus, the Netherlands granted certain concessions for the taking of sand and gravel which extended towards the line of delimitation drawn up by the officials and across the more northerly line eventually agreed between the two governments.<sup>9</sup> The Netherlands also concluded the agreement with the United Kingdom on the delimitation of the continental shelf of 1965 which defined a boundary extending to a tripoint which was equidistant between the nearest points in Belgium, the Netherlands and the United Kingdom. Article 2(1) of this agreement expressly describes the southern termination point as “The point of intersection of the dividing lines between the Continental Shelves of the United Kingdom . . . , the Kingdom of the Netherlands and the Kingdom of Belgium.” ((1965) No 9-13, at 1867).

In 1987, Belgium extended the breadth of its territorial sea from 3 n.m. to 12 n.m., following a similar extension by the Netherlands two years earlier. At some stage prior to the opening of negotiations with The Hague, the Belgian government concluded that the administrative accord on delimitation reached with the Netherlands in 1965 was no longer acceptable. In 1991, Belgium formally notified the United Kingdom, upon signing their bilateral agreement delimiting their continental shelves ((1991) No. 9-17, letter of 29 May 1991 from Mark Eyskens, Belgian Minister of Foreign Affairs, to British Ambassador Robert James O’Neill), of its intention to claim north-eastwards of the tripoint where the Belgian, British and Dutch continental shelves met according to the above-cited agreement of 1965 (No. 9-13). In other words, Belgium did not regard itself as bound, as a third state, by the Anglo-Dutch treaty.

During the new rounds of negotiations instigated by Belgium with the Netherlands in 1994, Belgium asserted in the alternative, first, that there had been no agreement on the delimitation in 1965 and, second, that the informal line should not be followed because of the evolution of international law after that date towards acceptance of considerations of equity. In this context, Belgium cited article 83 of the United Nations Convention on the Law of the Sea of 1982, which had entered into force on 16 November 1994, the day preceding the opening of the first round of talks. (At that stage both Belgium and the Netherlands were moving towards ratification of the Convention and the related Implementation Agreement of July 1994.)

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<sup>9</sup> These concessions formed the subject of an exchange of letters at the time of signature of the agreements, according to which Belgium in effect took over the concessions. See Erik Franckx, *loc.cit.* footnote 1, 387-92.

For its part, the Netherlands was at first disinclined to open talks, since the Dutch authorities regarded the delimitation of 1965 as final. When talks did begin, the Netherlands argued that the delimitation had subsisted for many years and could not be put in question, having regard to the principle of estoppel. Accordingly, the Netherlands considered that the negotiations should be confined to two matters: first, the delimitation of the territorial sea and second, the repercussions for the starting point of the continental shelf delimitation of 1965 arising from the extensions in 1985 and 1987, respectively, of the breadth of the territorial sea from 3 to 12 n.m.<sup>10</sup> During the course of the ensuing talks, the Netherlands did not insist on the point of view and, on this second historical point, Belgium's approach also prevailed. As a result, the agreed line for the continental shelf is different from that defined in 1965.

## 2 Legal Regime Considerations

Separate agreements were concluded for the territorial sea and for the continental shelf. Different solutions were adopted in the two agreements and slightly different methods were used. This approach of dealing separately with the territorial sea and the continental shelf was also adopted by Belgium in its agreements with France ((1990) No. 9-16) and by the Netherlands in those with Germany ((1962, 1964, 1967, and 1971) No. 9-11).

The agreement relating to the continental shelf provides that if one of the parties decides to establish an exclusive economic zone (EEZ), the coordinates of the agreed continental shelf boundary shall be used for the lateral delimitation of the zone (article 2). Prior to the opening of negotiations in 1994, both states had created fishery zones extending beyond the territorial sea to the greatest possible extent, but no fisheries boundary had been agreed. Both states had participated in the adoption of the Paris Declaration of 1992 on Coordinated Extension of Jurisdiction in the North Sea<sup>11</sup> and during the period of the talks they were committed in principle to creating EEZs in the North Sea. In the event, both Belgium and the Netherlands created EEZs in 1999 and the effect of article 2 of the continental shelf agreement is that the agreed line serves also as the boundary between the two EEZs.

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10 This summary of the arguments is taken from the *Exposé des Motifs* submitted by Ministers to the Belgian Senate. See document 1-843/1 (Session of 1997-1998) of 15 January 1998.

11 Report No. 9-20, III INTERNATIONAL MARITIME BOUNDARIES 2527, at 2529. *Northern and Western Europe Update, Principal Events in the Region, Sec. 4 Use of Agreed Boundaries for Additional Purposes*. (1998)

### *3 Economic and Environmental Considerations*

The area of this delimitation is important from the economic point of view in the sense that it is a busy area for merchant shipping. There is also fishing, including shrimping, and dredging for sand and gravel. From the environmental point of view, on the Belgian and southern Dutch coasts there are extensive sandy beaches which are much used by tourists and wildlife, especially sea birds. The water is shallow, making the coastal area especially vulnerable to oil spills. In 1993, a joint counter-pollution exercise in the off-shore areas of the two states showed that the absence of a precise boundary constituted a serious obstacle to effective intervention by rescue and safety services. None of those considerations, however, affected the actual course of the negotiations or the agreed boundaries. The area is not important for access to oil or gas resources. However, at the time of the negotiations, there was active exploitation of continental shelf sand and gravel, by both parties, for the building and construction industries in Belgium and the Netherlands. In particular, the Netherlands had granted a concession to a Belgian company for the dredging of sand and gravel in an area close to the line agreed informally by officials of the two governments in 1965. This area became Belgian as a result of the agreement on the delimitation of the continental shelf and the concession formed the object of an exchange of letters attached to the agreement. According to these letters, Belgium was committed to respecting the concession for five years after the entry into force of the agreement and then to grant a concession to the same company under similar conditions under Belgian law. Clearly, the existence of these specific economic interests did not affect the course of the actual line agreed in the negotiations, being the subject of a type of ‘grandfathering’ provision. Such arrangements are not always easy to achieve and in this instance they testify to the close, friendly relations existing between the two governments.

### *4 Geographic Considerations*

A relevant factor in the negotiations was the overall geographical situation of Belgium, which has relatively short and generally straight and featureless coasts facing the southern North Sea. Its boundaries with France and the United Kingdom had been agreed ((1990) No. 9-16 and (1991) No. 9-17, respectively) and it was apparent from a glance at the map that Belgium’s continental shelf was hemmed in on all sides. To the north-east of the terminus of the land frontier between Belgium and the Netherlands, the peninsula of Walcheren produces something of a change in the general direction of the two coasts. This change in direction gave

the impression that the Belgian coasts, lying between those of France to the south-west and the Netherlands to the north-east, were slightly concave.

### *5 Islands, Rocks, Reefs, and Low-Tide Elevations Considerations*

Whilst there are no islands, rocks, or reefs in the relevant area, an important feature in the negotiations was the sandbank, constituting a low-tide elevation, known as Rassen. This feature, lying approximately three kilometers (less than two n.m.) off the westernmost point of the peninsula of Walcheren, is a legitimate basepoint for measuring the breadth of the territorial sea of the Netherlands. According to the latest charts published in Belgium at the time of the negotiations, Rassen was about 600 meters from east to west at low water. (Its extent at low water could have been affected by sand and gravel dredging.) Despite its not having been marked on some older charts as a low-tide elevation, Belgium accepted Rassen as a valid low-tide elevation at the time of the negotiations, so long as the basepoint was on the actual low water line and not on the 2 meter isobath which lay 1.8 n.m. further west. Rassen's position is such that it represents the Dutch basepoint for constructing a strict equidistant line with Belgium across the outer part of the territorial sea, as well as the entire continental shelf. In other words, it is the principal Dutch basepoint for constructing the greater part of the entire boundary.

Rassen is mentioned expressly in article 2 of the Agreement on the Delimitation of the Territorial Sea, but not in the Continental Shelf Agreement. Rassen was given full weight in the Territorial Sea Agreement and one quarter weight in the Continental Shelf Agreement.

It may be recalled that low-tide elevations had also been significant in Belgium's earlier negotiations with both France and the United Kingdom ((1990) No. 9-16 and (1991) No. 9-17). In particular, Belgium had taken the initial position in the negotiations with France that low-tide elevations, being relevant to the measurement of the territorial sea, should not be used as basepoints in delimiting the continental shelf, but had reached a compromise ((1990) No. 9-16, at sec. 5 *Islands, Rocks, Reefs, and Low-Tide Elevations Considerations*). It would appear that Belgium made a similar compromise over Rassen in regard to the continental shelf.

### *6 Baseline Considerations*

The relevance of baselines is shown by article 2 of the Territorial Sea Agreement which includes the following: "The boundary ... is based on principle of equidistance

from the normal baseline, that is to say, the low water line along the coast” (translation). Both states have adopted for the normal baseline the line of mean lower low water springs. However, two baseline issues arose during the negotiations. First, the Netherlands had adopted legislation in 1985 whereby a line was drawn across the mouth of the Western Scheldt between Westkappelle on Walcheren and Zwin close to the point where the land frontier reaches the sea. In drawing this line, the Netherlands invoked the rule in article 13 of the Convention on the Territorial Sea and the Contiguous Zone of 1958 and article 9 of the UN Convention on the Law of the Sea (regarding the closing mouths of rivers), although some commentators have expressed the view that the river does not flow directly into the sea since it forms an estuary. Belgium considered that this baseline should not be taken into account in delimiting the territorial sea since it deviated from the general direction of the Dutch coasts and the terminus of the land frontier was used as the end-point of the baseline, rather than the southern bank of the river. It is apparent that the baseline was not used in any way in the agreement on the delimitation of the territorial sea.

The second issue concerned the permanent harbor works on the Belgian coast at the port of Zeebrugge. Article 11 of the UN Convention on the Law of the Sea provides that such works are to be regarded as forming part of the coast for the purpose of measuring the breadth of the territorial sea. In 1965, harbor works had been accepted by the officials of the two states as forming an integral part of the coast for the purpose of drawing the equidistant line. Sometime between that year and 1994, the works had been extended seawards by the construction of new breakwaters more than 1.6 n.m. from the coast. In the agreement of 1996, the Netherlands accepted that the new western breakwater should be used as a Belgian basepoint in drawing an equidistant line. Indeed, that point and the low water line on Rassen form the basepoints for constructing the greater part of the boundary in the territorial sea and the whole of the continental shelf boundary. Somewhat unusually, the method of delimitation and the key basepoints are mentioned in the terms of the agreement. Thus, article 2 of the Territorial Sea Agreement reads: “Account has been taken of the seaward extension of the port of Zeebrugge in Belgium and the low-tide elevation of ‘Rassen’ off the Netherlands coast.” No comparable statement was included in the continental shelf agreement.

### *7 Geological and Geomorphological Considerations*

There is no geological break in the area under consideration. A geomorphological feature does exist, the channel known as the Wielingen representing the seaward

extension of the River Scheldt; but this feature was not used in constructing the boundary. Further offshore are many elongated sandbanks running approximately south-west to north-east and thus, approximately, parallel to the general direction of the Dutch and Belgian coasts or at right angles to the agreed boundaries. In other words, geological considerations were not used at all in drawing the boundaries.

### 8 Method of Delimitation Considerations

In constructing both the territorial sea boundary and that for the continental shelf, the method of equidistance was used in a modified form, albeit in different ways and with different results. The method was specified in the territorial sea agreement (article 2), but not in that on the continental shelf.

The territorial sea boundary was created by first drawing a strict equidistant line between the basepoints of the two states and then by simplifying it on an area-compensated basis. The resulting line can be characterized as a simplified equidistant line. The initial exact equidistant line had two terminal points and 10 turning points, some of which were very close together, especially in the area situated about five to seven n.m. from the coast where Rassen and the harbor works at Zeebrugge first become the respective basepoints. The line was simplified so that there were just three turning points plus the start and end points, making five points in all.

In the case of the continental shelf boundary, the method of equidistance was used; but, in this instance, it was simply a first step in a process which continued with the application of equitable principles. Belgium invoked the decision of the International Court of Justice in the *North Sea Continental Shelf* cases to the effect that the method of equidistance was not a rule of international law.<sup>12</sup> Belgium argued that its geographical situation between France and the Netherlands was akin to Germany's concave coast lying between the Netherlands and Denmark. Belgium also pointed to article 83 of the UN Convention on the Law of the Sea and argued that equitable principles should be taken into account in order to reach an equitable result.

In a spirit of compromise and good neighborliness, the Netherlands agreed to an adjustment of the equidistant line. Throughout its length, this line was based on the low water lines on the western breakwater at Zeebrugge and on Rassen. The adjustment was made by according Rassen one quarter weight and full weight to the Belgian basepoint. For this purpose, two points were identified on the agreed

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12 *North Sea Continental Shelf* (FRG/Den.; FRG/Neth.), 1969 ICJ REP. 3, at 36, 45-46, paras. 56, 82 (20 Feb.).



boundary between the Netherlands and the United Kingdom, the first giving full weight to the western breakwater and Rassen and the second full weight to the breakwater and the westernmost point on Walcheren (and thus zero weight to Rassen). The agreed endpoint lies one quarter of the distance between the two points, starting from the point generated by Walcheren. The change in the bearing of the line, as compared with the delimitation of 1965, is about 4 degrees.

Overall, the Netherlands relinquished areas in both the territorial sea and the continental shelf which had been treated as Dutch after 1965. Together, these areas total about 386 square kilometers.

### *9 Technical Considerations*

The boundary line in the territorial sea boundary is defined by reference to five points:

- from 1 to 2, the distance is 0.53 n.m.;
- from 2 to 3, the distance is 4.76 n.m.;
- from 3 to 4, the distance is 3.79 n.m.; and
- from 4 to 5, the distance is 6.34 n.m.

The total length exceeds 12 n.m. because the line is not straight. The boundary line for the continental shelf is a single arc from point 5 to point 6 which is 28.1 n.m. in length. The lines joining the agreed turning points are stated to be arcs of great circles. The points are defined by coordinates of latitude and longitude on European Datum (First Adjustment, 1950). This is made clear by article 1 of both agreements. The boundary lines were depicted, but simply by way of illustration, on charts annexed to the two agreements.

Although Belgium and the Netherlands both use the chart datum of Mean Lower Low Water Springs, they use slightly different definitions of that datum, producing slightly different results. However, the differences were successfully resolved between hydrographic experts.

### *10 Other Considerations*

At the time of its negotiations with Belgium, the Netherlands was also engaged in negotiations with Germany about their territorial sea boundary in the North Sea in which Germany was maintaining certain historic claims of relevance to that delimitation.

The delimitation of the continental shelf ends at a point on the boundary line agreed between the Netherlands and the United Kingdom in 1965, but not at the southern terminal point. As a result, small adjustments to two existing boundaries are required. These are the boundaries between Belgium and the United Kingdom (an adjustment expressly foreshadowed in the Belgian Minister's letter addressed to the British Ambassador at the time of signature of the agreement) and between the Netherlands and the United Kingdom. The former boundary will grow in length and the latter will shorten.

### III CONCLUSIONS

These two connected agreements illustrate two different roles for the method of equidistance: first, in providing the actual solution for the delimitation of the territorial sea (subject only to simplification of the resulting line for the sake of practical convenience) and, second, as constituting the first stage of drawing a line in a two-stage process prior to the adjustment of the line in order to achieve an equitable result. Thus, for the purposes of delimiting the territorial sea, the two key basepoints (the harbor works at Zeebrugge and Rassen) can be seen as being roughly in balance, in that they were both situated about the same distance (1.6 n.m.) away from the principal coast. Then, in the delimitation of the continental shelf, the adjustment of the initial equidistant line partially discounted the low-tide elevation of Rassen in order to take account of the overall situation of Belgium on the southern shores of the North Sea.

From a wider perspective, this delimitation was the last major boundary outstanding for the entire North Sea continental shelf. All the other boundaries had previously been settled. However, the terms of the settlement for the continental shelf required small adjustments to be made to two existing agreements and, these adjustments not having been made at the time of writing (August 2000), the major task of boundary-making for the North Sea continental shelf which began in the mid-1960s remains, technically, incomplete. At the same time, the agreement of 1996, by anticipating the creation of EEZs by the parties, defined an EEZ boundary which took effect in the summer of 1999 as one of the first such boundaries in Northern and Western Europe.

## IV RELATED LAW IN FORCE

*A. Law of the Sea Conventions*

Belgium: Party to the Geneva Convention on the Territorial Sea and the Contiguous Zone, but not a party to the Convention on the Continental Shelf. Became a party to the UN Convention on the Law of the Sea in 1998.

The Netherlands: Party to the Geneva Conventions on the Territorial Sea and the Contiguous Zone and on the Continental Shelf. Became a party to the UN Convention on the Law of the Sea in 1996.

*B. Maritime Jurisdiction Claimed at the Time of Signature*

Belgium: 12 n.m. territorial sea (1987); continental shelf legislation 1969; fisheries legislation 1978.

The Netherlands: Territorial Sea Demarcation Act 1985 (6 LOS BULL. 16 (1985)). 12 n.m. territorial sea; continental shelf and fisheries legislation.

*C. Maritime Jurisdiction Claimed Subsequent to Signature*

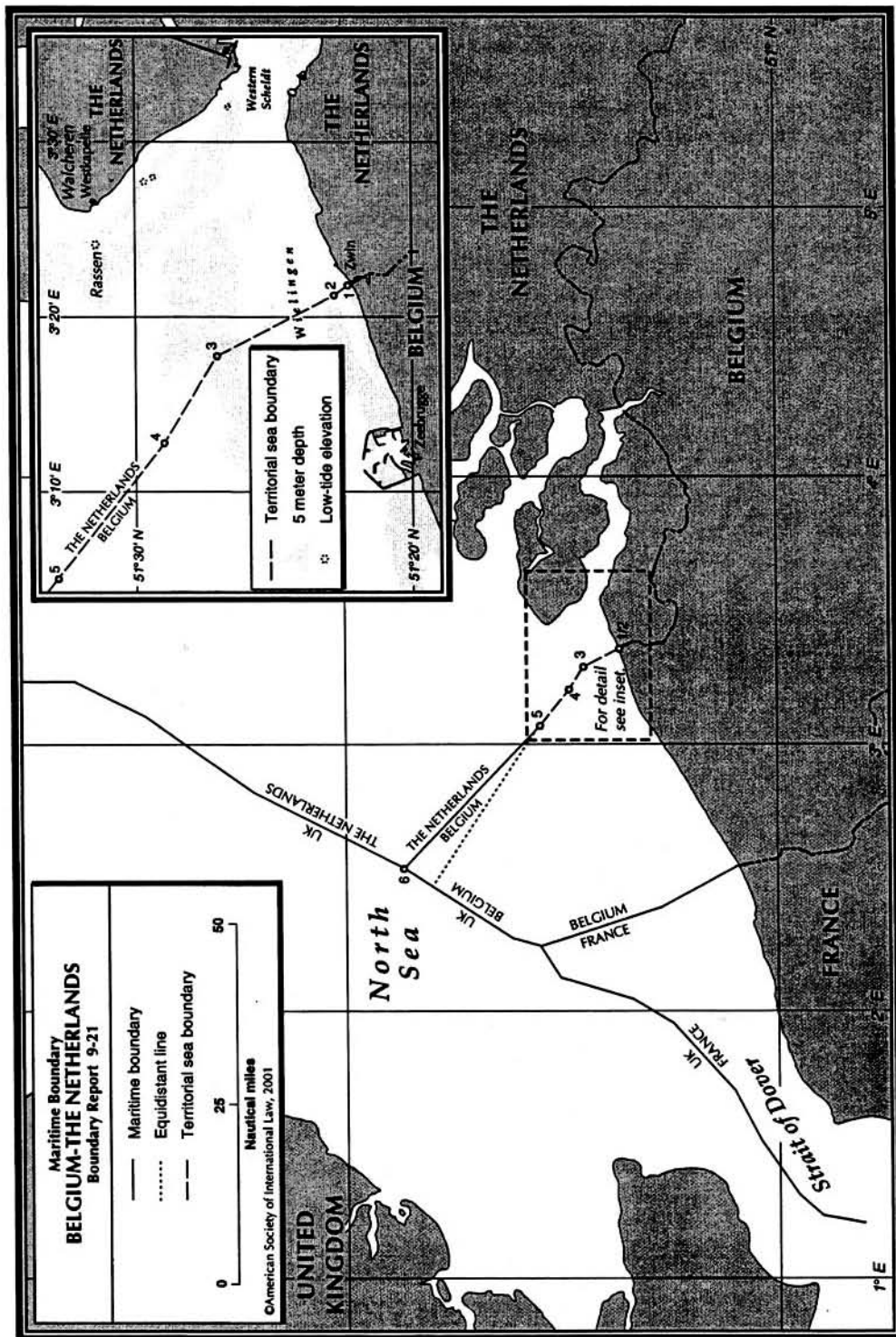
Belgium: An EEZ was established by a Law which entered into force on 20 July 1999. The Law set out the outer limits of the zone in the form of lines joining a series of points defined by coordinates of latitude and longitude corresponding to points in the present agreement, as well as points in the agreements with France (No. 9-16) and the United Kingdom (No. 9-17), apart from point 3.

The Netherlands: An EEZ was established by an Act of Parliament of 27 May 1999. The outer limits are to be set by Decree. The Government expressed the preference to Parliament that the limits coincide with continental shelf boundaries. This was already provided for in the agreement with Belgium.

## V REFERENCES AND ADDITIONAL READING

- Belgium: Parliamentary Papers, Senate (Session of 1997-1998) Report 1-843/2 (<http://www.senate.be/docs/lex/1/1-843/1>).
- Netherlands: 25 KAMERSTUKKEN, TWEDE KAMER (Parliamentary Papers, Second Chamber) 1997-1998, at 684.
- I.A. Elema, *Bepaling van Grenzen op Zee*, in 1999 GEODESIA 181 (No. 4) (in Dutch).
- Ina Elema and Kees de Jong, *The Law of the Sea at the North Sea* (Paper read at the Conference held by the Advisory Board on the Law of the Sea of the International Hydrographic Organization, September 1999).
- Erik Franckx, *Maritime Boundary Agreements: The Case of Belgium*, 1992 REVUE BELGE DE DROIT INTERNATIONAL 390 (No. 2).
- Erik Franckx, *La Frontière maritime récemment établie entre la Belgique et les Pays-Bas*, II ANN. DU DROIT DE LA MER 1997, at 117.
- Erik Franckx, *Belgium and the Netherlands Settle Their Last Frontier Disputes on Land and at Sea*, 1998 REV. BELGE DE DROIT INT'L 338 (No. 2).
- Ph. Gautier, *Le Plateau continental de la Belgique et sa délimitation*, in, COLLOQUE SUR LA BELGIQUE ET LA NOUVELLE CONVENTION DES NATIONS UNIES SUR LE DROIT DE LA MER 108 (Jean Salmon and Erik Franckx eds. 1995).
- Alex. G. Oude Elferink, *Belgium/The Netherlands Delimitation of Maritime Zones*, 12 INT'L J. MAR. & COASTAL L. 548 (1997).
- E. Somers, *The Problem of the Wielingen*, 3 INT'L J. ESTUARINE & COASTAL L. 19 (1988).

*Prepared by D. H. Anderson  
(with technical analysis by C. M. Carleton)*



2936 Report Number 9-21

**(1) Agreement between the Kingdom of Belgium and the Kingdom of the Netherlands relating to the Delimitation of the Territorial Sea**

The Kingdom of the Netherlands and The Kingdom of Belgium,

Desiring in the framework of good-neighbourly relations to achieve a solution acceptable to both Contracting Parties concerning the lateral delimitation of the continental shelf,

Have agreed as follows:

*Article 1*

1. The boundary between the continental shelf of the Kingdom of Belgium and the continental shelf of the Kingdom of the Netherlands is formed by the great circle joining the following points expressed in terms of their coordinates in the sequence given below:

Point 5:	51° 33'06"N;	03° 04'53"E
Point 6:	51° 52'34,012"N;	02° 32'21.599"E

2. The positions of the points in this article are defined by latitude and longitude on European Datum (1st Adjustment, 1950).

3. The dividing line defined in paragraph 1 has been drawn by way of illustration on the chart annexed to this Agreement.

*Article 2*

In the event that one of the Contracting Parties decides to create an exclusive economic zone, the coordinates given in article 1 shall be used for the lateral delimitation of such a zone.

*Article 3*

This Agreement shall enter into force on the first day of the second month following the date on which the Contracting Parties notify each other in writing of the completion of the procedures required by their domestic legislation for the entry into force of this Agreement.

IN WITNESS WHEREOF the undersigned, being duly authorized thereto by their respective Governments, have signed the present Agreement.

DONE at Brussels on 18 December 1996 in duplicate in the French and Dutch languages, both texts being equally authoritative.

FOR THE KINGDOM OF THE NETHERLANDS:

[Signed]

H.A.F.M.O. VAN MIERLO  
Minister for Foreign Affairs

FOR THE KINGDOM OF BELGIUM:

[Signed]

E. DERYCKE  
Minister for Foreign Affairs

2938 *Report Number 9-21*

**(2) Agreement between the Kingdom of Belgium and the Kingdom of the Netherlands relating to the Delimitation of the Continental Shelf**

The Kingdom of the Netherlands and The Kingdom of Belgium

Desiring to establish the lateral boundary of the territorial sea between the Kingdom of Belgium and the Kingdom of the Netherlands,

Have agreed as follows:

*Article 1*

1. The boundary between the territorial sea of the Kingdom of Belgium and the territorial sea of the Kingdom of the Netherlands is formed by the great circles joining the following points, expressed in terms of their coordinates, in the sequence given below:

Point 1:	51° 22'25"N;	03° 21'52.5"E
Point 2:	51° 22'46"N;	03° 21'14"E
Point 3:	51° 27'00"N;	03° 17'47"E
Point 4:	51° 29'05"N;	03° 12'44"E
Point 5:	51° 33'06"N;	03° 04'53"E

2. The positions of the points in this article are defined by latitude and longitude on European Datum (1st Adjustment, 1950).

3. The dividing line defined in paragraph 1 has been drawn by way of illustration on the chart annexed to this Agreement.

*Article 2*

The boundary formed by the points listed in article I is based on the principle of equidistance from a maximal baseline, namely the low-water mark along the coast. The extension out to sea of the port of Zeebrugge in Belgium and the "Rassen" shallows off the coast of the Netherlands have been taken into account.



*Article 3*

This Agreement shall enter into force on the first day of the second month following the date on which the Contracting Parties notify each other in writing of the completion of the procedures required by their domestic legislation for the entry into force of this Agreement.

IN WITNESS WHEREOF the undersigned, being duly authorized thereto by their respective Governments, have signed the present Agreement.

DONE at Brussels on 18 December 1996 in duplicate in the French and Dutch languages, both texts being equally authoritative.

FOR THE KINGDOM OF THE NETHERLANDS:

[Signed]

H. A. F. M. O. VAN MIERLO  
Minister for Foreign Affairs

FOR THE KINGDOM OF BELGIUM:

[Signed]

E. DERYCKE  
Minster for Foreign Affairs

# Estonia–Latvia–Sweden

*Report Number 10-17*

**Agreement between the government of the Republic of Estonia, the government of the Republic of Latvia and the government of the kingdom of Sweden on the common maritime boundary point in the Baltic Sea**

*Signed:* 30 April 1997

*Entered into force:* 20 February 1998

*Published at:* 39 LOS BULL. 25 (1999)

## I SUMMARY

This is the third agreement concluded during the second half of the 1990s in the southeastern Baltic Sea which is directly related to the dissolution of the former Soviet Union.<sup>1</sup> This is the second tripoint agreement of the four periods in which agreements were reached to delimit maritime boundaries in the Baltic Sea.<sup>2</sup>

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- 1 For the first two such treaties concluded between Estonia and Latvia on the one hand, and Estonia and Finland on the other hand, see Estonia-Latvia (1996), No. 10-15, and Estonia-Finland (1996), No. 10-16, respectively. An unofficial English translation of the tripoint agreement can be found in Erik Franckx, *Two More Maritime Boundary Agreements Concluded in the Eastern Baltic Sea in 1997*, 13 INT'L J. MAR. & COASTAL L. 274, 281 (1998).
  - 2 The fourth period covers the period between 1995 and today. Its main characteristic is that it covers all the agreements which are directly related to the dissolution of the Soviet Union. See Erik Franckx, *Maritime Boundaries in the Baltic Sea: Post-1991 Developments*, 28 GA. J. INT'L & COMP. L. 249, 256 (2000). The previous periods ran from 1945-1972, 1973-1985 and 1985-beginning of the 1990s, respectively. See Erik Franckx, *International Cooperation in Respect of the Baltic Sea*, in THE CHANGING POLITICAL STRUCTURE OF EUROPE: ASPECTS OF INTERNATIONAL LAW 245, 255-61 (R. Lefeber, M. Fitzmaurice & E. W. Vierdag eds., 1991), as later supplemented in Erik Franckx, *Maritime Boundaries in the Baltic Sea: Past, Present and Future*, 2 MARITIME BRIEFING 6-10 (IBRU, No. 2, 1996) and Erik Franckx, *Maritime Boundary Delimitation in the Baltic Sea*, in THE BALTIC SEA: NEW DEVELOPMENTS IN NATIONAL POLICIES AND INTERNATIONAL COOPERATION 167, 169-73 (Renate

*J.I. Charney and R.W. Smith (eds.), International Maritime Boundaries, 3041-3056.*

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3042 Report Number 10-17

This report should be read together with the report of the 1996 Estonia-Latvia treaty (Estonia-Latvia (1996), No. 10-15), to which it is closely linked. The general direction of the segment of that boundary outside the Gulf of Riga was constructed by means of a particular azimuth, representing a perpendicular to the line connecting the southern rock at Cape Loode (Saaremaa) with Ovisi lighthouse on the Latvian coast. The terminal point of this segment was not established pending direct negotiations among the three countries concerned.

The present tripoint agreement establishes the precise coordinates of this tripoint, while at the same time determining the length of the Estonian-Latvian maritime boundary.

The agreement is unusual because it establishes a tripoint at a moment when only one of the three bilateral agreements that would connect to that point had been concluded.<sup>3</sup>

## II CONSIDERATIONS

### *1 Political, Strategic, and Historical Considerations*

For a proper understanding of the present tripoint agreement, two previously concluded agreements have to be taken into consideration.

First of all, as already indicated, the 1996 Estonia-Latvia Agreement needs to be mentioned, because the tripoint agreement explicitly refers back to Article 3 of that agreement in its operative part.<sup>4</sup> Article 3 of the 1996 Estonia-Latvia agreement specifies:

The maritime boundary between the Republic of Estonia and the Republic of Latvia continuing into the Baltic Sea from point #15<sup>5</sup> defined in Article 2 as a straight geodetic line in the azimuth of 289°19,35' up to the boundary of the exclusive economic zone and the continental shelf of the Kingdom of Sweden. The azimuth is defined by adding 90° to the azimuth at the median point of the straight geodetic line between the point at the Southern Rock of Cape Loode with geographical coordinates

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Platzöder & Philomène Verlaan eds., 1996). See also, Erik Franckx, *Frontières maritimes dans la mer Baltique: passé, présent et futur*, 9 ESPACES ET RESSOURCES MARITIMES 92, 97-103 (1996) and Erik Franckx, *Les délimitations maritimes en mer Baltique*, 5 REVUE DE L'INDEMER 37, 50-58 (1997).

3 Only about a year and a half later a second such agreement was concluded between Estonia and Sweden. See Estonia-Sweden (1998), No. 10-19.

4 1997 Estonia-Latvia-Sweden Agreement, Art. 1.

5 This is a turning point located on the closing line of the Gulf of Riga connecting the southern rock at Cape Loode (Saaremaa) with Ovisi lighthouse on the Latvian coast.

57°57,4760' N; 21°58, 2789' E and the point at Ovisi Lighthouse with geographical coordinates 57°34,1234' N; 21°42,9574' E.

The precise coordinates of point #16 where this maritime boundary meets the boundary of the exclusive economic zone and the continental shelf of the Kingdom of Sweden shall be determined by a trilateral agreement between the Republic of Estonia, the Republic of Latvia and the Kingdom of Sweden.<sup>6</sup>

This is precisely what the tripoint agreement achieves, namely to provide the exact coordinates of a point on the outer boundary of the Swedish continental shelf and economic zone where it intersects with the last segment of the already established Estonia-Latvian maritime boundary.

The point of reference used, namely the boundary of the Exclusive Economic Zone (EEZ) and the continental shelf of Sweden, deserves special attention. This outer boundary was fixed by means of a Swedish Ordinance<sup>7</sup> which accompanied the 1992 act establishing Sweden's economic zone.<sup>8</sup> A close analysis of the coordinates used in this Swedish Ordinance with respect to the Baltic Sea demonstrates that these points are closely related to the delimitation agreements previously concluded by Sweden.<sup>9</sup> Even though this Swedish Ordinance does not expressly refer to any existing boundary agreement,<sup>10</sup> it implicitly confirms the coordinates used by them.

When applied more concretely to the maritime area between Sweden and the former U.S.S.R. (*see* Soviet Union-Sweden (1988), No. 10-9),<sup>11</sup> it appears that all the turning and terminal points of the 1988 Soviet-Swedish Agreement are reproduced in Article I (6) of the Swedish Ordinance. Despite the fact that this latter document was enacted well after Estonia regained independence, it should be emphasized that the listing of these particular coordinates is included in Article 1 of the Swedish Ordinance. The Ordinance begins with the statement: "Sweden's exclusive economic zone ... extends as follows ...", rather than in Article 2 which has the following introductory sentence: "For the period until such time as agreement on the outer limit of the exclusive economic zone has been reached with another

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6 1996 Estonia-Latvia Agreement, *supra* note 1, at Art. 3.

7 Ordinance on Sweden's Exclusive Economic Zone, 3 December 1992, *reprinted in* UNITED NATIONS, THE LAW OF THE SEA: CURRENT DEVELOPMENTS IN STATE PRACTICE NO. IV (UN SALES NO. E.95.V.10), at 121-23 (1995) (hereinafter Swedish Ordinance).

8 Sweden's Economic Zone Act, 3 December 1992, *reprinted in id.*, at 118-21.

9 Erik Franckx, *Baltic Sea Update* (Report Number 10-14), at 2569. *See especially* note 85.

10 At least it does not refer to such agreements in the Baltic Sea proper, i.e., excluding Skagerrak, Kattegat, and the Sound. Only with respect to the latter was reference explicitly made to the 1932 Denmark-Sweden declaration.

11 Hereinafter cited as the 1988 Soviet-Swedish Agreement.

State ...".<sup>12</sup> In this way Sweden confirms its firmly held position that the maritime delimitation agreement concluded with the former Soviet Union remains in force.<sup>13</sup>

A similar position seems to underlie the Estonian legislation establishing an EEZ, enacted the following year.<sup>14</sup> Even though the implementing legislation,<sup>15</sup> just like the Swedish Ordinance,<sup>16</sup> does not explicitly mention any of the previously concluded delimitation agreements with the former Soviet Union by name, it nevertheless implicitly relies on their content by using precisely the same coordinates. This is the case in the Gulf of Finland, where this Estonian legislation relies on the successive agreements concluded between Finland and the former Soviet Union (see Estonia-Finland (1996), No. 10-16, Part II.1, *Political, Strategic, and Historical Considerations*). This is equally true in the area where the Estonian EEZ faces the Swedish coast.<sup>17</sup> Moreover, also the particular manner in which the Estonian EEZ was established supports the view that Estonia considered earlier maritime boundary agreements of the Soviet Union to have established Estonia's maritime boundary with Sweden.<sup>18</sup>

As a result, it seems fair to conclude that through the 1996 Estonia-Latvia Agreement, and its particular reference to the outer boundary of the EEZ, the 1988

12 This has already been noted in Erik Franckx, *The 1998 Estonia-Sweden Maritime Boundary Agreement: Lessons to be Learned in the Area of Continuity and/or Succession of States*, 31 OCEAN DEV. & INT'L. L.J. 269, 273 (2000). See also Estonia-Sweden (1998), No. 10-19, Part II.1, *Political, Strategic, and Historical Considerations*.

13 Marie Jacobsson, *Sweden and the Law of the Sea*, in THE LAW OF THE SEA: THE EUROPEAN UNION AND ITS MEMBER STATES 495, 510 (Tullio Treves & Laura Pineschi eds., 1997).

14 This was indicated by Barbara Kwiatkowska, *200-Mile Exclusive/Fishery Zone and the Continental Shelf - An Inventory of Recent State Practice: Part 1*, 9 INT'L. J. MARINE & COASTAL L. 199, 225 (1994), mentioning the Economic Zone Act of 28 January 1993. This act was published in I RIIGI TEATAJA, 1993, 7, 105.

15 Law on the Boundaries of the Maritime Tract, 10 March 1993, I RIIGI TEATAJA 1993, 14, 217, *reprinted in* 25 LOS BULL. 55-64 (June 1994).

16 See *supra* note 10 and accompanying text.

17 This was already analyzed in detail by Franckx, *supra* note 12, at 273. Points 86, 87, and 88 of the Law on the Boundaries of the Maritime Tract, *supra* note 15, Appendix 3, prove to be identical to points A1, A2 and A3 of the 1988 Soviet-Swedish Agreement.

18 Law on the Boundaries of the Maritime Tract, *supra* note 15, at Art. 7. This article states: "The exclusive economic zone is a maritime tract beyond and adjacent to the territorial sea whose outer limit is determined in coordination with neighboring States. The coordinates of the boundary of the exclusive economic zone are established in appendix 3." Appendix 3, entitled "The boundary of the exclusive economic zone and continental shelf of the Republic of Estonia", then lists the different coordinates, including points 86-88. Remarks attached to this appendix make it clear that in areas where no boundary had been determined by means of negotiations, the points listed in the municipal enactment may change as a result of these negotiations. Only two countries appear in the list, namely Latvia (Strait of Irbe and Gulf of Riga) and the Russian Federation (Vaindlo Island area). Sweden, it should be noted, is not mentioned and it therefore appears that Estonia already considered the maritime boundary with Sweden to be settled at that time.

Soviet-Swedish Agreement is assumed to remain relevant to the tripoint agreement.<sup>19</sup> The tripoint is thus located on a segment of the 1988 Soviet-Swedish Agreement which relies on points A3 and A4 of that agreement.<sup>20</sup>

It is remarkable to note in this respect that this policy of not explicitly mentioning previously concluded agreements is only followed by Estonia (*see* Estonia-Finland (1996), No. 10-16, Part II. 1 *Political, Strategic, and Historical Considerations*) and Sweden (*see* Estonia-Sweden (1998), No. 10-19, Part II. 1 *Political, Strategic, and Historical Considerations*). All the other countries which established an EEZ in the Baltic Sea during the 1990's explicitly refer back to already concluded delimitation agreements when fixing the outer limit of that zone.<sup>21</sup>

Finally, it appears appropriate to mention in this section the Soviet system of straight baselines established in 1985.<sup>22</sup> As will be seen below (*see infra, Baseline Considerations*), the most southern segment of those baselines between the Estonian Island of Saaremaa and the Latvian coast<sup>23</sup> indirectly exercised a decisive influence on the location of the tripoint.

## 2 Legal Regime Considerations

The three countries each seemed to claim an EEZ, even though Latvia apparently lacked basic EEZ legislation at the time of the conclusion of the present tripoint agreement. The agreement itself only uses the general term "maritime boundaries" in the preamble. Given the close relationship with the 1996 Estonia-Latvia Agreement (*see supra, Political, Strategic, and Historical Considerations*), as explicitly relied upon in Article 1 of the tripoint agreement, that 1996 agreement resolved a broad range of issues relevant to the tripoint agreement. That 1996 agreement not only delimited the territorial sea, the continental shelf and the EEZ, but also

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19 *See* Estonia-Sweden (1998), No. 10-19.

20 *See* Franckx, *supra* note 12, at 274.

21 Reference can be made here to similar Polish (1991), German (1995) and Danish (1996) enactments. With respect to the former two, *see* Franckx, *supra* note 9, at 2567-70. With respect to the latter, *see* Erik Franckx, *Maritime Boundaries in the Baltic*, in *BOUNDARIES AND ENERGY: PROBLEMS AND PROSPECTS* 275, 275-77 (Gerald Blake, Martin Pratt, Clive Schofield & Janet Allison Brown eds., 1998).

22 Decree of 15 January 1985 on the Confirmation of a List of Geographic Coordinates Determining the Position of the Baseline in the Arctic Ocean, the Baltic Sea and Black Sea from which the Width of the Territorial Waters, Economic Zone and Continental Shelf of the U.S.S.R. is Measured, 1 (Annex) *IZVESHCHENIA MOREPLAVATELIAM* 22-39, 47 (1986) (hereinafter the 1985 Decree).

23 Since Estonia and Latvia decided in 1995 not to pursue the historic bay argument with respect to the Gulf of Riga area (*see* Estonia-Latvia (1996), No. 10-15, Part II.1, *Political, Strategic, and Historical Considerations*), this particular segment is not claimed by either country.

“any other maritime zones which might be established by the contracting Parties in accordance with the provisions of the 1982 United Nations Convention on the Law of the Sea and principles of international law.”<sup>24</sup>

It is therefore believed that the present tripoint agreement, just like the 1996 Estonia-Latvia Agreement, creates a single maritime boundary in the tripoint area, even with respect to possible future maritime zones which might be established by the parties (*see* Estonia-Latvia (1996), No. 10-15, Part II.2, *Legal Regime Considerations*).

### 3 Economic and Environmental Considerations

Whether the precise location of the tripoint was influenced by fishery considerations is not easily answered. It cannot be denied that the negotiations leading up to the 1996 Estonia-Latvia Agreement were triggered by a fishery dispute between the two parties. At the same time, it appears that fishery considerations did not influence the actual delimitation of that boundary line, since the two issues were clearly separated from one another (*see* Estonia-Latvia (1996), No. 10-15, Part II.3, *Economic and Environmental Considerations*). Moreover, the fishing dispute between the two states was completely focused on the area inside the Gulf of Riga which, from a delimitation point of view, is unrelated to the tripoint area. Based on this analysis, the conclusion could be reached that fishery considerations did not have any influence on the location of the tripoint either.

Nevertheless, the 1988 Soviet-Swedish Agreement is also relevant to the present agreement (*see supra*, *Political, Strategic, and Historical Considerations*). Just as was the case with the 1996 Estonia-Latvia Agreement, the 1988 Soviet-Swedish Agreement was established primarily in response to a fishery dispute (*see* Sweden-Soviet Union (1988), No. 10-9, Part II.3, *Economic and Environmental Considerations*). That agreement seems to have taken fisheries considerations into account when delimiting the maritime boundary.<sup>25</sup>

In that sense, the tripoint agreement, which is located on a segment of the 1988 Soviet-Swedish Agreement, has indirectly been influenced by fishery considerations.

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<sup>24</sup> 1996 Estonia-Latvia Agreement, Art. 1.

<sup>25</sup> Even though two separate agreements were concluded, both agreements were signed on the same day and linked to one another by means of an agreement on principles concluded a few months earlier. *See infra* note 28 and accompanying text. Both agreements moreover relied on the same 75-25 percent ratio in order to arrive at a mutually acceptable compromise. If Sweden obtained 75 percent of the disputed zone in the delimitation agreement, the Soviet Union obtained three times as many fishing rights in the part of the disputed zone attributed to Sweden than vice-versa.

It is nevertheless remarkable to note that the agreement, which spelled out the reciprocal rights of the parties in 1988 for an initial twenty-year period,<sup>26</sup> was explicitly terminated between the Russian Federation and Sweden in 1992 by means of a new fishery agreement.<sup>27</sup>

In conclusion, it appears that the tripoint was influenced by fishery considerations which served as a basis for the 1988 Soviet-Swedish Agreement. This consideration, however, is only of historical importance because the 1988 Fishery Agreement, which was closely linked to the delimitation agreement concluded on the same day,<sup>28</sup> was terminated by the Russian Federation and Sweden shortly after the dissolution of the former Soviet Union.

#### 4 Geographic Considerations

For the reasons reported above (*see, supra, Political, Strategic, and Historical Considerations*), it might suffice to refer back to the discussion of *Geographic Considerations* in the following reports: Estonia-Latvia (1996), No. 10-15 and Soviet Union-Sweden (1988), No. 10-9.

Estonia and Latvia have adjacent coasts outside the closing line between Cape Loode and Cape Ovisi. These two points, of which the former is located on the Estonian island of Saaremaa and the latter on the Latvian mainland, are characteristic of a fundamental distinction between the relevant coasts of both countries. Whereas the coastal front of Estonia in the area comprises two sizeable islands, namely Saaremaa (measuring about 2,670 square kilometers (sq. km.) in surface area and having a population of approximately 40,000) and Hiiumaa (measuring about

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26 Agreement between the Government of the Kingdom of Sweden and the Government of the Union of Soviet Socialist Republics on Mutual Relations in the Fishery Sector in the Area Formerly Disputed in the Baltic Sea, 18 April 1988, Art. 1, *reprinted in* Sweden-Soviet Union (1988), No. 10-9, at 2068-73 (hereinafter the 1988 Fishery Agreement). This period was meant to be extended afterwards according to a procedure laid down in the Agreement between the Kingdom of Sweden and the Union of Soviet Socialist Republics on the Principles for Delimitation of the Sea Areas in the Baltic Sea, 13 January 1988, *reprinted in id.*, at 2067-68.

27 Agreement between the Government of the Kingdom of Sweden and the Government of the Russian Federation in the Field of Fisheries, 11 December 1992, Art. 9, 9 INT'L. J. MAR. & COASTAL L. 106-08 (1994). This agreement does not take into account the special 75-25 percent ratio in the formerly disputed zone between the Soviet Union and Sweden, but simply established reciprocal fishing rights beyond the territorial sea on the basis of equality.

28 As clearly indicated in the Agreement between the Kingdom of Sweden and the Union of Soviet Socialist Republics on the Principles for Delimitation of the Sea Areas in the Baltic Sea, *supra* note 26.



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1,000 sq. km. in surface area and having a population of approximately 11,900), in this area the Latvian mainland coast is relevant.

In the relationship between Estonia and Latvia on the one hand, and Sweden on the other, the coasts are opposite and are almost parallel. While the coast of Latvia might be described as smooth, in contrast the Estonian and Swedish coastlines are deeply indented and have a number of small islands in front of them. The decisive geographical factor which influenced the delimitation in this area is the location of the islands of Gotland and the much smaller island of Gotska Sandön. Especially the former, which has a population of approximately 58,000 and measures about 3,140 sq. km. in surface area, constituted the crux of the dispute between Sweden and the former Soviet Union.

#### *5 Islands, Rocks, Reefs, and Low-Tide Elevations Considerations*

The last segment of the maritime boundary line established by Article 3 of the 1996 Estonia-Latvia Agreement follows a particular azimuth until it connects with the Swedish EEZ and continental shelf. In the vicinity are the Estonian islands of Saaremaa and Hiiumaa. The exact weight attributed to these islands becomes a moot question under the present agreement, because the parties sidestepped this issue by relying on the azimuth method instead. (*see* Estonia-Latvia (1996), No. 10-15, Part II. *5 Islands, Rocks, Reefs, and Low-Tide Elevations Considerations*).

As far as the westward extension of the line is concerned, one should refer back to the 1988 Soviet-Swedish Agreement which gave 75 percent effect to Gotland and Gotska Sandön rocks (*see* Sweden-Soviet Union (1988), No. 10-9, Part II. *5 Islands, Rocks, Reefs, and Low-Tide Elevations Considerations*).

#### *6 Baseline Considerations*

Two of the three countries involved had established systems of straight baselines by the time the tripoint agreement was concluded. Sweden had already operated such a system of straight baselines for some time.<sup>29</sup> Estonia followed suit in

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29 Royal Notice No. 375 of 3 June 1966, modifying the 1934 system of Swedish straight baselines. For an English translation: 2 MARITIME CLAIMS: REFERENCE MANUAL 396-402 (1987). *See also* BASELINES: NATIONAL LEGISLATION WITH ILLUSTRATIVE MAPS 300-04 (1989). For a map depicting these baselines: ATLAS OF THE STRAIGHT BASELINES 220-21 (Tullio Scovazzi, Giampiero Francalanci, Daniela Romano, & Sergio Mongardini eds., 1989).

1993.<sup>30</sup> In the area relevant to the present delimitation, the latter followed rather closely the Soviet system as it was established in 1985.<sup>31</sup> These straight baselines did not have any substantial influence on the maritime boundary line between Sweden and the U.S.S.R. (*see* Sweden-Soviet Union (1988), No. 10-9, Part II.6 *Baseline Considerations*). The fact that the outer limit of the Estonian EEZ, where it faces Sweden, totally corresponds to the old boundary line agreed between Sweden and the former U.S.S.R.,<sup>32</sup> further corroborates this conclusion.

The old 1985 Soviet system of straight baselines is relevant to the tripoint agreement, however, because Estonia and Latvia relied on a segment of that baseline system to locate the natural entrance point of the western access to the Gulf of Riga. In turn that line was used to determine the azimuth of the final segment, the terminal point of which touches the outer limit of the Swedish maritime zones (*see* Estonia-Latvia (1996), No. 10-15, Part II.6 *Baseline Considerations*). Given the particular importance of this segment for the determination of the boundary line outside the Gulf of Riga (*see* Estonia-Latvia (1996), No. 10-15, Part II.8 *Method of Delimitation Considerations*), and thus also for the determination of the tripoint,<sup>33</sup> it seems appropriate to emphasize that the parties apparently accepted this particular old Soviet segment as an acceptable point of departure to settle this crucial issue.

### 7 Geological and Geomorphological Considerations

No marked seabed features are found in the area surrounding the tripoint. This part of the Baltic is less than 200 meters in water depth, well within the definition of the Continental Shelf even as defined by the 1958 Geneva Convention on the Continental Shelf. South of the tripoint area the Gotland Deep, which reaches water depths of 249 meters, may be noted, as well as the Landsort Deep located northwest of the tripoint area at 459 meters (the deepest point of the Baltic Sea), but none of them influenced the location of the tripoint.

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30 Law on the Boundaries of the Maritime Tract, *supra* note 15.

31 1985 Decree, *supra* note 22.

32 *See supra* notes 17-20 and accompanying text.

33 *See supra* notes 4-6 and accompanying text.

### 8 Method of Delimitation Considerations

This agreement did not create any fundamental difficulty because only one meeting of technical experts and one meeting of diplomats proved necessary for the parties to reach a common position.<sup>34</sup>

Even though two of the three bilateral delimitation agreements were still outstanding between the parties involved at the time the negotiations started, the 1996 Estonia-Latvia Agreement contained a rather detailed provision in this respect. The present agreement explicitly relies on that particular provision in order to determine the precise coordinates of the tripoint.<sup>35</sup>

The method of delimitation of the present tripoint, therefore, was explicitly mentioned in the 1996 Estonia-Latvia Agreement, namely the drawing of a perpendicular on the closing line of the western access to the Gulf of Riga, i.e., a line between the southern rock at Cape Loode on Saaremaa island and Ovisi lighthouse on the Latvian coast. The middle point on that closing line served as the starting point for the perpendicular (*see* Estonia-Latvia (1996), No. 10-15, Part II.8 *Method of Delimitation Considerations*).

The terminal point of that segment, which was to become the tripoint with Sweden as well, was left open for later determination by the three countries involved. This point was described in the 1996 Estonia-Latvia Agreement as “where this maritime boundary meets the boundary of the EEZ and the continental shelf of the Kingdom of Sweden”.<sup>36</sup>

The present agreement fixes this terminal point in a definitive manner by providing the coordinates of a point located on the segment connecting the fourteenth and fifteenth point mentioned in Article I (6) of the 1992 Ordinance establishing the outer limit of Sweden’s economic zone.<sup>37</sup> Because of the very close relationship between this particular provision and the 1988 Soviet-Swedish Agreement,<sup>38</sup> the

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34 Information kindly provided by Niklas Hedman, Swedish Ministry of Foreign Affairs, 16 February 1998 (on file with the author).

35 1997 Estonia-Latvia-Sweden Agreement, Art. 1.

36 1996 Estonia-Latvia Agreement, *supra* note 1, at Art. 3. This was already explicitly mentioned *supra* in note 6 and accompanying text.

37 Swedish Ordinance, *supra* note 7, at Art. 1 (6).

38 Indeed, as already indicated, all the turning and terminal points of the 1988 Soviet-Swedish Agreement were reproduced in this Swedish Ordinance. *See supra*, at *Political, Strategic, and Historical Considerations*.

very particular method of delimitation relied upon by that agreement<sup>39</sup> also seems to have indirectly influenced the determination of the present tripoint.

### 9 *Technical Considerations*

For the location of the geographical coordinates of the tripoint, the World Geodetic System 1984 was used. The lines drawn between these turning and terminal points are geodetic lines. No chart was attached to the agreement.

Estonia and Latvia had previously used the World Geodetic System 1984 in their bilateral negotiations (*see* Estonia-Latvia (1996), No. 10-15, Part II.9 *Technical Considerations*). But since the outer limit of the EEZ and the continental shelf of the Kingdom of Sweden were based on the Swedish coordinate system RT 38,<sup>40</sup> one of the two systems also relied upon by the 1988 Soviet-Swedish Agreement,<sup>41</sup> the technical experts had to convert these points into the World Geodetic System 1984 before they could determine the present tripoint.

### 10 *Other Considerations*

This is only the second agreement concluded on the Baltic Sea which provides in its final paragraph that besides the national languages of the parties involved, English is also to be considered an authentic language.<sup>42</sup> It is moreover the first such agreement to apply this system in a trilateral context. As such, it provides an exception to the well-established rule in the Baltic Sea that maritime delimitation agreements have, until recently, always been produced solely in the respective languages of the parties, with each language version being equally authentic.

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39 This is the 75-25 percent division of the disputed area, as already mentioned *supra* in note 25. *See also* in more detail Sweden-Soviet Union (1988), No. 10-9, Part II.8 *Method of Delimitation Considerations*.

40 Swedish Ordinance, *supra* note 7, at Art. I *in fine*, where a table is given explaining the different coordinate systems used for the separate paragraphs of that article which were based on different agreements concluded over time by Sweden with its neighbors. This country, in other words, acted much more carefully than, for instance, Estonia in similar circumstances. *See* Estonia-Finland (1996), No. 10-16, Part II.1 *Political, Strategic, and Historical Considerations*, where it is demonstrated that the latter country mixes up different coordinate systems in its municipal legislation.

41 *See* Sweden-Soviet Union (1988), No. 10-9, Part II.9 *Technical Considerations*.

42 For the first such agreement, on a bilateral basis, *see* Estonia-Latvia (1996), No. 10-15, Part II.10 *Other Considerations*.

Moreover, if a problem of interpretation between the four different authentic languages should arise, the agreement stipulates that the English version shall prevail.

### III CONCLUSIONS

This is only the second<sup>43</sup> tripoint agreement on the Baltic Sea proper.<sup>44</sup> It confirms the regional practice that such agreements are to be delimited by means of direct negotiations between the three parties involved. At the same time, this agreement is special because the bilateral negotiating process among the respective parties had not yet been fully concluded. As a matter of fact, only one of the three bilateral agreements had already been concluded, namely between Estonia and Latvia. But the latter contained rather detailed information on how the tripoint was to be established.

First of all, a particular azimuth was agreed between Estonia and Latvia, indicating the specific direction of the last segment of their maritime boundary. In doing so, a certain similarity can be noted with the agreement concluded between the German Democratic Republic and Poland in 1989 (*see* German Democratic Republic-Poland (1989), No. 10-6(1)), which still remains operative (*see* Federal Republic of Germany-Poland (1990), No. 10-6(2)). Here too, a particular azimuth is said to have been implied in the particular wording of the agreement (*see* German Democratic Republic-Poland (1989), No. 10-6(1), Part II.8 *Method of Delimitation Considerations*).<sup>45</sup>

Second, and this is more unusual, clear indications concerning the terminal point of this final segment are also to be found in the 1996 Estonia-Latvia Agreement. That agreement explicitly refers to the outer limit of the EEZ and the continental shelf of the Kingdom of Sweden. The latter description has been explicitly used as a basis for the present agreement.

Sweden consequently accepted the method proposed by Estonia and Latvia, while the latter two countries for the first time officially accepted in their treaty relations with Sweden that the outer limit of Sweden's economic zone corresponds in the area of the tripoint to the line established by the 1988 Soviet-Swedish Agreement.<sup>46</sup> The present agreement therefore confirms the view that, despite the principled objection of Estonia and Latvia regarding the validity of the old Soviet delimitation

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43 For the first one, *see* Poland-Sweden-Soviet Union (1989), No. 10-12.

44 This was defined *supra* in note 10.

45 *See also* Erik Franckx, *Region X: Baltic Sea Maritime Boundaries*, *supra*, at 353 and n. 39.

46 Until then, Estonia and Latvia had never taken a clear position on this point. *See* Erik Franckx, *Maritime Boundaries in the Baltic Sea: Post-1991 Developments*, *supra* note 2, at 257-64.

agreements, in practice this position was mitigated in order to arrive at a pragmatic solution.<sup>47</sup>

When trying to understand the present tripoint agreement within the fourth group of Baltic Sea delimitations,<sup>48</sup> the conclusion can therefore be reached that it can best be characterized as a hybrid<sup>49</sup> or mixed<sup>50</sup> agreement. It not only establishes a boundary where none existed before, but at the same time it also touches upon the delicate question of the exact legal value to be attributed to related maritime boundary agreements concluded by the former U.S.S.R.

#### IV RELATED LAW IN FORCE

##### *A. Law of the Sea Conventions*

Estonia: Not a party to any of the four 1958 Geneva Conventions, or to the 1982 LOS Convention.

Latvia: Acceded to the 1958 Geneva Convention on the Territorial Sea and the Contiguous Zone on 17 November 1992 and to the 1958 Geneva Convention on the Continental Shelf on 2 December 1992.

Sweden: Acceded to the 1958 Geneva Convention on the Continental Shelf on 1 June 1966; ratified the 1982 LOS Convention on 25 June 1996.

##### *B. Maritime Jurisdiction Claimed at the Time of Signature*

Estonia: 12 n.m. territorial sea; 200 n.m. EEZ.

Latvia: 12 n.m. territorial sea; 200 n.m. EEZ (implicit in the delimitation agreement).

Sweden: 12 n.m. territorial sea; 200 n.m. economic zone.

##### *C. Maritime Jurisdiction Claimed Subsequent to Signature*

Estonia: No change.

Latvia: No change.

Sweden: No change.

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47 See Franckx, *supra* note 12, at 273-74.

48 See *supra* note 2.

49 Erik Franckx, *Maritime Boundaries in the Baltic Sea: Post-1991 Developments*, *supra* note 2, at 257.

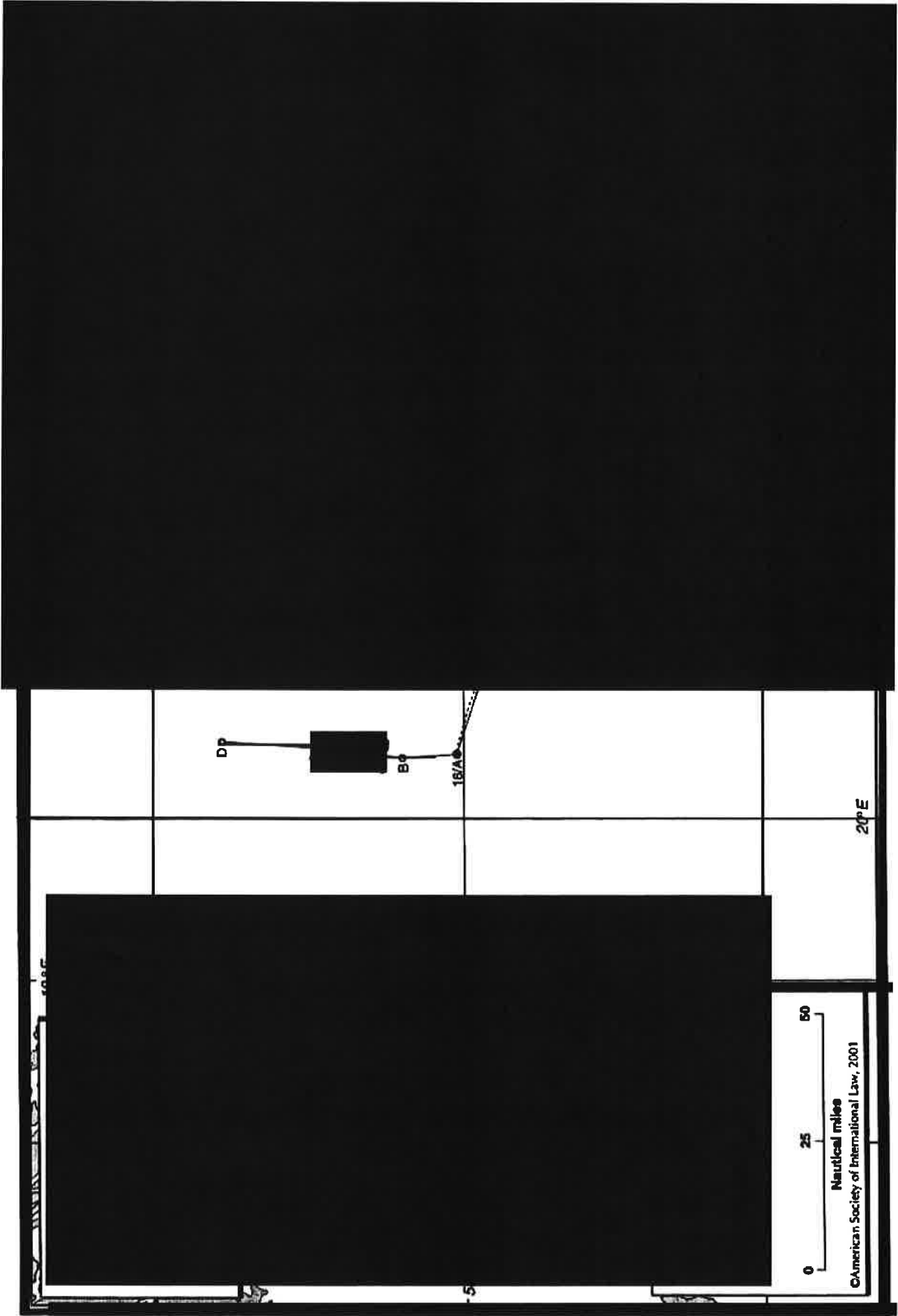
50 Franckx, *supra* note 12, at 270.

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## V REFERENCES AND ADDITIONAL READINGS

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*Prepared by Erik Franckx*





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**Agreement between the government of the Republic of Estonia, the government of the Republic of Latvia and the government of the kingdom of Sweden on the common maritime boundary point in the Baltic Sea**

The Government of the Republic of Estonia, the Government of the Republic of Latvia and the Government of the Kingdom of Sweden, hereinafter referred to as the Contracting Parties,

*Desiring* to determine to point where the maritime boundaries of the three States in the Baltic Sea coincide,

*Have agreed* as follows:

*Article 1*

The straight geodetic line referred to in article 3 in the Agreement between the Republic of Latvia and the Republic of Estonia on the maritime delimitation in the Gulf of Riga, the Strait of Irbe and the Baltic Sea, signed at Tallinn on 12 July 1996, shall connect to the border of the exclusive economic zone and the continental shelf of the Kingdom of Sweden at the point with the following geographical coordinates:

58° 01,440'N    20° 23,775'E

The point is defined in the World Geodetic System 1984 (WGS 84).

*Article 2*

This Agreement shall enter into force thirty days after the date when all the Contracting Parties have notified all the other Contracting Parties in writing that the necessary constitutional procedures for its entry into force have been completed.

DONE at Stockholm on 30 April 1997, in three original copies, in the Estonian, Latvian, Swedish and English languages respectively. In case of any divergence of interpretation of this Agreement, the English text shall prevail.

For the Government of the Republic of Estonia  
For the Government of the Republic of Latvia  
For the Government of the Kingdom of Sweden

## Georgia–Turkey

*Report Number 8-10 (5)*

**Protocol Between the Government of the Republic of Turkey and the  
Government of Georgia on the Confirmation of the Maritime Boundaries  
Between Them in The Black Sea**

*Done:* 14 July 1997

*Entered into Force:* 22 September 1999

*Published at:* T.C. Resmî Gazete (Official Gazette), 20 October 1997,  
No. 23146  
43 LOS BULL. 112 (2000)

Turkey and the Union of Soviet Socialist Republics delimited their adjacent territorial sea boundary in the Black Sea on 17 April 1973 by a protocol signed at Ankara ((1973) (No. 8-10(1))). The parties later, by a protocol signed at Tbilisi on 11 September 1980, agreed to illustrate the existing territorial sea boundary on a 1/100,000 scale chart on the bases of the 1973 Protocol. In addition, they also agreed by this protocol to build two direction signals to be located on land and a light to be constructed at the shore marking the initial point of the sea of this territorial boundary (41° 31' 18.39" N. Lat., 41° 32' 55.06" E. Long.) to enable mariners to locate the boundary.

The two states concluded an agreement on 23 June 1978 at Moscow to delimit their continental shelf maritime boundary ((1978) (No. 8-10(2))). Later, in a verbal note of 23 December 1986, Turkey proposed that the continental shelf boundary line be used also to delimit their exclusive economic zone. The USSR agreed to this proposal in a note dated 6 February 1987 ((1986 & 1987) No. 10-8(3)).

2866 Report Number 8-10 (5)

After the disintegration of the USSR, the members of the Soviet Commonwealth of Independent States by the Minsk and Alma-Ata/Kiev Agreements,<sup>1</sup> declared their succession to the existing agreements of the USSR and the stability of existing land and maritime boundaries absent mutual agreements to change them. In addition to this legal commitment, the Russian Federation on 17 September 1992 and Ukraine on 30 May 1994 unilaterally confirmed to Turkey their succession to the maritime boundary agreements that had previously been concluded only between Turkey and the former USSR ((1994) No. 8-10(4)).

Turkey and Georgia concluded an agreement at Tbilisi on 14 July 1997 concerning their maritime boundaries that confirmed the validity, among themselves, of the above-mentioned maritime boundary agreements ((1973, 1978, 1986 & 1987) Nos. 8-10(1)-(3)) which had been previously concluded between Turkey and the former USSR. This bilateral agreement between Turkey and Georgia came into force on 22 September 1999 and establishes a single maritime boundary between the two states for all purposes.

*Prepared by Yuksel Inan*

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1 Armenia-Azerbaijan-Belarus-Kazakhstan-Kyrgyzstan-Moldova-Russian Federation-Tajikistan-Turkmenistan-Uzbekistan-Ukraine: Agreements Establishing the Commonwealth of Independent States, done at Minsk, 8 December 1991, and Alma Alta, 21 December 1991, 31 ILM 138 (1992); Armenia-Belarus-Kazakhstan-Kyrgyzstan-Russia-Tajikistan-Uzbekistan: Agreement on the Protection of the State Boundaries and Maritime Economic Zones of the States Participants of the Commonwealth of Independent States, done at Kiev, 20 March, 1992, 31 ILM 495 (1992).

**Protocol Between the Government of the Republic of Turkey and the  
Government of Georgia on the Confirmation of the Maritime Boundaries  
Between Them in The Black Sea**

The Government of the Republic of Turkey and the Government of Georgia, hereinafter referred to as Parties,

Having regard to the good-neighbourly relations between the Parties,

Desiring to confirm the maritime boundaries between them through their commitment to the following agreements concluded between the former Union of Soviet Socialist Republics and the Republic of Turkey:

- Protocol between the Government of the Republic of Turkey and the Government of the Union of Soviet Socialist Republics concerning the establishment of the Maritime Boundary between the Soviet and Turkish Territorial Waters in the Black Sea, signed on 17 April 1973;
- Agreement between the Government of the Republic of Turkey and the Government of the Union of Soviet Socialist Republics concerning the delimitation of the Continental Shelf between them in the Black Sea, signed on 23 June 1978;
- Protocols and other relevant documents between the Government of the Republic of Turkey and the Government of the Union of Soviet Socialist Republics concerning the demarcation of the Maritime Boundary, signed on 11 September 1980;
- Exchange of letters between the Government of the Republic of Turkey and the Government of the Union of Soviet Socialist Republics dated subsequently 23 December 1986 and 6 February 1987 confirming the exclusive economic zone frontier as the previously delimited continental shelf frontier,

and other existing related delimitation Agreements concluded between the Government of the Republic of Turkey and the Government of the Union of Soviet Socialist Republics,

2868 *Report Number 8-10 (5)*

have agreed to confirm, in accordance with the foregoing legal instruments, the maritime boundaries between the Turkish and Georgian territorial waters in the Black Sea,

This Protocol shall be ratified in conformity with the national legislation of each Contracting Party and enter into force on the date the exchange of the instruments of ratification through diplomatic channels.

DONE at Tbilisi on 14 July 1997 in the Turkish, Georgian and English languages, being equally authentic.

*(Signed)*

For the Government of the Republic of Turkey

*(Signed)*

For the Government of Georgia

## Lithuania–Russia

(Exclusive Economic Zone and Continental Shelf)

*Report Number 10-18 (1)*

### **Treaty between the Republic of Lithuania and the Russian Federation on the delimitation of the exclusive economic zone and the continental shelf in the Baltic Sea**

*Signed:* 24 October 1997

*Entered into force:* Not yet in force

*Published at:* STATE NEWS (Official Lithuanian Gazette), No. 100-2892 (1999)<sup>1</sup>  
39 LOS BULL. 26 (1999)

#### I SUMMARY

The present report has to be read together with Lithuania-Russia (1997), No. 10-18(2). The latter concerns a treaty, concluded on the same day between the same parties on the delimitation of the state boundary. A small part of that agreement defines the territorial sea.<sup>2</sup> Both agreements have much in common, especially regarding the delimitation of the maritime zones. Many matters, developed in the first report consequently apply to the second report.

This is the fourth agreement concluded during the second half of the 1990s in the southeastern Baltic Sea that is directly related to the disintegration of the former

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1 Unofficial translation to be found in Erik Franckx, *Two More Maritime Boundary Agreements Concluded in the Eastern Baltic Sea in 1997*, 13 INT'L J. MAR. & COASTAL L. 274, at 282-83 (1998).

2 In the Lithuanian official gazette this treaty on the state border, of which the territorial sea forms part, is of course, given its importance, treated in first order before the treaty on the exclusive economic zone (EEZ) and the continental shelf. In a study on maritime boundaries, however, a reversed order is to be preferred.

Soviet Union.<sup>3</sup> It establishes a maritime boundary in the southeastern Baltic Sea where none had existed before and therefore very much resembles on this point the agreement concluded between Estonia and Latvia (Estonia-Latvia (1996), No. 10-15, Part D). Together with the 1996 Estonia-Finland Agreement (No. 10-16) and the 1997 Estonia-Latvia-Sweden Agreement (No. 10-17), these four agreements just referred to introduce a new, fourth chronological group in the over-all Baltic Sea delimitation effort,<sup>4</sup> which is in substance clearly distinguishable from the previous ones.<sup>5</sup>

The agreement establishes a single maritime boundary, dividing the EEZ and the continental shelf. The boundary extends over a distance of about 62.5 nautical miles (n.m.) and consists of two segments involving three turning points. The western terminal point remains undetermined, awaiting trilateral negotiations.

The geographical configuration of the coasts in the boundary area is complicated by the small Kursiu promontory<sup>6</sup> that screens the mainland coast of the two parties and encloses the Kursiu lagoon.<sup>7</sup> The lagoon has only one natural outlet to the sea at the north in front of the Lithuanian port of Klaipeda. Otherwise, the coasts are concave.

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- 3 Treaty between the Republic of Lithuania and the Russian Federation on the Delimitation of the Exclusive Economic Zone and the Continental Shelf in the Baltic Sea, 24 October 1997, STATE NEWS, No. 100-2892 (1999); Franckx, *supra* note 1. This treaty has not yet entered into force. Hereinafter Lithuania-Russia Treaty. For the first three such agreements concluded in the area, see in chronological order: Estonia-Latvia (1996), No. 10-15; Estonia-Finland (1996), No. 10-16; and Estonia-Latvia-Sweden (1997), No. 10-17.
  - 4 Erik Franckx, *Maritime Boundaries in the Baltic Sea: Post-1991 Developments*, 28 GA. J. INT'L & COMP. L. 249, 256 (2000). It concerns agreements directly related to the dissolution of the former Soviet Union.
  - 5 The previous periods run from 1945-1972, 1973-1985, and 1985 to the beginning of the 1990s respectively. See Erik Franckx, *International Cooperation in Respect of the Baltic Sea*, in THE CHANGING POLITICAL STRUCTURE OF EUROPE: ASPECTS OF INTERNATIONAL LAW 245, 255-61 (R. Lefeber, M. Fitzmaurice, & E. W. Vierdag eds., 1991), as later supplemented in Erik Franckx, *Maritime Boundaries in the Baltic Sea: Past, Present and Future*, 2 MARITIME BRIEFING 6-10 (IBRU, No. 2, 1996) and Erik Franckx, *Maritime Boundary Delimitation in the Baltic Sea*, in THE BALTIC SEA: NEW DEVELOPMENTS IN NATIONAL POLICIES AND INTERNATIONAL COOPERATION 167, 169-73 (Renate Platzöder & Philomène Verlaan eds., 1996). See also, Erik Franckx, *Frontières maritimes dans la mer Baltique: passé, présent et futur*, 9 ESPACES ET RESSOURCES MARITIMES 92, 97-103 (1995) and Erik Franckx, *Les délimitations maritimes en mer Baltique*, 5 REVUE DE L'INDEMER 37, 50-58 (1997).
  - 6 Terminology used in the present report to indicate the geographical feature called Kursiu Nerija in Lithuanian and Kurshskaia Kosa in Russian. The latter corresponds with Kurshskaya Kosa according to the spelling approved by the US Board on Geographic Names.
  - 7 Terminology used in the present report to indicate the geographical feature called Kursiu Marios in Lithuanian and Kurshskii Zaliv in Russian. The latter corresponds with Kurshskiy Zaliv according to the spelling approved by the US Board on Geographic Names.

## II CONSIDERATIONS

### *1 Political, Strategic, and Historical Considerations*

Not less than 17 rounds of negotiations, spread over four years were necessary for the parties to reach an agreement on the land and maritime boundary.<sup>8</sup> The maritime boundary proved to be especially difficult.<sup>9</sup>

The two boundary agreements are the first such agreements signed by the Russian Federation with a former Soviet republic. The choice of Lithuania is especially noteworthy<sup>10</sup> since this country was selected by the former Union of Soviet Socialist Republic in January 1991 to serve as an example to undercut separatist tendencies by others through an attack on the Vilnius television station.<sup>11</sup>

By signing an agreement on the bases of their interstate relations in 1991, a few months after this incident, the parties established that they would respect the inviolability of the new state and its boundaries.<sup>12</sup> It is therefore not surprising that the Supreme Soviet of the Russian Federation in its decree on the ratification of this agreements instructed the Russian government to give first and foremost attention, *inter alia*, the concrete questions of the delimitation and demarcation of the interstate boundaries and their regime.<sup>13</sup> Even though little guidance can be derived from the 1991 agreement, its provisions, nevertheless, were explicitly taken as point of departure for the present delimitation treaty.<sup>14</sup>

8 Negotiations started in July 1993 and met with success on 24 October 1997, at the occasion of a meeting of President A. Brazauskas and B. El'tsin in Moscow. For a detailed overview of these protracted negotiations, see Erik Franckx & Ann Pauwels, *Lithuanian-Russian Boundary Agreement of October 1997: To Be or Not To Be?* in LIBER AMICORUM GÜNTHER JAENICKE – ZUM 85. GEBURTSTAG 63, 65-75 (Volkmar Götz, Peter Selmer & Rüdiger Wolfrum eds., 1998) and further references to be found there (see especially note 4).

9 Or as stated by the Russian newspaper IZVESTIJA, 24 October 1997, at 3, col. 2: Both sides settled the land border rather quickly, but got stuck on the water boundaries.

10 As stressed by *id.*, at 3, col. 1. No bilateral agreements of any significance had moreover been concluded during the four preceding years between Lithuania and Russia. As remarked in IZVESTIJA, 21 October 1997, at 1, col. 1.

11 Leaving 14 people dead and 110 injured. See THE CAMBRIDGE ENCYCLOPEDIA OF RUSSIA AND THE FORMER SOVIET UNION 139 (Archie Brown, Michael Kaser & Gerald S. Smith eds., 1994).

12 Agreement on the Bases of the Interstate Relations between the Russian Soviet Federative Socialist Republic and the Lithuanian Republic, 29 July 1991, art. 1. This agreement entered into force on 4 May 1992.

13 Decree No. 2201-1 of 17 January 1992, On the Ratification of the Agreement on the Bases of the Interstate Relations between the Russian Soviet Federative Socialist Republic and the Lithuanian Republic, *sub* 3.

14 Lithuania-Russia Treaty, Preamble.



The legal status of Klaipeda was of particular political importance.<sup>15</sup> When it became clear that a high level meeting would take place in Moscow between A. Brazauskas and B. El'tsin during the month of October 1997, with as main agenda item the signing of the border agreement (*see infra Economic and Environmental Considerations, in fine*), the lower house of the Russian Federal Assembly adopted a decree in which a direct appeal was made to the President indicating the danger of a possible loss of Russian territorial rights to the Klaipeda, or Memel territory, by entry into force of the agreement.<sup>16</sup> The Appeal contained a clear threat to the President. In that case the members of the Duma would certainly take these circumstances into consideration if the agreement were to be presented to them for ratification.<sup>17</sup> Since the President did sign the two treaties a month later, that threat became part of reality and apparently remains an obstacle to Russian ratification, preventing entry into force,<sup>18</sup> even though the Lithuanian Parliament, the Seimas, ratified the boundary treaties in October 1999.<sup>19</sup>

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- 15 This is only part of the territorial disputes in this area. These include the Russian claims to the Memel territory, and Lithuanian claims to Kaliningrad (Königsberg). *See* Erik Franckx, *Baltic Sea Update* (Report Number 10-14), at 2560.
- 16 Decree on the Appeal of the State Duma of the Federal Assembly of the Russian Federation "to the President of the Russian Federation concerning the intended signature of the treaty on the state boundary between the Russian Federation and the Republic of Lithuania," CODE OF LAWS OF THE RUSSIAN FEDERATION, 20 October 1997, No. 42, item 4736. The text of the Appeal itself was appended to this decree. For an unofficial English translation by the present author of the decree as well as the appended Appeal, *see* Franckx & Pauwels, *supra* note 8, at 92 and 93-95 respectively.
- 17 The decree was supported by a rare occasion of quasi-unanimity in the State Duma, with 299 deputies, all blocs voted in favor with the exception of Iabloko. BALTIC NEWS SERVICE, 24 November 1997, *available at* <gopher://jods.latnet.lv> (15 December 1997).
- 18 For a more in depth evaluation of this appeal and its influence on the present boundary agreement, *see* Franckx & Pauwels, *supra* note 8, at 75-85. On 18-21 March 2001, Russian Duma's inter-parliamentary group for contacts with Lithuania led by Alexander Chuyev visited Lithuania. On that occasion the latter stated that he believed a majority of Russian members of parliament favored ratification and he expected that the ratification process would move forward after the official visit of the Lithuanian president to Moscow later that month. *Available at* <[http://www.urm.lt/data/15/EF228133653\\_nf652.htm#RUSSIAN%20DUMA%20DELEGATION%20VISITS%20LITHUANIA](http://www.urm.lt/data/15/EF228133653_nf652.htm#RUSSIAN%20DUMA%20DELEGATION%20VISITS%20LITHUANIA)> (1 May 2001). This visit took place on 29-31 March 2001. At that occasion a joint statement by both presidents was issued on 30 March 2001, which contained the following passage: "The Parties note the great significance of the Treaty between the Republic of Lithuania and the Russian Federation Concerning the State Border between Lithuania and Russia and the Treaty Concerning Delimitation of the Exclusive Economic Zone and the Continental Shelf in the Baltic Sea, which were signed on 24 October 1997. The Russian Party will make efforts to complete the ratification process of these documents." *Available at* <<http://www.president.lt/en/one.phtml?id=1981>> (1 May 2001).
- 19 Law No. VIII-1364 of 19 October 1999, On the Ratification of the Treaty between the Republic of Lithuania and the Russian Federation on the Delimitation of the Exclusive Economic Zone and the Continental Shelf in the Baltic Sea, STATE NEWS, No. 100-2886 (1999).

## 2 Legal Regime Considerations

The treaty that is the focus of this report delimits the EEZ and continental shelves of the parties. With respect to the Russian Federation this poses no particular problems. The Soviet Union had not only been the first country in the Baltic to claim a 200-mile zone,<sup>20</sup> i.e. a fishery zone which became operational on 1 April 1978.<sup>21</sup> It was also the first Baltic state to establish an EEZ in 1984,<sup>22</sup> which logically also applied to the Baltic.<sup>23</sup>

Concerning Lithuania, the situation is not that clear. Even though its constitution states that Lithuania “shall have the exclusive ownership right to the airspace over its territory, its continental shelf, and the economic zone in the Baltic Sea,”<sup>24</sup> it seems to have not formally established an EEZ.<sup>25</sup> Nevertheless, its law on fisheries of June 2000 states that it applies to the internal waters, the territorial sea as well as to the EEZ.<sup>26</sup> The Lithuanian situation consequently still seems to lead to the conclusion that, even though some legislation uses the term exclusive economic zone, no fundamental legislation establishing such a zone exists.<sup>27</sup>

The present treaty remains silent on this issue. It simply starts from the premise that both states have such a zone. In the Baltic the normal practice thus far has been, if two countries did not claim the same kind of zones this distinction is noted in

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20 Edict of 10 December 1976, *On Provisional Measures for the Preservation of the Living Resources and for the Regulation of Fishing in Marine Areas Adjacent to the Coast of the U.S.S.R.*, 50 VEDOMOSTI VERKHOVNOGO SOVETA S.S.S.R. (Communications of the Supreme Soviet of the U.S.S.R.) 728 (1976). For an English translation, see 15 ILM 1381 (1976).

21 A special enactment was issued for this purpose, namely the Decree of 24 March 1978, as mentioned by A. Volkov and K. Bekiashev, *LAW OF THE SEA AND FISHERIES* (in Russian) 215 (1980).

22 Edict of 28 February 1984, *On the Economic Zone of the U.S.S.R.*, 9 VEDOMOSTI VERKHOVNOGO SOVETA S.S.S.R. (Communications of the Supreme Soviet of the U.S.S.R.) 137 (1984). For an English translation, see United Nations, *The Law of the Sea: National Legislation on the Exclusive Economic Zone, the Economic Zone and the Exclusive Fishery Zone* (U.N. Sales No. E.85.V.10) 314–21 (1986).

23 See Kazimierz Grzybowski, *The New Soviet Law of the Sea*, 32 OSTEUROPA RECHT 163, 174 (1986).

24 Lithuanian Constitution, 25 October 1992, art. 47, available at <<http://www3.lrs.lt/cgi-bin/preps2?Condition1=21892&Condition2=>> (1 May 2001).

25 As listed in 39 LOS BULL. 52 (1999).

26 Law on Fisheries, 27 June 2000, art. 1 (3), available at <<http://www3.lrs.lt/c-bin/eng/preps2?Condition1=113091&Condition2=>> (1 May 2001).

27 This conclusion was already arrived at on the basis of a thorough analysis of the Lithuanian legal framework which existed prior to the establishment of the just mentioned law on fisheries of June 2000 (*supra* note 26). See the report written by the present author as legal consultant for the Food and Agriculture Organization of the United Nations, project number TPC/LIT/4452. Erik Franckx, REPORT PREPARED FOR THE GOVERNMENT OF LITHUANIA ON THE ELABORATION OF APPROPRIATE FISHERIES LEGISLATION, Rome, Food and Agriculture Organization, at 16 and 63 (preliminary version, 21 May 1995).

the delimitation agreement.<sup>28</sup> Such differences have not hindered the conclusion of agreements in the Baltic region.<sup>29</sup> The fact that the present treaty expressly states that it delimits the EEZ and continental shelf of both parties, therefore further strengthens the argument that Lithuania claims a 200 n.m. EEZ.

Finally, it appears noteworthy to stress that when the negotiations started in 1993, neither Lithuania nor Russia were a party to the 1982 LOS Convention. Only a few months before the present treaty was signed did Russia ratify the LOS Convention.<sup>30</sup> Nevertheless, the treaty includes a preamble reporting that they were “guided” by the LOS Convention and took into account “the existing international practice to delimit marine areas in order to arrive at an equitable result.”<sup>31</sup>

### 3 Economic and Environmental Considerations

The oil deposits which are believed to be located seaward of the Kursiu lagoon lie at the heart of the present delimitation agreement. Ever since Lithuania regained its independence during the early 1990s, every time the Russian Federation declared its intention to explore or exploit the presumed oil fields it triggered a strong Lithuanian reaction.<sup>32</sup>

The so-called Kravtsovskoye (D-6) oil field, located rather close to the coast, proved to be a difficult obstacle to overcome throughout the negotiations.<sup>33</sup> The

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28 This is done either by specifically stating which country is claiming what kind of zone (*see for instance Sweden-Soviet Union (1988), No. 10-9; or Finland-Sweden (1994), No. 10-13*), by simply placing the different maritime zones claimed next to one another (*see for instance Poland-Soviet Union (1985), No. 10-8; or Finland-Soviet Union (1985), No. 10-4(4)*), or by simply taking a generic term in the title of the agreement covering all zones concerned (*see for instance Estonia-Latvia (1996), No. 10-15; or Estonia-Finland (1996), No. 10-16*). *See in all these reports under Part II.2, Legal Regime Considerations*, for further details.

29 Erik Franckx, *Finland and Sweden Complete Their Maritime Boundary in the Baltic Sea*, 27 OCEAN DEV. & INT'L L. 291, 300 (1996). In one case parties even foresaw the establishment of an EEZ, even though none of the parties signing the agreement claimed such a zone at that time. *See German Democratic Republic-Poland (1989), No. 10-6(1), art. 5(2)*.

30 Russia ratified the 1982 LOS Convention on 12 March 1997.

31 Lithuania-Russia Treaty, Preamble.

32 *See for instance IZVESTIJA*, 1 March 1994, at 3, cols. 3-6 and *FINANSOVYE IZVESTIJA*, 12 September 1995, at 2, col. 1.

33 A Russian newspaper described this oil field as being located 15 km in front of the coast, with an estimated capacity of 10 million tonnes. Exploitation would be realized through the construction of an artificial island of 150 by 100 meters. *See FINANSOVYE IZVESTIJA*, 12 September 1995, at 2, col. 1. The depth of the waters in the area is around 30 meters. *See BALTIC NEWS SERVICE*, 21 August 1995, available at <gopher://namejs.latnet.lv> (30 March 1996). A map indicating the exact location of the oil field was kindly obtained on 3 May 2001 from the Lukoil-Kaliningradmorneft company. Map on file with the author.

period until early 1996 was characterized by the fact that negotiations were held in the shadow of Russian initiatives to establish a consortium with foreign partners in order to start the exploitation of the D-6 oil field.<sup>34</sup> But when the head of Lukoil announced during the month of April 1996 that his company planned to finance the exploitation of the D-6 oil field with its own funds, the situation changed since it meant that development would not be further delayed by the need to obtain foreign capital.<sup>35</sup> And even though the presidential elections in Russia during the month of June 1996 seem to have burdened the whole process, the negotiations gained momentum once again preceding an official visit of Lithuanian President A. Brazauskas to Moscow.<sup>36</sup>

Press reports suggest that Lithuania finally relinquished its claims to “a promising oil deposit in an undelimited section of the Baltic Sea shelf not far from the coastal resort of Nida.”<sup>37</sup> The understanding that Lithuania had renounced claims it might have had to this particular area facilitated the conclusion of the negotiations.<sup>38</sup> Indeed, the Russian newspaper *Izvestiia* inferred from unofficial sources that the *quid pro quo* was to grant Lithuania a sea corridor of about 1.1 n.m. to the middle of the Baltic Sea.<sup>39</sup> It avoided the threat of enclosure by the adjacent maritime

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34 For a detailed account of the negotiations held during this period, see Erik Franckx, *Maritieme afbakening in de oostelijke Baltische Zee: Internet en het wetenschappelijk onderzoek* (Maritime Delimitation in the Eastern Baltic Sea: Internet and Scientific Research), in OOST-EUROPA IN EUROPA: EENHEID EN VERSCHIEDENHEID 283-85 [Huldeboek aangeboden aan Frits Gorlé] (Pieter De Meyere, Erik Franckx, Jean-Marie Henckaerts, & Katlijn Malfliet eds., 1996).

35 For more details of this period, see Erik Franckx, *Maritime Boundaries in the Baltic, in BOUNDARIES AND ENERGY: PROBLEMS AND PROSPECTS* 275, 286-87 (Gerald Blake, Martin Pratt, Clive Schofield & Janet Allison Brown eds., 1998). Previous constructions had given the foreign partner a majority participation. See for instance the consortium plans between *Kalinigradmorneftegaz*, *Rosneft*, and two German partners, namely *RWE-DEA* and *Veba Oil*, where the division would have taken place according to a 15-25-30-30 per cent ratio respectively. *BALTIC BUSINESS WEEKLY*, 22-28 January 1996, available at <gopher://namejs.latnet.lv> (30 March 1996).

36 For a detailed account of the events starting from June 1996 and finally leading up to the conclusion of the treaty, see Franckx & Pauwels, *supra* note 8, at 66-72.

37 See *BALTIC NEWS SERVICE*, 17 September 1997, available at <gopher://namejs.latnet.lv> (15 December 1997).

38 See Franckx & Pauwels, *supra* note 8, at 74-75. In later press reports one can read: “Russia’s mass media regularly report that the oil deposit D-6 near Nida has been given to Russia, since Lithuania, according to Sidlauskas, has no claims on the site.” See *BALTIC NEWS SERVICE*, 27 October 1997, available at <gopher://namejs.latnet.lv> (15 December 1997). As also suggested in the Russian press, see *IZVESTIJA*, 24 October 1997, at 3, col. 1, 3.

39 *IZVESTIJA*, 24 October 1997, at 3, col. 3. This information was neither confirmed nor denied by the Lithuanian Minister of Foreign Affairs according to that same source (*id.*, col. 4). The State Border Delimitation and Demarcation Commission of that same ministry later confirmed that Lithuania had argued for a wider access to the Swedish maritime zones. With respect to the D-6 oil field, it was stated that Lithuania did not directly influence the boundary as it became evident that no matter what method would have been used, the D-6 oil field would still have fallen outside of the Lithuanian sector.

zones of Latvia and Russia, by securing Lithuania an opposite maritime boundary with Sweden.

Because of the possibility that gas and oil deposits might be found in the area delimited by the present treaty, this was the first treaty concluded during the fourth chronological group of agreements in the over-all Baltic Sea delimitation effort<sup>40</sup> containing a unity of deposits clause. In the over-all Baltic Sea practice, this clause is the exception, not the rule.<sup>41</sup> Compared to the other unity of deposits clauses in maritime boundary agreements in the Baltic Sea,<sup>42</sup> the formulation used in the present treaty is somewhat unique. It does not mention that negotiations can be initiated by either party, nor that they should be held prior to any exploitation.<sup>43</sup> The parties are only called upon to “strive to agree to settle any problems.” Other formulas of a more mandatory nature can be found in other Baltic agreements.

Fishery considerations did not influence the boundary. These aspects were dealt with by means of a separate agreement concluded in 1999.<sup>44</sup>

#### 4 Geographic Considerations

The coasts of both states in the area to be delimited are adjacent and characterized by the long and rather small Kursiu promontory. This is a typical feature of the southeastern Baltic Sea caused by the soft morainic composition of the coastline in combination with the mainly westerly winds and currents flowing eastward in

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Fax of 3 May 2001, on file with the author.

<sup>40</sup> See *supra* note 4 and accompanying text.

<sup>41</sup> Erik Franckx, *Baltic Sea Maritime Boundaries (Region X)*, *supra* at 363.

<sup>42</sup> See in chronological order: Finland-Sweden (1972), No. 10-3, attached Protocol; German Democratic Republic-Sweden (1978), No. 10-7, art. 3; Denmark-Sweden (1984), No. 10-2, art. 6; Denmark-German Democratic Republic (1988), No. 10-11, art. 3.

<sup>43</sup> This requirement of prior consultations is to be found in the German Democratic Republic-Sweden and Denmark-German Democratic Republic agreements, *supra* note 42. The Denmark-Sweden agreement does not contain such a requirement, it is true, but it should be remembered that this was the only instance so far where an actual dispute over a particular zone that was the subject of a license arose before the conclusion of the maritime boundary. As stressed in Franckx, *supra* note 15, at 2561. The inclusion of a similar requirement would therefore not have been very logical. This is not the case for D-6 oil field where exploitation is only planned to begin in 2003. Finally, as far as the last agreement mentioned in the previous note is concerned, namely the one between Finland and Sweden, the importance of such a clause appears minimal given the fact that the probability of ever running into such deposits in that area of the Baltic Sea are minimal at best. See Finland-Sweden (1972), No. 10-3, Part II.3, *Economic and Environmental Considerations*.

<sup>44</sup> Agreement between the Government of the Republic of Lithuania and the Government of the Russian Federation on the Co-operation in the Field of Fisheries, 29 June 1999, STATE NEWS, No. 15-386 (2000).

the area.<sup>45</sup> For example, a similar feature is present inside the Gulf of Gdansk area. When the former Soviet Union delimited its territorial sea during the late 1950s, and about a decade later its continental shelf with Poland in that region (Poland-Soviet Union (1958/1969), No. 10-8), the Bay of Wislany did not influence these agreements since the Baltiiskaya Kosa/Mierzeja Wislana formed the relevant coastline from which the delimitation was to be drawn.<sup>46</sup> Consequently, when the Russian Federation and Lithuania delimited their maritime areas, the Kursiu lagoon did not influence these negotiations, since the terminal point of the land boundary was apparently determined to be located on the Kursiu promontory.<sup>47</sup>

As in the Gulf of Gdansk area, therefore, the parties considered the promontory as the relevant coastline for the delimitation. Given the smooth curving nature of these geographical features in the southeastern Baltic Sea, the relevant coastline is quite symmetrical for both parties concerned.

### 5 Islands, Rocks, Reefs, and Low-Tide Elevations Considerations

No islands, rocks, reefs, or low-tide elevations are present. The only special geographic feature in the area is the Kursiu promontory which the parties considered to represent the relevant coastline for the delimitation (*see supra*, Part II.4, *Geographic Considerations*).

### 6 Baseline Considerations

Systems of straight baselines did not influence the maritime boundary delimitation. The Russian Federation had not established a system of straight baselines in the Kaliningrad region.<sup>48</sup> Because of the general smooth curves of the coastlines in

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45 VICTOR PRESCOTT, *THE MARITIME POLITICAL BOUNDARIES OF THE WORLD* 227 (1985).

46 On this promontory the terminal point of the Polish-Soviet state frontier was located. *See* Protocol between the Government of the Polish People's Republic and the Government of the Union of Soviet Socialist Republics Concerning the Delimitation of Polish and Soviet Territorial Waters in the Gulf of Gdansk of the Baltic Sea, 18 March 1958, art. 1, *reprinted in* Poland-Soviet Union (1958), No. 10-8.

47 Lithuania-Russia (1997), No. 10-18(2), Part II.2, *Legal Regime Considerations*.

48 The former Soviet system of straight baselines in the Baltic Sea, as established in 1985, stopped well north of the area here under consideration, namely at Ovisi lighthouse, Latvia. *See* Decree of 15 January 1985, On the Confirmation of a List of Geographic Coordinates Determining the Position of the Baseline in the Arctic Ocean, the Baltic Sea and Black Sea from which the Width of the Territorial Waters, Economic Zone and Continental Shelf of the U.S.S.R. is Measured, 1 (Annex) IZVESHCHENIIA MORE-PLAVATELIAM 37 (1986) (it concerns point 32). *See in* Estonia-Latvia (1996), No. 10-15, at Part II.6,

this southeastern part of the Baltic Sea, the Soviet system of straight baselines did not include the Lithuanian coast. Nevertheless, when Lithuania regained its independence, a law on the state boundary was promulgated in which it was stated that the “extent of the territorial sea shall be measured from the straight line drawn between the two outermost points of the shoreline.”<sup>49</sup> A governmental decision of 1994 subsequently defined these two outermost points of the shorelines by providing concrete coordinates, i.e. the coast near Palanga in the north and the terminal point of the land border with Russia on the west coast of the Kursiu promontory on the other.<sup>50</sup> This line did not, however, influence the present boundary agreement.

### 7 Geological and Geomorphological Considerations

No particularly significant seabed features are found in the area that might have justified consideration in the delimitation. The Lithuanian and Russian coasts are not markedly different in extent and broadly similar in their relation to that shelf. Since the latter is moreover a geological continuum in the area, no geological distinctions could be made.

### 8 Method of Delimitation Considerations

The delimitation was guided by the equidistance method. Because the Kursiu promontory forms almost a perfect arc of a circle, the parties seem to have relied on construction lines in order to determine the general direction of the coast. The relevant starting points of these construction lines were not located on the Kursiu promontory but rather on the Lithuanian and Russian mainland coasts proper. Since the parties had different views on how to determine the general direction of the coast, two such construction lines were apparently relied upon. A first such construction line (hereinafter line A), closest to the terminal point of the land border, appears to have been drawn between the mainland coast of Lithuania opposite the northern

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*Baselines Considerations, and Part II.1, Political, Strategic, and Historical Considerations.*

49 Law on the State Border of the Republic of Lithuania, 25 June 1992, art. 4, available at <<http://www3.lrs.lt/c-bin/eng/preps2?Condition1=21157&Condition2=>> (1 May 2001). This article further stated: “The geographical coordinates of these points shall be approved by the Government of the Republic of Lithuania. An international agreement of the Republic of Lithuania may establish a different limit of the territorial sea of the Republic of Lithuania.”

50 Decision No. 162 of 10 March 1994, On the Establishment of the Territorial Sea of the Republic of Lithuania, STATE NEWS, No. 20-327 (1994). The following coordinates are provided: For the northern point 55°55'12.8" N and 21°03'01.1" E, and for the southern point 55°16'51.6" N and 20°57'21.9" E.

extremity of the Kursiu promontory near Klaipeda and Cape Gvardeiskii<sup>51</sup> on the Russian one. A second such line (hereinafter line B) apparently was drawn further out at sea, linking the salient feature of the coast near Palanga on the Lithuanian mainland coast with Cape Taran on the Russian one. On the bases of the lines so constructed, two perpendiculars seem to have been drawn starting from the respective midpoints of lines A and B.

If line A is more advantageous for Lithuania, line B tends to allocate more maritime space to Russia. These lines do not run parallel to one another and tend to diverge more further out at sea. The segment between points 1 and 2 rather follows the same general direction as that of the perpendicular of line B. The general direction of the second segment, i.e. between points 2 and 3, in turn is linked to that of the perpendicular constructed on the basis of line A.

These remarks corroborate the underlying compromise that governed this delimitation, namely that Lithuania gained maritime areas further out at sea in return for not pressing its claim concerning the D-6 oil field closer to shore (*see supra*, Part II.3, *Economic and Environmental Considerations*).

Contrary to the bilateral state practice of Estonia and Latvia (Estonia-Latvia (1996), No. 10-15, Part II.8, *Method of Delimitation Considerations*), and the later one by Latvia and Lithuania (Latvia-Lithuania (1999), No. 10-20, Part II.8, *Method of Delimitation Considerations*), the terminal point of the last segment close to Sweden's economic zone is simply provided without giving any express indication of the direction to be taken from there.

### 9 Technical Considerations

The lines connecting the different turning points are loxodromes, i.e. straight lines. Two sets of coordinates are provided for the three turning points, one using the World Geodetic System 1984 (WGS-84) relied upon by Lithuanian charts, and the other using the so-called system of coordinates of 1942, on which the Russian maritime charts are still based.<sup>52</sup> This is the only exception to the settled practice in the Baltic Sea that all maritime boundary agreements concluded since the 1990s have used WGS-84 as a single common standard (Estonia-Sweden (1998), No. 10-19, Part II.9, *Technical Considerations*). Only Russia continues to rely on an older system, requiring the use of two sets of coordinates as well as two different charts.

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51 This terminology corresponds with Cape Gvardeyskiy according to the spelling approved by the US Board on Geographic Names.

52 It is assumed that the datum referenced in the treaty is the Pulkovo 1942 datum.



But, both sets of geographical coordinates define the same location on the earth's surface.

The charts appended to the agreement form an integral part to the treaty. This is rather exceptional when compared with the other delimitation agreements recently concluded in this area.<sup>53</sup> The present treaty, as well as the one on the land border concluded on the same day, might have been characterized in the press by their rather succinct nature, they were also said to have been accompanied by many maps.<sup>54</sup> This partly explains the enhanced value attached to these charts. Nevertheless, the treaty also provides that if a discrepancy were to occur between the line determined according to the geographic coordinates on the one hand, and the line depicted on the charts on the other, the one based on the text of the agreement will prevail.

### 10 Other Considerations

This is only the second agreement belonging to the fourth chronological group in the overall Baltic Sea delimitation effort,<sup>55</sup> which has only been drawn up in the respective languages of the parties.<sup>56</sup> All the others have included an English language official text which is to prevail in case of a divergence of interpretation.<sup>57</sup>

The official text of the agreement only became part of the public domain during the month of October 1999, when Lithuania included this treaty in its parliamentary papers when completing its ratification procedure.<sup>58</sup>

This is only the second time in the Baltic Sea state practice since the Second World War, that a dispute settlement provision was included in a maritime delimita-

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53 All the agreements concluded in the Baltic Sea area since 1990 to which charts were appended, i.e. all except the tripoint agreements, refer only to the latter document for illustrative purposes. See in chronological order: Finland-Sweden (1994), No. 10-13; Estonia-Latvia (1996), No. 10-15; Estonia-Finland (1996), No. 10-16; Estonia-Sweden (1998), No. 10-19; Latvia-Lithuania (1999), No. 10-20; at Part II.9, *Technical Considerations*.

54 See Franckx & Pauwels, *supra* note 8, at 73.

55 See *supra* note 4 and accompanying text.

56 For the other agreement, see Estonia-Finland (1996), No. 10-16.

57 See Estonia-Latvia (1996), No. 10-15; Estonia-Latvia-Sweden (1997), No. 10-17; and Estonia-Sweden (1998), No. 10-19; Latvia-Lithuania (1999), No. 10-20; and Estonia-Finland-Sweden (2001), No. 10-21, Part II.10, *Other Considerations*. The latter was even exclusively drafted in the English language.

58 See *supra* notes 1 and 19 and accompanying text. Even though the parties had taken the position that they would only reveal the exact content of the treaty at the time of ratification (see Franckx & Pauwels, *supra* note 8, at 72), a Lithuanian newspaper was nevertheless able to publish it on 13 December 1997 as the result of a leak attributed to the Foreign Affairs Committee of the Lithuanian Seimas. See Franckx, *supra* note 1, at 279.

tion agreement.<sup>59</sup> Contrary to the previous one, however, it only specifically mentions consultations and negotiations without any reference to other possible means of peaceful settlement provided by international law.

### III CONCLUSIONS

This agreement establishes a single maritime boundary between the parties dividing their EEZ and continental shelves. Following a longstanding practice in the Baltic Sea, the western tripoint is left unresolved by the parties. It is expected that this remaining point will be settled by means of direct trilateral negotiations in the future with Sweden.

It is the first maritime boundary agreement concluded after the dissolution of the former Soviet Union in which non-living natural resources formed the crux of the problem. The latter is reflected in the presence of a unity of deposits clause in the treaty. Nevertheless, considerations related to these resources have only indirectly influenced the location of the maritime boundary, for the latter was based on an equidistant line. Because the Russian Federation was primarily interested in the rapid exploitation of the Kravtsovskoye oil field located close to the coast, the first segment of the boundary seems to have been guided by the Russian method of drawing the perpendicular to the general direction of the coast. Lithuania, on the other hand, strongly sought a corridor to the middle of the Baltic Sea without being enclosed by the maritime zones of Latvia and Russia. The second segment created this corridor by relying on the Lithuanian view on how the perpendicular to the general direction of the coast was. It therefore appears to be located south of the hypothetical equidistant line, especially at its western extremity. Despite this latter fact, the terminal point of the present treaty was still considered by Latvia at that time to run into a zone which formed the object of conflicting claims between this country and Lithuania.<sup>60</sup>

Fishery considerations, on the other hand, were resolved by means of a special agreement, concluded about two years later. As is reported in Latvia-Lithuania

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59 For the first such agreement, see Estonia-Latvia (1996), No. 10-15, Part II. 10, *Other Considerations*. Abstraction is made of the Agreement between the Government of the Kingdom of Sweden and the Government of the Union of Soviet Socialist Republics on Mutual Relations in the Fishery Sector in the Area Formerly Disputed in the Baltic Sea, 18 April 1988, art. 2, see Sweden-Soviet Union (1988), No. 10-9, *supra*, at 2068, 2072. The latter agreement was indeed a fishery agreement, which was attached to a maritime delimitation agreement concluded on the same day.

60 See Franckx, *supra* note 4, at 264.

(1999), No. 10-20, this proved to be an important precedent on which Lithuania could rely in its relations with Latvia.

The entry into force of this agreement, together with the one on the state border concluded the same day (Lithuania-Russia (1997), No. 10-18(2)), caused significant problems in Russia. The Russian Duma has so far not ratified the treaty. Even though positive signs exist at present that this situation might well change, it cannot be denied that this contrasts sharply with the constant practice since World War II in the Baltic Sea that maritime delimitation agreements enter into force at the latest during the year following their signature. This concerns more than 20 agreements over-all. Only one single exception exists to this rule prior to the conclusion of the present treaty,<sup>61</sup> namely the 1965 Protocol relating to the continental shelf adjacent to the coasts of the Baltic Sea to the Agreement between the Kingdom of Denmark and the Federal Republic of Germany Concerning the Delimitation, in Coastal Regions, of the Continental Shelf of the North Sea (Denmark-Federal Republic of Germany (1965), No. 10-1, Part II.1, *Political, Strategic, and Historical Considerations*), which only entered into force in 1977. It remains to be seen whether the present agreement will take that long to enter into force.

#### IV RELATED LAW IN FORCE

##### A. Law of the Sea Conventions

Lithuania: Acceded only to the 1958 Geneva Convention on the Territorial Sea and the Contiguous Zone on 31 January 1992; not a party to the 1982 LOS Convention.

Russia: Ratified the Convention on the Continental Shelf on 22 November 1960; ratified the 1982 LOS Convention on 12 March 1997.

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61 As already alluded to. See Franckx, *supra* note 41, at 347, note 7. This covers the period until 1990. For later developments, see Reports 10-13 and 10-15 to 10-17 which all conform to this practice. Report 10-14, it should be remembered, concerns a regional update. It should nevertheless be noted that the next agreement to be signed in the Baltic Sea would form a second exception to this rule, be it of a lesser extent: Having been signed on 20 November 1998, that agreement only entered into force on 26 July 2000. See Estonia-Sweden (1998), No. 10-19. Also of the agreement concluded between Latvia and Lithuania in 1999 it can already be stated with certainty that it will form another exception, since this agreement had not yet entered into force at the time of writing (May 2001). See Latvia-Lithuania (1999), No. 10-20.

*B. Maritime Jurisdiction Claimed at the Time of Signature*

Lithuania: 12 n.m. territorial sea; 200 n.m. EEZ (implicit in the agreement).

Russia: 12 n.m. territorial sea; 200 n.m. continental shelf and/or the outer edge of the continental margin; 200 n.m. economic zone.

*C. Maritime Jurisdiction Claimed Subsequent to Signature*

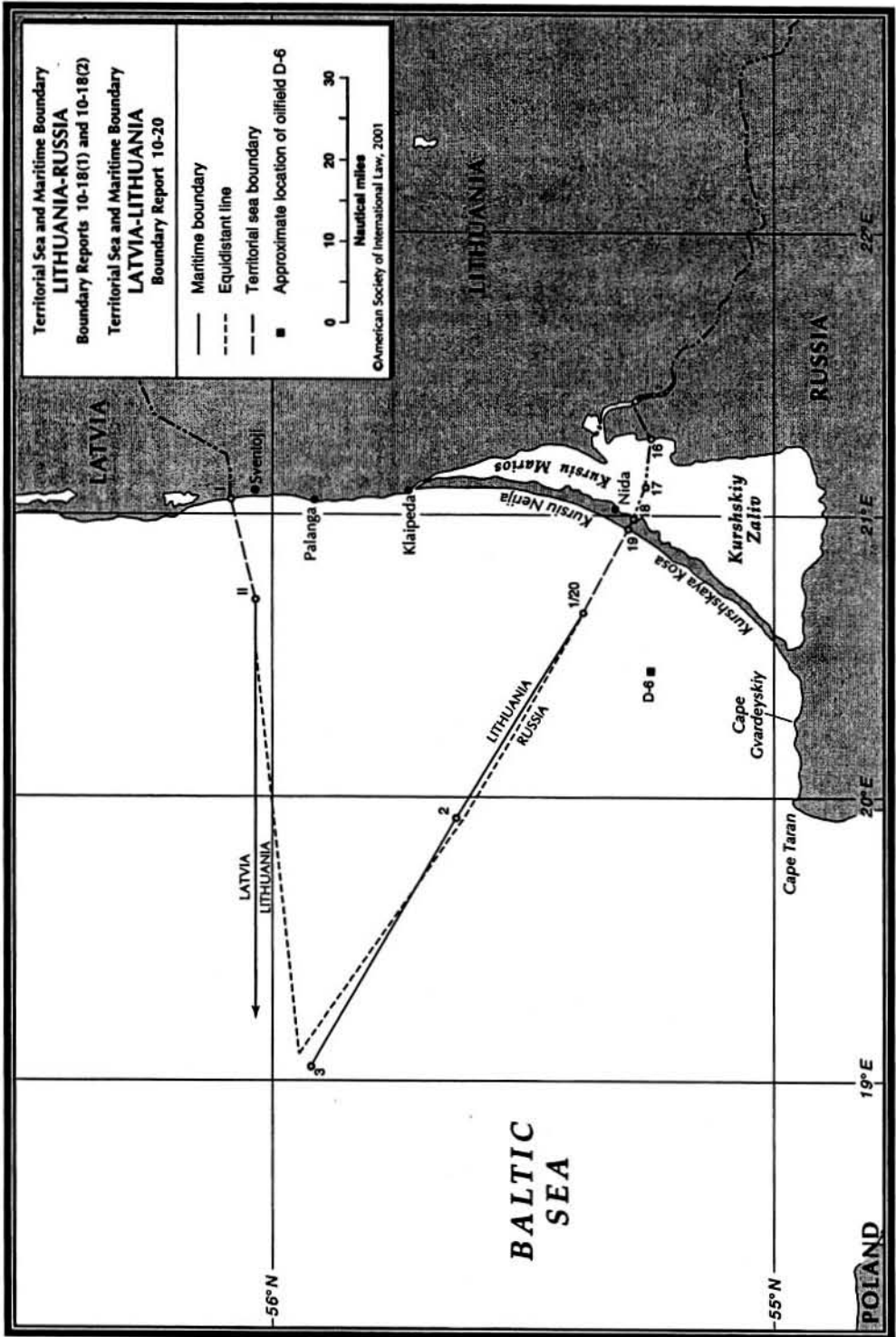
Lithuania: No change.

Russia: No change.

## V REFERENCES AND ADDITIONAL READINGS

- Erik Franckx, *Maritieme afbakening in de oostelijke Baltische Zee: Internet en het wetenschappelijk onderzoek* (Maritime Delimitation in the Eastern Baltic Sea: Internet and Scientific Research), in *OOST-EUROPA IN EUROPA: EENHEID EN VERSCHIEDENHEID* 275 [HULDEBOEK AANGEBODEN AAN FRITS GORLÉ](Pieter De Meyere, Erik Franckx, Jean-Marie Henckaerts, & Katlijn Malfliet eds., 1996).
- Erik Franckx, *Maritime Boundaries in the Baltic*, in *BOUNDARIES AND ENERGY: PROBLEMS AND PROSPECTS* 275 (Gerald Blake, Martin Pratt, Clive Schofield, & Janet Allison Brown eds., 1998).
- Erik Franckx, *Maritime Boundaries in the Baltic: Post-1991 Developments*, 28 *GA. J. INT'L. & COMP. L.* 249 (2000).
- Erik Franckx, *Two More Maritime Boundary Agreements Concluded in the Eastern Baltic Sea in 1997*, 13 *INT'L J. MAR. & COASTAL L.* 274 (1998).

*Prepared by Erik Franckx*



**Treaty between the Republic of Lithuania and the Russian Federation on the Delimitation of the Exclusive Economic Zone and the Continental Shelf in the Baltic Sea**

[Unofficial translation]

The Republic of Lithuania and the Russian Federation, hereinafter referred to as the Parties,

Guided by the desire to deepen and broaden the good-neighbourly relations between them in accordance with the provisions and principles of the Charter of the United Nations Organization and affirming the adherence to the obligations undertaken in the framework of the Organization for Security and Cooperation in Europe,

Proceeding from the provisions of the Treaty on the Bases on Interstate Relations between the Republic of Lithuania and the Russian Soviet Federative Socialist Republic of 29 July 1991 and the Agreement between the Republic of Lithuania and the Russian Soviet Federative Socialist Republic on the Cooperation with respect to the Economic and Socio-cultural Development of the Kaliningrad Region of the RSFSR of 29 July 1991,

Considering the mutual aspiration of the Parties to secure the protection and the rational use on the natural resources as well as other interests in the maritime areas adjacent to their coasts in accordance with international law,

Guided by the United Nations Convention on the Law on the Sea of 1982.

Aspiring to delimit the exclusive economic zone and continental shelf between the Republic of Lithuania and the Russian Federation,

Taking into account the existing international practice to delimit marine areas in order to arrive at an equitable result,

Have agreed the following:

3074 Report Number 10-18 (1)

### *Article 1*

The line of delimitation on the exclusive economic zone and the continental shelf between the Republic of Lithuania and the Russian Federation starts from the junction point of the outer limit of the territorial sea of the Parties and continues to the junction point of the exclusive economic zone and the continental shelf of a third party by means of straight lines (loxodromes) that join points whose sequence and geographical coordinates are indicated in article 2 of the present Treaty.

The geographical coordinates of the points of the above-mentioned line are calculated in the World Geodetic System of coordinates of 1984 (WGS 84), applied on Lithuanian maritime chart No. 82001, published in 1996, and in the system of coordinates of 1942, applied on the Russian maritime chart No. 22055, published in 1997.

The above-mentioned maritime charts with the plotted line of delimitation of the exclusive economic zone and continental shelf between the Republic of Lithuania and the Russian Federation are appended to the present Treaty and are an integral part of it.

### *Article 2*

The geographical coordinates of the points mentioned in article 1 of the present Treaty are the following:

In the system of coordinates WGS 84 the points:

1. 55° 23,040'N. lat.      20° 39,227'E. long.
2. 55° 38,175'N. lat.      19° 55,466'E. long.
3. 55° 55,420'N. lat.      19° 02,805'E. long.

In the system of coordinates 1942 the points:

1. 55° 23,053'N. lat.      20° 39,243'E. long.
2. 55° 38,189'N. lat.      19° 55,583'E. long.
3. 55° 55,435'N. lat.      19° 02,923'E. long.

The geographical coordinates of the junction point of the line mentioned in article 1 of the present Treaty, with the boundary of the exclusive economic zone and continental shelf of a third party, will be defined with the latter's participation.

If a discrepancy occurs between the line determined according to the geographic coordinates established in the present article and the line depicted on the charts, appended to the present Treaty, the Parties will be guided by the above-mentioned geographic coordinates.

### *Article 3*

If the line delimiting the exclusive economic zone and the continental shelf intersects an oil and/or gas deposit, the Parties shall strive to agree to settle any problems arising out of such deposits according to generally recognized international law rules and principles based on the rights of each Party to the natural resources of the exclusive economic zone and the continental shelf.

### *Article 4*

Any dispute between the Parties arising out of the implementation of the present Treaty shall be settled by consultations or negotiations according to international law.

### *Article 5*

The present Treaty shall be subject to ratification and shall enter into force on the day on which the instruments of ratification are exchanged.

DONE at Moscow on 24 October 1997 in duplicate in the Lithuanian and Russian languages, each text being equally authentic.

For the Republic of Lithuania

For the Russian Federation



## Bulgaria–Turkey

*Report No. 8-13*

**Agreement Between the Republic of Turkey and the Republic of Bulgaria  
on the Determination of the Boundary in the Mouth Area of the  
Mutludere/Rezovska River and Delimitation of the Maritime Areas  
Between the Two States in the Black Sea.**

*Done:* 4 December 1997

*Entered into force:* 4 November 1998

*Published at:* T.C. Resmî Gazete (Official Gazette), No. 23409 of 21  
July 1998 (Turkish and English)  
38 LOS BULL. 62 (1998)

### I SUMMARY

The agreement delimited the maritime boundary in the Begendik/Rezovo Bay and beyond that the territorial sea, the continental shelf, and the exclusive economic zone boundaries of the contracting states. Seaward of the bay the lateral maritime boundary is a simplified equidistant line.

### II CONSIDERATIONS

#### *1 Political, Strategic, and Historical Considerations*

The Bulgarian-Turkish land boundary to the mouth of the Mutludere/Rezovska River was delimited by the Istanbul Peace Agreement<sup>1</sup> and this was confirmed by the

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<sup>1</sup> Istanbul Peace Agreement, 29 September 1913, 7 Düstur Tertip-i Sâni (Laws and Rules of the Ottoman Empire) 25, reprinted in NİHAT ERİM, DEVLETLERARASI HUKUK VE SİYASİ TARİH METİNLERİ, CILT I (Osmanlı İmparatorluğu Andlaşmaları), Ankara 1953, at 457.

Lausanne Peace Agreement.<sup>2</sup> At the mouth of the river the land boundary ends at a point equidistant from the two states' shores. That serves as the initial point for the maritime boundary. But, due to accretion and avulsion of the shores, for decades the parties could not agree on the location of that point. The location of this point and the delimitation of the maritime boundary in the area was made more difficult due to changes in the claim to territorial seas by the parties from 3 to 12 nautical miles (n.m.) (Bulgaria in 1951 and Turkey in 1964) and in other maritime zones.

After the dissolution of the communist regime in Bulgaria, the parties established close and sincere relations which resulted in the conclusion on 6 May 1992 of The Treaty of Friendship, Good-Neighbourliness, Co-operation and Security.<sup>3</sup> That led to the negotiation of the maritime boundary agreement of 1997 to further develop the existing spirit of co-operation between the parties and to establish a precise and equitable delimitation of their respective maritime areas (territorial sea, continental shelf, and exclusive economic zone (EEZ) in the Black Sea.

## 2 Legal Regime Considerations

Bulgaria's claim to a 12 n.m. territorial sea in the Black Sea was first made in 1951. Turkey's claim to a 12 n.m. territorial sea for the Black Sea was made in 1964.<sup>4</sup> It should be noted that Turkey also claims a territorial sea of 12 n.m. off its Mediterranean coastline, but limits its territorial sea to 6 n.m. in the Aegean.<sup>5</sup>

The parties established the initial boundary point at the mouth area of the Mutludere/Rezovska River. From this point to an agreed closing line at the mouth area of the Begendik/Rezovo Bay, the parties established geodetic straight lines to delimit their respective internal waters within the Bay. The initial point of the territorial sea boundary is located at 41° 58' 48.5" N., 28° 02' 15.8" E. on the closing line delimiting the internal waters of the Bay from the sea. Seaward of the Bay

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2 Treaty of Lausanne, 24 July 1923, 28 L.N.T.S. 12, *reprinted in* 18 AM. J. INT'L L. 4 (Supp. 1924).

3 T.C. Resmî Gazete (Official Gazette), No. 22252 of 8 April 1995.

4 Law No. 476 of 15 May 1964, T.C. Resmî Gazete (Official Gazette), No. 11711 of 24 May 1964, *reprinted in* National Legislation and Treaties Relating to the Territorial Sea, The Contiguous Zone, The Continental Shelf, The High Seas and Fishing and Conservation of the Living Resources of the Sea, UN Doc. ST/LEG/SER.B/15, at 128-29 (1970).

5 Law No. 2674 of 20 May 1982, T.C. Resmî Gazete (Official Gazette), No. 17708 of 29 May 1982, *reprinted in* The Law of the Sea, National Legislation on the Territorial Sea, The Right of Innocent Passage and Contiguous Zone, UN Sales No. E.95.V.7, at 385 (1995); and Decree No. 8/4742 of 29 May 1982, T.C. Resmî Gazete (Official Gazette), No. 17708 Supp. of 29 May 1982, *reprinted in* The Right of Innocent Passage and Contiguous Zone, *supra* at 386.

closing line, the boundary line continues through a geodetic line to the co-ordinates of 41° 58' 52.8" N., 28° 02' 25.2" E. and then, through loxodromes, it follows the geographical parallel 41° 58' 52.8"N. until it meets the terminal point, 41° 58' 52.8" N., 28° 19' 25.8" E., at the 12 n.m. limit of the two states' territorial sea. Seaward of that terminal point of the territorial seas, the 1997 agreement delimits the maritime boundary of Bulgaria's and Turkey's continental shelves and exclusive economic zones by a single line. Thus, the boundary line continues in a north-east direction by geodetic lines joining the turning points of the agreed co-ordinates.

Through this agreement the parties not only ended a long-standing dispute, but also displayed a spirit of co-operation and good-neighbourliness. In addition they also agreed to settle disputes that might arise from the interpretation or implementation of this agreement through the peaceful methods identified in article 33 of the UN Charter.

### *3 Economic and Environmental Considerations*

The parties established a common navigation sector within the Begendik/Rezovo Bay to enable ships flying their flag to navigate easily to and from the river mouth. As agreed by the parties, ships that cross the boundary line within the established sub-sectors are not considered to have violated this agreement. For the same reason, the maritime area at the north-eastern part of the bay, that remains under Bulgarian sovereignty as internal waters, not only serves the goal of equity but also permits easy navigation through the Bulgarian internal waters.

In general, the coastal waters of the two states in the delimited area contain valuable living natural resources that will become even more valuable if they are not polluted by the waters of the Danube. But the location of valuable living and non-living natural resources within the delimited area did not in principle play a role in the location of the boundary line.

### *4 Geographic Considerations*

The land territory has changed by accretion or avulsion at the mouth area of the Mutludere/Rezovska River. This changed the length of the coasts of the riparian states and the natural configuration of the Begendik/Rezovo Bay, and as a result affected the delimitation within the Bay.

The lateral boundary was delimited between the parties in the concave coast of Begendik/Rezovo Bay. The coastlines within the Bay are relatively even and

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there are no islands or islets within it and no major protrusions exist on either state's coastline. Consequently, an international maritime boundary line based on equidistance was likely to produce equitable results, without calling for any significant adjustment in the line or application of other methods of delimitation.

### *5 Islands, Rocks, Reefs, and Low-Tide Elevations Considerations*

There are no islands or similar features in the region.

### *6 Baseline Considerations*

A closing line is used at the Begendik/Rezovo Bay using the entrance points of Rezovo Cape, in the north, and Begendik Cape in the south. This closing line is approximately 1.2 n.m. in length, and closes the internal waters of the Bay from the territorial sea of the two parties.

### *7 Geological and Geomorphological Considerations*

The waters in the western part of the Black Sea are not as deep as in those in the east and for this reason the natural prolongation of the continental shelf is relatively larger than the prolongation of the shelf from the countries in the eastern part of the Black Sea. But, despite this geological and geomorphological reality, the boundary of the continental shelf immediately beyond the outer limit of the territorial sea runs through waters whose depths are 1,000 meters and later 2,000 meters and more.

Geological and geomorphological considerations do not appear to have influenced the location of the boundary line.

### *8 Method of Delimitation Considerations*

The delimitation within the Begendik/Rezovo Bay, taking into account the length and the general configuration of the coast, is based on the principle of equity and equitable delimitation. The boundary of the territorial sea, the continental shelf and the EEZ – which are based on a single boundary line – is based in principle on a simplified equidistant line to produce a just and equitable delimitation in the Black Sea.

In principle, during delimitation, emphasis is given to equity and to using an equidistant line for reaching an equitable settlement. The acceptance of the geographical parallel 41° 58' 52.8" N. as the lateral boundary line of the 12 n.m. territorial sea until it meets with co-ordinates of 41° 58' 52.8" N., 28° 19' 25.8" E., is against the interests of Turkey. By agreeing to this boundary line, Turkey seems to accept the Bulgarian practice based on Act No. 2210. The loss of territory by Turkey in this territorial sea area is compensated at the continental shelf and exclusive economic zone boundary by the area lying between the co-ordinates of 42° 14' 28" N., 29° 20' 45" E.; 42° 26' 24" N., 29° 34' 20" E.; and 42° 29' 24" N., 29° 49' 36" E.

### *9 Technical Considerations*

The boundary in the Begendik/Rezovo Bay is shown on a map mutually adopted in 1983, at the scale of 1:10,000, and attached to the agreement as Annex 4. The boundary lines of the territorial sea, the continental shelf, and the EEZ are shown on Bulgarian Maritime Chart No. 5001 (scale 1:500,000, ed. 1981) and on Turkish Maritime Chart No. 10-A (Scale 1: 750,000, ed. 1993). These charts constitute integral parts of the agreement as Annexes 5A and 5B. The lateral boundary line of the territorial sea begins from the point 41° 58' 48.5" N., 28° 02' 15.8" E. and then continues through geodetic lines up to 41° 58' 52.8" N., 28° 02' 25.2" E. Then it follows the geographic parallel 41° 58' 52.8" N. through loxodromes until this line meets 41° 59' 52" N., 28° 19' 26" E. at the 12 n.m. limit of the territorial sea.

The seaward limit of this maritime boundary would end at a tri-point between Bulgaria, Turkey, and Romania. Until such time as the three reach agreement on this point, the Bulgaria-Turkey terminal point will remain undefined.

The co-ordinates in the agreement are expressed in terms of the World Geodetic System 1984 (WGS '84) except for the point 41° 58' 48.5" N., 28° 02' 15.8" E., which is the initial boundary point for measuring the breadth of the territorial sea located on a closing line on the Mercator projection drawn between the points of Rezova Cape in the north (41° 59' 05" N., 28° 02' 11" E), and Begendik Cape in the south (41° 57' 45" N., 28° 02' 35"E.), which are the entrance points of the Begendik/Rezovo Bay. Those were the mutually agreed points by the parties in 1983 and were marked on a 1/10,000 scale chart, based on the Krassovksy ellipsoid on the Bulgarian side and on an ED-50 datum as the median latitude  $\varphi = 41^\circ 59' 00''$ .

### *10 Other Considerations*

None.

## III CONCLUSIONS

The agreement concerning the delimitation of the maritime areas between the two adjacent countries is based on a simplified equidistant line to produce an equitable and just delimitation.

## IV RELATED LAW IN FORCE

### *A. Law of the Sea Conventions*

**Turkey:** A party neither to any of the 1958 Conventions nor to the 1982 LOS Convention.

**Bulgaria:** Party to the 1958 Convention on the Territorial Sea and the Contiguous Zone, the 1958 Convention on the High Seas, and the 1958 Convention on the Continental Shelf, since 31 August 1962. Bulgaria became a party to the 1982 LOS Convention on 15 May 1996.

### *B. Maritime Jurisdiction Claimed at the Time of Signature*

**Turkey:** 6 n.m. territorial sea, but 12 n.m. in the Black Sea and in the Mediterranean Sea (Law No. 2674 of 20 May 1982 and Decree No. 8/4742 of 29 May 1982). Turkey also has an EEZ only in the Black Sea up to 200 n.m. (Decree No. 86/11264 of 5 December 1986).

**Bulgaria:** 12 n.m. territorial sea; 24 n.m. contiguous zone; and a continental shelf to the limits of the natural prolongation of its land territory (Act No. 2210 of 8 July 1987). In addition, Bulgaria, with this act, approved its previous declaration of its EEZ (Decree No. 77 of 7 January 1987) extending up to 200 n.m.

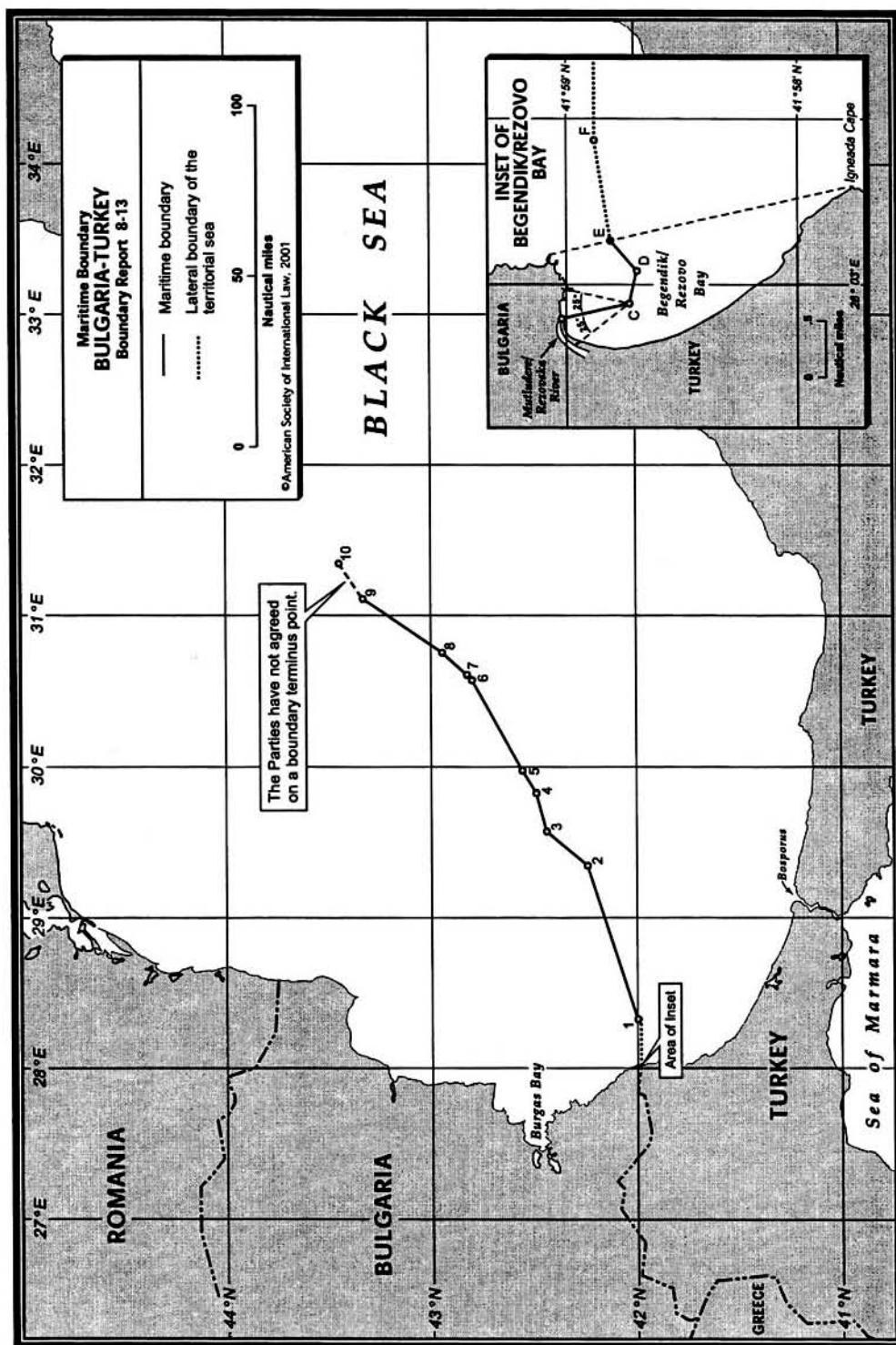
### *C. Maritime Jurisdiction Claimed Subsequent to Signature*

**Turkey:** No change.

*Bulgaria–Turkey 2877*

**Bulgaria:** Act No. 2210 of 8 July 1987 was repealed by an act adopted by the Bulgarian Parliament on 28 January 2000, promulgated in the State Gazette of 11 February 2000. This new act (Act No. 24/2000) did not change the limits of the Bulgarian maritime areas.

*Prepared by Yuksel Inan*





**Agreement Between the Republic of Turkey and the Republic of Bulgaria  
on the Determination of the Boundary in the Mouth Area of the  
Mutludere/Rezovska River and Delimitation of the Maritime Areas  
Between the Two States in the Black Sea.**

The Republic of Turkey and the Republic of Bulgaria, hereinafter referred to as “the Parties”,

*Desiring* to further develop the existing cooperation based on the Treaty on Friendship, Goodneighbourliness, Cooperation and Security between the Republic of Turkey and the Republic of Bulgaria, signed at Ankara on 6 May 1992,

*Having decided* to determine the boundary in the mouth area of the Mutludere/Rezovska River between the Parties and to ensure free outflow of its waters into the sea, and taking into account all relevant circumstances to establish a precise and equitable delimitation of their respective maritime areas in the Black Sea in which the Parties exercise sovereignty, sovereign rights or jurisdiction in accordance with applicable rules of international law,

*Taking into account* the willingness of the Parties to achieve just and mutually acceptable solutions to the above-mentioned issues through constructive negotiations, and in the spirit of good-neighbourly relations,

*Convinced* that this Agreement will contribute to the strengthening of the relations and encourage further cooperation between the Parties in the interest of their peoples,

Have agreed as follows:

*Article 1*

The boundary in the mouth area of the Mutludere/Rezovska River

1. The mouth area of the Mutludere/Rezovska River is defined as that between the line joining the point  $x=4978\text{m}$  and  $y=7836\text{m}$  on the Turkish bank with the point  $x=5071\text{m}$  and  $y=7842\text{m}$  on the Bulgarian bank and where the river flows into the Begendik/Rezovo Bay.

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2. The boundary between the Republic of Turkey and the Republic of Bulgaria in the mouth area of the Mutludere/Rezovska River shall follow the median line within the river bed/channel (measured at mean sea level), fixed after its clearing and refashioning.
3. The initial boundary point in the mouth area of the Mutludere/Rezovska River shall have the rectangular coordinates  $x=5025m$  and  $y=7839m$ , and the terminal boundary point in the mouth of the river shall have the rectangular coordinates  $x=5324m$  and  $y=8339m$ , determined on the Plan of the mouth area of the Mutludere/Rezovska River, scale 1:1000, mutually adopted in September 1992 (Annex 3 to this Agreement). The terminal boundary point in the river mouth constitutes the terminal point of the land boundary between the Parties.
4. The Parties shall ensure the free outflow of the river water into the Bay on the basis of a joint engineering project which shall be prepared in accordance with provisions set up in annex 1 to this Agreement.

## *Article 2*

### The maritime boundary in the Begendik/Rezovo Bay

I. The maritime boundary between the Republic of Turkey and the Republic of Bulgaria in the Begendik/Rezovo Bay starts from the terminal land boundary point in the river mouth with coordinates as determined in article 1, paragraph 3, of this Agreement. From that point the maritime boundary continues through points with coordinates:

Point "C"	$41^{\circ} 58' 43.6''N$ and $28^{\circ} 01' 53.3''E$
Point "D"	$41^{\circ} 58' 41.5''N$ and $28^{\circ} 02' 05.1''E$
Point "E"	$41^{\circ} 58' 48.5''N$ and $28^{\circ} 02' 15.8''E$ , which is established on the baseline closing the internal waters of the Bay from the sea.

The Parties agree to establish a common navigation sector in the Bay and a navigation regime in this sector which is defined in Annex 2 to this Agreement.

3. The boundary in the Begendik/Rezevo Bay and the navigation sector are shown on the map of the Begendik/Rezovo Bay, scale 1:10000, mutually adopted in 1983 (Annex 4). All coordinates referred to in paragraph 1 of this article are in the

coordinate system of the annexed map, with the exception of the terminal land boundary point in the mouth of the Mutludere/Rezovska River.

### *Article 3*

#### The lateral boundary of the territorial sea

1. The lateral boundary between the Republic of Turkey and the Republic of Bulgaria in the territorial sea begins from point “E” as established on the baseline of the Begendik/Rezovo Bay in accordance with article 2, paragraph 1, of this Agreement. Then the boundary continues through loxodromes to point “F” with coordinates 41° 58’ 52.8”N and 28° 02’ 25.2”E and then it follows the geographic parallel 41° 58’ 52.8 until it meets the terminal point with coordinates 41° 58’ 52.8”N and 28° 19’ 25.8”E established on the twelve nautical miles outer limit of the territorial sea.

The geographical coordinates referred to in this paragraph are expressed in terms of the World Geodetic System 1984 (WGS’84), except for point “E”.

2. The boundary of the territorial sea, as determined in article 3, paragraph 1, of this Agreement, is shown on the Bulgarian maritime chart No. 5001 (ed. 1981), scale 1:500 000, and on the Turkish maritime chart No. 10-A (ed. 1993), scale 1:750 000 (Annexes 5A and 5B). The coordinates are shown on the annexed charts in their coordinate systems.

### *Article 4*

#### The boundary of the continental shelf and the exclusive economic zone

1. The boundary of the continental shelf and the exclusive economic zone between the Republic of Turkey and the Republic of Bulgaria in the Black Sea begins from the terminal point of the lateral boundary of the territorial seas, determined in article 3, paragraph 1, of this Agreement, and continues in the north-east direction, through geodetic lines joining the turning points with coordinates:

*Coordinate system*  
WGS'84

1. 41° 59' 52"N and 28° 19' 26"E
2. 42° 14' 28"N and 29° 20' 45"E
3. 42° 26' 24"N and 29° 34' 20"E
4. 42° 29' 24"N and 29° 49' 36"E
5. 42° 33' 27"N and 29° 58' 30"E
6. 42° 48' 03"N and 30° 34' 10"E
7. 42° 49' 31"N and 30° 36' 18"E
8. 42° 56' 43"N and 30° 45' 06"E
9. 43° 19' 54"N and 31° 06' 33"E
10. 43° 26' 49"N and 31° 20' 43"E

As for the drawing of the delimitation line of the continental shelf and the exclusive economic zone further to the north-east direction between geographic point 43° 19' 54" N and 31° 06' 33" E and geographic point 43° 26' 49" N and 31° 20' 43"E, the Parties have agreed that such a drawing will be finalized later at subsequent negotiations which will be held at a suitable time.

2. The boundary of the continental shelf and the exclusive economic zone determined in article 4, paragraph 1, of this Agreement is shown on the Bulgarian maritime chart No. 5001 (ed. 1981), scale 1:500 000, and on the Turkish maritime chart No. 10-A (ed. 1993), scale 1:750 000 (Annexes 5A and 5B). The coordinates are shown on the annexed charts in their coordinate systems. A corresponding list of the coordinates of the turning points valid for each chart will be written on the respective charts.

The geographical coordinates referred to in article 4, paragraph 1, of this Agreement are expressed in terms of the World Geodetic System 1984 (WGS'84).

*Article 5*

Annexes to the Agreement

All annexes to this Agreement constitute its integral part.

*Article 6*

## Registration

Upon its entry into force, this Agreement shall be registered with the Secretariat of the United Nations pursuant to Article 102 of the charter of the United Nations.

*Article 7*

## Settlement of disputes

Any dispute between the Parties arising out of the interpretation or implementation of this Agreement shall be settled in accordance with Article 33 of the Charter of the United Nations.

*Article 8*

## Entry into force

This Agreement shall be subject to ratification according to the respective constitutional procedures of the Parties. It shall enter into force on the date of the exchange of the instruments of ratification.

DONE at Sofia on 4 December 1997 in two original copies in the English language.

[signed]

For the Government of the Republic of Turkey

[signed]

For the Government of the Republic of Bulgaria

## ANNEX 1

JOINT ENGINEERING PROJECT REGARDING THE FREE OUTFLOW OF  
THE MUTLUDERE/REZOVSKA RIVER

1. The Parties shall create conditions for the free flow of the water of the river into the Bay and for avoiding the flooding of the river-bank areas, and for this purpose they shall clear and refashion parts of the existing constructions in the mouth area of the river. The clearing and refashioning shall guarantee access of both Parties into the river-mouth area as well.
2. The parts of constructions subject to clearing and refashioning shall be the following:
  - (a) On the right river bank - the three spurs (TS3, TS2 and TS1) and area around the base point T-53 (on the spit);
  - (b) On the left river bank - area around the base point B-38 (against the third Turkish spur) and area in front of the base point B-32 (in the area where the river flows into the sea).
3. The Parties agree that the clearing and refashioning shall be effected on the basis of a joint engineering project. The project shall be prepared according to the Plan of the mouth area of the Mutludere/Rezovska River, scale 1:1000, mutually adopted in September 1992 (Annex 3). The project shall be prepared not later than twelve months following the entry into force of this Agreement and shall be submitted for approval to the competent authorities of the Parties.
4. The joint engineering project shall be reasonable, feasible and cost-effective. It shall ensure the free outflow of normal and flood river water. The project shall envisage ways by which the expenses shall be financed by the Parties for its preparation and execution.
5. The width of the river bed/channel (at altitude "-3m." below mean sea level) in the places of the clearing and refashioning is determined at 30m. The remaining parts of the river bed/channel, after refashioning, shall not be narrower than that determined by the project.

6. Following the clearing and refashioning of the mouth area of the river, the Parties have the right to execute only restoration and rebuilding activities which may not change the river bed/channel and the river boundary fixed after the mutually agreed clearing and refashioning.

## ANNEX 2

### NAVIGATION REGIME IN THE COMMON NAVIGATION SECTOR IN THE BEGENDIK/REZOVO BAY

1. The common navigation sector, referred to in article 2 of this Agreement, shall have the form of an acute angle of 50° at point “C,” and two other points, respectively, on the Turkish and the Bulgarian banks. The Turkish and the Bulgarian sides shall place on these points navigation signs, visible for vessels in the Bay. The boundary in the internal waters of the Bay will be the bisectrix of this sector which divides it into two sub-sectors, with 25° angle each, respectively in the Turkish and the Bulgarian waters of the Bay.

2. The navigation regime in the common navigation sector in the Begendik/Rezovo Bay is established as follows:

a) Vessels flying the flag of either Party have the right, taking into account the meteorological and other conditions for navigation in the Bay, to navigate towards the river mouth and backward within the boundaries of the whole sector, and to cross the boundary between the sub-sectors, which shall not be considered a violation of the boundary between the Parties.

b) Navigation of either Party’s vessels in the internal waters of the other Party beyond the outer limits of that other Party’s sub-sector will be subject to permission.

c) The nationals and vessels of each Party may perform economic and research activity only within its sub-sector.

## ANNEX 3

### PLAN OF THE MOUTH AREA OF THE MUTLUDERE/REZOVSKA RIVER (scale 1:1000, ed. 1992)

2886 *Report Number 8-13*

ANNEX 4

MAP OF THE BEGENDIK/REZOVO BAY  
(scale 1:10 000, ed. 1983)

ANNEX 5A

BULGARIAN MARITIME CHART No. 5001  
(scale 1:50 000, ed. 1981)

ANNEX 5B

TURKISH MARITIME CHART No. 10-A  
(scale 1:750 000, ed. 1993)



## Kazakhstan-Russia

*Report Number 11-1*

### **Seabed Boundary Agreement between the Republic of Kazakhstan and the Russian Federation with Protocol**

*Signed:* 6 July 1998 – Agreement  
13 May 2002 – Protocol

*Entered into force:* Kazakhstan approval November 14, 2002;  
Russian approval April 7, 2003

*Published at:* Protocol: [http://president.kremlin.ru/interdocs/2002/05/13/0000\\_type72066\\_30236.shtml?type=72066](http://president.kremlin.ru/interdocs/2002/05/13/0000_type72066_30236.shtml?type=72066)  
(in Russian)

#### I SUMMARY

This is the first boundary delimitation in the Caspian Sea. No boundary was established during the years when only the Soviet Union and Iran bordered this body of water. Following the break up of the Soviet Union in 1991, the number of independent states bordering the Caspian Sea increased from two (Soviet Union and Iran) to five (Russia, Iran, Azerbaijan, Kazakhstan, and Turkmenistan). Thereafter, fundamental questions arose among these five states as to the legal status of the Caspian Sea and as to how boundaries should be drawn among the riparian states. To this date, the five countries continue to discuss the legal status. However, beginning with the Kazakhstan-Russia agreement three others have followed: Azerbaijan – Russia (*see* Report Number 11-2), Azerbaijan – Kazakhstan (*see* Report Number 11-3) and Azerbaijan – Kazakhstan – Russia (*see* Report Number 11-4).

Kazakhstan and Russia utilized a “modified” median line in which they have taken into account islands and geological structures. It is apparent that exploration and development of the resources of the seabed and sub-soil were the driving forces behind the desire to conclude the seabed delimitation. The 2002 Protocol, which constitutes an integral part of the

1998 Agreement, was concluded four years after the Agreement itself. The Protocol sets out the geographic coordinates of the boundary and includes general provisions by which hydrocarbon resources in three identified geological fields and structures will be developed.

## II CONSIDERATIONS

### 1 *Political, Strategic and Historical Considerations*

It is likely that Kazakhstan and Russia were sensitive to the fact that this was to be the first boundary delimitation of any kind to occur in the Caspian Sea. The 1998 Agreement was signed seven years following the break up of the Soviet Union. Prior to that time the Caspian Sea was bordered by only the Soviet Union and Iran. The area covered under this boundary agreement was totally under the sovereignty of the Soviet Union. A series of agreements concluded by Tsarist Russia and the Soviet Union with Persia (Iran), going back to the Treaty of Rasht in 1732, dealt with navigation and fishing rights and with land boundaries, but no delimitation of the waters or seabed of the Caspian Sea had ever been carried out. The 1921 Soviet-Persian Treaty of Friendship, for example, stated that the parties enjoyed freedom of navigation throughout the entire sea, but it did not create a boundary.

Nevertheless, although there was no formal maritime boundary delimitation between the Soviet Union and Iran, there was a *de facto* "Astara-Gassankuli" line drawn across the Caspian Sea connecting the two points where the Soviet and Iranian land boundaries met the shore. North of this *de facto* line with Iran, the Soviet Union created *de facto* administrative boundaries between its republics, although they were never characterized as formal boundaries nor were they marked as such in Soviet atlases. The administrative lines in the northern Caspian Sea do not appear to have influenced the location of the Kazakhstan-Russia seabed boundary.

### 2 *Legal Regime Considerations*

Prior to the 1991 dissolution of the Soviet Union, the Caspian Sea essentially was a Soviet-Iranian "lake." Because the Caspian Sea has no direct access to any open ocean, it was not given consideration by the interna-

tional community during the negotiations at the Third United Nations Law of the Sea Conference in the 1970s and early 1980s, which led to the 1982 Law of the Sea Convention. Following 1991, with the number of Caspian littoral states at five, the need to resolve the legal status of this body of water and the determination of agreed-upon boundaries was apparent. In the preamble to the 1998 Agreement the parties state that they were “guided by the principles and norms of international law”; however, they do not go on to mention either the 1982 Law of the Sea Convention or refer to other legal status considerations.

Russia’s position on the legal status of the Caspian Sea has changed from the early 1990s. Initially, Russia maintained that all five littoral states shared in the Caspian resources; outside of an agreed-upon territorial sea, the Caspian Sea should come under some type of five-state condominium or joint-use regime. However, Russia has taken a different view since the mid-1990s. Its new position is exemplified by this seabed delimitation agreement with Kazakhstan. Russia now holds the position that the seabed of the Caspian Sea should be divided into national sectors, but that the five coastal states should agree on the status of the waters as it relates to managing the fishery resources, navigation, and protecting the environment.

Kazakhstan, on the other hand, has been a major proponent of the view that international law of the sea principles apply to the Caspian Sea and that the entire Sea should be divided into national sectors. Kazakhstan’s legal position towards the Caspian Sea has been driven largely by the belief that the resource richness of the northern Caspian, particularly the oil and gas reserves, are to be found in the Kazakh sector. By agreeing with Russia to delimit only the seabed, Kazakhstan has accommodated its position to allow for the five Caspian states to determine the legal status of the water column.

The 1998 Agreement states that other uses of the Caspian Sea, including navigation, over flight, the laying and use of underwater cables and pipelines, shall be “governed by separate bilateral and multilateral agreements among the Caspian States after the conclusion of a Convention on the legal status of the Caspian Sea and on the basis of that Convention” (article 5). Provisional application of the 1998 agreement was called for in article 10. The Agreement entered into force as of the “date of the last written notification of completion by the Parties of the internal procedures for its entry into force.” Kazakhstan’s law ratifying the Agreement was signed November 14, 2002; Russia’s law ratifying treaty became effective April 7, 2003. It is believed that the Agreement (and Protocol) entered into force on or about this latter date.

### 3 *Economic and Environmental Considerations*

It is clear from both the 1998 Agreement and 2002 Protocol that economic considerations were important to both states. It is estimated that significant oil resources are located in the northern region of the Caspian Sea. To provide for efficient resource use, Kazakhstan and Russia incorporated into the Agreement and Protocol provisions recognizing that geological structures may cross the boundary. The Agreement makes general reference to this possibility in article 2 by stating that the “Parties shall have an exclusive right to jointly explore and develop promising structures and deposits if the modified median line runs through them. Each Party’s share of participation shall be determined based on current world practice. . . .”

The Protocol is more specific on how joint arrangements would work. Two geological structures, the Kurmangazy (Kulalinskaya) and Tsentral’naya (Central), and one field, the Khvalynskoye, in the northern Caspian Sea are identified. The Protocol provides that Kazakhstan shall have sovereign rights to the Kurmangazy structure (article 2), which will be utilized in accordance with Kazakh laws but allowing joint development with Russia (article 3). Similarly, Russia shall exercise rights over the Tsentral’naya structure and Khvalynskoye field (articles 4 and 5) while allowing for Kazakh participation in the development of the resources there (article 4). The Protocol provides additional specifics on how the joint work shall proceed.

The Russian structure and field are situated in the area identified by boundary points 27-29. From boundary points 15 to 29 there is a definite deviation from the median line with the boundary becoming much closer to Kazakhstan than to Russia.

Article 1 of the Protocol states that if new geological structures are discovered that are intersected by the seabed boundary, then the parties shall create separate agreements to determine how the economic activities relating to those structures should be carried out.

While the protection of the environment is acknowledged in article 6 of the Agreement, it is believed that environmental considerations did not influence the parties with regard to the determination of the course of the seabed boundary.

### 4 *Geographical Considerations*

The coastlines of Kazakhstan and Russia are both adjacent and opposite to each other. The seabed boundary begins in the delta area where the coasts

are adjacent. It should be noted that it is possible that the hypothetical equidistant line shown on the illustrative map to this Report could be in error due to lack of accuracy of the coastline depicted on the source material used to develop the line.

At point 14 the boundary turns to the southwest and runs between the opposite coastlines of Kazakhstan, to the east, and Russia, to the west. Article 1 of the Agreement recognizes that the boundary will deviate from a true median line “taking into account islands and geological structures, as well as other special circumstances and geological costs incurred.” The parties are not specific as to what constitutes the other special circumstances. From boundary points 20 to 24 the boundary is much closer to the Kazakhstani island Ostrov Kulaly than to the median line. From point 24 to 28 the boundary is much closer to the Kazak peninsula located to the south of Ostrov Kulaly than to the median line. From point 29 to point 38 it appears that the line was established to create a balance between the areas on either side of the median line. Point 39 is, in principle, the tri-point equally distant from Kazakhstan, Russia and Azerbaijan.

### 5 *Islands, Rocks, Reefs, and Low-Tide Elevations Considerations*

There are no rocks, reefs or low-tide elevations in this area that influenced how the seabed boundary was delimited. It is apparent that the parties recognized that a “true” median line giving full effect to all islands would have resulted in a boundary that divided known oil fields and structures. In particular the Kazakh island Ostrov Kulaly was not given full effect nor were several small near-shore Russian islands in the northern section of the boundary (between points 14 and 15).

### 6 *Baseline Considerations*

Article 1 of the Agreement cites that as of January 1, 1998 the sea level height was equal to the mark minus 27 meters as measured in the Baltic System of Heights “relative to the Kronstadt gauge” (see discussion of this system under *Technical Considerations*, below). (It is interesting to note that Azerbaijan and Kazakhstan also reference the sea level height in their agreement, but to minus 28 meters: see Report Number 11-3.)

The parties, recognizing that applying a “true” median line taking into account the coastlines of both countries would place certain cited geological structures and fields on the “wrong” side of the boundary, “modified”

the course of the median line. They accomplished this by discounting, to a certain degree, several islands off each coast, most notably Kazakhstan's Ostrov Kulaly, in the median line determination. The mainland peninsula of Kazakhstan, south of Ostrov Kulaly, was also not given full weight in the median line calculation. Unlike some delimitations elsewhere where a particular feature is given exactly one-half effect in an equidistant line calculation, it appears that this median line boundary was altered in such a way as to place a known geological structure or field on one side or other of the line. No straight baselines were employed in the boundary calculation.

### 7 *Geological and Geomorphological Considerations*

The geology and geomorphology of the northern Caspian Sea clearly influenced the parties in agreeing on the course of the seabed boundary. It was the existence of known oil and gas fields and structures that caused the parties to deviate from the median line. The most dramatic deviation, or "modification", from the median is between boundary points 20 to 29. The Protocol to the Agreement gives details concerning the structures and field which are to come under the sovereign rights of one or the other party (*see discussion in Economic and Environmental Considerations, above*).

### 8 *Method of Delimitation Considerations*

The Kazakhstan-Russia seabed boundary is based on what the parties called a "modified" median line. Known geological structures and fields were taken into account which caused the seabed boundary to veer away from the median line in four areas. Agreement on the boundary was coupled with agreement to exploit jointly geological structures that straddle the boundary.

### 9 *Technical Considerations*

A unique aspect of this Agreement is the citation by the parties to the sea-level height of the Caspian Sea. Article 1 of the Agreement references the level of the Caspian Sea as of January 1, 1998 (the year the Agreement was signed), which is equal to the "mark minus 27 meters in the Baltic System of Heights (relative to the Kronstadt gauge)."

The Kronstadt tide gauge is one of the longest operational tidal sites in the world, dating to 1777. The station is located within the limits of St. Petersburg, Russia, on Ostrov Kotlin at approximately 59° 59' N, 29° 46' E. The station was selected as the origin, or zero point, of the Russian National System of Heights (also referred to as the Baltic Height System) by the USSR Council of Ministers in 1946.

Heights in the Baltic System have historically been transferred by the surveying methodology of geodetic leveling and are physically realized by permanent survey monuments often called bench marks. The description of the level of the Caspian Sea described in this Agreement would therefore be -27 meters below the zero (0) point of the Kronstadt tide gauge. The actual determination of these heights could be problematic for several reasons. The first is that the Agreement does not define the epoch of Mean Sea Level (MSL) at Kronstadt. MSL is typically computed on a 19-year cycle and is defined by those dates. For example, the current U.S. National Tidal Epoch is 1983-2001. No such epoch is provided for in the text of the Agreement or in the Protocol. In addition, the ability to determine accurately the level in the field is limited by the number and quality of existing survey bench marks. Unfortunately, these marks are all too often disturbed or destroyed over time.

An additional problem for positioning of the boundary turning points in this agreement is the omission in both the Agreement and the Protocol of a geodetic datum.

### 10 *Other Considerations*

Article 8 of the Agreement provides for non-compulsory dispute settlement should there be disagreement over the interpretation or application of the Agreement. The parties “shall consult in order to resolve the dispute through negotiations, investigation, mediation, conciliation, arbitration, legal proceedings, or such other peaceful means as they may choose.”

### III CONCLUSIONS

The 1998 Agreement and its 2002 Protocol between Kazakhstan and Russia is the first boundary delimitation of any kind for the Caspian Sea. The delimitation pertains, however, only to the seabed; the status of the water column remains an open question subject to continuing discussions

among the five littoral states of the Caspian Sea. By late 2004 the Caspian Sea coastal states remained far from concluding an agreement on the legal status.

The one unfortunate aspect to this Agreement and Protocol is that while the parties specified geographic coordinates defining the turning points of the seabed boundary, they did not record the underlying geodetic datum on which these coordinates are based. Future positioning disputes involving the use of different datum by the parties could possibly arise due to this omission.

Article 7 of the Agreement states that it shall enter into force after the date of final written notification of its ratification. It is assumed that the Agreement and Protocol entered into force on or about April 7, 2003.

#### IV RELATED LAW IN FORCE

##### A *Law of the Sea Conventions*

Kazakhstan: Not a party to any of the four 1958 Conventions nor to the 1982 Law of the Sea Convention.

Russia: Ratified the Convention on the Continental Shelf on 22 November 1960; ratified the 1982 Law of the Sea Convention on 12 March 1997.

##### B *Maritime Jurisdiction Claimed at the Time of Signature*

Kazakhstan: No maritime claims for the Caspian Sea

Russia: No maritime claims for the Caspian Sea. Off its other coasts, 12 n.m. territorial sea, 200 n.m. EEZ, 200 n.m continental shelf and/or the outer edge of the continental margin

##### C *Maritime Jurisdiction Claimed Subsequent to Signature*

Kazakhstan: No change.

Russia: No change.

*Prepared by: Robert W. Smith and J. Ashley Roach*





**Agreement between the Republic of Kazakhstan and the  
Russian Federation on Demarcation of the Seabed in the  
Northern Caspian Sea for the Purpose of Exercising  
Sovereign Rights to the Use of Subsoil Resources**

The Republic of Kazakhstan and the Russian Federation, hereinafter referred to as the Parties,

Taking into account their mutual interest in establishing a legal basis for the activities of the two Parties to develop the subsoil resources of the Northern Caspian Sea,

Seeking to ensure favorable conditions for the exercise of their sovereign rights in the Caspian Sea and to settle issues regarding the efficient use of the mineral resources of the seabed and subsoil of the Northern Caspian in a spirit of mutual understanding and cooperation,

Taking into account the geopolitical changes that have occurred in the region, as well as the growing climate of cooperation, good neighborliness and mutual understanding between the Parties,

Considering that the existing Caspian Sea legal regime does not meet current requirements and does not fully regulate the mutual relations of the Caspian states,

Calling upon the Caspian states to conclude as soon as possible, on the basis of consensus, a Convention on the legal status of the Caspian Sea,

Guided by the principles and norms of international law and the interests of the Parties in developing and utilizing the mineral resources of the seabed and subsoil of the Northern Caspian Sea,

Proceeding from the understanding that in defining the legal status of the Caspian Sea, the Parties will consider the possibility of establishing in its waters border, customs and sanitary control zones, fishing zones within agreed limits, and common-use zones,

Cognizant of their responsibility to current and future generations for preserving the Caspian Sea and the integrity of its unique ecosystem,

Taking into account the importance of existing preserves for the conservation and restoration of the biological resources of the Caspian Sea,

Recognizing the importance of joint scientific research and the need for compliance with special environmental requirements in exploring and developing the mineral resources of the seabed and subsoil of the Northern Caspian Sea,

Convinced of the need to develop uniform approaches to establishing an ecological security system, including procedures for impact assessment, environmental assessment and monitoring,

Proceeding from the premise that the demarcation of the Caspian seabed under this Agreement does not apply to biological resources,

Taking into account the bilateral agreements that have been reached on issues related to the legal status of the Caspian Sea,

Have agreed as follows:

### **Article 1**

While the surface of the water shall be retained for common use, to include ensuring freedom of navigation and agreed standards for fishing and environmental protection, the seabed of the Northern Caspian Sea and its subsoil shall be demarcated among the Parties along a median line modified on the basis of the principle of equity and agreement of the Parties.

The modified median line shall be based on equidistance from agreed baselines; it shall include sectors that are not equidistant from the baselines and are determined taking into account islands and geological structures, as well as other special circumstances and geological costs incurred.

The determination as to where the modified median line runs shall be made with reference to points on the shores of the Parties, taking into account islands and based on the level of the Caspian Sea as of January 1, 1998, which is equal to the mark minus 27 meters in the Baltic System of Heights (relative to the Kronstadt gauge).

A geographic description of the location of the aforementioned line and its coordinates will be produced, based on the cartographic materials and baselines agreed by the Parties, and will be codified in a separate Protocol, which will be an annex to and an integral part of this Agreement.

### **Article 2**

The Parties shall exercise their sovereign rights for the purpose of exploration, development, and management of the resources of the seabed and subsoil of the Northern Caspian within their portions of the seabed up to the dividing line.

The Parties shall have an exclusive right to jointly explore and develop promising structures and deposits if the modified median line runs through them. Each Party's share of participation shall be determined based on current world practice, taking into account the good-neighbor relations between the Parties.

### **Article 3**

A Party or its juridical and natural persons (hereinafter, representatives) that opened a hydrocarbon deposit or that identified geological structures that are promising in terms of the accumulation of hydrocarbons in the Northern Caspian in the zone of the modified median line before the line was agreed by the Parties shall have a priority right to obtain a license for exploration and development, with mandatory involvement of representatives of the other Party.

### **Article 4**

The Parties have agreed to interact effectively on issues related to the development of export pipelines, use of rivers and other transport routes, and shipbuilding capabilities, as well as in other areas.

### **Article 5**

Issues related to freedom of navigation and flight, the laying and use of underwater cables and pipelines, as well as other uses of the Caspian Sea will be governed by separate bilateral and multilateral agreements among the Caspian states after conclusion of a Convention on the legal status of the Caspian Sea and on the basis of that Convention.

### **Article 6**

The Parties shall protect and preserve the ecosystem of the Caspian Sea and all its components. To this end, the Parties shall take all possible measures, either independently or jointly, and shall cooperate in order to preserve the biodiversity of the Caspian Sea, prevent and reduce pollution from any source, and ensure environmental monitoring of the Caspian.

The Parties shall prohibit activities that could cause serious damage to the environment of the Caspian Sea.

The Parties will seek early signature by all the Caspian states of an Agreement on the preservation, restoration, and rational use of the biological resources of the Caspian.

**Article 7**

This Agreement shall not affect the rights and obligations deriving from international treaties and agreements, both bilateral and multilateral, concluded by each Party individually.

**Article 8**

In the event of a dispute between the Parties regarding the interpretation or application of this Agreement, the Parties shall consult in order to resolve the dispute through negotiation, investigation, mediation, conciliation, arbitration, legal proceedings, or such other peaceful means as they may choose.

**Article 9**

This Agreement shall not hamper the achievement of consensus among the Caspian states on the legal status of the Caspian and shall be regarded by the Parties as a part of their overall agreements.

**Article 10**

This Agreement shall be applied provisionally as of the time of signature, taking into account the Protocol provided for in Article 1 of this Agreement, and shall enter into force as of the date of the last written notification of completion by the Parties of the internal procedures necessary for its entry into force.

Done at Moscow on July 6, 1998, in two copies, each in the Kazakh and Russian languages, both texts being equally authentic.

For the Republic of Kazakhstan

For the Russian Federation

[s] N. Nazarbayev

[s] B. Yeltsin

**Protocol to the Agreement between the Republic of Kazakhstan  
and the Russian Federation on Demarcation of the Seabed in the  
Northern Caspian Sea for the Purpose of Exercising Sovereign  
Rights to the Use of Subsoil Resources of July 6, 1998  
(Moscow, May 13, 2002)**

The Republic of Kazakhstan and the Russian Federation, hereinafter referred to as the Parties,

In accordance with the Agreement Between the Republic of Kazakhstan and the Russian Federation on Demarcation of the Seabed in the Northern Caspian Sea for the Purpose of Exercising Sovereign Rights to the Use of Subsoil Resources of July 6, 1998 (hereinafter referred to as the Agreement),

Considering their mutual interest in establishing a legal basis for the activities of the two Parties to develop the subsoil resources of the seabed in the Northern Caspian Sea,

Seeking to create a favorable environment for joint development of the hydrocarbon resources of the Kurmangazy (Kulalinskaya) and Tsentral'naya [Central] geological structures and the Khvalynskoye field, which are located in the Northern Caspian Sea,

Based on the need to protect and preserve the ecological system and biological resources of the Caspian Sea,

Have agreed as follows:

Article 1

1. This Protocol establishes the geographic coordinates of the modified median line of demarcation of the seabed in the Northern Caspian Sea between the Republic of Kazakhstan and the Russian Federation for the purpose of exercising sovereign rights to the use of subsoil resources.

2. The list of geographic coordinates of the turning points of the modified median line of demarcation of the seabed in the Northern Caspian Sea shall be an integral part of this Protocol (Annex 1).

3. The modified median line has been drawn in accordance with the list on the chart agreed by the Parties, which shows the demarcation of the seabed in the Northern Caspian Sea (Annex 2).

4. The initial point of the modified median line is the point with coordinates 46° 13',3<sup>1</sup> N and 49° 26',4 E.

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<sup>1</sup> Translator's Note: The translation reproduces the manner in which latitude and longitude are written in the Russian text.

5. The end point of the modified median line is the point with coordinates 42° 33',6 N and 49° 53',3 E.

The above point may be taken as the junction point of the lines of demarcation of the Caspian seabed, for purposes of utilization of the subsoil resources, among the Republic of Kazakhstan, the Russian Federation and the Azerbaijani Republic, which will be recorded in a trilateral agreement among them.

6. If new geological structures (hereinafter referred to as structure) are discovered, whose surrounding isohypses are intersected by the modified median line, economic activity on those structures will be carried out by economic entities of the Parties on the basis of separate agreements in accordance with Article 2 of the Agreement.

## Article 2

The Republic of Kazakhstan shall exercise sovereign rights to the use of subsoil resources on the Kurmangazy (Kulalinskaya) structure. The Russian Federation shall exercise sovereign rights to the use of subsoil resources on the Tsentral'naya structure and the Khvalynskoye field.

## Article 3

1. The subsoil resources on the Kurmangazy (Kulalinskaya) structure shall be utilized in accordance with the laws of the Republic of Kazakhstan.

2. Each Party shall appoint an authorized organization for joint development of the resources of the Kurmangazy (Kulalinskaya) structure.

*See: Resolution No. 637a of the Government of the Republic of Kazakhstan of June 13, 2002, "On Certain Issues Related to Implementation of the Protocol"; Directive No. 1025-r of the Government of the RF of July 25, 2002, and Directive No. 1026-r of the Government of the RF of July 25, 2002.*

3. The Russian authorized organization shall have the right to participate in the project for the use of the subsoil resources on the Kurmangazy (Kulalinskaya) structure (hereinafter referred to in this article as the project) on a non-competitive basis.

4. The authorized organizations of the Parties will sign an agreement on the framework for joint activities – a consortium, a commercial organization with foreign investments or any other framework for joint activities (hereinafter referred to as the enterprise) – to include the terms for use of the subsoil resources.

5. The Kazakhstani side's share in the project shall be 50 percent and the Russian side's share in the project shall be 50 percent, subject to the following:

(a) the Kazakhstani authorized organization's share in the enterprise shall be 50 percent;

(b) the Russian authorized organization's share in the enterprise shall be 25 percent, and the option to participate in the enterprise (hereinafter referred to as the option) allocated to the Russian side shall be 25 percent;

(c) the Kazakhstani and Russian authorized organizations will have rights and obligations commensurate with their shares, except that, until the option allocated to the Russian side is commercially exercised, the Kazakhstani and Russian authorized organizations will have equal rights and obligations.

6. The Government of the Republic of Kazakhstan shall formally establish the rights of the enterprise with regard to utilization of subsoil resources. The production sharing agreement shall serve as the contract for the use of the subsoil resources of the Kurmangazy (Kulalinskaya) structure.

7. No later than six months after a field is opened for commercial operation, the enterprise will make the Russian side a commercial offer regarding the sale of the Russian side's option. The Russian side will grant the right to make use of the option to a Russian organization determined in accordance with the procedure established by the Government of the Russian Federation.

The Russian side will have the right to accept or reject the offer within six months after the offer is made by the enterprise. If the Russian side declines to avail itself of the option right, the enterprise shall be free to dispose of the option as it sees fit.

The enterprise will apply the proceeds from the exercise of the option to development of the project.

When the option is exercised, the Government of the Republic of Kazakhstan will execute, in accordance with established procedure, the necessary documents guaranteeing the rights of the new participant in the enterprise.

#### Article 4

1. The subsoil resources on the Tsentral'naya structure shall be utilized in accordance with the laws of the Russian Federation.

2. Each Party shall appoint an authorized organization for joint development of the resources of the Tsentral'naya structure.



3. The Kazakhstani authorized organization shall have the right to participate in the project for utilization of the subsoil resources on the Tsentral'naya structure (hereinafter referred to in this article as the project) on a non-competitive basis.

4. The authorized organizations of the Parties will sign an agreement on the framework for joint activities – a consortium, a commercial organization with foreign investments or any other framework for joint activities (hereinafter referred to as the enterprise) – to include the terms for use of the subsoil resources.

5. The Russian side's share in the project shall be 50 percent, and the Kazakhstani side's share in the project shall be 50 percent, subject to the following:

(a) the Russian authorized organization's share in the enterprise shall be 50 percent;

(b) the Kazakhstani authorized organization's share in the enterprise shall be 25 percent, and the option allocated to the Kazakhstani side shall be 25 percent;

(c) the Russian and Kazakhstani authorized organizations will have rights and obligations commensurate with their shares, except that, until the option allocated to the Kazakhstani side is commercially exercised, the Russian and Kazakhstani authorized organizations will have equal rights and obligations.

6. The Government of the Russian Federation shall formally establish the rights of the enterprise with regard to utilization of the subsoil resources.

7. No later than six months after a field is opened for commercial operation, the enterprise will make the Kazakhstani side a commercial offer regarding the sale of the Kazakhstani side's option. The Kazakhstani side will grant the right to make use of the option to a Kazakhstani organization determined in accordance with the procedure established by the Government of the Republic of Kazakhstan.

The Kazakhstani side will have the right to accept or reject the offer within six months after the offer is made by the enterprise. If the Kazakhstani side declines to avail itself of the option right, the enterprise shall be free to dispose of the option as it sees fit.

The enterprise will apply the proceeds from the exercise of the option to development of the project.

When the option is exercised, the Government of the Russian Federation will execute, in accordance with established procedure, the necessary documents guaranteeing the rights of the new participant in the enterprise.

## Article 5

1. The subsoil resources on the Khvalynskoye field shall be utilized in accordance with the laws of the Russian Federation.

2. Each Party will appoint an authorized organization for joint development of the oil and gas resources of the Khvalynskoye field.

3. The Kazakhstani authorized organization shall have the right to participate in projects for the utilization of the subsoil resources on the Khvalynskoye field on a non-competitive basis.

4. The authorized organizations of the Parties will sign an agreement on the framework for joint activities (a consortium, a commercial organization with foreign investments or any other framework for joint activities), to include the terms for use of the subsoil resources, based on an arrangement between them, with the understanding that the Kazakhstani authorized organization's share can be up to 50 percent.

5. The Government of the Russian Federation shall formally establish the rights to utilization of the subsoil resources for the new user established by the authorized organizations of the Parties.

## Article 6

During joint development of the Kurmangazy (Kulalinskaya) and Tsentral'naya structures and the Khvalynskoye field:

1. The boundaries of the license areas under licenses and contracts issued or concluded by the Parties in accordance with established procedure during the period prior to signature of this Protocol shall be brought into conformity with the modified median line of demarcation of the seabed in the Northern Caspian Sea, established by this Protocol.

2. Within one month from the date of signature of this Protocol the Parties will appoint the Kazakhstani and Russian authorized organizations which, within one month from the date when they are granted appropriate authority, will begin negotiations to prepare the relevant agreements on the frameworks for joint activities, to include the terms for utilization of the subsoil resources.

3. Based on the laws of the state exercising sovereign rights to the use of subsoil resources, the Parties may enter into a production sharing agreement with the relevant enterprise.

4. There shall be recognition of the right of an authorized organization to assign its share (or a portion thereof) in the enterprise to other juridical persons, with the consent of the Government of its Party.

In the event of such assignment, each authorized organization will have a priority right to acquire the share of the organization that is giving up its share, on terms that are no less favorable than those offered by the other juridical persons. This right shall not cover assignment to organizations affiliated with the authorized organization, which is carried out with the consent of the Government of its Party and with financial guarantees from the authorized organization.

5. Authorized organizations that do not fulfill their financial obligations provided for in the agreement on joint activities of the relevant authorized organizations shall forfeit their respective share to the authorized organizations that do fulfill their obligations under the terms of the above-mentioned agreement.

6. If the authorized organizations do not find a mutually acceptable solution within twelve months of the date of signature of this Protocol, the Governments of the Parties will appoint other authorized organizations.

#### Article 7

This Protocol shall enter into force in accordance with the procedure provided for in Article 10 of the Agreement, of which it shall be an integral part.

Paragraphs 2 and 6 of Article 6 of this Protocol shall be applied provisionally from the date of signature.

Done at Moscow on May 13, 2002, in two original copies, each in the Kazakh and Russian languages, both texts being equally authentic.

For the Republic of Kazakhstan  
For the Russian Federation

N. Nazarbayev  
V. Putin

ANNEX 1  
To the Protocol to the  
Agreement between the Republic of Kazakhstan and the  
Russian Federation on Demarcation of the Seabed in the Northern Caspian Sea  
for the Purpose of Exercising Sovereign Rights  
to the Use of Subsoil Resources of July 6, 1998

List of Geographic Coordinates of the Turning Points of the Modified  
Median Line of Demarcation of the Seabed in the Northern Caspian Sea

Numbers of the Turning Points of the Modified Median Line	North Latitude	East Longitude
1.	46°13',3	49°26',4
2.	46°11',6	49°30',4
3.	46°10',8	49°32',7
4.	46°10',6	49°36',0
5.	46°10',7	49°37',3
6.	46°11',2	49°42',1
7.	46°10',6	49°42',6
8.	46°09',7	49°43',6
9.	46°09',4	49°43',9
10.	46°07',1	49°46',7
11.	46°05',1	49°49',7
12.	46°04',2	49°51',0
13.	46°00',1	49°57',1
14.	45°59',1	50°01',0
15.	45°21',5	49°25',5
16.	45°21',3	49°25',0
17.	45°17',3	49°21',2
18.	45°13',5	49°17',8
19.	45°12',3	49°16',7
20.	45°05',9	49°10',5
21.	45°02',4	49°10',4
22.	44°55',1	49°09',9
23.	44°50',0	49°09',8
24.	44°40',6	49°09',3
25.	44°25',4	49°08',0
26.	44°20',0	49°05',3
27.	44°20',0	49°36',0
28.	44°04',0	49°36',0
29.	44°04',0	49°00',0
30.	43°19',2	49°00',0

*(cont.)*

Numbers of the Turning Points of the Modified Median Line	North Latitude	East Longitude
31.	43°17',0	49°20',1
32.	43°16',5	49°20',6
33.	43°15',8	49°21',4
34.	43°11',6	49°27',0
35.	43°10',3	49°27',9
36.	43°08',2	49°29',5
37.	43°07',8	49°29',9
38.	42°45',0	50°00',0
39.	42°33',6	49°53',3

## Bosnia-Herzegovina–Croatia

*Report Number 8-14*

### Treaty on the State Border Between the Republic of Croatia and Bosnia and Herzegovina

<i>Done:</i>	30 July 1999
<i>Entered into force:</i>	Provisionally in force only
<i>Published at:</i>	Unpublished

#### PRELIMINARY REPORT

On 30 July 1999 Bosnia-Herzegovina and Croatia signed in Sarajevo a treaty on the state boundaries between the two countries. The treaty, which includes a preamble and 23 articles, is based on the boundary situation existing at the time of the cessation of the former Socialist Federal Republic of Yugoslavia (1991). The treaty has not yet entered into force, but is provisionally applied from the date of its signature (article 22, para. 1).

The main purpose of the treaty is the delimitation of the land boundary, which is drawn on 86 sheets of maps (scale 1:25,000) annexed to the treaty. It is however provided that the expert bodies of the two countries shall elaborate a detailed description of the land and maritime boundary and a list of coordinates.

One provision (article 4, para. 3) relates to the maritime boundary, stating as follows: “The state boundary at sea is a median line between the land territories of Croatia and Bosnia-Herzegovina in accordance with the 1982 United Nations Convention on the Law of the Sea. The boundary at sea is shown on the topographical map 1:25,000 and on the navigational charts and maps” (unofficial translation from the original Serb-Croatian language). This is the first maritime boundary agreed upon by two of the successor States of the former Yugoslavia.

The maritime delimitation is to be understood in the light of the very particular geographic situation of Bosnia-Herzegovina in the Adriatic Sea. This country exercises sovereignty over a narrow strip of about 20 kilometers (km.) of coastline, the Neum corridor (called from the name of a small city located there), which is enclosed between two parts of the Croatian coastline. More precisely, the maritime areas adjacent to the territory of Bosnia-Herzegovina are composed of the waters of the Bay of Klek-Neum, a deep indentation closed by the small peninsula of Klek (belonging to Bosnia-Herzegovina), and part of the waters located between the peninsula of Klek and the much bigger and longer peninsula of Peljesac (belonging to Croatia). The width of the waters located between the two peninsulas ranges from 1.5 to 2 km.

The waters adjacent to the peninsula of Peljesac, both on the landward and the seaward side of it, fall within the straight baselines system established by the former Yugoslavia in 1948 and confirmed, with some modifications, by the successor State of Croatia (article 19 of the Maritime Code of 27 January 1994).<sup>1</sup> It follows that the maritime boundary established by the 1999 treaty possibly delimits two distinct legal regimes: the internal waters of Croatia from the territorial sea of Bosnia-Herzegovina.<sup>2</sup>

In regard to the method of delimitation, Bosnia-Herzegovina and Croatia, which are both parties to the United Nations Convention on the Law of the Sea (UNCLOS), rely on equidistance. Article 4, paragraph 3, of the bilateral treaty explicitly recalls the "median line" as a method which is "in accordance" with the UNCLOS. In fact, there is no provision in the UNCLOS dealing with the very peculiar case of a delimitation involving internal waters. However, article 15 of the UNCLOS (Delimitation of the territorial sea between States with opposite or adjacent coasts), which could be applied by analogy, is based on the rule of equidistance combined with the exception of historic title or other special circumstances.

No bilateral agreement has so far been concluded with regard to the access to and from the waters of Bosnia-Herzegovina through the surrounding Croatian internal waters. However, under another bilateral agreement Croatia has granted to Bosnia-

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1 42 LOS BULL. 31 (2000).

2 However, it seems that Bosnia-Herzegovina has so far made no official enactment or statement with regard to the legal status of the waters adjacent to its territory. See, for instance, the summary of national claims to maritime zones annexed to the report of the U.N. Secretary-General, *Oceans and the Law of the Sea*, U.N. Doc. A/56/58, p. 118 (9 March 2001), where no information is given on the breadth of the territorial sea of Bosnia-Herzegovina. This may be because, due to geography, Bosnia-Herzegovina cannot realize a territorial sea to the full 12 nautical mile distance from its coastline.

Herzegovina free and unimpeded transit through the port of Ploče, located in Croatia north of the coastline of Bosnia-Herzegovina.<sup>3</sup>

#### REFERENCES

- Mladen Klemencic, *The Border Agreement between Croatia and Bosnia-Herzegovina*, in 7 BOUNDARY AND SECURITY BULLETIN 96 (No. 4, 1999-2000)
- Maja Sersic, *The Adriatic Sea: Semi-Enclosed Sea in a Semi-Enclosed Sea* (paper presented at the Conference “Il Mediterraneo e il diritto del mare all’alba del XXI secolo,” Naples, 2001).

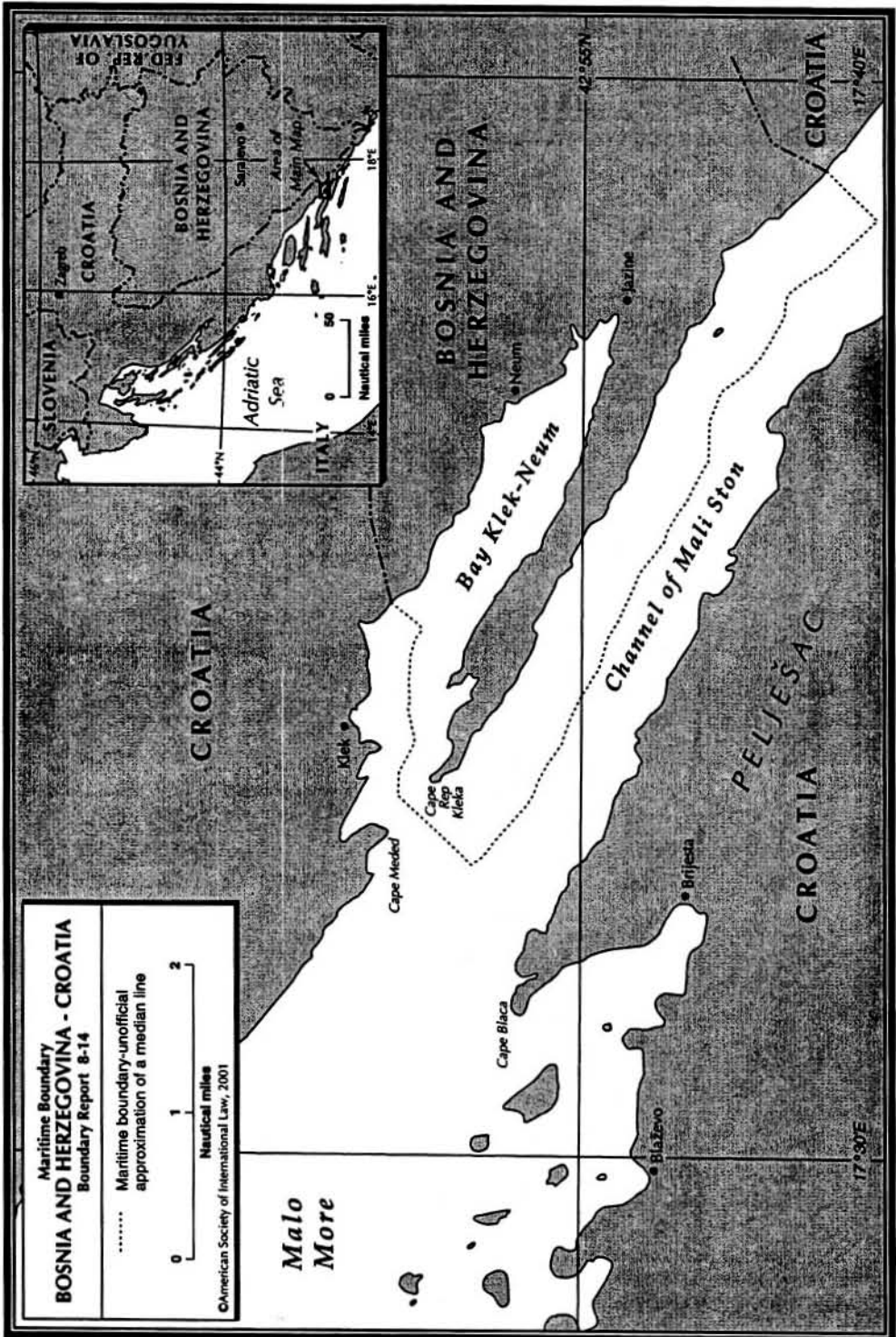
*Prepared by*  
*Tullio Scovazzi*  
*(Legal Analysis)*

*Giampiero Francalanci*  
*(Technical Analysis)*

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<sup>3</sup> Agreement on Free Transit through the Territory of the Republic of Croatia to and from the Port of Ploče and through the Territory of Bosnia and Herzegovina at Neum, signed 22 November 1998, Letter dated 24 November 1998 from the Permanent Representatives of Bosnia and Herzegovina and Croatia to the United Nations addressed to the Secretary-General, UNGA Doc. A/53/702, Annex II (pp. 8-12) (25 Nov. 1998).





**Treaty on the State Border between  
the Republic of Croatia and Bosnia and Herzegovina<sup>1</sup>**

The Republic of Croatia and Bosnia and Herzegovina (later: “the Parties”),

Starting from the sovereignty, territorial integrity and political independence of the Republic of Croatia and Bosnia and Herzegovina;

Respecting the immutability of their mutually recognized borders,

Beginning with the provisions of the General Framework Peace Accords for Bosnia and Herzegovina, signed on December 14, 1995 in Paris and the Opinion No. 3 of the Arbitration Committee of the Conference on the former Yugoslavia;

Guided by a desire to regulate together all the issues pertaining to the identification, marking, maintenance and ensuring the visibility of the common state border;

In accordance with the decision of the Government of the Republic of Croatia and the Central Commission for the Identification and Marking of the State Border of Bosnia and Herzegovina, acting with the authorization of the Council of the Ministers of Bosnia and Herzegovina, regarding the identification, marking, maintenance and ensuring the visibility of the common state border, and based on the work of the Committee;

have agreed to the following:

*Article 1*

The state border between the Republic of Croatia and Bosnia and Herzegovina (later: “the state border”) is a plane which transverses vertically the border line on the surface of the Earth and divides the land, the sea and interior bodies of water, as well as the air space and underground space of the Republic of Croatia and Bosnia and Herzegovina.

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<sup>1</sup> Unofficial translation by the United States Department of State.

*Article 2*

- (1) The state border between the Republic of Croatia and Bosnia and Herzegovina is determined on the basis of the state of the borders at the time of the end of the Socialist Federal Republic of Yugoslavia in 1991 and the mutual recognition of the Republic of Croatia and Bosnia and Herzegovina in 1992, identified on the topographic map 1:25,000 and, in practice, on the basis of the borders between border land-registry municipalities, on the basis of the border towns and villages at the time of the 1991 Census and on the basis of the dividing line which divided the authorities of the Socialist Republic of Croatia and the Socialist Republic of Bosnia and Herzegovina.
- (2) The state border between the Republic of Croatia and Bosnia and Herzegovina stretches from the Croatian-Bosnian and Herzegovinian-Yugoslav three-border point in the North-East to the Croatian-Bosnian and Herzegovinian-Yugoslav three-border point in the South-East.
- (3) The data on the identification and marking of the border line, as well as on the shape, size and location of the border markings are to be found in the following documents on the border issues:
  - (a) The description of the border line on the state border between the Parties presented graphically in TK 25 (topographical map 25);
  - (b) The list and technical background (the situational plan, the list of surfaces, the list of coordinates) of the modifications of the stretch of the state line between the Parties;
  - (c) The list of the coordinates of the marked and determined break points on the state border between the Parties;
  - (d) The border plan on the state border between the Parties.
- (4) The Interstate Diplomatic Committee for the Identification, Marking and Maintenance of the state border between the Republic of Croatia and Bosnia and Herzegovina shall appoint expert panels authorized to produce a document mentioned in Paragraph 3. of this Article, as well as set deadlines to finalize their tasks and submit a report to be approved by the Interstate Diplomatic Committee.

- (5) After the border documents are produced in accordance with Paragraph 2. of this Article and approved in accordance with the legislatures of the Parties, they shall be considered an integral part of this Treaty.

#### *Article 3*

- (1) The Parties can agree to change the state border in order to facilitate and improve the living conditions of people living close to the border, as well as for other reasons. Any changes of the state border shall be included in the documents on border issues mentioned in Paragraph 3, Article 2 of this Treaty.
- (2) The documents on border issues mentioned in Paragraph 1 of the Article shall come into effect as stipulated in Paragraph 5, Article 2 of this Treaty.

#### *Article 4*

- (1) The Parties have agreed that the state border remain within the mutually defined coordinates, regardless of the man-made or natural changes in the terrain.
- (2) The state border on international navigable rivers with the regulated navigation course stretches along the kinet of the navigation course. Any changes to the kinet of the navigation course shall be approved by authorized agencies of the Parties.
- (3) The state border on the sea stretches along the median line of the sea between the territories of the Republic of Croatia and Bosnia and Herzegovina in accordance with the 1982 UN Convention on Sea Rights. The border line on the sea is represented in the topographical map 1:25,000 as well as on sea charts and plans.

#### *Article 5*

- (1) The border line on the Croatian-Bosnian and Herzegovinian border is marked by:

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- border pyramids on the three-state Croatian-Bosnian and Herzegovinian-Yugoslav border point;
  - border posts which directly or indirectly (by the roads, rivers, streams, canals and other characteristic locations) mark the break points in the border line;
  - border boards placed on bridge railings and other appropriate objects.
- (2) The coordinates of the marked and determined break points in the border line are to be found in the documents on border issues listed in Paragraph 3, Article 2 of this Treaty.

#### *Article 6*

The Parties shall maintain the border line in a good visible condition and undertake necessary steps to prevent damaging, destruction or unauthorized change of location of border markings.

#### *Article 7*

- (1) The Parties shall provide for the visibility of the state border and border markings in accordance with the Instructions on the Maintenance of the State Border and the Border Zone.
- (2) The Parties shall not authorize any construction within 2 meters on the both sides of the land border line. This ban does not include existing objects and facilities, as well as object and facilities the construction of which is authorized by the relevant agencies of the Parties.
- (3) The Parties can conduct activities defined in the Instruction mentioned in Paragraph 1 of this Article on their own territory at any time, but must inform the other Party as least ten days prior to the beginning of work.

*Article 8*

- (1) The obligations with respect to measuring the common state border, identification and marking of the border line, and maintenance, renovation and control of border markings (later: border work), as well as all costs resulting from honoring the above obligations, shall be divided between the parties on an equal basis.
- (2) Installation, maintenance, renovation and control of three-state border markings on the three-state Croatian-Bosnian and Herzegovinian-Yugoslav border point shall be carried out on the basis of an understanding of the relevant authorities, in the presence of representatives of the Parties and the Federal Republic of Yugoslavia.
- (3) Repairs and renovations of border markings on the territory of one of the Parties, which were damaged or destroyed through unauthorized destructive activities from the territory of the other Party, shall be paid for by the Party from the territory of which the unauthorized destructive activity was carried out.

*Article 9*

The Parties shall every five years after the completion of border work, defined in the Instruction on the maintenance of the border line and border zone, conduct a joint inspection of the border line, renovate and fill in the gaps in border markings and, if needed, install additional markings on the border line.

*Article 10*

- (1) Owners of real estate and other persons or entities with power of attorney regarding real estate close to the state border must allow border work, defined in the Instruction on the maintenance of the border line and border zone, to be carried out on the state border.
- (2) The Parties shall in a timely manner inform owners of real estate and other persons or entities with power of attorney regarding real estate close to the border of the work to be carried out on their real estate. The parties shall carry out border work respecting the interests of owners of real estate and other

persons or entities with power of attorney regarding real estate close to the border, on whose real estate the work is being carried out.

- (3) Damage claims regarding real estate close to the border and related to border work shall be settled according to the regulations of the Party on the territory of which the real estate in question is situated.

#### *Article 11*

- (1) To implement the provisions of this Treaty, the Government of the Republic of Croatia and the Central Commission on the Identification and Marking of the Border of Bosnia and Herzegovina, acting with the authorization of the Council of Ministers of Bosnia-Herzegovina, have founded the Interstate Diplomatic Committee for the Identification, Marking and Maintenance of the State Border between the Republic of Croatia and Bosnia and Herzegovina (later: the Interstate Diplomatic Committee). The Interstate Diplomatic Committee consists of a delegation of the Republic of Croatia and a delegation of Bosnia and Herzegovina. Each delegation has a chairman and five members.
- (2) The functioning and composition of the Interstate Diplomatic Committee are regulated by the Regulations for the Conduct of Work of the Interstate Diplomatic Committee, composed in accordance with the provisions of this Treaty.

#### *Article 12*

- (1) The tasks of the Interstate Diplomatic Committee are the following:
  - conduct a measuring of the Croatian-Bosnian and Herzegovinian state border;
  - produce new or supplemental documents on border issues in accordance with Paragraph 3, Article 2 of this Treaty;
  - carry out other work jointly assigned to it by the relevant authorities of the Parties.
- (2) For the direct work on the stated tasks the Interstate Diplomatic Committee creates: the Joint Expert Work Group for the Documentation and Identification

of the Border Line and the Joint Expert Work Group for the Marking and Maintenance of the Border Line. The Interstate Diplomatic Committee can also, if needed, create other work groups.

- (3) The functioning and composition of the Joint Expert Work Groups shall be regulated by the Instructions on the Functioning of Joint Expert Work Groups formulated by the Joint Expert Work Groups and approved by the Interstate Diplomatic Committee in accordance with this Treaty.

#### *Article 13*

- (1) The Interstate Diplomatic Committee shall conduct its work in sessions, in the field and by exchanging letters.
- (2) The Interstate Diplomatic Committee shall meet according to the agreement between the leaders of the delegations of the two Parties. The meetings shall be held alternately on the territory of one and then the other of the Parties.
- (3) The leader of each delegation can call for an emergency meeting or a field trip of the Interstate Diplomatic Committee or a Joint Expert Work Group.

#### *Article 14*

- (1) The Parties shall inform one another in writing and through diplomatic channels of the appointment and acquittal of duty of the delegations in the Interstate Diplomatic Committee.
- (2) The leaders of the delegations of the Parties shall inform one another of the appointment and acquittal of duty of other members of the delegations in the Interstate Diplomatic Committee.

#### *Article 15*

- (1) The Interstate Diplomatic Committee shall reach its decisions and conclusions by agreement. If there are differences between the two delegations, their points of view shall be recorded in the proceedings.



- (2) Issues that cannot be resolved by reaching an agreement shall, with prior agreement of the chairmen of the two delegations, be submitted for resolution to the relevant authorities of the Parties.

#### *Article 16*

The Interstate Diplomatic Committee shall conduct negotiations and produce documents in the official languages of the Parties.

#### *Article 17*

The delegation of each of the Parties in the Interstate Diplomatic Committee can use the official seal with the state coat-of-arms of its country and the name of the delegation.

#### *Article 18*

Each Party shall bear the costs of the participation of its delegation in the Interstate Diplomatic Committee, in joint expert work groups and all other work groups, as well as the costs of participating in auxiliary work forces and other personnel employed to perform duties outlined in the Instructions on the Maintenance of the Border Line and the Border Zone.

#### *Article 19*

- (1) Members of the Interstate Diplomatic Committee, joint expert work groups and all other work groups, as well as auxiliary personnel can, during their duties duly announced to the other Party, in accordance with Paragraph 3, Article 7 of this Treaty, and with adequate identification, cross the state border at any point.
- (2) Identification mentioned in Paragraph 1 of this Article shall be issued by the adequate authorities of the Republic of Croatia and Bosnia and Herzegovina at the suggestion of the Interstate Diplomatic Committee.

*Article 20*

- (1) Members of the Interstate Diplomatic Committee, joint expert work groups and all other work groups, as well as auxiliary personnel of one of the Parties cannot, while carrying out their duties on the territory of the other Party, be detained and deprived of their personal belongings, personal identification, technical data carriers, materials, tools and vehicles. All the mentioned articles are exempt from customs and other fees, but the authorized personnel must declare them to customs officers and, with the exception of the articles used up on duty, return all of them to the territory of their country.
- (2) The Parties shall provide all the necessary help with respect to the transportation, lodging and access to communications equipment to the members of the Interstate Diplomatic Committee, joint expert work groups and all other work groups, as well as auxiliary personnel in order to facilitate their work.
- (3) Members of the Interstate Diplomatic Committee, joint expert work groups and all other work groups, as well as auxiliary personnel can during their duties on the border wear official uniform, but cannot be armed.

*Article 21*

- (1) All disputes regarding the interpretation and implementation of this Treaty shall be resolved by the Interstate Diplomatic Committee.
- (2) If the Interstate Diplomatic Committee is not able to resolve a dispute from Paragraph 1 of this Article through settlement, the said disputes shall be referred to the adequate authorities of the Parties.

*Article 22*

- (1) This Treaty shall be temporarily implemented as of its signing date.
- (2) This Treaty shall be in effect indefinitely.
- (3) Each Party can cancel this Treaty at any time with prior written notice to the other Party sent through diplomatic channels. In that case, the Treaty shall

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become void six months after the date of the receipt of the notice on the cancellation of the Treaty by the other Party.

*Article 23*

This Treaty comes into effect on the day of the receipt of the last written notice sent through diplomatic channels by which the Parties inform each other that all the conditions set forth by their legislatures regarding the coming into effect of this Treaty have been met.

Written in *Sarajevo*, on *July 30, 1999* in two originals, both in the official languages of the Parties. Both texts are equally valid.

For the Republic of Croatia  
(signed)

For Bosnia and Herzegovina  
(signed)

## Latvia–Lithuania

*Report Number 10-20*

**Agreement between the Republic of Latvia and the Republic of Lithuania  
on the delimitation of the territorial sea, exclusive economic zone and  
continental shelf in the Baltic Sea**

*Signed:* 9 July 1999

*Entered into force:* Not yet in force

*Published at:* STATE NEWS (Official Lithuanian Gazette), No. 100-2893 (1999).<sup>1</sup>

### I SUMMARY

This is the seventh agreement concluded during the second half of the 1990s in the southeastern Baltic Sea which is directly related to the disintegration of the former Soviet Union.<sup>2</sup> It establishes a maritime boundary in the southeastern Baltic Sea where none had existed before, exception made of a small stretch of territorial sea boundary dating from the pre-Soviet period. This agreement forms part of the fourth chronological group in the over-all Baltic Sea delimitation effort,<sup>3</sup> which

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1 Reprinted in Erik Franckx, *New Maritime Boundaries Concluded in the Eastern Baltic Sea Since 1998*, 16 INT'L J. MAR. & COASTAL L. 643, 656-57 (2001).

2 Agreement between the Republic of Latvia and the Republic of Lithuania on the Delimitation of the Territorial Sea, Exclusive Economic Zone and Continental Shelf in the Baltic Sea, 9 July 1999, *reprinted in* Franckx, *supra* note 1 (hereinafter Latvia-Lithuania Agreement). This treaty has not yet entered into force. For the first six such agreements concluded in the area, *see* in chronological order: Estonia-Latvia (1996), No. 10-15; Estonia-Finland (1996), No. 10-16; Estonia-Latvia-Sweden (1997), No. 10-17; Lithuania-Russia (1997), No. 10-18(1); Lithuania-Russia (1997), No. 10-18(2); and Estonia-Sweden (1998), No. 10-19.

3 Erik Franckx, *Maritime Boundaries in the Baltic Sea: Post-1991 Developments*, 28 GA. J. INT'L & COMP. L. 249, 256 (2000). It concerns agreements directly related to the dissolution of the former Soviet Union.

is in substance clearly distinguishable from the previous ones.<sup>4</sup> Within this fourth group, two distinct subcategories are to be further distinguished, namely those relating to the delimitation of maritime areas where no boundary existed before, and those involving the more subtle questions about the legal status of previously concluded maritime boundary agreements by the former Soviet Union in the areas to be delimited.<sup>5</sup> The present agreement completely fits into the first category since the status of the pre-existing territorial sea boundary, concluded between the parties before their incorporation in the former Soviet Union, was never called into question as a matter of principle.<sup>6</sup>

The agreement establishes a single maritime boundary, dividing the territorial sea, the exclusive economic zone (EEZ) as well as the continental shelf between the parties. The boundary extends over a distance of about 68-nautical-miles (n.m.) and consists of only two segments: One delimiting the territorial sea between the parties, the other the EEZ and the continental shelf. The western terminal point remains undetermined in the agreement, awaiting trilateral negotiations. Nevertheless, by making use of a method already employed by Latvia in its agreement with Estonia (Latvia-Estonia (1996), No. 10-15),<sup>7</sup> a rather precise indication is given by the parties about the future location of this tripoint.

The boundary line starts in the east at the terminal point of the land frontier and is supposed to terminate in the west at the outer limit of Sweden's economic zone.

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- 4 The previous periods run from 1945-1972, 1973-1985, and 1985 to the beginning of the 1990s respectively. See Erik Franckx, *International Cooperation in Respect of the Baltic Sea*, in THE CHANGING POLITICAL STRUCTURE OF EUROPE: ASPECTS OF INTERNATIONAL LAW 245, 255-61 (R. Lefeber, M. Fitzmaurice, & E. W. Vierdag eds., 1991), as later supplemented in Erik Franckx, *Maritime Boundaries in the Baltic Sea: Past, Present and Future*, 2 MARITIME BRIEFING 6-10 (IBRU, No. 2, 1996) and Erik Franckx, *Maritime Boundary Delimitation in the Baltic Sea*, in THE BALTIC SEA: NEW DEVELOPMENTS IN NATIONAL POLICIES AND INTERNATIONAL COOPERATION 167, 169-73 (Renate Platzöder & Philomène Verlaan eds., 1996). See also, Erik Franckx, *Frontières maritimes dans la mer Baltique: passé, présent et futur*, 9 ESPACES ET RESSOURCES MARITIMES 92, 97-103 (1995) and Erik Franckx, *Les délimitations maritimes en mer Baltique*, 5 REVUE DE L'INDEMER 37, 50-58 (1997).
- 5 As already alluded to in the first regional report concerning the Baltic Sea. See Erik Franckx, *Region X: Baltic Sea Maritime Boundaries*, *supra* at 345, 365.
- 6 See *infra* note 20 and accompanying text. In this fourth group (see *supra* note 3 note and accompanying text), it has therefore to be classified with agreements such as Estonia-Latvia (1996), No. 10-15; Lithuania-Russia (1997), No. 10-18(1 & 2); and Estonia-Finland-Sweden (2001), No. 10-21. The Estonia-Latvia-Sweden Agreement, as already mentioned, should rather be considered to be a hybrid or mixed agreement in this respect. See Estonia-Latvia-Sweden (1997), No. 10-17, Part III, *Conclusions, in fine* and the further references to be found there.
- 7 As stressed in Estonia-Latvia-Sweden (1997), No. 10-17, Part II.1, *Political, Strategic, and Historical Considerations*.

The geographical configuration of the coasts in the area to be delimited is one of adjacency. In the area immediately surrounding the land boundary terminal point the coasts of both parties are quite symmetrical. However, from a more general perspective, the coast of Latvia tends to be convex, whereas the mainland coast of Lithuania is rather concave. South of Kleipeda lies the Lithuanian Kursiu promontory, which is separated from the Lithuanian mainland. The coastline of this promontory is only connected to the mainland in the south at the Russian province of Kaliningrad.

## II CONSIDERATIONS

### *1 Political, Strategic, and Historical Considerations*

The negotiations between Latvia and Lithuania were long and difficult.<sup>8</sup> They lasted from 1993 to 1999, over the course of eight different Latvian governments.<sup>9</sup>

After the disintegration of the Soviet Union, Latvia and Lithuania signed an agreement in 1993 by means of which they decided to re-establish their pre-1940 boundary.<sup>10</sup> This was in line with the strongly held belief by the Baltic states that they are not successor states of the former Soviet Union, but that they are successors to the pre-World War II states bearing the same names.<sup>11</sup> They maintain that their annexation during the 1940s was illegal *ab initio* because of the secret nature of the so-called Molotov-Ribbentrop pact.<sup>12</sup> As a consequence, these states have sought

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8 For a detailed description of the course of these negotiations, see Erik Franckx, *Maritieme afbakening in de oostelijke Baltische Zee: Internet en het wetenschappelijk onderzoek* (Maritime Delimitation in the Eastern Baltic Sea: Internet and Scientific Research), in OOST-EUROPA IN EUROPA: EENHEID EN VERSCHIEDENHEID 275, 280-81 and 285-96 [HULDEBOEK AANGEBODEN AAN FRITS GORLÉ] (Pieter De Meyere, Erik Franckx, Jean-Marie Henckaerts, & Katlijn Malfliet eds., 1996) and Erik Franckx, *Maritime Boundaries in the Baltic*, in BOUNDARIES AND ENERGY: PROBLEMS AND PROSPECTS 275, 283-86 (Gerald Blake, Martin Pratt, Clive Schofield, & Janet Allison Brown eds., 1998).

9 As stressed by M. Riekstins, head of the Latvian negotiating team. See THE BALTIC TIMES, 30 Nov.-6 Dec. 2000, at 3, col. 3.

10 Agreement between the Republic of Latvia and the Republic of Lithuania on the Renewal of the State Border, 29 July 1993, STATE NEWS, No. 100-2229 (1995) (hereinafter 1993 Agreement). This agreement entered into force on 5 July 1995.

11 See, e.g., Brigitte Stern, *Aspects of the Law of State Succession: Rapport intérimaire sur la succession en matière de traités constitutifs d'organisations internationales et de traités adoptés au sein des organisations internationales*, in THE INTERNATIONAL LAW ASSOCIATION: REPORT OF THE SIXTY-EIGHTH CONFERENCE 616, 625 (1998).

12 Secret Additional Protocol to the Molotov-Ribbentrop Pact, 23 August 1939, Germany-USSR, art. 1, available at <<http://www.historyplace.com/worldwar2/timeline/pact.htm>>. Article 4 of that Protocol obliged the parties to treat its content as strictly secret.

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to reinvigorate treaties that were concluded during the inter-war period by the Baltic states.

In order to trace this pre-1940 boundary, reference must be made to the framework convention of 14 May 1921 which served as basis for the delimitation of the land boundary between both Latvia and Lithuania.<sup>13</sup> The 1993 Agreement explicitly refers back to this 1921 document.<sup>14</sup> The most important article of the 1993 Agreement for the present report reads as follows:

The part of the state boundary between the Parties constituting the sea border shall be determined by separate agreement.<sup>15</sup>

On the basis of the 1921 Agreement, the boundary commission expressly concluded in 1927 that the land boundary continues in the Baltic Sea dividing the territorial waters of both states.<sup>16</sup> Even though the direction of the maritime boundary was apparently indicated by the boundary commission, the length of that line was not specified.<sup>17</sup>

Taking into account the fact that these states have adopted a policy of continuing the situation as it existed before the USSR annexation, including boundary agreements,<sup>18</sup> it would be reasonable to expect that the general description of the mari-

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13 Convention between Latvia and Lithuania Regarding the Delimitation on the Spot of the Frontier Between the Two States, and Also Regarding the Rights of the Citizens in the Frontier Zone, and the Status of Immovable Property Intersected by the Frontier Line, 14 May 1921, 17 L.N.T.S. 223 (hereinafter 1921 Agreement).

14 1993 Agreement, *supra* note 10, art. 1, in which the parties agreed: "To renew the boundary between the Republic of Latvia and the Republic of Lithuania as it was until 15 June 1940, based on the Convention of 14 May 1921, between the Republic of Latvia and the Republic of Lithuania on the delimitation of the land boundary." Also the Preamble of the 1993 Agreement makes such a reference.

15 *Id.*, art. 8.

16 Protocol of 15 October 1927. Original Latvian and Lithuanian text kindly received from the Latvian Ministry of Foreign Affairs. English translation provided by the Baltic Information Centre, Brussels. Text on file with the author (hereinafter 1927 Protocol). This document contained in annex a detailed description of the boundary, consisting of 614 pages of text, 22 sketches, as well as a map made up of 113 plates (*id.*, *sub* 2). The provision concerning the territorial sea is to be found in para. 1.3 of that annex. Information kindly obtained from the Latvian Ministry of Foreign Affairs.

17 The direction of the 1927 maritime boundary was determined by the direction of the last segment of the land boundary—the line between points having the following coordinates: 56°04'53.08" N, 21°08'31.26" E and 56°04'14.77" N, 21°03'49.81" E. But according to the State Border Delimitation and Demarcation Commission of the Ministry of Foreign Affairs of the Republic of Lithuania (letter of 12 June 2001; on file with the author), the exact wording is as follows: "[T]he border line continues in the direction of the last two border posts up to the sea and further ...". As will be seen *infra* note 53 and accompanying text, Lithuania apparently considered this wording not to determine the direction of the territorial sea boundary. No official reference could however be provided (*id.*).

18 See *supra* note 10 and accompanying text.

time boundary in 1927 would influence the recent negotiations.<sup>19</sup> It is therefore no surprise that the Preamble of the Latvia-Lithuania Agreement explicitly refers to these “historical regulations on the delimitation of the territorial sea”.<sup>20</sup>

It also should be noted that during the negotiations leading to the present agreement, the Lithuanian President took a rather peculiar initiative by issuing a decree in which he stated that, until a bilateral agreement is reached:<sup>21</sup>

The following principles of negotiations with [the] Republic of Latvia are confirmed: The border of the territorial sea of the Republic of Lithuania in the Baltic sea is a straight line starting from the last point of the state border of Latvia and Lithuania at the coast of the Baltic sea, the coordinates of which are N 56.04.10; E 21.03.53 to the point in the Baltic sea 12 nautical miles from the coast, the coordinates of which are N 56.03.06; E 20.42.37.<sup>22</sup>

The President’s statement also addressed the EEZ and the continental shelf:

The northern border of the economic zone and continental zone of the Republic of Lithuania in the Baltic sea is [a] straight line from the point in the Baltic sea the coordinates of which are N 56.03.06; E 20.42.37 to the point where the geographical

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19 Erik Franckx, *The 1998 Estonia-Sweden Maritime Boundary Agreement: Lessons to be Learned in the Area of Continuity and/or Succession of States*, 31 OCEAN DEV. & INT’L L.J. 269, 271 (2000), where it is stressed that a very similar situation occurred in the relationship between Estonia and Latvia. In that case the parties had given a disproportionate effect to this historical boundary, which only measured approximately 2.5 n.m., but which in reality influenced the maritime boundary between the parties for almost ten times that distance. See also Estonia-Latvia (1996), No. 10-15, Part II.1, *Political, Strategic, and Historical Considerations*. As will be seen *infra*, Part II.8, *Method of Delimitation Considerations*, however, the present agreement only attached a partial effect to this 1927 Protocol.

20 Latvia-Lithuania Agreement, Preamble, para. 3.

21 With this initiative, the president appears to have further developed, as well as given a more concrete content to, a statement by the parliament three weeks earlier in which the Seimas declared: “Until such time as the Baltic Sea delimitation between the Republic of Latvia and the Republic of Lithuania is established, the Republic of Lithuania shall not agree with any actions which violate the sovereign rights of the Republic of Lithuania to prospect, exploit, protect and manage the living and natural sea resources south from the boundary which extends in a straight line from the point of the land border between Latvia and Lithuania on the Baltic Sea shore to the point which marks the junction of the geographic parallel B=56°07’35” and the third state’s jurisdiction boundary in the Baltic Sea.” Statement of the Seimas of the Republic of Lithuania, Concerning Problems in Mutual Relations Created by the Government of the Republic of Latvia, 23 October 1996, *sub 2*, available at <<http://www3.lrs.lt/c-bin/eng/preps2?Condition1=94697&Condition2=>> (21 May 2001).

22 Decree of the President of the Republic of Lithuania, On the Northern Border of the Territorial Sea, Economic Zone and Continental Shelf of the Republic of Lithuania, 13 November 1996, STATE NEWS, No. 112-2537 (1996), art. 1 (1).



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parallel N 56.07.35 meets a border of the continental shelf of the third state in the Baltic sea.<sup>23</sup>

Whether the purpose of this decree was to influence the Lithuanian negotiating team or the Latvian government was not immediately clear. Nevertheless, the method used to convey this kind of sensitive information appeared rather unusual and the juridical value of the decree raised serious doubts from an international law perspective. When compared with the Protocol of 15 October 1927, this Presidential line ends up about 3' more to the north at a distance of 12 n.m. from the coast than if the prolongation of the last segment of the land boundary were to be followed.

## 2 Legal Regime Considerations

The treaty delimits the territorial sea, the EEZ, and the continental shelves of the parties. With respect to the territorial sea, this did not create any major difficulties between the parties since both claimed a 12 n.m. territorial sea at the time the negotiations started, or at least soon afterward.<sup>24</sup> Both states moreover had already acceded to the 1958 Convention on the Territorial Sea and the Contiguous Zone by the start of the negotiations.<sup>25</sup>

With respect to the EEZ and continental shelf, only Latvia is a party to the 1958 Convention on the Continental Shelf,<sup>26</sup> but neither Latvia nor Lithuania are parties to the 1982 LOS Convention.<sup>27</sup>

In line with the example set by Lithuania in its bilateral relations with the Russian Federation (Lithuania-Russia (1997), No. 10-18(1), Part II.2, *Legal Regime*

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23 *Id.*, art. 1 (2). Even though the line proposed by the president is therefore more elaborated than the one contained in the parliamentary statement, the western terminal point is identical, namely where the geographical parallel N 56°07'35" meets Sweden's maritime boundary. *See supra* note 21.

24 With respect to Latvia, *see* Act on the State Border of the Republic of Latvia, 27 October 1994, LATVIJAS VESTNESIS, 10 November 1994, No. 134. With respect to Lithuania, *see* Law on the State Border of the Republic of Lithuania, 25 June 1992, art. 4, available at <<http://www3.lrs.lt/c-bin/eng/preps2?Condition1=21157&Condition2=>>> (21 May 2001).

25 Latvia acceded on 17 November 1992 and Lithuania on 31 January 1992.

26 This country acceded on 2 December 1992.

27 If this absence of ratification does not create any problems with respect to the continental shelf, a zone which does not depend on any express proclamation, the situation is somewhat less clear concerning the EEZ. Both countries have in their legislation a number of references to the EEZ, but fundamental legislation formally establishing such a zone appears to be missing. This point has already been developed in previous reports. With respect to Latvia, *see* Estonia-Latvia (1996), No. 10-15, Part II.2, *Legal Regime Considerations, in fine*; concerning Lithuania, *see* Lithuania-Russia (1997), No. 10-18(1), Part II.2, *Legal Regime Considerations*.

*Considerations*), Latvia and Lithuania did not sidestep this apparent lack of basic EEZ legislation by using a generic term in the title of the agreement, as Latvia had done in its relations with Estonia.<sup>28</sup> Instead, the agreement appears to start from the premise that both states have an EEZ since the present treaty expressly states that it delimits the EEZ of both parties.<sup>29</sup> It therefore further strengthens the argument that Latvia and Lithuania do claim an EEZ.

Even though neither Latvia nor Lithuania are a party to the 1982 LOS Convention, both parties specified in the preamble of the present treaty that they “acknowledged” the provisions of that convention.<sup>30</sup> Moreover the parties explicitly indicated that they would

take into account all the existing rules applicable to the delimitation of maritime areas, with view to arriving at an equitable solution.<sup>31</sup>

It is noteworthy that all the bilateral maritime boundary delimitation agreements concluded by Estonia, Latvia, and Lithuania since the disintegration of the Soviet Union, contain some kind of reference to the 1982 LOS Convention despite the fact that none of these states was a party to that agreement at the time of signature of these agreements.<sup>32</sup>

### 3 *Economic and Environmental Considerations*

In the Baltic Sea, the southeastern part is the most promising region as far as mineral resource potential is concerned.<sup>33</sup> This is therefore only the second agreement in this region concluded since the early 1990s in which oil deposits substantially

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28 In this agreement the term “maritime delimitation” is to be found in the title. See *Estonia-Latvia* (1996), No. 10-15.

29 It is remarkable that the agreement seems to stress this point by including the following unnecessary repetition in its operative part: “The boundary between the exclusive economic zone and continental shelf of the Republic of Lithuania and the exclusive economic zone and continental shelf of the Republic of Latvia ...”. *Latvia-Lithuania Agreement*, *supra* note 2, art. 2 (1).

30 *Id.*, Preamble, para. 4.

31 *Id.*, Preamble, para. 5.

32 Excluded are thus the two tripoint agreements as well as the territorial sea boundary between Lithuania and Russia which only concerned a small part of the over-all territorial boundary agreement.

33 G.H. Blake and R.E. Swarbrick, *Hydrocarbons and International Boundaries: A Global Overview*, in *BOUNDARIES AND ENERGY: PROBLEMS AND PROSPECTS*, *supra* note 8, at 3, 6 where a map indicating the main oil and gas fields is reproduced.

influenced the negotiations between the parties.<sup>34</sup> Non-living resources formed the crux of the maritime boundary dispute between the parties in this area. When one views the course of the negotiations, it appears that the many cooling off periods which occurred during the period 1993-1999, were often directly related to particular actions taken by the Latvian authorities relating to the granting of licences with respect to those resources.<sup>35</sup>

Until 1994 the negotiations went rather smoothly with the parties affirming that they narrowed the disputed zone to a mere 2.7 n.m. But when the Latvian government publicly announced later that year that an American (AMOCO) and Swedish firm (OPAB) had been chosen to develop the Latvian continental shelf resources, including areas claimed by both sides, a dispute arose. The problem flared up once again a year later when in October Latvia signed contracts with these companies. A letter of protest followed the first event. After the second, Lithuania recalled its ambassador for consultations. This cycle repeated itself after every later action taken by the Latvian authorities in this respect.<sup>36</sup>

Because of the strong probability that gas and oil deposits are located in the area delimited by the present treaty, it should not surprise that this is the second treaty, concluded during the fourth chronological group of agreements pertaining to Baltic Sea, that contains a unity of deposits clause.<sup>37</sup> In the over-all Baltic Sea practice, this is nevertheless still exceptional.<sup>38</sup> It is drafted in a manner similar to other unity of deposits clauses incorporated in maritime boundary agreements in the Baltic Sea.<sup>39</sup> It therefore does not follow the Lithuania-Russia example which took a different approach by using less mandatory language (Lithuania-Russia (1997), No. 10-18(1), Part II.3, *Economic and Environmental Considerations*).

The only distinguishing feature of the Latvia-Lithuania unity of deposits clause is that it specifies that the “mineral deposit” must be interpreted in “its most general, extensive and comprehensive sense and includes all non-living substances occurring on, in or under the ground, irrespective of chemical or physical state.”<sup>40</sup>

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34 For the other one, see Lithuania-Russia (1997), No. 10-18(1), Part II. 3, *Economic and Environmental Considerations*.

35 For more details, see the sources listed *supra* note 8. The next paragraph is based on these sources.

36 For instance when the Latvian government’s Economics and Finance Committee decided to pass the bill on oil concessions for government consideration or when a bill was passed for parliamentary adoption to allow foreign companies to drill in the Latvian continental shelf.

37 For the Baltic Sea chronology concerning maritime boundary delimitations during the 1990s, see *supra* note 3 and accompanying text. For the other such agreement, see Lithuania-Russia (1997), No. 10-18(1).

38 Erik Franckx, *supra* note 5, at 363.

39 See in chronological order: Finland-Sweden (1972), No. 10-3, attached protocol; German Democratic Republic-Sweden (1978), No. 10-7, art. 3; Denmark-Sweden (1984), No. 10-2, art. 6; and Denmark-German Democratic Republic (1988), No. 10-11, art. 3.

40 Latvia-Lithuania Agreement, *supra* note 2, art. 4 (2).

Fishery considerations, which had not been an issue in the negotiations and were not taken into account in the boundary agreement,<sup>41</sup> came to the fore mainly after the agreement had been signed. Even though Lithuania already ratified the agreement a few months afterwards,<sup>42</sup> Latvian fishing groups effectively lobbied their parliament not to ratify the agreement because they believed certain areas belonging to Latvia before the Soviet era would be turned over to Lithuania as a result of the agreement.<sup>43</sup> These fishermen threatened to blockade Latvian ports if Parliament ratified the agreement.<sup>44</sup> This lobbying was effective, since this agreement will be one of the very few maritime boundary agreements concluded in the Baltic Sea since the Second World War which did not enter into force the year after which it was signed.<sup>45</sup> The Lithuania–Russia agreements, especially are presenting problems in this respect.<sup>46</sup> But with the apparent willingness of Lithuania to compromise on this particular point in order to speed up the Latvian ratification process, the present agreement may not take as long as the just-mentioned Lithuania–Russia agreements.<sup>47</sup>

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41 The state practice of both countries in their maritime boundary delimitations with their other respective maritime neighbors, indicates that fishery issues were normally dealt with separately. With respect to Latvia, see Estonia–Latvia (1996), No. 10-15, Part II.3, *Economic and Environmental Considerations*; relating to Lithuania, see Lithuania–Russia (1997), No. 10-18(1), Part II.3, *Economic and Environmental Considerations*.

42 Law No. VIII-1371 of 28 October 1999, On the Ratification of the Agreement between the Republic of Lithuania and the Republic of Latvia on the Delimitation of the Territorial Sea, Exclusive Economic Zone and Continental Shelf in the Baltic Sea, STATE NEWS, No. 100-2887 (1999).

43 This fishery dispute finds its roots in a provisional arrangement arrived at in 1991 between the Ministers of Transport of Estonia, Latvia and Lithuania, called Protocol concerning the EEZ. This provisional arrangement had granted Latvian fishermen access to an area even further south than what the 1927 Protocol would have attributed to Latvia. Information kindly obtained from the Latvian Ministry of Foreign Affairs on 8 June 2001. As will be seen *infra*, Part II.8, *Method of Delimitation Considerations*, the boundary finally agreed upon remains well north of this 1927 line.

44 THE BALTIC TIMES, 30 November–6 December 2000, at 3, cols 1-2.

45 This is a point already developed in the Lithuania–Russia (1997), No. 10-18(1), Part III, *Conclusions*, *in fine*.

46 For the underlying reasons, see Erik Franckx & Ann Pauwels, *Lithuanian–Russian Boundary Agreement of October 1997: To Be or Not To Be?* in LIBER AMICORUM GÜNTHER JAENICKE -- ZUM 85. GEBURTS-TAG 63, 75-82 (Volkmar Götz, Peter Selmer & Rüdiger Wolfrum eds., 1998). At the time of writing (May 2001), these agreements (Lithuania–Russia (1997), No. 10-18 (1 & 2)) had not yet entered into force.

47 Lithuanian fishery specialists have apparently proposed representatives of Latvian fishermen to exchange fishing quotas which would allow fishermen of both sides to fish in the territorial sea of the other party. NEWSFILE LITHUANIA, 12-18 March 2001, available at <[http://www.urm.lt/data/15/EF22114019\\_nf651.htm#LATVIAN%20PRESIDENT%20PAYS%20A%20STATE%20VISIT%20TO%20LITHUANIA](http://www.urm.lt/data/15/EF22114019_nf651.htm#LATVIAN%20PRESIDENT%20PAYS%20A%20STATE%20VISIT%20TO%20LITHUANIA)> (21 May 2001).

#### 4 Geographic Considerations

The coasts of both states in the area being delimited are adjacent and rather smooth. In a symmetrical manner, the mainland coasts start out as concave in the area near the terminal point of the land boundary but each appear in their entirety to be convex when viewed from a broader perspective. The only special feature in the area is the Kursiu promontory, which, as mentioned above, is not connected to the Lithuanian mainland, but rather to Russia further down the coast (Lithuania-Russia (1997), No. 10-18(1), Part II.4, *Geographic Considerations*). In their bilateral relations, Lithuania and Russia considered this promontory to represent the relevant coastline governing the maritime delimitation in the area (Lithuania-Russia (1997), No. 10-18(1), Part II.5, *Islands, Rocks, Reefs, and Low-Tide Elevations Considerations*).

The length of the respective relevant coastlines, i.e. Armens Rags on the Latvian coast to the north, and the Lithuanian-Russian state boundary to the south, appear to be roughly equal.

#### 5 Islands, Rocks, Reefs, and Low-Tide Elevations Considerations

No islands, rocks, reefs, or low-tide elevations are present. Consequently, these considerations did not influence the delimitation of the boundary. The only special geographic feature in the area is the Kursiu promontory, which was discussed in the previous section (*see supra*, Part II.4, *Geographic Considerations*).

#### 6 Baseline Considerations

Because of the particularly smooth coastline of the southeastern Baltic Sea, the Russian Federation never established a system of straight baselines in this area.<sup>48</sup> South of Ovisi lighthouse at the Strait of Irbe, the former Soviet Union simply used

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<sup>48</sup> The former Soviet system of straight baselines in the Baltic Sea, as established in 1985, stopped well north of the area here under consideration at Ovisi lighthouse, Latvia. *See* Decree of 15 January 1985, On the Confirmation of a List of Geographic Coordinates Determining the Position of the Baseline in the Arctic Ocean, the Baltic Sea and Black Sea from which the Width of the Territorial Waters, Economic Zone and Continental Shelf of the U.S.S.R. is Measured, I (Annex) IZVESHCHENIIA MORE-PLAVATELIAM 37 (1986) (it concerns point 32). As already discussed in Estonia-Latvia (1996), No. 10-15, Part II.6, *Baseline Considerations*, as well as Part II.1, *Political, Strategic, and Historical Considerations*.

the normal baseline, i.e. the low-water line along its coast. Latvia, following a similar logic, does not claim a system of straight baselines in the area. Nevertheless, when Lithuania regained its independence, the law on the state boundary stated that the “extent of the territorial sea shall be measured from the straight line drawn between the two outermost points of the shoreline.”<sup>49</sup> A governmental decision of 1994 subsequently defined these two outermost points of the shorelines by providing concrete coordinates at the coast near Palanga in the north and at the terminal point of the land boundary with Russia on the west coast of the Kursiu promontory on the south.<sup>50</sup> As was the case with respect to the delimitation with Russia (Lithuania–Russia (1997), No. 10-18(1 & 2), Part II.6, *Baseline Considerations*), however, this Lithuanian baseline does not appear to have directly influenced the location of the maritime boundary (*see infra*, Part II.8, *Method of Delimitation Considerations*).

### 7 Geological and Geomorphological Considerations

No particularly significant seabed features are found in the area that might have justified consideration in this delimitation. Since the continental shelf in the area is moreover a geological continuum Latvia and Lithuania appear to be located on the same continental shelf.

### 8 Method of Delimitation Considerations

Despite the fact it could have been expected that the historical territorial sea boundary between the parties would have exercised a very substantial influence on the course of the territorial sea boundary line, this has not really been the case.<sup>51</sup> In fact, this line was not even given full effect for the first 3 n.m.—the breadth of the

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49 Law on the State Border of the Republic of Lithuania, 25 June 1992, art. 4, available at <<http://www3.lrs.lt/c-bin/eng/preps2?Condition1=21157&Condition2=>>> (21 May 2001). This article further states: “The geographical coordinates of these points shall be approved by the Government of the Republic of Lithuania. An international agreement of the Republic of Lithuania may establish a different limit of the territorial sea of the Republic of Lithuania.”

50 Decision No. 162 of 10 March 1994, On the Establishment of the Territorial Sea of the Republic of Lithuania, STATE NEWS, No. 20-327 (1994). The following coordinates are provided: For the northern point 55°55'12.8" N and 21°03'01.1" E, and for the southern point 55°16'51.6" N and 20°57'21.9" E.

51 *See supra* notes 18-20 and accompanying text, where it is moreover stressed that Latvia, in its maritime boundary relations with Estonia, had given the pre-Soviet territorial sea boundary a prominent place.

territorial sea claimed by the parties in 1927.<sup>52</sup> The reference to the “historical regulations on the delimitation of the territorial sea” in the Preamble, appears to be merely cosmetic especially from the Lithuanian point of view, since this country apparently considered that the exact wording of the 1927 Protocol left the method of delimitation of the territorial sea untouched.<sup>53</sup>

The first segment of the boundary line, measuring 12 n.m., delimits the territorial sea. It is an adjusted equidistant line, mainly measured from the land boundary terminus and the respective coastlines about 2 n.m. each side of this terminus. Point II, representing the outer limit of the territorial sea, lies somewhat south of the terminal point of the territorial sea unilaterally claimed by the Lithuanian president,<sup>54</sup> but nevertheless proportionally more north of the prolongation of the last segment of the Latvian-Lithuanian land boundary as referred to in the historical territorial sea boundary of 1927.<sup>55</sup> A particular stumbling block was created by the Svetoji mole, located rather close to the terminal point of the land boundary on the Lithuanian side. With respect to this otherwise rather symmetrical concave coastline, the parties believed this manmade construction to generate a different effect: For Latvia no effect should be given to it, whereas Lithuania believed it to generate full effect.

The second part of the boundary, seaward from 12 n.m. to Sweden’s economic zone, was delimited by means of an azimuth of 270°. It is a loxodrome starting at the outer limit of the territorial sea boundary and running parallel to the parallels of longitude. This line reaches Sweden’s economic zone several minutes south of the line unilaterally claimed by the Lithuanian president,<sup>56</sup> but about three times as far from the simple prolongation of the 1927 sea boundary line, as initially put

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52 With respect to Latvia, *see* for instance GILBERT GIDEL, 3 LE DROIT INTERNATIONAL PUBLIC DE LA MER 110 (1934).

53 For the exact wording relied upon by the Lithuanian side, *see supra* note 17. Based on the argument that in most cases countries did not seek delimitation of their territorial waters in the prewar practice, this country is apparently of the opinion that the direction of the last segment only determines the boundary line up to the sea, but not beyond. *See* State Border Delimitation and Demarcation Commission of the Ministry of Foreign Affairs of the Republic of Lithuania (letter of 12 June 2001; on file with the author).

54 *See supra* 22 note and accompanying text.

55 For the exact coordinates indicating the direction of the pre-Soviet territorial sea boundary, *see supra* note 17.

56 *See supra* 23 note and accompanying text.

forward by Latvia.<sup>57</sup> This line appears to be a perpendicular to a line representing the general direction of the coast.<sup>58</sup>

At a point on the boundary about 14 n.m. from the coast a hypothetical equidistant line would bend to the southwest “in front” of the Lithuania’s coastline. This would be due to the fact that while each coastline is somewhat symmetrical, Latvia’s convex coast (about 10 n.m. north of the land boundary terminus) extends slightly further seaward than Lithuania’s convex coast (situated about 10 n.m. to the south of the land boundary terminus).

Latvia has so far been the only country which has consistently relied on the use of azimuths to delimit the outer segments of its maritime boundaries. It had previously used this method in its delimitation with Estonia (*see* Estonia-Latvia (1996), No. 10-15).<sup>59</sup> The use of an azimuth makes it possible to avoid locating a terminal point in the immediate vicinity of tripoints which remain to be negotiated. As far as the third state is concerned, however, such a method does not leave much leeway for negotiations since it reduces the trilateral negotiations to the mere technicality of fixing of the exact coordinates of the tripoint. As was the case with respect to the Estonia-Latvia maritime boundary (Estonia-Latvia-Sweden (1997), No. 10-17, Part II.1, *Political, Strategic, and Historical Considerations*), Sweden probably will not object to this approach since it sustains the theoretical position that the 1988 delimitation agreement it concluded with the former Soviet Union remains in force.<sup>60</sup>

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57 If the latter line were allowed to directly abut on the Polish EEZ.

58 *See* information kindly obtained from the State Border Delimitation and Demarcation Commission of the Ministry of Foreign Affairs of the Republic of Lithuania (letter of 12 June 2001; on file with the author), indicating that this line was influenced by the Kursiu promontory and the Lithuanian straight baseline, as well as the information kindly obtained from the Ministry of Foreign Affairs of Latvia (telephonic conversation of 8 June 2001), rather emphasizing that despite the initial positions of the parties (direction indicated by the 1927 Protocol up to Sweden’s economic zone for Latvia, and the Kursiu promontory for Lithuania) this general direction was primarily generated by the short segment surrounding the land boundary.

59 In the over-all delimitation effort in the Baltic Sea, this country therefore almost stands out in isolation, since no other agreement concluded since the Second World War explicitly mentions the degree of a possible azimuth involved. The only comparable practice is to be found in the 1968 agreement between the former German Democratic Republic and Poland. It provides that the tripoint would be arrived at by an extension of the last segment determined by the agreement. But this description was replaced by a set of new coordinates in 1989 and merely retained that from the northern terminal point the line would continue in a northeasterly direction; this is totally different from the west-northwest direction of the last segment of that new agreement (*see* German Democratic Republic-Poland (1968), No. 10-6(1)).

60 Marie Jacobsson, *Sweden and the Law of the Sea*, in *THE LAW OF THE SEA: THE EUROPEAN UNION AND ITS MEMBER STATES* 495, 510 (Tullio Treves & Laura Pineschi eds., 1997).



In the Latvia-Lithuania boundary delimitation, Latvia seems to have been willing to downgrade its understanding of the 1927 Protocol, in order to secure a greater area beyond the territorial sea at the locations where it was negotiating with foreign oil companies to explore and exploit mineral resources believed to be located there. Lithuania, on the other hand, secured a direct outlet to the middle of the Baltic Sea in view of the delimitation line reached with Russia two years earlier (Lithuania-Russia (1997), No. 18-10(1), Part II.3, *Economic and Environmental Considerations*).

### 9 Technical Considerations

The lines connecting the different turning points are straight lines. Only with respect to the second segment, delimiting the EEZ and the continental shelf, is it specified that this line represents a loxodrome.

The parties opted for the World Geodetic System 1984 (WGS-84) as system of reference, further confirming a fixed practice in the Baltic Sea region since the 1990s.<sup>61</sup> In its bilateral relations with Russia, nevertheless, Lithuania had to accept that two sets of coordinates for every point mentioned in the maritime boundary were included because the Russian Federation continues to rely on an older system for determining coordinates in this area (Lithuania-Russia (1997), No. 10-18(1), Part II.9, *Technical Considerations*). In the agreement containing the territorial sea boundary, WGS-84 even totally disappeared, since only the Russian coordinate system of 1942 was relied upon (Lithuania-Russia (1997), No. 10-18(2), Part II.9, *Technical Considerations*).

A map is annexed to the agreement but solely for illustrative purposes. In this, once again, the agreement follows a set practice in the Baltic developed since the early 1990s.<sup>62</sup>

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61 As reported in Franckx, *supra* note 19, at 274, all the delimitation agreements concluded in the Baltic Sea since 1990 make use of the World Geodetic System 1984. See in chronological order: Finland-Sweden (1994), No. 10-13; Estonia-Latvia (1996), No. 10-15; Estonia-Finland (1996), No. 10-16; Estonia-Latvia-Sweden (1997), No. 10-17; Lithuania-Russia (1997), No. 10-18(1); Latvia-Lithuania (1999), No. 10-20; and Estonia-Finland-Sweden (2001), No. 10-21, at Part II.9, *Technical Considerations*.

62 All the agreements concluded in the Baltic Sea area since 1990 to which charts were appended (that is all except the tripoint agreements) refer to the map for illustrative purposes only. See in chronological order: Finland-Sweden (1994), No. 10-13; Estonia-Latvia (1996), No. 10-15; Estonia-Finland (1996), No. 10-16; Estonia-Sweden (1998), No. 10-19; Latvia-Lithuania (1999), No. 10-20; at Part II.9, *Technical Considerations*. The only exception so far to this rule has been the agreements concluded between Lithuania and Russia (Lithuania-Russia (1997), No. 10-18(1 & 2), Part II.9, *Technical Considerations*), where the charts received a more prominent place.

### 10 Other Considerations

This is the fourth agreement concluded in the Baltic Sea which added English to the languages of the parties as an authentic language.<sup>63</sup> As such, it gives further proof of an exception to the well-established rule in the Baltic Sea that maritime delimitation agreements have, until recently, always been produced solely in the respective languages of the parties, being equally authentic. Moreover, as is the case in the other agreements that include English as an authentic language, if a problem of interpretation among the three different authentic languages should arise, the agreement stipulates that the English version shall prevail.

It is also the third time in the Baltic Sea state practice since the Second World War that a dispute settlement provision has been included in a maritime delimitation agreement.<sup>64</sup> It appears noteworthy to stress that all of them relate to agreements concluded during the fourth chronological group in the over-all Baltic Sea delimitation effort.<sup>65</sup> The clause contained in this agreement is identical in substance to the one agreed upon by Latvia in its bilateral relations with Estonia (Estonia-Latvia (1996), No. 10-15).<sup>66</sup> Whether these provisions entail compulsory third party settlement in case diplomatic means fail, is not crystal clear.<sup>67</sup>

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63 For the other agreements following a similar approach, see Estonia-Latvia (1996), No. 10-15; Estonia-Latvia-Sweden (1997), No. 10-17; and Estonia-Sweden (1998), No. 10-19, Part II.10, *Other Considerations*. A later agreement was even exclusively drafted in the English language. See Estonia-Finland-Sweden (2001), No. 10-21, Part II.10, *Other Considerations*.

64 For the other agreements containing such a provision, see Estonia-Latvia (1996), No. 10-15; and Lithuania-Russia (1997), No. 10-18(1), Part II.10, *Other Considerations*.

65 About this fourth chronological group, see *supra* note 3 and accompanying text. This submission does not take into account the Agreement between the Government of the Kingdom of Sweden and the Government of the Union of Soviet Socialist Republics on Mutual Relations in the Fishery Sector in the Area Formerly Disputed in the Baltic Sea, 18 April 1988, art. 2, Sweden-Soviet Union (1988), No. 10-9, *supra*, at 2068, 2072. This agreement was indeed a fishery agreement, which was attached to a maritime delimitation agreement concluded on the same day.

66 Instead of restricting those possible means to consultations and negotiations, as was the case in the agreement between Lithuania and the Russian Federation (see Lithuania-Russia (1997), No. 10-18(1), Part II.10, *Other Considerations*), the present agreement also explicitly makes reference to other means of peaceful settlement of disputes provided by international law.

67 Art. 5 states: "Any dispute between the Parties arising out of the interpretation or implementation of this Agreement shall in the first instance be settled by consultations or negotiations, or using other means of peaceful settlement of disputes provided by international law." Whether the last segment of this article, introduced by "or using ...", further complements the first phase by referring to other diplomatic means such as good offices, mediation, conciliation and others, or rather to a second phase in which arbitration or judicial settlement would be aimed at leading to a binding decisions, is not immediately clear.

### III CONCLUSIONS

By means of the present agreement, Latvia and Lithuania delimit their territorial sea, as well as their EEZ and continental shelves. Even though the western terminal point with Sweden requires further trilateral negotiations, little remains to be settled by the trilateral agreement since Latvia and Lithuania have already determined the exact direction of the line delimiting their EEZ and continental shelves.

It is the second maritime boundary agreement concluded after the dissolution of the former Soviet Union in which non-living natural resources played a crucial role. The latter is reflected in the presence of a unity of deposits clause in the treaty. Even though no exploitation had yet commenced, the internal Latvian process of granting a licence to an American-Swedish consortium created significant difficulties in the negotiations. Nevertheless, considerations related to non-living resources only seem to have generated an indirect influence on the actual course of the boundary line in as far as these considerations scaled down the initial Lithuanian claims further out at sea.

Even though an historical territorial sea boundary seems to have existed between the parties, this element did not generate full effect. Fishery considerations, which had received no attention when the parties negotiated the present agreement, finally caused Latvian fishermen to pressure their parliament (Saeima). As a consequence, ratification of the present agreement did not follow the standard practice in the Baltic Sea of entry into force the year after signature.

The delimitation of the territorial sea is a modified equidistant line. The azimuth which delimits the EEZ and continental shelf boundary, on the other hand, represents a perpendicular to a line which the parties agreed to represent the general direction of their coasts. The latter seems moreover to have been arrived at in such a manner that Lithuania secured an area of maximum reach, extending to Sweden's economic zone, while at the same time taking into account Latvia's interests in the non-living resources in the area.

### IV RELATED LAW IN FORCE

#### A. *Law of the Sea Conventions*

Latvia:      Acceded to the 1958 Convention on the Territorial Sea and the Contiguous Zone on 17 November 1992 and to the 1958 Convention on the Continental Shelf on 2 December 1992; not a party to the 1982 LOS Convention.

Lithuania: Acceded only to the 1958 Convention on the Territorial Sea and the Contiguous Zone on 31 January 1992; not a party to the 1982 LOS Convention.

*B. Maritime Jurisdiction Claimed at the Time of Signature*

Latvia: 12 n.m. territorial sea; 200 n.m. EEZ (implicit in the delimitation agreement).

Lithuania: 12 n.m. territorial sea; 200 n.m. EEZ (implicit in the delimitation agreement).

*C. Maritime Jurisdiction Claimed Subsequent to Signature*

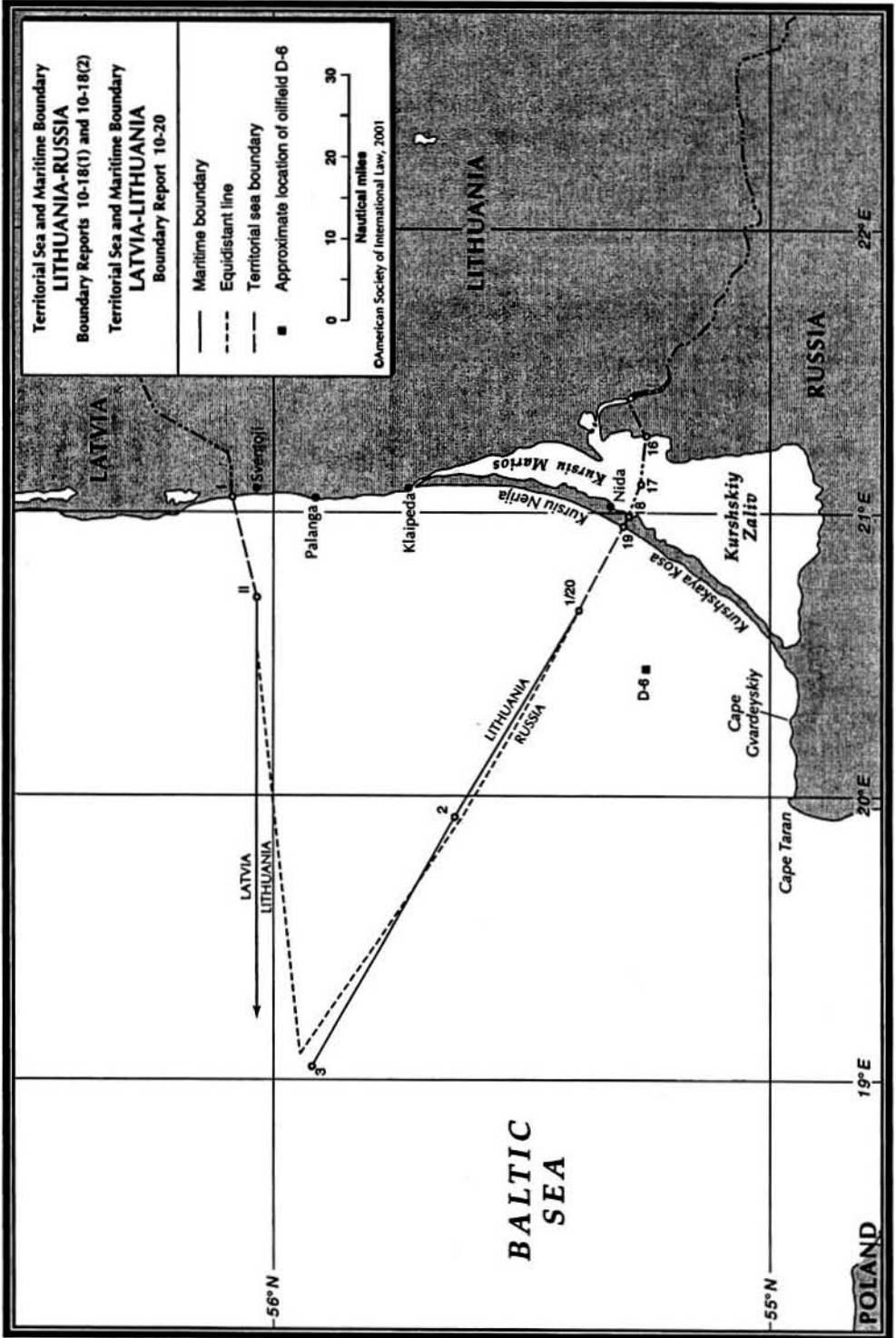
Latvia: No change.

Lithuania: No change.

## V REFERENCES AND ADDITIONAL READINGS

- Ionas I. Bergkhol'tsas, *Uchastie Latvii v delimitatsii morskikh prostranstv: politiko-pravovye i istoricheskie aspekty* (The Participation of Latvia in the Delimitation of Maritime Zones: Political, Legal and Historical Considerations), 3 MOSKOVSKII ZHURNAL MEZDUNARODNOGO PRAVA 189 (1998).
- Erik Franckx, *Maritieme afbakening in de oostelijke Baltische Zee: Internet en het wetenschappelijk onderzoek* (Maritime Delimitation in the Eastern Baltic Sea: Internet and Scientific Research), in OOST-EUROPA IN EUROPA: EENHEID EN VERSCHIEDENHEID 275 [HULDEBOEK AANGEBODEN AAN FRITS GORLÉ](Pieter De Meyere, Erik Franckx, Jean-Marie Henckaerts, & Katlijn Malfliet eds., 1996).
- Erik Franckx, *Maritime Boundaries in the Baltic*, in BOUNDARIES AND ENERGY: PROBLEMS AND PROSPECTS 275 (Gerald Blake, Martin Pratt, Clive Schofield, & Janet Allison Brown eds., 1998).
- Erik Franckx, *Maritime Boundaries in the Baltic: Post-1991 Developments*, 28 GA. J. INT'L. & COMP. L. 249 (2000).
- Erik Franckx, *New Maritime Boundaries Concluded in the Eastern Baltic Sea Since 1998*, 16 INT'L J. MAR. & COASTAL L. (2001).

*Prepared by Erik Franckx*



**Agreement between the Republic of Lithuania and the Republic of Latvia  
on the delimitation of the territorial sea, exclusive economic zone and  
continental shelf in the Baltic Sea**

The Republic of Lithuania and the Republic of Latvia hereafter referred to as the Parties;

Desiring to establish the line delimitating the territorial exclusive sea economic zone and continental shelf of the Republic of Lithuania and those of the Republic of Latvia in the Baltic Sea;

Recalling the Agreement between the Republic of Lithuania and the Republic of Latvia on the re-establishment of the State frontier of 29 June 1993 as well as historical regulations on the delimitation of the territorial sea;

Acknowledging the provisions of the 1982 United Nations Convention on the Law of the Sea and general principles of international law as the basis for this maritime delimitation;

Taking into account of all the existing rules applicable to the delimitation of maritime areas, with view to arriving at an equitable solution;

Have agreed as follows:

*Article 1*

The boundary between the territorial sea of the Republic of Lithuania and the territorial sea of the Republic of Latvia shall be a straight line joining the points defined as follows by means of their co-ordinates:

	Latitude North	Longitude East
Point I	56° 04' 08.90"	21° 03' 51.47"
Point II	56° 02' 43.5"	20° 42' 35.0"

*Article 2*

1. The boundary between the exclusive economic zone and continental shelf of the Republic of Lithuania and the exclusive economic zone and continental shelf of the Republic of Latvia shall be a straight line (loxodrome) in the azimuth of 270 (two hundred seventy degrees) running from the point II defined in the Article 1 towards the boundary of the exclusive economic zone and continental shelf of the third State.
2. The tripoint between the boundaries of the exclusive economic zone and continental shelf appertaining respectively to the Parties and to the third State shall be established by trilateral agreement between the States concerned.

*Article 3*

1. The positions of points specified in this Agreement are defined by co-ordinates of latitude and longitude on World Geodetic System 1984 datum (WGS84).
2. The lines defined in Articles 1 and 2 have been drawn solely by way of illustration on the map annexed to this Agreement.

*Article 4*

1. Where mineral deposits located on the seabed or in the subsoil extend on both sides of the boundary of the territorial sea and continental shelf, and where those mineral deposits can be wholly, or in part exploited from the territorial sea or continental shelf of the other Party, the Parties shall, at the request of either of them and prior to such exploitation, enter into negotiations and make an agreement on the conditions for the exploitation of these deposits.
2. In this Article the term “mineral deposits”, is used in the most general, expansive and comprehensive sense and includes all non-living substances occurring on, in or under the ground, irrespective of chemical or physical state.

*Article 5*

Any dispute between the Parties arising out of the interpretation or implementation of this Agreement shall in the first instance be settled by consultations or negotiations, or using other means of peaceful settlement of disputes provided by international law.

*Article 6*

The Agreement shall be subject to ratification [and] shall enter into force on the exchange of the instruments of ratification.

*Article 7*

This Agreement is concluded for an indefinite period of time.

IN WITNESS WHEREOF, the undersigned, duly authorized hereto by their respective Governments, have signed this Agreement.

DONE in duplicate at Palanga this 9 day of July 1999 in the Lithuanian, Latvian and English languages, each text being authentic. In cases of any divergence of interpretation the English texts shall prevail.

On behalf of the  
Republic of Lithuania

On behalf of the  
Republic of Latvia



# Saudi Arabia-Yemen

*Report Number 6-16*

## **The Final and Permanent Border Treaty between the Kingdom of Saudi Arabia and the Republic of Yemen**

*Signed:* 12 June 2000

*Entered into force:* 9 July 2000

*Published at:*<sup>1</sup>

### I SUMMARY

The Jeddah Agreement of 12 June 2000 between the Kingdom of Saudi Arabia and the Republic of Yemen establishes the maritime boundary between Saudi Arabia and Yemen in the Red Sea. The maritime boundary, by implication, also attributes sovereignty over various small offshore islands to one party or the other: to Yemen, to the south of the boundary and to Saudi Arabia to the north. Thus, the maritime boundary also resolves a long-standing disagreement between Saudi Arabia and Yemen over these various small uninhabited islands offshore of the land boundary and puts to rest notions of wider island claims to major islands in the Farasan Island group held in the past by some quarters in Yemen.

This maritime boundary (and island) agreement is part of a comprehensive settlement of boundary differences between Saudi Arabia and Yemen set forth in the Jeddah Agreement. The Jeddah Agreement also establishes the geographic

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<sup>1</sup> The text of the agreement was published in various Arabic language newspapers and an English translation appeared in 43 MIDDLE EAST ECONOMIC SURVEY at D1-D3 (No. 27, 3 July 2000). It should be noted that Annex III of the agreement, which is the maritime boundary portion of the agreement, is garbled in these texts and is not the final version as submitted to the United Nations by the parties pursuant to Article 102 of the United Nations Charter. The English translation included with this report is an accurate translation of the final text.

coordinates of the 292 boundary marker locations previously agreed and set forth in the Boundary Commission Reports which were annexed to the 1934 Treaty of Taif in 1937, which delimited the land boundary from the Red Sea coast to Jabal al-Thar, a mountain southeast of the Saudi city of Najran.<sup>2</sup> The Jeddah Agreement also establishes the previously undelimited land boundary from the eastern end of the 1934 Treaty of Taif line, at Jabal al-Thar, to Oman at the junction of the Saudi-Omani and Yemeni-Omani land boundary agreements.

The maritime boundary is recorded in Annex III to the Jeddah Agreement. The maritime boundary is a three-segment boundary line. From east to west, the maritime boundary first extends west from the coast on the latitude of the land boundary terminus; in the short, second segment, the maritime boundary is a line bearing southwest; then, in its third segment, it is again a line of latitude reaching westward to the end of the maritime boundary between the two countries, the point of which remains to be defined. The maritime boundary is thus a negotiated line that serves to attribute sovereignty to small islands previously in dispute between the Parties. While the maritime boundary is based upon a combination of methods, its utility as a precedent in other similar delimitation situations is questionable in light of its attribution of sovereignty and political accommodation characteristics.

## II CONSIDERATIONS

### *1 Political, Strategic, and Historical Considerations*

The Jeddah Agreement marks an historical turning point in the neighborly relationship between Saudi Arabia and Yemen. Often obscured by polite and brotherly comments by spokesmen for both countries, the fact is that the boundary differences between the two countries were substantial and difficult.

In 1934, following the emergence of both states internationally, Saudi Arabia and Yemen fought a war which, basically, was over the southern boundary of the Saudi province of Asir and the area around Najran. This war led to the 1934 Treaty of Taif which appears to have been intended to restore the *status quo* insofar as the boundary relationship was concerned. Article IV of this treaty described a boundary in general terms running inland from the Red Sea coast. It also established a Boundary Commission to demarcate the boundary set forth in the general terms of Article IV. This Boundary Commission worked in 1935 and 1936 and demarcated

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<sup>2</sup> An English translation of the 1934 Treaty of Taif can be found in 20 ARABIAN BOUNDARY DISPUTES 92 (Richard Schofield ed., 1992).

the boundary extending from the Red Sea coast, at a point between the Saudi town of Muwassim and the Yemeni town of Medi,<sup>3</sup> to Jabal al-Thar. The boundary points were named and listed in reports annexed to the 1934 Treaty of Taif, but they were never surveyed.<sup>4</sup>

East of Jabal al-Thar, in the hinterland of the Arabian Peninsula, the boundary remained undefined. In the period of the 1934 Treaty of Taif, the British were in Aden and there was a Saudi-British dispute concerning the Saudi Arabia-Aden Protectorate boundary. Furthermore, there was a Yemen-British boundary dispute as well between Yemen and the Aden Protectorate, which overshadowed historic claims of Yemen to the area of the Aden Protectorate. The 1934 Treaty of Taif also did not deal with the allocation of small uninhabited offshore islands in the Red Sea nor did it address the maritime boundary. Also, from time to time, some elements in Yemen would challenge the continuing validity of the basic boundary established by Article IV of the Treaty.<sup>5</sup>

Between the mid-1930s and the mid-1990s, the boundary relationship between the two countries became complex and difficult. Over time, the boundary markers placed by the 1935-36 Boundary Commission were lost, their precise position being unknown. Saudi Arabia emerged as a rich and powerful oil-producing country. Yemen struggled with internal instability. It opposed British presence in Aden, dealt with the upheaval before and after Britain's departure therefrom, and engaged in the struggle to unite North Yemen and South Yemen into a modern unified State.<sup>6</sup> Throughout all of this, accusations of improper influence by one country within the other were rife. It will be recalled that in the 1960s internal revolt in North Yemen brought intervention there by Egyptian forces and Saudi support for Royalist forces, all of which led to a small United Nations force along the 1934 Treaty of Taif Line to deter the movement of arms and other supplies. Later, Yemen's support for Iraq during the Gulf War, and the subsequent expulsion of Yemeni workers from Saudi Arabia, only added to the differences between the two countries.

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3 The English translation of the name of this point is "Ras al-Mu'awij Shami jetty at the Radif Qarad inlet."

4 An English translation of the Boundary Commission Reports as annexed to the 1934 Treaty of Taif can be found in 20 ARABIAN BOUNDARY DISPUTES 647 (Richard Schofield ed., 1992).

5 These arguments were based upon a provision in the 1934 Treaty of Taif that referred to the means by which the Treaty could be renewed or modified after 20 years. Whatever may have been the merits of this argument, "when a boundary has been the subject of agreement, the continued existence of that boundary is not dependent upon the continuing life of the treaty under which the boundary is agreed." Territorial Dispute (Libyan Arab Jamahiriya/Chad), 1994 ICJ REP. 6, at 37, para. 73 (Feb. 3).

6 The Republic of Yemen was established on 22 May 1990 with the merger of the Yemen Arab Republic (Sanaa) and the People's Democratic Republic of Yemen (Aden).

In this somewhat turbulent history, the maritime boundary issues and questions of island sovereignty were somewhat secondary. Whereas in the 1930s there was some thought that oil would be discovered in the Farasan Islands, that never proved to be the case. The incidents in the offshore area normally were limited to the occasional arrest of local fishermen leading sometimes to diplomatic protest.

In 1995, Saudi Arabia and Yemen began a major political effort to resolve the long-standing boundary problem. They agreed to a Memorandum of Understanding, dated February 26, 1995.<sup>7</sup> Pursuant thereto, they established various negotiating committees, including one to address the island and maritime boundary question, one to address the location of the 1934 Treaty of Taif Line boundary markers and one to deal with the land boundary east of Jabal al-Thar. These Committees engaged in an active negotiating process in the following years in spite of many difficulties and obstructions created by incidents—some serious and some less so—along the whole of the undetermined boundary line. These included several military incidents, including at least one incident on one of the disputed islands. Ultimately, this work culminated in the Jeddah Agreement which cut through various historical and legal arguments and established the entire Saudi-Yemeni boundary in a spirit of accommodation and on a strictly political basis.

## *2 Legal Regime Considerations*

Both countries are Party to the 1982 United Nations Law of the Sea Convention. Under their respective domestic laws, both countries have claimed and established 12-nautical-mile (n. m.) territorial seas. Yemen has claimed a 200 n.m. EEZ. Saudi Arabia has not done so but has claimed fisheries and continental shelf jurisdiction in the Red Sea. The maritime boundary portion of the Jeddah Treaty creates an all-purpose maritime boundary. There are no provisions in the Jeddah Agreement insofar as the maritime boundary is concerned which relate to dispute settlement or other forms of cooperation in the maritime field.

## *3 Economic and Environmental Considerations*

There is no reason to believe that specific economic or environmental considerations played a role with regard to the actual location of the maritime boundary line.

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<sup>7</sup> An English translation of the Memorandum of Understanding can be found in 38 MIDDLE EAST ECONOMIC SURVEY at A-10 and A-11 (No. 23, 6 March 1995).

#### 4 *Geographic Considerations*

This maritime boundary delimitation between the adjacent coasts of Saudi Arabia and Yemen occurs on the eastern side of the Red Sea. The Red Sea is elongated in shape and, as noted by the Eritrea-Yemen arbitration tribunal (*see* (1999) Report No. 6-14), its central axis lies at an angle to the vertical trending from northwest to southeast. The maritime boundary between Saudi Arabia and Yemen must necessarily pass between numerous small offshore islands as it extends westward from the coast. In this context the boundary line serves to allocate sovereignty to these islands (see Section 5 below). While there might have been any number of ways to do this, including an island-by-island determination of sovereignty, and then recourse to the equidistance method to determine the maritime boundary, it is possible that the parties, within the framework of political settlement and compromise in which they were dealing, simply adopted a line of latitude as the simplest way to attribute sovereignty and to create a maritime boundary.

A full extension of the maritime boundary as a line of latitude from the land boundary terminus, however, would have had the effect of leaving the entrance of the maritime passage way, known as the Pearly Gates, between Marrak and Dawharab islands, under Yemen's control, as either Yemeni territorial sea or internal waters. This is a strategic route for Saudi Arabia, leading to Farasan al Kabir, and it is an important alternative route to Jizan. Thus, it may be speculated that the southwesterly jog in the boundary line may have been created to leave the deep-water passage north of Dawharab Island in Saudi hands, and that the return of the boundary to a line of latitude in the central Red Sea was in recognition that the departure from the line of latitude was for a specific purpose.

#### 5 *Islands, Rocks, Reefs, and Low-Tide Elevation Considerations*

The maritime boundary is not based upon the equidistance method; thus, the question of appropriate equidistant base points did not arise in its creation. The maritime boundary, as noted above, serves as a line of attribution between islands, reefs and low-tide elevations previously disputed between the two countries. In its immediate vicinity, the boundary leaves on the Yemeni side Duwaimah Island, the smaller of the 'Ashiq Islands, Hashish Reef, Sayl Ruba, Murayn and Dawharab Island, all of which lie immediately to the south of the maritime boundary. Immediately north of the maritime boundary are the Saudi islands, including the larger 'Ashiq Islands,

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Sayl as Siya, Boddufer and Zurt Islands, Rumayn and Marrak.<sup>8</sup> Further to the north are the larger islands of the Farasan Island group. Because of the use in the first segment of the boundary of a straight line of latitude that does not “go around” islands, the boundary may in some places pass over low-tide elevations or even over the low-water line of an island, leaving the island above the high-water line on one side of the boundary and some portion of its low-water line on the other side. This appears to be the case with Saudi Arabia’s Rumayn Island, at least when the boundary line is plotted on large-scale U.S. nautical charts. It is important, however, not to reach a judgment on such questions without reference to a modern survey of this area due to the potential lack of accuracy of the placement and depiction of these features on available nautical charts. It may be noted, insofar as the author is aware, that no recent maritime survey has been made of this maritime boundary area. Guide-books for small vessels navigating in the area caution against reliance on nautical charts.

### 6 *Baseline Considerations*

Saudi Arabia and Yemen’s national laws both make provision for the establishment of a straight baseline system, but neither country has established a specific system of straight baselines. Baseline considerations appear to have had no effect on the final maritime boundary. However, as noted in Section 4, it is possible that the reason for the departure from a line of latitude in the second boundary segment related to concerns about the legal regime that might be enclosed within a straight baseline system.

### 7 *Geological and Geomorphological Considerations*

For approximately the first half (about 45-nautical miles), this maritime boundary extends from east to west through shallow shoal waters. In the second half, after passing north of Dawharab Island, it reaches toward the equidistant line between the opposite coasts of the Red Sea above the deep Red Sea Rift Zone. These geo-

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<sup>8</sup> The listed names are as they appear on U.S. Nautical Chart No. 62271, 5th. ed. “Jaza’ir Farasan and Approaches to Jizan.” Duwaimah Island is a coastal barrier island just south of the land boundary terminus; it is usually unnamed on even large-scale charts; however, the low-tide line on the west side of the island often appears on charts and is labeled Oreste Point or Oreste Shoal.

logical and geomorphological factors, however, appeared to have played no role in the placement of the maritime boundary.

### 8 *Method of Delimitation Considerations*

This maritime boundary is the ultimate negotiated boundary line. It does not use the equidistance method. The boundary follows first a line of latitude, second a southwesterly bearing line that leaves a key deep-water passage on the Saudi side of the boundary line, and finally a line of latitude again. In these geographical circumstances, the line of latitude does not approximate a perpendicular to the general direction of the coast. Perhaps the best explanation for the use of this method is that this maritime boundary functions also, by implication, to attribute sovereignty over previously disputed islands, and it is part of an overall settlement of the Saudi Arabia-Yemen boundary in the Jeddah Agreement in which the maritime sector was a relatively small part. *See* Section 4 above.

### 9 *Technical Considerations*

The technical details of the maritime boundary line, other than the geographic coordinates themselves, are not recorded in the Jeddah Agreement.

### 10 *Other Considerations*

The latitude of the western segment of the Saudi-Yemeni maritime boundary is approximately 34 nautical miles north of the northern end point of the line determined by the Yemen-Eritrea arbitration tribunal (*see* (1999) Report No. 6-14).<sup>9</sup> Thus, Yemen and Eritrea will need to extend their maritime boundary northward to the latitude of the Saudi-Yemeni agreement. The Saudi-Yemeni boundary line will end where the jurisdiction of Eritrea is reached. Exactly where this will occur

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<sup>9</sup> The northern end point of the Eritrea-Yemen boundary determined by the *ad hoc* Arbitration Tribunal is at 15°43'10" north latitude; the western segment of the Saudi-Yemeni maritime boundary lies on 16°17'24" north latitude.

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has not been determined. Whether Saudi Arabia, Yemen and Eritrea will establish a tripoint by a three-way agreement is not known.<sup>10</sup>

### III CONCLUSIONS

This maritime boundary is one part of a comprehensive resolution of the long-standing boundary differences between Saudi Arabia and Yemen. The maritime boundary in fact attributes islands (which were previously in dispute) to the two States, and it follows a combination of methods to create a maritime boundary that both sides believe opens the door for future cooperation on marine environment and associated issues in the Red Sea.

### IV RELATED LAW IN FORCE

#### *A. Law of the Sea Conventions*

Saudi Arabia: Party to the 1982 U.N. Convention on the Law of the Sea, 24 April 1996.

Yemen: Party to the 1982 U.N. Convention on the Law of the Sea, 21 July 1987.

#### *B. Maritime Jurisdiction Claimed at the Time of Signature*

Saudi Arabia: Saudi Arabia claims a 12 n.m. territorial sea pursuant to Royal Decree 33 of February 16, 1958; an exclusive fishing zone by decree in 1974; and continental shelf jurisdiction, specifically with reference to Red Sea continental shelf resources by Royal Decree No. M-27 of September 7, 1968.

Yemen: Yemen claims a 12 n.m. territorial sea; a contiguous zone extending to 24 n.m. from the baseline; and a 200 n.m. EEZ and continental shelf in accordance with Presidential Decree No. 37 of 1991.

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<sup>10</sup> At the latitude of the Saudi-Yemeni boundary in the center of the Red Sea, it appears that the divergence of an equidistant line developed from opposite mainland coasts and from an equidistant line developed from opposing offshore islands, is somewhere between two-to-four n.m. For a discussion of tripoint agreements in State practice, see David Colson, *The Legal Regime of Maritime Boundary Agreements*, I INTERNATIONAL MARITIME BOUNDARIES, at 41, 62 1993.



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*C. Maritime Jurisdiction Claimed Subsequent to Signature*

Saudi Arabia: No change.

Yemen: No change.

V REFERENCES AND ADDITIONAL READINGS

John Roberts, *The Saudi-Yemeni Boundary Treaty*, 8 BOUNDARY & SEC. BULL.  
70 (No. 2, Summer 2000).

*Prepared by David A. Colson*



**The Final and Permanent Border Treaty between the Kingdom of Saudi Arabia and the Republic of Yemen**

**Translation**

**Annex Number (3)**

**The Maritime Boundary Line Between  
*The Republic of Yemen and the Kingdom of Saudi Arabia***

- 1- The line begins from the land point at the sea shore "Rasif al-Bahr Tamaman Ra's al-Mu'awwaj Shami li-Manfadh Radif Qarad" whose coordinates are as follows:  
(16° 24' 14.8") North, (42° 46' 19.7") East.
- 2- The line proceeds in a straight line parallel to the latitudes until it meets with a point whose coordinates are (16° 24' 14.8") North, (42° 09' 00") East.
- 3- The line bends in a southwesterly direction until the point whose coordinates are as follows:  
(16° 17' 24") North, (41° 47' 00") East.
- 4- From there [it proceeds]<sup>11</sup> in a straight line parallel to the latitudes in the direction of the west until the terminus of the maritime boundaries between the two countries.

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<sup>11</sup> The words between brackets do not appear in the original text and are added for clarification.

## Mexico–United States

*Report Number 1-5 (2)*

**Treaty Between the Government of the United States of America and the  
Government of the United Mexican States on the Delimitation of the  
Continental Shelf In the Western Gulf of Mexico Beyond 200 Nautical  
Miles**

*Signed:* 9 June 2000

*Entered into force:* 17 January 2001

*Published at:* 44 LOS BULL. 71 (2001)  
U.S. Senate Treaty Doc. 106-39, 106<sup>th</sup> Cong. 2nd Sess.  
(2000)

### I SUMMARY

This is the third maritime boundary treaty Mexico and the United States have concluded. The first treaty was signed in 1970 and delimited their maritime area seaward to 12 nautical miles (n.m.) in the Gulf of Mexico and Pacific Ocean. The second treaty was signed in 1978 and extended their maritime boundary from the 12-n.m. limit out to 200 n.m. in both bodies of water (*see* Report No. 1-5). The second treaty followed an exchange of notes effecting agreement on the Provisional Maritime Boundary signed on 24 November 1976.

The 1978 treaty created two “gaps” in the Gulf of Mexico which are beyond 200 n.m. from the respective coastal states’ baselines. An “eastern gap” contains the continental shelves of Mexico, United States, and Cuba, but this area was not the subject of these negotiations. The “western gap”, which this present treaty addresses, contains the continental shelves of Mexico and the United States. The treaty discussed in this report only delimits the continental shelf and does not affect the juridical status of the water column above it.

Unique for both countries are treaty provisions that address the possibility of transboundary oil and gas reservoirs. The treaty creates a buffer zone, named the "area", which is 1.4 n.m. wide on each side of the boundary. Within this "area" the United States and Mexico agree to a 10-year moratorium on commercial oil and gas exploitation. There was agreement that each side, in accordance with national laws and regulations, would share geological and geophysical data in the "area." Should transboundary reservoirs be identified, the parties have agreed to reach agreements for the efficient and equitable exploitation of such reservoirs.

The 135-n.m. continental shelf boundary is an equidistant line taking into account all territory, including islands.

## II CONSIDERATIONS

### *1 Political, Strategic, and Historical Considerations*

This treaty represents the continuation of cooperation between two historically friendly neighbors. The negotiations of this agreement began in early 1998, only a few months following the entry into force of the 1978 agreement (13 November 1997). The U.S. Senate Foreign Relations Committee, in its report supporting the 1978 treaty, urged the Clinton Administration to proceed with the negotiations on this area when it stated:<sup>1</sup>

Delimitation of the western gap has become increasingly important to U.S. interests as petroleum exploration has moved into deeper waters. The Department of Interior is now receiving bids for exploration in this area. Several new drilling vessels capable of operating in water depths of up to 10,000 feet are under construction....The Committee urges the Executive Branch to commence negotiations on the western gap without delay, once this [1978 treaty] enters into force.

The period of time between the date of signature, 9 June 2000, and when the treaty entered into force, 17 January 2001, was remarkably short. The speed with which the ratification process occurred in each capital was due, in large measure, to the fact that the terms of the respective presidents were coming to an end. On the Mexican side, the government completed its ratification process in late November, just prior to the departure of President Zedillo. President Clinton left office on January 20, 2001, three days following the exchange of instruments of ratification.

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1 S. Exec Report 105-4, 105<sup>th</sup> Cong., 1<sup>st</sup> Sess., at 5-6 (22 Oct. 1997).

## 2 *Legal Regime Considerations*

This treaty pertains to separating jurisdiction over an area beyond 200 n.m. from the respective baselines, in an area underlain by continental shelf. In the early rounds of talks both sides presented evidence supporting the fact that the entire “western gap” was continental shelf under international law, specifically Article 76 of the LOS Convention. The juridical status of the waters above the boundary is unaffected.

## 3 *Economic and Environmental Considerations*

The future exploration and exploitation of oil and gas clearly was a motivating factor for both sides to begin negotiations. Other than the provisions in the treaty associated with the possible transboundary oil and gas reservoirs, economic and environmental considerations did not play a direct role in determining the course of the boundary.

## 4 *Geographic Considerations*

The coasts of Mexico and the United States are opposite each other in the Gulf of Mexico where this boundary was delimited. The parties viewed these negotiations as a continuation of the 1978 talks. Thus, they agreed that the geography of the coastlines that would determine the boundary line was in balance based on equidistance. Since no special circumstances existed, the equidistant line was deemed to be an equitable solution. As noted elsewhere in this report, some concern was expressed about the accurate depiction of certain coastal areas. This concern was disposed of by a bilateral technical group which conducted positioning surveys.

## 5 *Islands, Rocks, Reefs, and Low-Tide Elevations Considerations*

In the 1978 maritime boundary treaty, the parties agreed to delimit the boundary out to 200 n.m. based on an equidistant line measured from all points on the normal baseline, including islands. It was agreed that the same methodology would apply in determining the continental shelf boundary. Some of the same features that were factors in the equidistant line calculation for the 1978 delimitation were used in this delimitation as well. An issue concerning the location of accurate island and rock positions was raised by the Mexican delegation. They raised concerns that some

of its offshore islands and rocks lacked modern surveys which may result in incorrect calculations.

Both sides agreed to establish a technical working group that would use modern survey techniques to verify key coastal areas on both coasts. During the summer of 1998, a bilateral working group took three trips to coastal areas to conduct positioning surveys using the global positioning system (GPS). On the U.S. side, the teams visited Raccoon Island in the Isles Derniere chain, south of New Orleans, and the area adjacent to the mouth of the Rio Grande. The Mexican coastal area adjacent to the Rio Grande was also surveyed, as were the islands and adjacent rocks and low-tide elevations of Arrecife Alacran, and Cayos Arenas, north of the Yucatan Peninsula. Following these excursions, the data were processed and reviewed, and agreement was reached by the technical experts of both sides. The results of this positioning work did reveal some differences between "real" positions of some of the islands and rocks and how they were charted. The equidistant boundary line was calculated on the basis of these survey data. Nevertheless, neither side "gained" any significant quantity of area as a result of these new data. A technical report was submitted to the heads of delegation.

## *6 Baseline Considerations*

The baseline from which each side measures its territorial sea was used to determine the equidistant line. Neither side claims systems of straight baselines along the Gulf of Mexico coasts. As noted in section 5, new surveys were needed to verify the true positions of key baseline areas.

## *7 Geological and Geomorphological Considerations*

A key motivation to reach agreement on this continental shelf boundary was the belief that significant oil and gas reserves may exist in this deep water area in the Gulf of Mexico. But little was known at the time of the negotiations of the specific geology and geomorphology of the boundary area. Thus, while these considerations did not influence the course of the boundary, the lack of certainty about where potential oil reservoirs may exist resulted in unique provisions being written into the treaty. Specifically, the Parties agreed to create a 1.4 n.m. buffer, labeled the "area", on each side of the boundary. Knowledge of existing Gulf of Mexico reservoirs influenced the decision to choose this breadth. It was felt that this breadth reflected what possibly would be the largest reservoir. The goal was to create a

buffer broad enough to keep any reservoir exploited outside the “area” from crossing the boundary.

The Parties also agreed to a 10-year moratorium on leasing in their respective 1.4 n.m. bands. Articles IV and V of the treaty contain provisions that address the possibility that oil and natural gas reservoirs may extend across the continental shelf boundary (called “transboundary reservoirs”). A framework is created by which the Parties can exchange information that is gathered in the “area”.

### *8 Method of Delimitation Considerations*

Both sides viewed this delimitation as a continuation of the 1978 treaty. Consistent with the approach used in the 1978 treaty, the United States agreed that it would not claim or exercise for any purpose sovereign rights or jurisdiction over the seabed and subsoil south of the new boundary line, while Mexico made a similar commitment north of the boundary. In this regard, no method of delimitation other than the one based on equidistance was ever tabled. Similar to the 1978 boundary, all territory, including islands, was given full weight in determining the course of the equidistant line. The equidistant line divided the “western gap” area such that the United States renounced possible claims to about 4,100 square n.m., or 62% of the area, and Mexico renounced possible claims to approximately 2,536 square n.m., or 38% of the area.

### *9 Technical Considerations*

All the survey work and boundary calculations were performed with the understanding that the World Geodetic System 1984 (WGS 84) and the North American Datum 1983 (NAD 83) were identical for the purposes of this agreement. The boundary segments developed in the 1978 agreement had been established on the North American Datum 1927 (NAD 27). The terminal points of the continental shelf boundary are identical to the 200 n.m. points of the 1978 agreement, which define the beginning/end points of the “western gap.” To maintain geodetic consistency, the 1978 boundary end points were transformed to WGS 84/NAD 83 geographic coordinates. The bilateral technical team reached agreement on this transformation and made a recommendation to the respective heads of delegation. This transformation is mentioned in the treaty.



*10 Other Considerations*

None.

## III CONCLUSIONS

The negotiations of this continental shelf boundary should be viewed as a continuation of the overall Mexico–United States boundary process. Unique to these negotiations was the fact that only continental shelf jurisdiction was at issue and the water column was to remain high seas. Certain provisions of the treaty reflect the fact that the area being delimited is situated in deep water where the resource potential is subject to speculation. The continental shelf which underlies the “eastern gap” involving Mexico, the United States, and Cuba remains to be delimited.

## IV RELATED LAW IN FORCE

*A Law of the Sea Conventions*

Mexico:           Acceded to all four 1958 Geneva Conventions in 1966 (did not sign any in 1958); ratified 1982 Law of the Sea Convention.  
 United States:   Party to all four 1958 Geneva Conventions.

*B Maritime Jurisdiction Claimed at the Time of Signature*

Mexico:           12 n.m. territorial sea (1969), 200 n.m. exclusive economic zone (EEZ) (1976).  
 United States:   12 n.m. territorial sea (1988), 200 n.m. EEZ (1983).

*C Maritime Jurisdiction Claimed Subsequent to Signature*

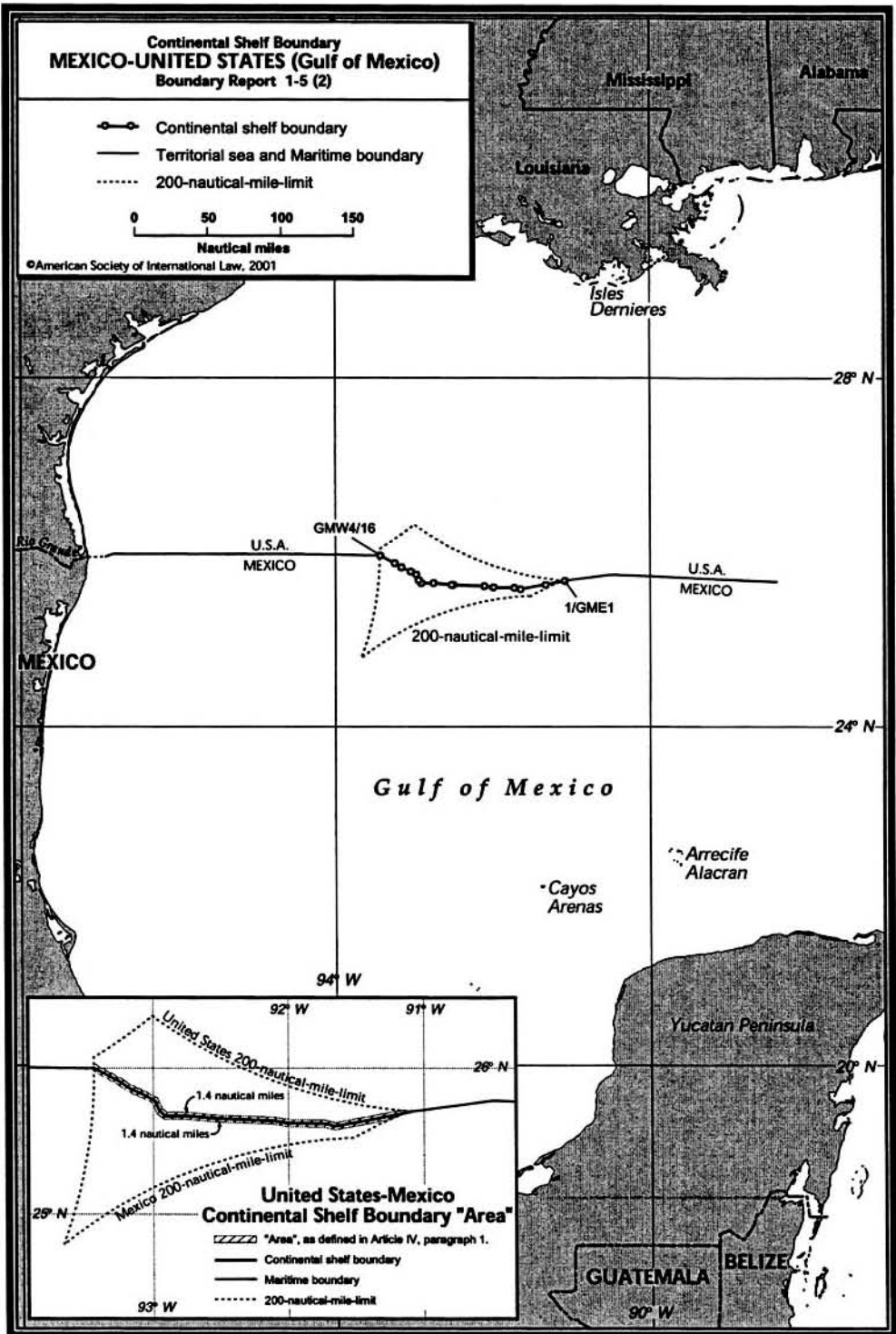
Mexico:           No change.  
 United States:   No change.

## V REFERENCES AND ADDITIONAL READING

Treaty with Mexico on Delimitation of the Continental Shelf, U.S. Senate Treaty Doc. 106-39, 106<sup>th</sup> Cong. 2<sup>nd</sup> Sess. (2000).

Treaty with Mexico on Delimitation of the Continental Shelf, S. Ex. Rep. No. 106-19, 106<sup>th</sup> Cong., 2<sup>nd</sup> Sess. (2000).

*Prepared by Robert W. Smith*



**Treaty between the Government of the United States of America and the government of the United Mexican States on the Delimitation of the Continental Shelf in the Western Gulf of Mexico beyond 200 Nautical Miles**

The Government of the United States of America and the Government of the United Mexican States (hereinafter “the Parties”).

Considering that the maritime boundaries between the Parties were determined on the basis of equidistance for a distance between twelve and two hundred nautical miles seaward from the baselines from which the breadth of the territorial sea is measured in the Gulf of Mexico and the Pacific Ocean by the Treaty on Maritime Boundaries between the United States of America and the United Mexican States, signed on May 4, 1978 (the “1978 Treaty on Maritime Boundaries”).

Recalling that the maritime boundaries between the Parties were determined on the basis of equidistance for a distance of twelve nautical miles seaward from the baselines from which the breadth of the territorial sea is measured by the Treaty to Resolve Pending Boundary Differences and Maintain the Rio Grande and Colorado River as the International Boundary between the United States of America and the United Mexican States, signed on November 23, 1970.

Desiring to establish, in accordance with international law, the continental shelf boundary between the United States of America and the United Mexican States in the Western Gulf of Mexico beyond 200 nautical miles from the baselines from which the breadth of the territorial sea is measured,

Taking into account the possibility that there could exist petroleum or natural gas reservoirs that extend across that continental shelf boundary, and the need for cooperation and periodic consultation between the Parties in protecting their respective interests in such circumstances; and

Considering that the practice of good neighborliness has strengthened the friendly and cooperative relations between the Parties;

Have agreed as follows:

*Article I*

The continental shelf boundary between the United States of America and the United Mexican States in the Western Gulf of Mexico beyond 200 nautical miles from the baselines from which the breadth of the territorial sea is measured shall be determined by geodetic lines connecting the following coordinates:

1.	25° 42' 14.1" N.	91° 05' 25.0" W.
2.	25° 39' 43.1" N.	91° 20' 31.2" W.
3.	25° 36' 46.2" N.	91° 39' 29.4" W.
4.	25° 37' 01.2" N.	91° 44' 19.1" W.
5.	25° 37' 50.7" N.	92° 00' 35.5" W.
6.	25° 38' 13.4" N.	92° 07' 59.3" W.
7.	25° 39' 22.3" N.	92° 31' 40.4" W.
8.	25° 39' 23.8" N.	92° 32' 13.7" W.
9.	25° 40' 03.2" N.	92° 46' 44.8" W.
10.	25° 40' 27.3" N.	92° 55' 56.0" W.
11.	25° 42' 37.2" N.	92° 57' 16.0" W.
12.	25° 46' 33.9" N.	92° 59' 41.5" W.
13.	25° 48' 45.2" N.	93° 03' 58.9" W.
14.	25° 51' 51.0" N.	93° 10' 03.0" W.
15.	25° 54' 27.4" N.	93° 15' 09.9" W.
16.	25° 59' 49.3" N.	93° 26' 42.5" W.

*Article II*

1. The geodetic and computational bases used to determine the boundary set forth in Article I are the 1983 North American Datum ("NAD83") and the International Earth Rotation Service's Terrestrial Reference Frame ("ITRF92").
2. For purposes of Article I:
  - (a) NAD83 and ITRF92 shall be considered to be identical; and
  - (b) Boundary points numbers I and 16 are, respectively, boundary points GM.E-1 (25° 42' 13.05" N., 91° 05' 24.89" W.) and GM.W-4 (25° 59' 48.28" N., 93° 26' 42.19" W.) of the 1978 Treaty on Maritime Boundaries. These points, which were originally determined with reference to the 1927 North American Datum-NAD27, have been transformed to the NAD83 and ITRF92 datums.

3. For the purpose of illustration only, the boundary line in Article I is drawn on the map that appears as Annex 1 to this Treaty.

### *Article III*

South of the continental shelf boundary set forth in Article I, the United States of America shall not, and north of said boundary, the United Mexican States shall not, claim or exercise for any purpose sovereign rights or jurisdiction over the seabed and subsoil.

### *Article IV*

1. Due to the possible existence of petroleum or natural gas reservoirs that may extend across the boundary set forth in Article I (hereinafter referred to as “transboundary reservoirs”), the Parties, during a period that will end ten (10) years following the entry into force of this Treaty, shall not authorize or permit petroleum or natural gas drilling or exploitation of the continental shelf within one and four-tenths (1.4) nautical miles of the boundary set forth in Article I. (This two and eight-tenths (2.8) nautical mile area hereinafter shall be referred to as “the Area”.)
2. For the purpose of illustration only, the Area set forth in paragraph 1 is drawn on the map that appears as Annex 2 to this Treaty.
3. The Parties, by mutual agreement through an exchange of diplomatic notes, may modify the period set forth in paragraph 1.
4. From the date of entry into force of this Treaty, with respect to the Area on its side of the boundary set forth in Article I, each Party, in accordance with its national laws and regulations, shall facilitate requests from the other Party to authorize geological and geophysical studies to help determine the possible presence and distribution of transboundary reservoirs.
5. From the date of entry into force of this Treaty, with respect to the Area in its entirety, each Party, in accordance with its national laws and regulations, shall share geological and geophysical information in its possession in order to determine the possible existence and location of transboundary reservoirs.

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6. From the date of entry into force of this Treaty, if a Party has knowledge of the existence or possible existence of a transboundary reservoir, it shall notify the other Party.

*Article V*

1. With respect to the Area in the entirety, during the period set forth in paragraph 1 of Article IV:
  - (a) as geological and geophysical information is generated that facilitates the Parties' knowledge about the possible existence of transboundary reservoirs, including notifications by Parties in accordance with paragraph 5 of Article IV, the Parties shall meet periodically for the purpose of identifying, locating and determining the geological and geophysical characteristics of such reservoirs;
  - (b) the Parties shall seek to reach agreement for the efficient and equitable exploitation of such transboundary reservoirs; and
  - (a) the Parties shall, within sixty days of receipt of a written request by a Party through diplomatic channels, consult to discuss matters related to possible transboundary reservoirs.
2. With respect to the Area in its entirety, following the expiry of the period set forth in paragraph 1 of Article IV:
  - (a) a Party shall inform the other Party of its decisions to lease, license, grant concessions, or otherwise make available, portions of the Area for petroleum or natural gas exploration or development and shall also inform the other Party when petroleum or natural gas resources are to commence production; and
  - (b) a Party shall ensure that entities it authorizes to undertake activities within the Area shall observe the terms of the Treaty.

*Article VI*

Upon written request by a Party through diplomatic channels, the Parties shall consult to discuss any issue regarding the interpretation or implementation of this Treaty.

*Article VII*

The continental shelf boundary established by this Treaty shall not affect or prejudice in any manner the positions of either Party with respect to the extent of internal waters, of the territorial sea, of the high seas or of sovereign rights or jurisdiction for any other purpose.

*Article VIII*

Any dispute concerning the interpretation or application of this Treaty shall be resolved by negotiation or other peaceful means as may be agreed upon by the Parties.

*Article IX*

This Treaty shall be subject to ratification and shall enter into force on the date of the exchange of instruments of ratification.

IN WITNESS WHEREOF, the undersigned, having been duly authorized by their respective Governments, have signed this Treaty.

DONE at Washington, D.C., this ninth day of June, 2000 in duplicate, in the English and Spanish languages, both texts being equally authentic.

FOR THE GOVERNMENT OF THE  
UNITED STATES OF AMERICA:  
Madeleine K. Albright  
Secretary of State

FOR THE GOVERNMENT OF THE  
UNITED MEXICAN STATES:  
Rosario Green  
Secretary of Foreign Relations



# Kuwait–Saudi Arabia

*Report Number 7-12*

## **Agreement between the State of Kuwait and the Kingdom of Saudi Arabia Regarding the Submerged Zone Contiguous to the Partitioned Zone**

*Signed:* 2 July 2000

*Entered into force:* 30 January 2001

*Published at:*<sup>1</sup> 473 KUWAIT AL-YAWM 1-3 (30 July 2000)  
36 LOS BULL. 84 (2001)

### I SUMMARY

The Agreement of 2 July 2000 between the Kingdom of Saudi Arabia and the State of Kuwait resolves a number of long-standing issues concerning the limits of the Saudi Arabia-Kuwait Offshore Neutral Zone. The land portion of the Neutral Zone, referred to by the parties in the subject Agreement as “the Partitioned Zone,” lies on the western side of the Persian/Arabian Gulf nestled between Kuwait and Saudi Arabia proper. The maritime area offshore from the Partitioned Zone, what the parties refer to in the subject Agreement as the “submerged zone contiguous to the Partitioned Zone,” has long been a major area of petroleum production but, except for its southern limits, the other limits of the Offshore Neutral Zone were not agreed.

Under prior arrangements between Kuwait and Saudi Arabia, the resources of the Neutral Zone and the Offshore Neutral Zone are owned in common. Thus, in

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1 The text of the Agreement was published in various Arabic language newspapers at the time of signature. An English translation was published in 73 MIDDLE EAST ECONOMIC SURVEY, at A11-12 (No. 29, 17 July 2000). The English translation published with this report is an informal translation received from the United Nations. It will be noted that this report and its accompanying map may use different terminology than may be found in this translation. In the author’s opinion, the terminology used in the report and on the map more closely correspond to terminology that has been part of the historical debate associated with this matter.

the abstract in relation to delimitation considerations, there was a natural interest for each country to maximize the offshore area under its exclusive jurisdiction, Kuwait to the north and Saudi Arabia in the south, at the expense of the area pertaining to the Offshore Neutral Zone in the middle. Likewise, there was a natural interest for each country to maximize Offshore Neutral Zone interests as against the area exclusively belonging to the other country.

In 1963, Saudi Arabia and Kuwait reached an understanding concerning the southern limit of the Offshore Neutral Zone, dividing it from the offshore area exclusively belonging to Saudi Arabia. Until the 2 July 2000 Agreement, however, there was no agreement on the northern limit of the Offshore Neutral Zone, dividing it from the offshore area exclusively belonging to Kuwait. Furthermore, there was no agreement as to the status of two islands—Qaru and Umm al Maradim—which lie within the Offshore Neutral Zone, nor was there agreement on what effect those islands should have on any internal division (or partition) of the Offshore Neutral Zone between Saudi Arabia and Kuwait.

The 2 July 2000 Agreement resolves these issues and opens the way (1) for negotiations between Saudi Arabia and Kuwait, on the one hand, and Iran, on the other hand, to establish the maritime boundary between the Offshore Neutral Zone and Iran's maritime jurisdiction and (2) for negotiations between Kuwait and Iran on their maritime boundary.

## II CONSIDERATIONS

### *1 Political, Strategic, and Historical Considerations*

The Saudi Arabia-Kuwait Neutral Zone was established by the two countries in 1922 in the Uqair Agreement.<sup>2</sup> This agreement established the land boundary between the two countries and carved out an area in which they would "share equal rights." The Uqair Agreement does not use the phrase "Neutral Zone" to denominate this area of "equal rights," but it became known as such over the years.

Over time, the land portion of the Neutral Zone was precisely delimited in keeping with the general description in the Uqair Agreement. Furthermore, the parties determined to partition the land portion of the Neutral Zone for purposes of administrative ease, without prejudice to the over-arching principle of common ownership

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<sup>2</sup> The Kuwait-Nejd Boundary Convention was signed on 2 December 1922. See *Records of Saudi Arabia: 1918-1926*, at 489-90 (Penelope Tuson and Anita Burdett eds., 1992); 10 ARABIAN BOUNDARY DISPUTES 37 (Richard Schofield ed., 1992).

of the resources of the Neutral Zone. The resolution of the boundary issues in the land portion of the Neutral Zone was accomplished in a series of agreements in the 1960s.<sup>3</sup>

As exploitation of the petroleum resources in offshore areas became feasible in the late 1940s and early 1950s, the common-ownership-of-resources principle of the Uqair Agreement was assumed and applied to the area “offshore” from the Neutral Zone by Kuwait and Saudi Arabia by the oil companies concerned and by the British and United States governments who were actively involved in promoting various interests in the region. However, questions surfaced from an early date, (1) as to the southern boundary of the Offshore Neutral Zone with Saudi Arabia; (2) as to the northern boundary of the Offshore Neutral Zone with Kuwait; (3) as to the eastern boundary of the Offshore Neutral Zone with Iran; (4) as to the status of Qaru and Umm al Maradim islands—whether they were part of the Neutral Zone as claimed by Saudi Arabia, or were they exclusively under Kuwaiti sovereignty as claimed by Kuwait and (5) following the partition of the land portion of the Neutral Zone between Saudi Arabia and Kuwait in the 1960s, whether and how to partition the Offshore Neutral Zone.

The first of these questions to be resolved was the southern limit question. It was dealt with in 1963 prior to the completion of the Saudi Arabia-Iran continental shelf agreement in 1968. (*See* 1968, Report Number 7-7.<sup>4</sup>) Resolution of the southern limit was motivated by the discovery of the large Safaniya oil field offshore from Saudi Arabia and the need to define the northern limit to which Aramco would work (on the Saudi continental shelf) and the southern limit of the Offshore Neutral Zone where the Arabian Oil Company consortium would work.<sup>5</sup> The other issues, however, remained open and unresolved even through the period of the Gulf War when Iraq occupied large portions of the land area of the Neutral Zone including

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- 3 Kuwait and Saudi Arabia signed an agreement for the partition of the Neutral Zone on 7 July 1965, which entered into force on 25 July 1966. A Supplemental Agreement Approving the Demarcation of the Median Line of the Saudi-Kuwaiti Neutral Zone was signed 18 December 1969; the Supplemental Agreement entered into force in early 1970. It may be found in 13 MIDDLE EAST ECONOMIC SURVEY 1 (No. 32, 5 June 1970).
  - 4 The curious line segment between Point 13 and Point 14 in the Iran-Saudi Arabia agreement is explained as corresponding to the southern limit of the Offshore Neutral Zone. *See* map accompanying Report Number 7-7.
  - 5 The southern limit is generally regarded as being marked by coordinates set forth in a Saudi Arabia-ARAMCO agreement of 24 March 1963 pertaining to relinquishment of certain ARAMCO obligations. *See* 2 ARABIAN BOUNDARIES 19-26 (1963).

the islands of Qaru and Umm al Maradim,<sup>6</sup> and even though the unresolved limits hindered oil and gas exploration and exploitation around the islands and near the contested limits.

Saudi Arabia and Kuwait are members of the Gulf Cooperation Council. The Council has made it a priority for member States to settle the boundary differences between themselves. This imperative, together with the momentum gained from the resolution of the Saudi-Yemeni boundary in the Jeddah Agreement of 12 June 2000 (see Report No. 6-16), and the exploratory drilling conducted under Iran's authorization in the Dorra Field earlier in the year 2000,<sup>7</sup> all, presumably, stimulated both countries and contributed to the political environment in which Saudi Arabia and Kuwait could take the decisions necessary to bring about a final negotiated settlement.

The essence of the settlement embodied in the 2 July 2000 Agreement is that Saudi Arabia deferred to Kuwait's position concerning the status of the islands of Qaru and Umm al Maradim and the position of the northern limit, but Kuwait agreed that these Saudi concessions were without cost to Saudi Arabia's economic interests. Thus, Kuwait agreed that the principle of common resource ownership would nonetheless still apply to Qaru and Umm al Maradim and to a northern area defined, basically, by two lines reflecting the past positions of both countries concerning the placement of the northern limit.

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- 6 Saudi Arabia found itself in a legal bind during the Gulf War. Traditional definitions of Kuwait arise out of the 1913 Ottoman-British Convention which lists certain islands, including Qaru and Umm al Maradim, as appertaining to Kuwait. That Convention never entered into force and, in all events, predates the 1922 Uqair Agreement. The Uqair Agreement did not conform to the Ottoman-British Convention insofar as the southern boundary of Kuwait was concerned. Subsequently, however, in the diplomatic history between Iraq and Kuwait, in which Saudi Arabia did not participate, the old Ottoman-British definition of Kuwait was used over and over. Thus, S/Res/687 (1991) of the U.N. Security Council, ending the Gulf War, referred to Kuwait and the inviolability of its borders in terms which trace back to this old definition. Since the essence of S/Res/687 was to put an end to Iraq's challenge to the validity of that old definition, Saudi Arabia, it may be assumed, quite naturally in the circumstances did not wish to raise its own objections to that old definition to protect its legal argument regarding Qaru and Umm al Maradim.
- 7 *Kuwait Protests Iranian Drilling in Disputed Dorra Offshore Gas Field*, 43 MIDDLE EAST ECONOMIC SURVEY, at A4-A6 (No. 19, 8 May 2000); *Saudi Arabia Protests to Iran Over Drilling in Disputed Waters*, 43 MIDDLE EAST ECONOMIC SURVEY at A3-4 (No. 20, 15 May 2000); *Dorra Tension Eases, but Iranian, Saudi, and Kuwaiti Claims in North Gulf Remain Unresolved*, 43 MIDDLE EAST ECONOMIC SURVEY, at A10-11 (No. 21, 22 May 2000).

## 2 *Legal Regime Considerations*

While both countries are party to the 1982 United Nations Convention on the Law of the Sea, the Saudi Arabia-Kuwait relationship in the Neutral Zone and in its offshore area is unique. The 2 July 2000 Agreement resolved a number of the open questions in favor of Kuwait, but did so in a way so as not to affect Saudi Arabia's basic economic interest in the outcome. Article 1 of the Agreement establishes the line which partitions the Offshore Neutral Zone into two sections. Article 2 establishes a northern boundary which, in effect, reflects past Saudi positions as to the location of the northern limit. Article 3 then adjusts the northern boundary to have it conform with past Kuwaiti positions. These three Articles make clear that they are subject to the Annex to the Agreement. This Annex reaffirms that the natural resources of the Offshore Neutral Zone are to be "jointly shared," including on the islands of Qaru and Umm al Maradim, and in the area between the lines established by Articles 2 and 3. In general, the lines established by the 2 July 2000 Agreement are based on the equidistance method, but in some cases they are simplified equidistant lines and in other cases are equidistant lines developed from only selected basepoint features.

## 3 *Economic and Environmental Considerations*

The 2 July 2000 Agreement opens the way for substantial economic investment and environmental cooperation between Saudi Arabia and Kuwait in the Offshore Neutral Zone, an area that is a prime petroleum-producing area, and, more particularly, opens opportunities to develop the gas reserves in the area.<sup>8</sup> Certainly, economic considerations were motivating factors toward finalizing this Agreement; however, it cannot be said that any specific economic factor influenced the placement of one of the delimitation lines.

## 4 *Geographic Considerations*

In general, the Neutral Zone coast, the adjoining Saudi coast to the south and the Kuwaiti coast to the north are characterized by shallow, scalloped-shaped coastal indentations or concavities. The headlands along this coast are positioned such that they are the controlling basepoint features for any lateral delimitations based on

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<sup>8</sup> See 43 MIDDLE EAST ECONOMIC SURVEY, at A-10 (No. 29, 17 July 2000).

the equidistance method, apart from island and low-tide elevation considerations. From south to north, Ras al Mishab and Ras Khafji are placed to influence the location of the southern limit; Ras Bard Halq and Ras az Zawr influence the partition dividing line and Ras az Zawr and Ras al Qubayah influence the northern limit.

Furthermore, in the vicinity of these headlands, the low-water line along the mainland has changed in configuration over the years, at least as represented on nautical charts. The author understands that, generally, the parties have used the low-water line of the mainland in their boundary practice, but not low-tide elevations. Also, generally, the parties have not used small offshore islands. Thus, although the small Kuwaiti island of Kubbar, located outside the Offshore Neutral Zone, is located in a position to affect any equidistant line used for the northern limit and even though Qaru and Umm al Maradim could affect an equidistant line used for the partition dividing line, the parties chose to disregard such small islands as equidistance basepoints.

The same, however, cannot be said for Kuwait's Failaka island, which Kuwait argued should be used as an equidistance basepoint while Saudi Arabia argued it should not. This debate was resolved as discussed in Section 2 above. Specifically, the northern limit was established as desired by Kuwait—using Failaka as a basepoint (*see* Article 3)—but by virtue of Article 2 and the Annex to the Agreement, Saudi Arabia shares equally the resources in the more northerly area with a northern limit created by not using Failaka as a basepoint.

The final geographical feature of importance is Iran's Kharg Island. While Kharg Island obviously has no effect on any lateral delimitation pertaining to Saudi Arabia and Kuwait regarding the Neutral Zone, it is safe to assume that Iran would argue that Kharg Island should have at least as much effect on a delimitation between Iran and the Offshore Neutral Zone, or Iran and Kuwait, as has been given to Failaka in Kuwait's practice with Saudi Arabia.

### *5 Islands, Rocks, Reefs, and Low-Tide Elevations Considerations*

It is notable that the 2 July 2000 Agreement resolves the issue of sovereignty over the islands of Qaru and Umm al Maradim in favor of Kuwait. The 2 July 2000 Agreement does not, however, suggest that these islands receive a belt of waters which also falls under Kuwait's jurisdiction. The parties do not address this issue, possibly because it is largely irrelevant in the circumstances. These circumstances include the fact that for resource purposes there is no distinction between these islands, their surrounding waters (whatever they may be), and other waters of the Offshore Neutral Zone because of the clear indication of the Annex that all these

areas are to be treated the same for economic purposes. The other circumstance is that the line which partitions the offshore into Saudi and Kuwaiti sections places both of these islands on the Kuwaiti side of the line, and it is this line which matters as between Saudi Arabia and Kuwait for administrative purposes, not whether there is a belt of waters to be associated with each island independently of the partition dividing line. Just how this result is intended to relate to the rights of the international community to navigate within these waters pursuant to basic law of the sea principles is not clear.

The question of Failaka's effect on the delimitation of the northern limit has long been a major stumbling block to agreement. The problem, however, is not complicated. Assuming the use of the equidistance method, if Failaka is not used as a basepoint, the Offshore Neutral Zone's northern limit is placed north of where it would be if Failaka is used as a basepoint. The former is to Saudi Arabia's advantage and the latter favors Kuwait. In such circumstances, a possible negotiation compromise would have been to create a half-effect equidistant line. The parties chose not to do so, however. Instead, they created the arrangement discussed in section 2 above. The area between the line not using Failaka (Article 2), and the line using Failaka (Article 3), is to be regarded as outside the Offshore Neutral Zone but, for resource-sharing arrangements, it is included as part of those arrangements.

The reason for the unique resolution of the northern limit issue may have been because the two parties wished not to prejudge in this Agreement the effect Failaka should have in any delimitation with Iran. Using Failaka as a basepoint will obviously assist Saudi Arabia and Kuwait in negotiations with Iran, but one can only assume that Iran will seek to ensure that Failaka is given no more weight than Kharg Island receives in the forthcoming delimitations involving Iran.

Along the mainland coast, the changing characteristics of the mainland low-water line as depicted on charts of various nations based on different surveys at different times, and on different scales, have often led to different assessments of some of the boundary questions associated with the Saudi-Kuwaiti limits relating to the Offshore Neutral Zone. The parties have always disregarded small, near-shore islands and low-tide elevations in their delimitation practice.

## *6 Baseline Considerations*

Saudi Arabia and Kuwait, in their bilateral relationship, have adopted the practice that lateral equidistant lines should be determined from the low-water line along the mainland coast. In effect, the line described in Article 1 of the 2 July 2000 Agreement, which is the partitioning line of the Offshore Neutral Zone, is such a

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line; Article 2 makes clear that the equidistant line it establishes is to be determined from the low-water line along the mainland coast. It is the author's understanding that this is the same method used to determine the northern limit of the Saudi Aramco concession which marks the southern limit of the Offshore Neutral Zone, although the calculation of the equidistant line, at the time that was done in 1963, was constructed on charts of the era; that line was also simplified.

### *7 Geological and Geomorphological Consideration*

The Saudi-Kuwaiti Offshore Neutral Zone lies in the shallow waters of the north-western Gulf. No specific geological or geomorphological considerations were taken into account in the placement of the delimitation lines. However, Iran's drilling in the Dorra field undoubtedly reminded the parties of the potential of that area and of their interest in ensuring that all or part of that area appertains to the Offshore Neutral Zone or to Kuwait and not to Iran.

### *8 Method of Delimitation Considerations*

#### *a. The Southern Limit*

Article 4 of the 2 July 2000 Agreement states that the southern limit of the Offshore Neutral Zone "is the line currently in effect."<sup>9</sup> This line is a rough approximation of a simplified equidistant line developed from the mainland low-water line and not using low-tide elevations or islands as basepoints, and developed using manual techniques on charts of the 1950s and early 1960s.

#### *b. The Partitioning Line*

Article 1 of the 2 July 2000 Agreement divides or partitions the Offshore Neutral Zone between Saudi Arabia and Kuwait. This line starts at point G on the coast, established in the 1969 Supplemental Agreement partitioning the Neutral Zone, and then extends eastward in four segments. In general, this is an equidistant line developed from the low-water line using only mainland basepoints. The line is diverted around Umm al Maradim Island, leaving it and Qaru Island on the Kuwaiti side. From the eastward-most point listed in Article 1, "the line dividing the offshore

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<sup>9</sup> This euphemism is often used by the parties to refer to the southern limit, in reference to lines found in various agreements with oil companies dating from the 1960s and 1970s.



area adjacent to the Partitioned Zone extends to the end of this line in an easterly direction.”

### c. The Northern Limit

Article 2 of the 2 July 2000 Agreement establishes the northern limit, which is then modified by Article 3. The line established by Article 2 is an equidistant line developed from the “low-water line on the shore without the islands or shoals having effect.” This line is consistent with past statements of the Saudi position and is consistent with the method of delimitation used for the southern limit and the partition dividing line of the Offshore Neutral Zone.

Article 3 of the 2 July 2000 Agreement adjusts the northern boundary by applying the equidistance method but giving Kuwait’s Failaka Island full effect. This line is consistent with past statements of the Kuwaiti position. The Annex to the Agreement makes clear that the area between the lines described by Articles 2 and 3 is subject to the principle of common resource ownership.

## 9 *Technical Considerations*

The 2 July 2000 Agreement does not record specific technical information. However, Article 6 refers to a completed modern marine survey; the author is aware that this was done at the request of the parties and that it has been completed. Article 6 indicates that the company which conducted this survey will calculate the two northern limits referred to by Articles 2 and 3 and produce maps which, when signed, will be an integral part of the Agreement. Presumably these maps will establish, or be based upon, relevant technical criteria.

## 10 *Other Considerations*

The southern limit of the Offshore Neutral Zone ties in to the northern end of the Saudi Arabia-Iran continental shelf boundary leaving no loose ends in that direction. Northward, however, the boundary between the opposing coasts of the Saudi-Kuwaiti Neutral Zone and Iran must be established, and north from there will be a delimitation between the opposing Kuwaiti and Iranian coasts. Article 7 of the 2 July 2000 Agreement provides: “The State of Kuwait and the Kingdom of Saudi Arabia will become one negotiating party at the time of the demarcation of the eastern boundary” of the Offshore Neutral Zone.

The 2 July 2000 Agreement also notes that the two countries will agree on procedures and arrangements relating to recreational fishing in the Offshore Neutral Zone. For some time the necessary arrangements for dealing with oil exploration and exploitation in the Offshore Neutral Zone have been in place, worked out between the authorities in the two countries and the oil companies concerned.

### III CONCLUSIONS

The 2 July 2000 Saudi-Kuwaiti Agreement brought to an end the dispute between these countries as to the limits, particularly the northern limit, of the Offshore Neutral Zone. Now the parties must turn to negotiations with Iran to determine the seaward limit of the Offshore Neutral Zone. Also to be addressed is the bilateral negotiation between Kuwait and Iran. The practice in the region is to use the equidistance delimitation method, but giving varying effect to offshore features. The area delimited, and that area which remains to be delimited at the northern end of the Gulf, are rich in petroleum resources. It is also an area where Iraq has made its presence felt in the past. Iraq has protested the 2 July 2000 Saudi-Kuwaiti Agreement.<sup>10</sup>

### IV RELATED LAW IN FORCE

#### *A. Law of the Sea Conventions*

Kuwait: Party to the 1982 U.N. Convention on the Law of the Sea,  
2 May 1986.

Saudi Arabia: Party to the 1982 U.N. Convention on the Law of the Sea,  
24 April 1996.

#### *B. Maritime Jurisdiction Claimed at the Time of Signature*

Both states claim a 12-nautical-mile territorial sea and fisheries and continental shelf jurisdiction.

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<sup>10</sup> WASH. TIMES, 19 July 2000, at A-14.

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*C. Maritime Jurisdiction Claimed Subsequent to Signature*

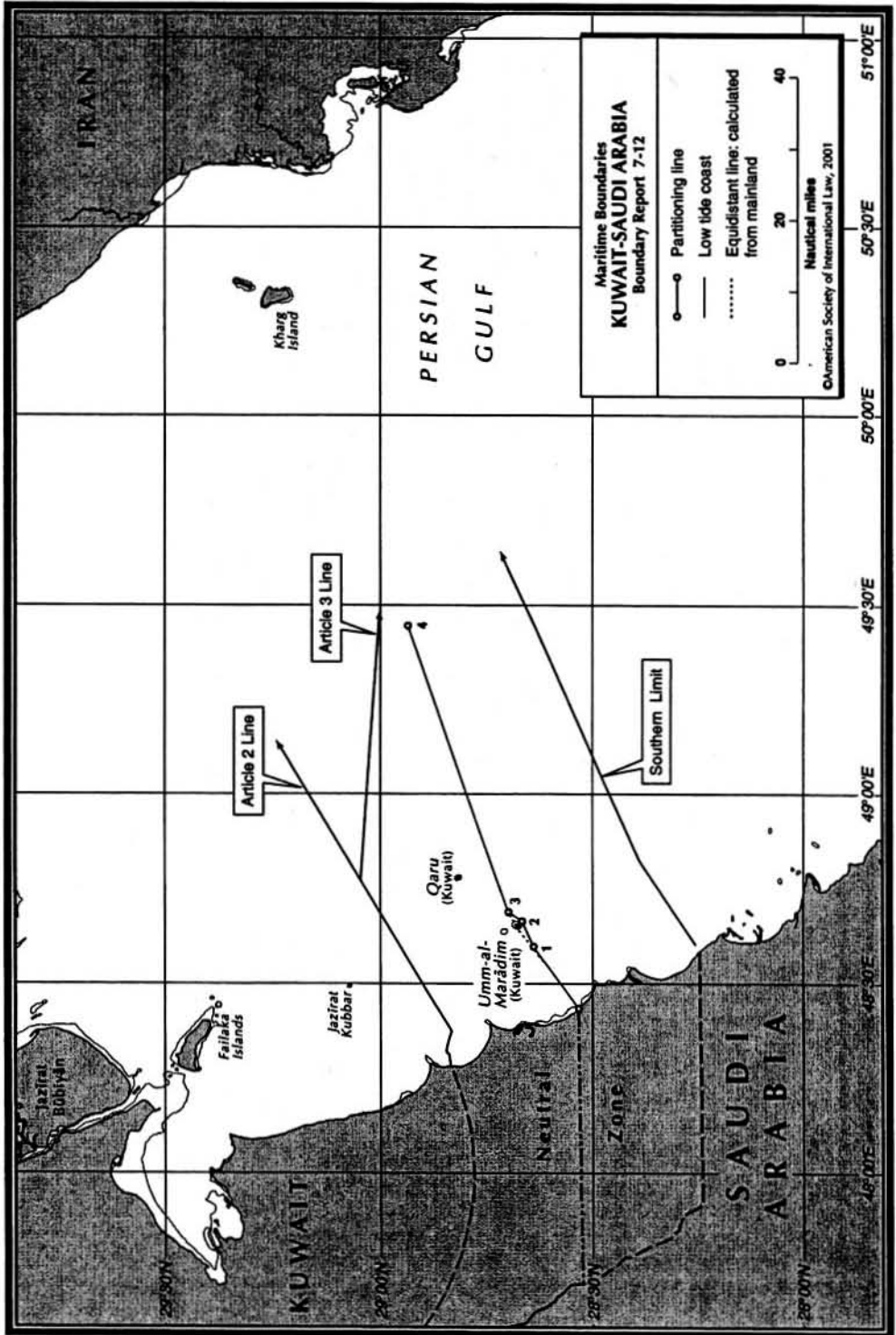
Kuwait: No change.

Saudi Arabia: No change.

V REFERENCES AND ADDITIONAL READINGS

EDWARD H. BROWN, THE SAUDI ARABIA-KUWAIT NEUTRAL ZONE (1963).

*Prepared by David A. Colson*



## 1. Agreement between the Kingdom of Saudi Arabia and the State of Kuwait Concerning the Submerged Area Adjacent to the Divided Zone<sup>1</sup>

In the Name of God, the Merciful, the Compassionate

Agreement between the Kingdom of Saudi Arabia and the State of Kuwait concerning the submerged area adjacent to the divided zone.

Strengthening and reinforcing the ties of faith and brotherhood between the fraternal peoples of the State of Kuwait and the Kingdom of Saudi Arabia;

Affirming the unshakeable and deeply rooted relationship and bonds of love and affection between the two fraternal countries;

In view of the desire of the Custodian of the Two Holy Mosques, King Fahd Bin Abdul-Aziz Al Saud, King of Saudi Arabia, and his brother His Highness Sheikh Jaber Al-Ahmad Al-Jaber Al-Sabah, Amir of the State of Kuwait, to determine the line dividing the submerged area adjacent to the divided zone in a manner that will serve the interests of the two fraternal countries and respect their regional rights, and pursuant to the Agreement on the partition of the neutral zone between the two countries signed on 9 Rabi' I A.H. 1385 (7 July A.D. 1965) (hereinafter referred to as the divided zone) and the Agreement concerning the designation of the median line of that neutral zone between the two countries signed on 9 Shawwal A.H. 1389 (18 December A.D. 1969),

The two fraternal countries have agreed as follows:

### *Article 1*

1. The line dividing the submerged area adjacent to the divided zone, which represents the border between the two countries, begins on the coast at point G at geographical coordinates 28° 32' 02.488" north and 48° 25' 59.019" east and passes through four points with the following geographical coordinates:

Point	Latitude north	Longitude east
1	28° 38' 20"	48° 35' 22"
2	28° 39' 56"	48° 39' 50"
3	28° 41' 49"	48° 41' 18"
4	28° 56' 06"	49° 26' 42"

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<sup>1</sup> Translated from Arabic. Original text communicated by the Permanent Mission of Saudi Arabia to the United Nations on 27 October 2000. Registered: 29 March 2001, No. 37359.

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From Point 4, the line dividing the submerged area adjacent to the divided zone continues in an easterly direction.

2. The provisions of paragraph 1 of this article do not prejudice the provisions of Annex 1 to this Agreement.

#### *Article 2*

The northernmost limit of the submerged area adjacent to the divided zone, beginning on the coast at point No. 1, at geographical coordinates 28° 49' 58.7" north and 48° 17' 00.188" east, shall be determined on the basis of the principle of equal distance from the low-water mark. With due regard for the provisions of article 8 of the Agreement on the partition of the neutral zone, the islands, shoals and reefs shall have no effect on this limit.

#### *Article 3*

The northernmost limit fixed in accordance with article 2 of this Agreement shall be amended by taking fully into account the Faylakah group of islands, while not prejudicing the provisions of Annex 1 to this Agreement.

#### *Article 4*

The southernmost limit of the submerged area adjacent to the divided zone shall be the line between the two countries currently in use, which starts at point No. 5 on the coast, at geographical coordinates 28° 14' 05.556" north and 48° 36' 06.916" east.

#### *Article 5*

The agreement between the two Contracting States concerning ownership of the natural resources in the submerged area adjacent to the divided zone is contained in Annex 1 of this Agreement, of which it is an integral part.

*Article 6*

The company commissioned by the two countries to survey and prepare maps of the submerged area adjacent to the divided zone shall determine the coordinates of the northernmost limit in accordance with articles 2 and 3 of this Agreement and prepare the maps in their final form. Those maps shall be signed by the representatives of both countries and considered an integral part of this Agreement.

*Article 7*

The Kingdom of Saudi Arabia and the State of Kuwait shall be considered as a single negotiating party with regard to the designation of the eastern limit of the submerged area adjacent to the divided zone.

*Article 8*

The competent authorities in each country shall agree upon the measures and arrangements concerning recreational fishing in the submerged area adjacent to the divided zone.

*Article 9*

The provisions of this Agreement do not prejudice the provisions of the Agreement on the partition of the neutral zone between the two countries signed on 9 Rabi' I A.H. 1385 (7 July A.D. 1965) or of the Agreement concerning the designation of the mid-point of that neutral zone between the two countries signed on 9 Shawwal A.H. 1389 (18 December A.D. 1969).

*Article 10*

This Agreement shall be subject to ratification by both countries and shall enter into force from the date on which the instruments of ratification are exchanged.

DONE in the city of Kuwait in two original copies on the thirty-first day of the month of Rabi'I in year A.H. 1421 (2 July A.D 2000).

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On behalf of the Kingdom of Saudi Arabia  
Saud Al-Faisal  
Minister for Foreign Affairs

On behalf of the State of Kuwait  
Sabah Al-Ahmad Al-Jaber Al-Sabah  
First Deputy Prime Minister and  
Minister for Foreign Affairs

In the Name of God, the Merciful, the Compassionate

### **Annex 1**

#### **Agreement between the Kingdom of Saudi Arabia and the State of Kuwait Concerning the Submerged Area Adjacent to the Divided Zone**

The two countries have agreed that the natural resources in the submerged area adjacent to the divided zone shall be owned in common. Those resources shall include the islands of Qaruh and Umm al-Maradim and the area lying between the northernmost limit referred to in article 2 of the Agreement and the northernmost limit as amended in accordance with article 3 of the Agreement.

On behalf of the Kingdom of Saudi Arabia  
Saud Al-Faisal  
Minister for Foreign Affairs

On behalf of the State of Kuwait  
Sabah Al-Ahmad Al-Jaber Al-Sabah  
First Deputy Prime Minister and  
Minister for Foreign Affairs



## Azerbaijan-Kazakhstan

*Report Number 11-3*

### **Seabed Boundary Agreement between the Republic of Azerbaijan and the Republic of Kazakhstan and Protocol**

*Signed:* Seabed Boundary Agreement: 29 November 2001  
Protocol: 27 February 2003

*Entered into force:* Kazakhstan approval of Agreement and Protocol  
2 July 2003; Azerbaijan approval of Agreement and  
Protocol 9 December 2003

*Published at:*

#### I SUMMARY

Azerbaijan and Kazakhstan are states with opposite coastlines in the north-central portion of the Caspian Sea. They have reached agreement on a seabed boundary, based on a median line, extending approximately 79 n.m. The boundary runs in a northwest to southeast direction from the tri-junction point with Russia, in the north, to the tri-junction point with Turkmenistan, in the south. The agreement does not pertain to the water column. A Protocol sets forth the geographic turning points defining the boundary.

#### II CONSIDERATIONS

##### 1 *Political, Strategic and Historical Considerations*

This agreement was signed in 2001 ten years after the 1991 break up of the Soviet Union. Prior to that time, the Caspian Sea was bordered by only the Soviet Union and Iran and the area covered by this boundary agreement was totally under the sovereignty of the Soviet Union. While the

Soviet Union created *de facto* administrative lines between its republics, it is not believed such administrative lines in the northern Caspian Sea influenced the location of the Azerbaijan-Kazakhstan seabed boundary.

## 2 *Legal Regime Considerations*

Prior to the 1991 dissolution of the Soviet Union, the Caspian Sea essentially was a Soviet-Iranian “lake”. Because the Caspian Sea has no direct access to any open ocean, it was not given consideration by the international community during the negotiations at the Third United Nations Law of the Sea Conference in the 1970s and early 1980s, which led to the 1982 Law of the Sea Convention. Following 1991, with the number of Caspian Sea littoral states at five, the need to resolve the legal status of this body of water and to determine boundaries was apparent.

Both Azerbaijan and Kazakhstan have been major proponents of the view that international law of the sea principles should apply to the Caspian Sea and that the entire sea should be divided into national sectors. Both legal positions towards the Caspian Sea have been driven largely by the belief that the resource richness of the north central Caspian Sea, particularly the oil and gas reserves, are to be found in their respective sectors. However, it is apparent by this agreement that delimits only the seabed that both Parties recognize that all five Caspian states must reach a consensus on the legal status of the water column. One of the introductory paragraphs in the agreement calls upon all the Caspian states “to quickly sign the Convention on the Legal Status of the Caspian Sea, based on their unanimous consent.”

The agreement takes into consideration that a future event or events could cause the Parties to modify the agreement. Article 6 states that the agreement “may be amended or modified through separate protocols that shall be an integral part of this Agreement.” This suggests that even the course of the boundary could be modified.

## 3 *Economic and Environmental Considerations*

It is unlikely that any specific economic or environmental consideration affected the course of this seabed boundary. However, the Parties recognize the possibility that there could be transboundary hydrocarbon reservoirs

and they have made a general provision in the agreement on how to deal with that occurrence. Article 3 states that “issues of exploring and developing promising structures and deposits through which the median line passes will be subject of additional agreements between the Parties.”

#### 4 *Geographical Considerations*

Azerbaijan and Kazakhstan are opposite states on the Caspian Sea. The starting point of the seabed boundary in the north is the tri-junction point with Russia; the boundary terminates in the south at the tri-junction point with Turkmenistan. The Kazak coastline east of the boundary is indented while the Azeri coastline has a smooth northwest-southeast general direction. Nonetheless, there is a geographic balance to the relationship between both coastlines which results in a median line that does not veer much from the center of the Caspian Sea. The boundary consists of 25 turning or terminal points that extends for 79 n.m.

#### 5 *Islands, Rocks, Reefs, and Low-Tide Elevations Considerations*

There are no rocks, reefs or low-tide elevations in this area that influence the course of the seabed boundary. Article 1 of the agreement provides that the boundary is a median line “drawn equidistant from initial reference points on the shoreline and islands.” Annex 2 of the Protocol gives a listing of the contributing coastal points for each state; six on the Kazakh side, nine along the Azeri coast. If any of these points are on islands they are very near to the mainland coasts.

#### 6 *Baseline Considerations*

There are no baseline considerations affecting the course of the seabed boundary. Neither state claims straight baselines. There is a geographic balance between the opposite coastlines which makes the equidistance method an appropriate delimitation method.

## 7 *Geological and Geomorphological Considerations*

There were no specific geological or geomorphological considerations referenced by the Parties in this delimitation.

## 8 *Delimitation Considerations*

The seabed boundary is a median line. The geographic coordinates for the basepoints affecting the course of the median line are given in annex 2 to the Protocol.

## 9 *Technical Considerations*

Article 1 defines the starting point of the boundary as being determined “based on the sea-level datum for the Caspian Sea equal to a level of minus 28 meters on the Baltic System of Elevations.” It is interesting to note that in the Kazakhstan-Russia seabed boundary agreement reference is also made to the Baltic System, but at minus 27 meters, and reference is made in that agreement to the “Kronstadt tide gauge” (Report Number 11-1).

Kronstadt tide gauge is one of the longest operational tidal sites in the world, dating to 1777. The station is located within the limits of St. Petersburg, Russia, on Ostrov Kotlin at approximately 59° 59' N, 29° 46' E. The station was selected as the origin, or zero point, of the Russian National System of Heights (also referred to as the Baltic Height System) by the USSR Council of Ministers in 1946.

Heights in the Baltic System historically have been transferred by the surveying methodology of geodetic leveling and are physically realized by permanent survey monuments often called bench marks. The description of the level of the Caspian Sea described in this agreement would therefore be –28 meters below the zero (0) point of the Kronstadt tide gauge.

The actual determination of these heights could be problematic for several reasons. The first is that the agreement does not define the epoch of Mean Sea Level (MSL) at Kronstadt. MSL is typically computed on a 19-year cycle and is defined by those dates. For example, the current U.S. National Tidal Epoch is 1983-2001. No such epoch is provided for in the text of the agreement nor in the Protocol. In addition, the ability to determine accurately the level in the field will be limited by the number and

quality of existing survey bench marks. Unfortunately, these marks are all too often disturbed or destroyed over time.

An additional problem for positioning of the boundary turning points in this agreement is the omission in both the agreement and the Protocol of a geodetic datum.

### 10 Other Considerations

Article 4 provides that any differences in the interpretation and application of the provisions in the agreement “shall be resolved through negotiation and other peaceful means chosen by the Parties.”

## III CONCLUSIONS

This seabed delimitation is a median line. The coordinates of turning points and basepoints are given in the annexes to the Protocol. Unfortunately, no geodetic datum is given in the agreement which possibly could lead to misinterpretation as users, such as oil companies, apply the boundary. It is not clear the exact date this agreement and protocol entered into force as Article 7 states that the agreement will enter into force “after the date of final written notification of its ratification” by the Parties. Given that ratification procedures were completed by Kazakhstan on 2 July 2003 and by Azerbaijan on 9 December 2003, it is assumed that entry into force occurred on or about this latter date.

## IV RELATED LAW IN FORCE

### A *Law of the Sea Conventions*

Azerbaijan: Not a party to any of the four 1958 Conventions nor to the 1982 LOS Convention.

Kazakhstan: Not a party to any of the four 1958 Conventions nor to the 1982 LOS Convention.

### B *Maritime Jurisdiction Claimed at the Time of Signature*

Azerbaijan: No maritime claims for the Caspian Sea

Kazakhstan: No maritime claims for the Caspian Sea

*C Maritime Jurisdiction Claimed Subsequent to Signature*

Azerbaijan: No change

Kazakhstan: No change

*Prepared by: Robert W. Smith and J. Ashley Roach*

**Agreement between the Republic of Kazakhstan and the Azerbaijani  
Republic on Delimitation of the Caspian Seabed between the  
Republic of Kazakhstan and the Azerbaijani Republic  
(Moscow, November 29, 2001)**

*Ratified by the Republic of Kazakhstan in accordance with RK Law No. 457-11 of July 2, 2003.*

*See the Protocol to the Agreement*

The Republic of Kazakhstan and the Azerbaijani Republic, hereinafter referred to as the Parties,

Seeking to ensure a favorable environment for exercising their sovereign rights on the Caspian Sea, and in the spirit of mutual understanding and cooperation, to settle issues associated with the effective use of seabed and sub-seabed mineral resources of the Caspian Sea;

Taking into account that the current legal regime of the Caspian Sea does not meet current requirements and does not fully regulate the relationships of the Caspian Sea littoral states;

Calling upon the Caspian Sea littoral states to quickly sign the Convention on the Legal Status of the Caspian Sea, based on their unanimous consent;

Guided by the principles and standards of international law, the interests of the Parties when developing and exploiting the seabed and sub-seabed mineral resources of the Caspian Sea, and existing practice on the Caspian Sea;

Proceeding from the fact that delimitation of the Caspian seabed by this Agreement does not apply to biological resources and the use of the Caspian Sea for navigation;

Taking into account bilateral agreements that have been reached on the legal status of the Caspian Sea,

Have agreed as follows:

### **Article 1**

The seabed and sub-seabed of the Caspian Sea shall be delimited between the Parties along a median line drawn equidistant from initial reference points on the shoreline and islands. The coordinates of the initial reference points shall be determined based on sea-level datum for the Caspian Sea equal to a level of minus 28 meters on the Baltic System of Elevations.

## **Article 2**

A geographical description of the median line and its coordinates will be identified based upon cartographic materials and initial reference points agreed upon by the Parties and documented in a separate Protocol, which will become an attachment to this Agreement and an integral part of it.

## **Article 3**

Within their seabed sectors the Parties shall exercise their sovereign rights to explore, develop and manage seabed and sub-seabed resources of the Caspian Sea, to lay underwater cables and pipelines along the Caspian seabed, to create artificial islands, berms, dams, piers, platforms and other engineering structures, and to perform other lawful economic activity on the seabed.

Issues of exploring and developing promising structures and deposits through which the median line passes will be the subject of additional agreements between the Parties.

## **Article 4**

Differences in the interpretation and application of the provisions of this Agreement shall be resolved through negotiation and other peaceful means chosen by the Parties.

## **Article 5**

This Agreement shall not prevent the Caspian Sea littoral states from reaching unanimous consent on the legal status of the Caspian Sea and may be viewed by the Parties as part of their overall agreements.

## **Article 6**

By mutual consent of the Parties this Agreement may be amended or modified through separate protocols that shall be an integral part of this Agreement.

## **Article 7**

This Agreement shall enter into force after the date of final written notification of its ratification.



4050 *Report Number 11-3*

Done at Moscow on November 29, 2001, in two original copies, each in the Kazakh, Azeri and Russian languages, all texts being equally authentic. If differences arise in the interpretation of the provisions of this Agreement, the Parties will be guided by the text in Russian.

For the Republic of Kazakhstan

For the Azerbaijani Republic

**Protocol to the Agreement between the Republic of Kazakhstan and the Azerbaijani Republic on Delimitation of the Caspian Seabed between the Republic of Kazakhstan and the Azerbaijani Republic (Baku, February 27, 2003)**

*Ratified by the Republic of Kazakhstan in accordance with RK Law No. 457-III of July 2, 2003.*

The Republic of Kazakhstan and the Azerbaijani Republic, hereinafter referred to as the Parties,

Based on the Agreement between the Republic of Kazakhstan and the Azerbaijani Republic on Delimitation of the Caspian Seabed between the Republic of Kazakhstan and the Azerbaijani Republic of November 29, 2001 (hereinafter the Agreement),

For the purpose of identifying geographic coordinates of a median line of delimitation of the seabed and sub-seabed areas of the Caspian Sea;

Have agreed as follows:

**Article 1**

With this Protocol the Parties establish the geographic coordinates of the median line of delimitation of seabed and sub-seabed areas of the Caspian Sea between the Republic of Kazakhstan and the Azerbaijani Republic (Catalog of Geographic Coordinates of the Median Line of Delimitation – Annex 1). This line is drawn equidistant from initial reference points on the shoreline and islands (Catalog of Geographic Coordinates of Initial Reference Points – Annex 2).

**Article 2**

The initial point of the median line of delimitation is the point with coordinates 42° 33',6 N and 49° 53',3 E, which is the junction point of the delimitation lines for the seabed and sub-seabed areas of the Caspian Sea between the Republic of Kazakhstan, the Azerbaijani Republic, and the Russian Federation

The end point of the median line of delimitation is the point with coordinates 41° 32',4 N and 50° 56',6 E, which may be taken as the junction point of the delimitation lines for the seabed and sub-seabed areas of the Caspian Sea between the Republic of Kazakhstan, the Azerbaijani Republic, and Turkmenistan, which should be recorded in a tripartite agreement between them.

**Article 3**

The median line of delimitation is drawn on a Median Line Diagram of Delimitation of Seabed and Sub-seabed Areas of the Caspian Sea between the Republic of Kazakhstan and the Azerbaijani Republic (Annex 3), which has been approved by the Parties.

**Article 4**

This Protocol shall enter into force in accordance with the procedure provided for in Article 7 of the Agreement, of which it shall be an integral part.

Done at Baku on February 27, 2003, in two original copies, each in the Kazakh, Azeri, and Russian languages, all texts being equally authentic. For the purpose of interpreting the provisions of this Protocol, the Parties shall refer to the Russian text.

For the Republic of Kazakhstan

For the Azerbaijani Republic

ANNEX 1  
 To the Protocol to the Agreement between  
 the Republic of Kazakhstan and  
 the Azerbaijani Republic on  
 the Delimitation of the Caspian Seabed  
 between the Republic of Kazakhstan and  
 the Azerbaijani Republic

Catalog of Geographic Coordinates of the Median Line of Delimitation

Numbers of the Turning Points of the Median Line	North Latitude	East Longitude
Initial Point	42°33',6	49°53',3
1	42°25',8	50°00',3
2	42°24',5	50°01',7
3	42°22',3	50°03',8
4	42°20,9	50°05',4
5	42°20',2	50°06',4
6	42°19',7	50°06',9
7	42°17',0	50°10',1
8	42°16',4	50°10',8
9	42°11',1	50°17',5
10	42°10',4	50°18',5
11	42°06',5	50°23',6
12	42°05',2	50°25',4
13	41°57',9	50°36',0
14	41°57',4	50°36',8
15	41°56',6	50°38',0
16	41°55',8	50°38',7
17	41°53',2	50°41',2
18	41°51',3	50°41',9
19	41°50',6	50°42',2
20	41°47',8	50°43',1
21	41°39',1	50°50',4
22	41°37',0	50°52',3
23	41°35',3	50°53',8
24	41°33',4	50°55',5
Point 25 (end point)	41°32',4	50°56',6

## ANNEX 2

To the Protocol to the Agreement between  
the Republic of Kazakhstan and  
the Azerbaijani Republic on  
the Delimitation of the Caspian Seabed  
between the Republic of Kazakhstan and  
the Azerbaijani Republic

Catalog of the Geographic Coordinates of the Initial Reference Points

**Republic of Kazakhstan**

No.	North Latitude	East Longitude
1	43°09',1	51°16',2
2	43°09',1	51°16',6
3	42°50',1	51°54',3
4	42°05',0	52°25',4
5	41°46',6	52°26',5
6	41°46',1	52°26',7

**Azerbaijani Republic**

No.	North Latitude	East Longitude
1	41°45',6	48°42',4
2	41°35',8	48°51',9
3	41°32',2	48°55',8
4	41°28',0	48°59',6
5	41°22',7	49°04',4
6	41°21',8	49°05',0
7	41°18',9	49°06',7
8	40°35',7	50°04',3
9	40°29',3	50°19',9

## ANNEX 3

To the Protocol to the Agreement between  
the Republic of Kazakhstan and  
the Azerbaijani Republic on  
the Delimitation of the Caspian Seabed  
between the Republic of Kazakhstan and  
the Azerbaijani Republic

Diagram of the Delimitation of Seabed and Sub-seabed Areas of the Caspian Sea  
between the Republic of Kazakhstan and the Azerbaijani Republic

*[not included]*



## Azerbaijan-Russia

### *Report 11-2*

#### **Seabed Boundary Agreement between the Republic of Azerbaijan and the Russian Federation**

*Signed:* 23 September 2002

*Entered into force:* Azerbaijan approval May 16, 2003;  
Russia approval June 25, 2003

*Published at:* <http://president.kremlin.ru/text/docs/2002/09/30520.shtml>  
(in Russian)

#### I SUMMARY

This boundary delimits the seabed between Azerbaijan and Russia in the north central portion of the Caspian Sea. It is the third seabed boundary agreement to be reached among the Caspian Sea littoral states, following the Kazakhstan-Russia agreement (*see* Report Number 11-1) and the Azerbaijan-Kazakhstan agreement (*see* Report Number 11-3). This boundary begins at the terminus of the land boundary and extends in one straight-line segment northeast until it terminates at the Azeri-Kazakh-Russian tri-point approximately 72 n.m. from the coast. According to the agreement, the boundary is based on a median line.

#### II CONSIDERATIONS

##### 1 *Political, Strategic and Historical Considerations*

This agreement was signed eleven years following the break up of the Soviet Union. Prior to that time the Caspian Sea was bordered by only the Soviet Union and Iran and the area covered by this boundary agreement was totally under the sovereignty of the Soviet Union. While the Soviet

Union created *de facto* administrative lines between its republics, it is not believed such administrative lines in the northern Caspian Sea influenced the determination of the location of the Azerbaijan-Russia seabed boundary.

## 2 *Legal Regime Considerations*

Prior to the 1991 dissolution of the Soviet Union, the Caspian Sea essentially was a Soviet-Iranian “lake.” Because the Caspian Sea has no direct access to any open ocean, it was not given consideration by the international community during the negotiations at the Third United Nations Law of the Sea Conference in the 1970s and early 1980s, which led to the 1982 Law of the Sea Convention. Following 1991, with the number of Caspian Sea littoral states at five, the need to resolve the legal status of this body of water and to determine agreed boundaries was apparent.

Russia’s position on the legal status of the Caspian Sea has changed from the early 1990s. Until the mid-1990s it maintained that all five littoral states shared in the Caspian Sea’s resources and that outside a territorial sea belt to be agreed, that the Caspian Sea should come under some type of five-state condominium or joint-use regime. Russia’s new position is exemplified by its willingness to complete seabed boundary agreements with both its Caspian Sea neighbors, Azerbaijan and Kazakhstan. Russia now holds to the position that the seabed of the Caspian Sea should be divided into national sectors, but that the five coastal states should agree on the status of the waters as it relates to managing the fishery resources, navigation, and the protection of the marine environment.

Azerbaijan, on the other hand, has been a major proponent of the view that international law of the sea principles apply to the Caspian Sea and that the entire sea should be divided into national sectors. Azerbaijan’s legal position towards the Caspian Sea has been driven largely by the belief that the resource richness of the north central Caspian Sea, particularly the oil and gas reserves, are to be found in the Azeri sector. By agreeing with Russia to delimit only the seabed, Azerbaijan has adjusted its position to allow for the five Caspian Sea states to determine the legal status of the water column. In fact, article 5 of the agreement provides that this seabed boundary agreement “is not an obstacle to reaching a common agreement among the Caspian Sea littoral states on the legal status of the Caspian Sea. . . .”



### 3 *Economic and Environmental Considerations*

It is unlikely that any specific economic or environmental consideration affected the course of this simple seabed boundary. However, the Parties recognize the possibility that there could be transboundary hydrocarbon reservoirs and they have made general provision in this agreement on how to deal with that event. Article 2(2) provides that the exploration of mineral resources from structures that cross the seabed boundary shall be carried out by authorized organizations “based on international practice applied for the development of transboundary fields.” The procedures by which this would occur are not given in detail as article 2(4) merely provides that these authorized organizations, with the consent of the Parties, “shall sign agreements on cooperation.”

### 4 *Geographical Considerations*

Azerbaijan and Russia share a land boundary and are adjacent states on the Caspian Sea. The starting point of the seabed boundary is the land boundary terminus. The coastline at the land boundary terminus is relatively smooth and trends in a southeast-northwest direction; the seabed boundary, which is said to be an equidistant line, is essentially perpendicular to this general trend of the coastline.

### 5 *Islands, Rocks, Reefs, and Low-Tide Elevations Considerations*

There are no rocks, reefs or low-tide elevations in this area that influence the course of the seabed boundary.

### 6 *Baseline Considerations*

There are no baseline considerations affecting the course of the seabed boundary. Neither state claims straight baselines in the Caspian Sea and there is a geographic balance of the coastlines adjacent to the land boundary terminus.

### 7 *Geological and Geomorphological Considerations*

There were no specific geological or geomorphological considerations referenced by the Parties in this delimitation.

### 8 *Delimitation Considerations*

The seabed boundary is based on what the Parties term a “modified” median line. Although the hypothetical equidistant line depicted on the illustrative map to this report shows a deviation from the seabed boundary, it is quite possible that the coastline data used by the Parties is more accurate than what was used to construct the line for this map.

### 9 *Technical Considerations*

Article 1(3) defines the starting point of the boundary as the point where the land boundary intersects the Caspian Sea at 41°50.5' N, 48°35.6' E as depicted on topographic chart K-39-XIX, published in 1979 with a scale of 1:200,000. However, there is no geodetic datum cited either on this topographical sheet nor in the seabed boundary agreement.

### 10 *Other Considerations*

Article four of the agreement provides that any discrepancy in the interpretation of provisions in the agreement “shall be settled through negotiations and other means at the Parties choice.” Also, provisional application of the agreement, pending ratification procedures, is provided for in article 7.

## III CONCLUSIONS

This is a simple seabed delimitation consisting of one segment connecting the land boundary terminus to the tripoint with Kazakhstan. Unfortunately, no geodetic datum is given in the agreement which possibly could lead to misinterpretation as users, such as oil companies, apply its boundary line. It is not clear the exact date this agreement entered into force as Article 7

states that the agreement will enter into force “from the date of the last written notification by the Parties on the completion of internal procedures necessary for its entry into force.” Given that ratification procedures were completed by Azerbaijan on May 16, 2003 and by Russia on June 25, 2003 it is assumed that entry into force occurred on or about this latter date.

#### IV RELATED LAW IN FORCE

##### A *Law of the Sea Conventions*

Azerbaijan: Not a party to any of the four 1958 Conventions nor to the 1982 LOS Convention.

Russia: Ratified the Convention on the Continental Shelf on 22 November 1960; ratified the 1982 LOS Convention on 12 March 1997.

##### B *Maritime Jurisdiction Claimed at the Time of Signature*

Azerbaijan: No maritime claims for the Caspian Sea.

Russia: No maritime claims for the Caspian Sea. Off its other coasts, 12 n.m. territorial sea, 200 n.m. EEZ, 200 n.m. continental shelf and/or the outer edge of the continental margin.

##### C *Maritime Jurisdiction Claimed Subsequent to Signature*

Azerbaijan: No change

Russia: No change

*Prepared by: Robert W. Smith and J. Ashley Roach*

## **Agreement between the Republic of Azerbaijan and the Russian Federation on Delimitation of Adjacent Areas of the Caspian Seabed**

The Republic of Azerbaijan and the Russian Federation, hereinafter referred to as the Parties, making efforts to develop good neighborhood relations, taking into account the interests of both Parties in establishing a legally based agreement on the Parties' activities in the development of mineral resources of the subsoil of the Caspian seabed adjacent areas,

Guided by universally recognized principles and norms of international law, by the Parties' interests in the development and use of the mineral resources of the subsoil of the Caspian seabed adjacent areas and the practice existing in the Caspian Sea,

Acknowledging their responsibilities before the current and future generations for the preservation of the unity of the Caspian Sea and its unique ecological system,

Recognizing the importance of compliance with special environmental requirements in the exploration and development of mineral resources of the subsoil of the Caspian seabed adjacent areas,

And taking into consideration bilateral agreements on the legal status of the Caspian Sea,

Agree on the following:

### Article 1

1. The seabed and subsoil of the Caspian Sea shall be delimited between the Parties based on the median line method, modified with the consent of the Parties and made proceeding from the points at equal distances, with consideration of universally recognized principles of international law and practice existing in the Caspian Sea.
2. The geographical coordinates of a line delimiting the adjacent areas of the Caspian seabed between the Russian Federation and the Republic of Azerbaijan are defined in accordance with Article 1 of this Agreement with the view of exercising sovereign rights in respect to other legal economic activities regarding the use of mineral resources of the subsoil and seabed.
3. The starting point of the delimitation line of the adjacent areas of the Caspian seabed between the Russian Federation and the Republic of Azerbaijan is a point located at the intersection of the Caspian Sea with the state border between the Republic of Azerbaijan and the Russian

Federation at 41 degrees 50.5 minutes north latitude and 48 degrees 35.6 seconds east longitude as determined in the topographic chart (K-39-XIX) published in 1979, scale 1: 200,000.

4. The last point of the delimitation line is a point with coordinates of 42 degrees 33.6 seconds north latitude and 49 degrees 53.3 minutes east longitude. The said point may be recognized as the intersecting point of delimitation of the Caspian seabed among the Russian Federation, the Republic of Azerbaijan, and the Republic of Kazakhstan, and this will be covered by a trilateral agreement.
5. The delimitation line was drawn on the chart (attached) of the Caspian seabed adjacent areas agreed upon by the Parties.

#### Article 2

1. In respect to other legal economic activities related to the use of mineral resources within their seabed sectors/zones and the use of the seabed, the Parties shall exercise their sovereign rights up to the delimitation line as defined in Article 1 of this Agreement.
2. The exploration of mineral resources of the structures crossed by the delimitation line shall be carried out by the authorized organizations designated by the Parties' governments and based on international practice applied for the development of trans-boundary fields.
3. The Governments of the Russian Federation and the Republic of Azerbaijan shall prescribe rights for their authorized organizations to exploit the mineral resources of the fields intersected by the delimitation line, as defined by Article 1 of the Agreement, within the limit of their seabed sectors/zones up to the delimitation line.
4. The authorizing organizations of the Parties, based on internationally recognized practice of exploring trans-border fields, by consent of the Parties' governments shall sign agreements on cooperation.

#### Article 3

The present Agreement does not affect the rights and obligations of the Parties proceeding from other international agreements to which they were participants before they signed this Agreement.

#### Article 4

Any discrepancy in the interpretation of provisions of the present Agreement shall be settled through negotiations and other means at the Parties choice.

**Article 5**

This Agreement is not an obstacle to reaching a common agreement among the Caspian littoral states on the legal status of the Caspian Sea and the Parties regard it as part of common agreements.

**Article 6**

The Parties shall assist in reaching a common accord by the Caspian littoral states on delimitation of the Caspian seabed considering the provisions of this Agreement.

**Article 7**

This Agreement shall be applied provisionally from the date of signing and shall be in effect from the date of the last written notification by the Parties on the completion of internal procedures necessary for its entry into force.

Signed in Moscow, September 23, 2002, in Russian and Azeri languages, in two copies each. Both texts are equally authentic.



## Azerbaijan-Kazakhstan-Russia

*Report Number 11-4*

### **Seabed Boundary Tripoint Agreement between the Republic of Azerbaijan, the Republic of Kazakhstan, and the Russian Federation**

*Signed:* 14 May 2003

*Entered into force:* Kazakhstan approval December 4, 2003;  
Azerbaijan approval 9 December 2003

*Published at:*

#### SUMMARY

Following three bilateral agreements establishing seabed boundaries in the Caspian Sea between the respective states, Azerbaijan, Kazakhstan and Russia agreed on a tripoint situated equally distant from their coastlines. It was reported that Russia did not believe this agreement required ratification.

The location of this tripoint is cited in the respective bilateral agreements at 42°33.6' N, 49°53.3' E. Article 1 of the Protocol between Kazakhstan and Russia, for example, provides that this location “may be taken as the junction point of delimitation of the Caspian seabed, for purposes of utilization of the subsoil resources, among the Republic of Kazakhstan, the Russian Federation and the Azerbaijani Republic, which will be recorded in a trilateral agreement among them” (*see* Report Number 11-1).

Similar wording can be found in article 1 (4) of the Azerbaijan – Russian seabed boundary agreement (*see* Report Number 11-2) and in article 2 of the Protocol between Azerbaijan and Kazakhstan (*see* Report Number 11-3). The tri-point is approximately 72 n.m. from the respective coastlines.

*Prepared by: Robert W. Smith and J. Ashley Roach*



4056 *Report Number 11-4*

**Agreement between the Republic of Azerbaijan, the Republic  
of Kazakhstan, and the Russian Federation Concerning the  
Trijunction Point of the Lines of Delimitation of  
Adjacent Sectors of the Caspian Seabed**

The Republic of Azerbaijan, the Republic of Kazakhstan, and the Russian Federation, hereinafter referred to as the Parties,  
have agreed as follows:

**Article 1**

In accordance with Article 1(5) of the Protocol of May 13, 2002, to the Agreement of July 6, 1998, between the Republic of Kazakhstan and the Russian Federation Concerning Delimitation of the Northern Part of the Caspian Seabed for the Purpose of Exercising Sovereign Rights to Seabed Resources, Article 1(4) of the Agreement of September 23, 2002, between the Republic of Azerbaijan and the Russian Federation on Delimitation of Adjacent Sectors of the Caspian Seabed, and Article 2 of the Protocol of February 27, 2003, to the Agreement of November 29, 2001, between the Republic of Azerbaijan and the Republic of Kazakhstan on Delimitation of the Caspian Seabed between the Republic of Azerbaijan and the Republic of Kazakhstan, the Parties have determined the location of the trijunction point of the lines delimiting the adjacent sectors of the Caspian seabed with the geographical coordinates lat. 42° 33.6' N and long. 49° 53.3' E.

**Article 2**

This Agreement shall apply provisionally from the moment of signature and shall enter into force upon the date of the last written notification that the Parties have carried out the relevant internal governmental procedures.

Done at Almaty on May 14, 2003, in three copies, each in the Azeri, Kazakh, and Russian languages, all texts being equally authentic.

In the event that any disagreements arise with respect to the interpretation of the provisions of this Agreement, the Parties will use the Russian-language text.

For the Republic of Azerbaijan	[signature]
For the Republic of Kazakhstan	[signature]
For the Russian Federation	[signature]



## Oman-Yemen

*Report Number 6-21*

### **Agreement to Mark the Maritime Borders between The Republic of Yemen and The Sultanate of Oman**

*Signed:* December 14, 2003

*Entry into force:* April 10, 2004

*Published at:*

#### I SUMMARY

This boundary extends for 347 n.m. and separates “. . . the regional seas and economic area and the continental shelf . . .” of the two adjacent states. It extends from Point 1 on Ra’s [Cape] Tharbat Ali, where the common land boundary reaches the coast, to Point 17, which marks the intersection of the 200 n.m. zones established from the most seaward points in both countries.

In terms of its construction the boundary consists of two sections. The first section extends from Point 1 to Point 5. This section is a median line established from the smooth adjacent mainland coastline between Ra’s Fartak in Yemen and Ra’s Sajir in Oman. Point 5 is equidistant from these two capes and Ra’s Khawlaf on Socotra Island. This island and its smaller associated islands are part of Yemen. They are located 190 n.m. from the Yemeni mainland and 33 n.m. from the Horn of Africa. Socotra has an area of 3,625 sq. km. and had a population in 2003 of 44,000. If the boundary beyond Point 5 had continued on an equidistant course it would have swung sharply from southeast to east in front of the coastal front projection of Oman giving Yemen a marked advantage.

Evidently, Yemen agreed to adjust its potential claims from Socotra. The line from Point 5 to Point 11 trends east-southeast and then the line swings northeast to Point 17. This adjustment delivers to Oman an area of about 5,020 sq. n.m. south of a strict line of equidistance giving full effect to Socotra. The seabed in that area lies at depths of 1,500 metres to 3,500 metres.

This is a short agreement that delimits the boundary, makes a specific provision regarding mining close to the boundary, and provides for future discussions on any other regulations that may be necessary.

## II CONSIDERATIONS

### 1 *Political, Strategic and Historical Considerations*

The delimitation of every maritime boundary involves political considerations, but they rarely are made explicit. Usually they will involve, at least, placing a limit on national maritime ambitions and those of the neighboring state and securing title to a defined area of sea and seabed. Probably, as stated in the preamble to this Agreement, in many cases states will hope that delimitations improve cooperative relations with their neighbours.

This maritime boundary delimitation is the third for both countries. Oman delimited part of its continental shelf boundary with Iran in 1974 (*see* Report Number 7-5) and its exclusive economic zone boundary with Pakistan in 2000 (*see* Report Number 6-17). In contrast, Yemen has delimited three boundaries in five years. Yemen secured its first boundary, with Eritrea in the Red Sea, through the decision of a tribunal (*see* Report Number 6-14) and its second after negotiations with Saudi Arabia in 2000 (*see* Report Number 6-16). In both cases these boundaries separated the territorial seas and exclusive economic zones.

It does not seem that strategic or historical considerations played any role in this delimitation.

### 2 *Legal Regime Considerations*

Oman and Yemen ratified the 1982 Law of the Sea Convention in 1989 and 1987, respectively. Although Article One of the Agreement refers to “. . . the border between the regional sea and the economic area and the continental shelf of the Republic of Yemen and the Sultanate of Oman . . .” it can be assumed that the boundary divides territorial seas 12 n.m. wide and exclusive economic zones 200 n.m. wide. Examination of the configuration of the continental margin of both countries indicates that it does not extend more than 200 n.m. from their baselines, nor does this boundary do so.

Article Two provides that if there are discrepancies regarding the location of the boundary between the list of coordinates in Article One and the map attached to the Agreement, the coordinates will prevail.

Article Five enables the parties to resolve any disagreement arising from the Agreement by friendly direct communication or any other agreed peaceful method. Further, according to Article Six, without altering the boundary, the parties may create common committees to regulate all matters concerning the Agreement.

Legal regime considerations do not appear to have influenced the location of the boundary.

### 3 *Economic and Environmental Considerations*

Article One, paragraph 3, notes that the delimitation is final and that neither party may claim any area of the continental shelf across the boundary. Article Three emphasizes each country's right to explore, use, maintain and manage natural resources of the seabed and under the seabed and in the water column on its side of the boundary. Article Four deals with any trans-boundary mineral, hydrocarbon or other natural resource when directional drilling, from either side, could tap into the resource on the other side of the boundary. It is impermissible to drill a well if productive sections are less than 250 metres from the boundary, unless there is agreement by both parties. In such cases both parties will try to agree on measures to coordinate and consolidate operations on both sides of the line.

It does not appear that economic or environmental considerations played any role in fixing the position of the boundary.

### 4 *Geographic Consideration*

Three geographical considerations seem to have been important in delimiting this boundary. First, the equidistant section between Points 1-5 relies on an adjacent smooth coastal frontage of only 105 n.m. between Ra's Fartak and Ra's Sajir. Beyond Point 5, Socotra and the Oman coast are opposite to each other.

Second, it appears that both countries agreed that the location of Socotra Island would produce an inequitable boundary if the island was given full effect in delimiting a median line. Presumably it was agreed that Yemen's claims from Socotra should be partially discounted in the area seawards of Point 5.

Third, it appears that both countries agreed that the terminus of the boundary would be located at a point 200 n.m. from both countries. Point 17 is located at the intersection of arcs with a radius of 200 n.m. described from the most seaward points of Oman and Yemen. The most seaward relevant point of Oman is Gharzant Islet, which is the most seaward island of the Juzur [Islands] al Halaniyat, that consists of a line of five islands. Gharzant Islet is rocky with a double peak rising to 70 metres; it lies 25 n.m. from the mainland. The most relevant seaward point of Yemen is Ra's Radressa at the northeastern tip of Socotra. It is low and fringed with a reef.

### *5 Islands, Rocks, Reefs, and Low-tide Elevations Considerations*

The only island belonging to Yemen that influenced the delimitation of this boundary is Socotra. The detached location of Socotra, which can be considered to be opposite the coast of Oman, increased significantly the marine area that Yemen could claim up to a potential median line with Oman. There is no doubt that Socotra is an island from which full claims to maritime zones can be made. However, its location far from the coast of Yemen, opposite the south coast of Oman, places Oman at a disadvantage when a median line is constructed.

Apparently in recognition of this situation by both parties, Socotra played three roles in defining the boundary. First Ra's Khawlaf and Ra's Redressa on Socotra were given full effect in respectively defining Points 5 and 17, which are equidistant respectively from Oman's basepoints on Ra's Sajir and Gharzant Islet. Those points were connected by a series of line segments to create a boundary that both countries found to be equitable. Second the coast of Socotra between Ra's Khawlaf and Ra's Redressa generated Yemen's discounted claim. Third, the maritime area south of Points 11-17 is entirely attributable to Yemen's claims from Socotra rather than its mainland.

Along the relevant section of Oman's coast there is a group of five islands called Juzur al Halaniyat. They are aligned perpendicular to one section of mainland coast and roughly parallel to another section. Four of these islands are connected to each other and the mainland by straight baselines. The straight baseline joining Hallaniya Island and Gharzant Islet would be involved in delimiting a median line using all available points. Gharzant Islet and Yemen's Ra's Radressa are the basepoints from which the 200 n.m. arcs are drawn that intersect at Point 17.

It does not seem that rocks or low-tide elevations played any role in the delimitation.

## 6 *Baseline Considerations*

It appears that the two countries used the normal baseline in generating the equidistance boundary line that connects Points 1 to 5. Yemen has not established a straight baseline system. In 1982 Oman drew straight baselines in accordance with enabling legislation passed in 1972. The only straight baselines defined on the coast relevant to this delimitation concerns the Juzur al Halaniyat. There are five segments that commence in the north at Ra's ash Sharbatat and pass via Gharzant Islet, Hallaniya, Suda and Hasikiya Islands to Ra's Hasik, located at latitude 17° 24' N. These islands and the straight baselines that join them control the location of Points 15, 16 and 17 on the delimited boundary.

## 7 *Geological and Geomorphological Considerations*

There is no evidence to suggest that geological and geomorphological considerations played any role in fixing this boundary.

## 8 *Method of Delimitation Considerations*

This Agreement gives no information about the method used to delimit this boundary. Therefore it is not possible to discover with certainty the method or methods used by the negotiators. However, analysis of the relation of the boundary points to the relevant coasts of both countries enables some suggestions to be made about the techniques used. The following suggestions are based on two procedures. The first involved a manual analysis of the boundary on the UK Hydrographic Office (UKHO) Chart 4705, published in February 2003 at a scale of 1:3.5 millions at latitude 22° 30' N on a Mercator projection. The second procedure involved consultation with the Law of the Sea Division of the UKHO on the results of an analysis using CARIS LOTS software.

On Chart 4705 a strict line of equidistance was constructed graphically from Point 1, defined in the Agreement as the terminus of the land boundary, to the outer edge of the 200 n.m. zone claimed by both countries. The

terminus of the land boundary at  $16^{\circ} 39' 03.83''$  N and  $53^{\circ} 06' 30.88''$  E is about 7 n.m. west of the location shown on the chart. Then the 17 points that delimit the boundary were plotted on the chart.

An examination of the two lines revealed the following information. First, both lines started at Point 1 and ended at Point 17. The origin of Point 1 has been described. Point 17 is 200 n.m. from Gharzant Islet, the easternmost point of the Juzur al Halaniyat, which belong to Oman. Gharzant Islet is also Point 39 on Oman's system of straight baselines. Point 17 is also 200 n.m. from Ra's Radressa, the eastern point of Socotra.

Second, the boundary and the equidistant line coincided between Points 1 and 5, a distance of 130 n.m. and are derived from the mainland coast between Yemen's Ra's Fartak and Oman's Ra's Sajir.

Third, Point 5 is equidistant between the two mainland capes and Ra's Khawlaf, the nearest point on Socotra.

Fourth, between Points 5 and 17 the two lines followed different courses. The equidistant line extends for 195 n.m. following a course just south of east and terminating at Point 17. The boundary's departure from the equidistance line has two parts. Between Points 5 and 11 the boundary extends for 120 n.m. on a course east of southeast. The section between Points 11 and 17 measures 97 n.m. and trends northeast.

Having established that the boundary consisted of a median line between Points 1 and 5 and a non-equidistant line between Points 5 and 17, attention was turned to estimating, if possible, the discount that had been applied to Yemen's claim from Socotra. An area of about 5,020 sq. n.m. is bounded by the median line and the delimited boundary. This is the area involved in adjusting Yemen's claim from Socotra.

In an attempt to measure the discount applied to Socotra, the following area was identified. The eastern and western limits are straight lines joining Ra's Khawlaf and Point 5 and Ra's Radressa and Point 17. The northern limit is the strict median line giving Socotra full effect, and the southern line is the coast of Socotra joining Ra's Khawlaf and Ra's Radressa. An area of about 15,020 sq. n.m. is enclosed by these lines. When the area between the constructed line and the delimited boundary is calculated as a percentage of the larger area the answer is 33.4 per cent. It is tempting to argue that this calculation reveals that the method of delimitation was to discount Socotra by one-third, but there is always the possibility that the result was a fluke that concealed another method of delimitation.

The results from the computer program revealed the true method of delimitation. First, they confirmed that the boundary joining Points 1 to 5 is a median line, that Point 5 is also equidistant from Ra's Khawlaf and



that Point 17 is equidistant between Gharzant Islet and Ra's Radressa. Second the program determined that the boundary between Points 5 and 11 gave a half-effect to Socotra. Third the program established that the boundary between Points 11 and 17 is 200 n.m. from points on Oman's normal and straight baselines. Points 15-17 are controlled by the straight baseline joining Hallaniya Island and Gharzant Islet.

These analyses suggest that, for different sections of the boundary, the negotiators used different methods: equidistance from the mainland coasts from Points 1-5; half-effect for Socotra from points 5-11; and, in these geographical circumstances, using the 200 n.m. limit from sections of the Oman coast north of Ra's Marbat to create the boundary with Yemen.

### 9 *Technical Considerations*

In Article One the coordinates of latitude and longitude of Point 1 (a point on the land boundary) are set out to the nearest second decimal place of one second of arc. This gives an accuracy of 30.8 cm. The other 16 points are quoted to one second of arc, which is about 31 metres. All coordinates are based on the World Geodetic System 1984 (WGS84). The points are connected by geodetic lines. A geodetic line is the shortest distance between two points on an ellipsoid.

### 10 *Other Considerations*

There do not seem to have been any other considerations.

## III CONCLUSIONS

This Agreement between Oman and Yemen is short and uncomplicated, which perhaps explains why it came into force four months after it was signed. It defines precisely a boundary separating the territorial seas and exclusive economic zones from the terminus of the common land boundary to 200 n.m. from the most seaward points of their coasts. It appears that different sections of the boundary were based on different delimitation methods to ensure the line was equitable. The Agreement makes provisions for mining close to the boundary and for resolving any disagreements. Future discussions relating to the agreement are made possible by Article

Six, which permits joint-committees to prepare appendices to regulate all matters related to it.

#### IV RELATED LAW IN FORCE

##### A *Law of the Sea Conventions*

Oman: Party to the 1982 LOS Convention 17 August 1989.

Yemen: Party to the 1982 LOS Convention 27 July 1987.

##### B *Maritime Jurisdiction Claimed at the Time of Signature*

Oman: 12 n.m. territorial sea (1972); 200 n.m. EEZ (1981); 24 n.m. contiguous zone (1989).

Yemen: 12 n.m. territorial sea (1978); 200 n.m. EEZ (1978); contiguous zone (1978)

##### C *Maritime Jurisdiction Claimed Subsequent to Signature*

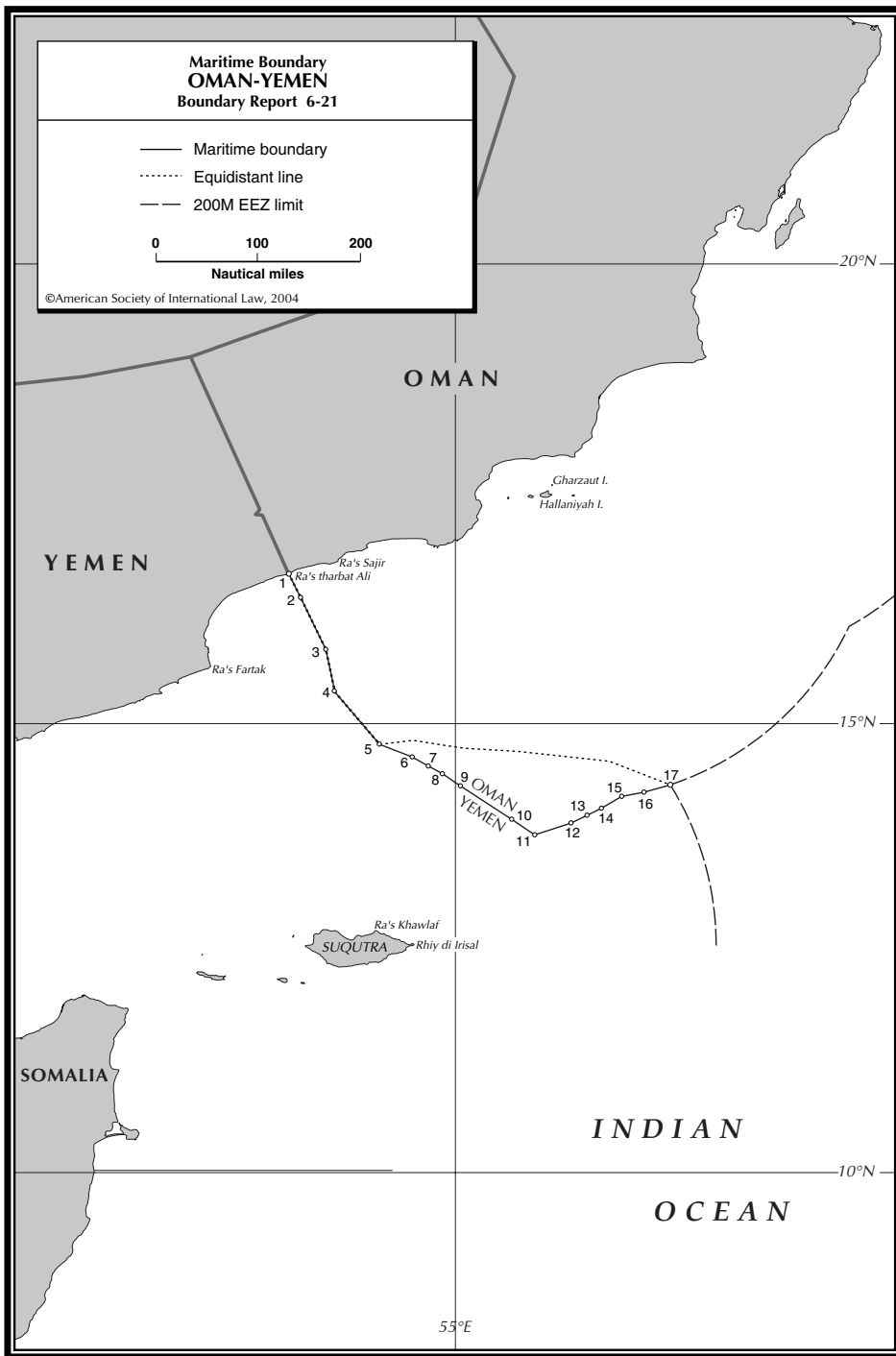
No change

#### V REFERENCES AND ADDITIONAL READINGS

United States Department of State, 1992. 'Straight baseline claims: Djibouti and Oman', *Limits in the Seas*, No. 113, Washington, DC.

H.W. Jayewardene, 1990. *The regime of islands in international law*, Martinus Nijhoff: Dordrecht, pp. 468-9.

*Prepared by J.R.V. Prescott*



## **Agreement to Mark the Maritime Borders between The Republic of Yemen and The Sultanate of Oman<sup>1</sup>**

The Government of the Republic of Yemen and the Government of the Sultanate of Oman,  
assert the depth of their brotherly relationships and the common interests that are shared by their countries and peoples,  
and to strengthen the brotherly bonds and good neighbourly relationships between the two brotherly countries,  
and to facilitate for the common willingness of the two countries to mark the maritime borders in the Arabian Sea in a final settlement,  
and taking into account the international border agreement signed between the governments of the Republic of Yemen and the Sultanate of Oman in Sana'a on the 3<sup>rd</sup> of Rabe'e II 1413H, 1<sup>st</sup> of October 1992,

The two parties agree to the following:

### **Article one**

- 1- the maritime border between the regional sea and the economic area and the continental shelf of the Republic of Yemen and the Sultanate of Oman will be marked by geodetic lines connecting its points described by coordinates according to the international geodetic system 84 (WGS 84) as follows:

Point	Latitude/North	Longitude/East
1	16° 39' 03.83"	53° 06' 30.88"
2	16° 23' 02"	53° 14' 50"
3	15° 48' 42"	53° 32' 05"
4	15° 20' 44"	53° 38' 19"
5	14° 46' 12"	54° 08' 33"
6	14° 37' 35"	54° 31' 04"
7	14° 31' 39"	54° 41' 56"
8	14° 26' 26"	54° 51' 28"
9	14° 18' 22"	55° 03' 57"

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<sup>1</sup> Unofficial translation.

(cont.)

Point	Latitude/North	Longitude/East
10	13° 56' 19"	55° 38' 51"
11	13° 45' 51"	55° 54' 32"
12	13° 53' 48"	56° 19' 15"
13	13° 58' 51"	56° 30' 12"
14	14° 03' 32"	56° 39' 57"
15	14° 11' 31"	56° 53' 45"
16	14° 14' 11"	57° 08' 53"
17	14° 18' 55"	57° 27' 01"

- 2- Point No. 1 known as (Ra's tharbat Ali) marks the beginning of the maritime border where the land border between the two countries meets with the sea as per article three of the international border agreement signed in Sana'a on the 3<sup>rd</sup> of Rabee'a II 1413H, 1<sup>st</sup> of October 1992.
- 3- This marking is considered conclusive and final and neither party has the right to claim any expanse of the continental shelf across the borders of the other party.

### **Article two**

- 1- The maritime border line in clause 1 of article one of this agreement is clarified in the map signed by representatives of both countries and is considered as an integral part of this agreement where each party keeps a copy.
- 2- If a discrepancy arise between the coordinates of the points listed in clause 1 of article one of this agreement and the maritime border line illustrated on the map described in clause 1 of this article then the coordinates of these points will be referred to.

### **Article three**

The two parties emphasize the right of each country to exercise its sovereign rights for the purposes of exploration, utilization, maintaining and managing the natural resources at the sea bed and under and the waters above in accordance with the stipulation in article one of this agreement.

#### **Article four**

In the event of the discovery of a single oil geological compound, single oil well, single gas well or any other mineral or natural resources across the border line listed in article one of this agreement, and it was possible to exploit part of that compound or the field situated on one side of the said border line partly or wholly using directional drilling from the other side of the border line then:

- 1- It is not permissible to drill a well on any side of the border line listed in article one, if any part of its productive sections lies less than 250 metres from the said border line unless commonly agreed by both parties.
- 2- If such an event arise, both parties to this agreement shall try their utmost efforts to reach an agreement on how to coordinate and consolidate operations on both sides of the border line.

#### **Article five**

Without altering the border line listed in this agreement, the two parties will endeavor to resolve any disagreement that arise from the interpretation or implementation of this agreement through friendly means by direct communication or any other peaceful method agreed by the two parties.

#### **Article six**

Without altering the border line listed in this agreement, it is permitted if agreed by both parties to form common committees from the two countries to prepare appendices to regulate all matters related to this agreement.

#### **Article seven**

This agreement was written in Arabic on two original copies where each side keeps a copy.

#### **Article eight**

This agreement will be ratified according to the legislative processes current in each country and will be considered effective from the date of exchange of ratified documents.

3912 *Report Number 6-21*

This agreement was drawn up in the city of Muscat on 20<sup>th</sup> of Shawal 1424H, 14<sup>th</sup> of December 2003.

**On behalf of the Government  
of the Sultanate of Oman**

**On behalf of the Government  
of the Republic of Yemen**

Yousif bin Alawi bin Abdullah  
**Minister responsible for Foreign Affairs**

Dr. Abu Bakr Abdullah Al-Qurbi  
**Minister for Foreign Affairs**

## Estonia-Russia

*Report Number 10-22*

### **Treaty between the Republic of Estonia and the Russian Federation on the Delimitation of the Maritime areas in the Gulf of Narva and the Gulf of Finland**

*Signed:* 18 May 2005  
*Entry into force:* Not Yet in Force  
*Published at:* II Riigi Teataja (Official Estonian Gazette), 11 July 2005,  
 18, 59<sup>1</sup>

#### I SUMMARY

This is the ninth agreement concluded since the second half of the 1990s in the southeastern Baltic Sea which is directly related to the dissolution of the former Soviet Union.<sup>2</sup> It establishes a maritime boundary in the southeastern Baltic Sea where none had existed before. This agreement forms part of the fourth chronological group in the over-all Baltic Sea delimitation effort,<sup>3</sup> which is in substance clearly distinguishable from the previous ones.<sup>4</sup> Within

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- 1 Unofficial French translation from the Russian original by the present author in Erik Franckx and Maurice Kamga, *L'existence éphémère du Traité de délimitation maritime entre la République d'Estonie et la Fédération de Russie en mer Baltique*, 12 ANNUAIRE DU DROIT DE LA MER 2007 393, 421 (2008).
  - 2 Treaty between the Republic of Estonia and the Russian Federation on the Delimitation of the Maritime Zones in the Gulf of Narva and the Gulf of Finland (hereinafter Maritime Boundary Treaty), 18 May 2005. This treaty has not yet entered into force.  
 For the eight previous treaties concluded during this period, see in chronological order: Estonia-Latvia (1996), Report Number 10-15; Estonia-Finland (1996), Report Number 10-16; Estonia-Latvia-Sweden (1997), Report Number 10-17; Lithuania-Russia (1997), Report Number 10-18(1); Lithuania-Russia (1997), Report Number 10-18(2); Estonia-Sweden (1998), Report Number 10-19; Latvia-Lithuania (1999), Report Number 10-20; and Estonia-Finland-Sweden, Report Number 10-21.
  - 3 Erik Franckx, *Maritime Boundaries in the Baltic Sea: Post-1991 Developments*, 28 GA. J. INT'L & COMP. L. 249, 256 (2000). It concerns agreements directly related to the dissolution of the former Soviet Union.
  - 4 The previous periods run from 1945-1972, 1973-1985, and 1985 to the beginning of the 1990s respectively. See Erik Franckx, *International Cooperation in Respect of the Baltic Sea*, in THE CHANGING POLITICAL STRUCTURE OF EUROPE: ASPECTS OF INTERNATIONAL LAW 245, 255-61 (R. Lefebvre, M. Fitzmaurice, & E. W. Vierdag eds., 1991), as later supplemented in Erik



this fourth group, two distinct subcategories are to be further distinguished, namely those relating to the delimitation of maritime areas where no boundary existed before, and those involving the more subtle questions about the legal status of previously concluded maritime boundary agreements by the former Soviet Union in the areas to be delimited.<sup>5</sup> The present agreement clearly fits into the first category, except possibly for a stretch of about 6.5 nautical miles (n.m.) (12 kilometers) which according to some sources was agreed upon between Estonia and the Russian Soviet Federative Socialist Republic/Union of Soviet Socialist Republics during the period 1920-1923 when the border was being demarcated.<sup>6</sup>

This treaty establishes a single maritime boundary in the Gulf of Narva and the southeastern part of the Gulf of Finland in the eastern Baltic Sea covering all the present-day maritime claims of the Parties as well as any such possible future claims made by the Parties in accordance with governing international law. The boundary extends over a distance of approximately 78 n.m. and consists of nine turning or terminal points. The eastern starting point coincides with the terminal point at sea of the land frontier between the two countries, as agreed upon by means of a land border treaty concluded on the same day.<sup>7</sup> The western terminal point is rather special for the delimitation treaty seems to fix a definite point by means of coordinates, even though another article of the same treaty states that the tripoint with Finland still has to be determined by a separate agreement.

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Franckx, *Maritime Boundaries in the Baltic Sea: Past, Present and Future*, 2 MARITIME BRIEFING 6-10 (IBRU, No. 2, 1996) and Erik Franckx, *Maritime Boundary Delimitation in the Baltic Sea*, in *THE BALTIC SEA: NEW DEVELOPMENTS IN NATIONAL POLICIES AND INTERNATIONAL COOPERATION* 167, 169-73 (Renate Platzöder & Philomène Verlaan eds., 1996). See also, Erik Franckx, *Frontières maritimes dans la mer Baltique: passé, présent et futur*, 9 ESPACES ET RESSOURCES MARITIMES 92, 97-103 (1995) and Erik Franckx, *Les délimitations maritimes en mer Baltique*, 5 REVUE DE L'INDEMER 37, 50-58 (1997).

- 5 As already alluded to in the first regional report concerning the Baltic Sea. See Erik Franckx, *Region X: Baltic Sea Maritime Boundaries* at 345, 365.
- 6 EDGAR MATTISEN, *SEARCHING FOR A DIGNIFIED COMPROMISE: THE ESTONIAN-RUSSIAN BORDER 1000 YEARS* 59 (1996), where this author states: "Another 12 km section of the sea border was added upon consent of both sides; this addition began at the border post on the shore of the Bay of Narva and extended to the border of the territorial waters in the Gulf of Finland". No documentary sources are however provided to back up this statement. The same is true with respect to the Estonian 1993 monograph, on which this book is based: EDGAR MATTISEN, *EESTI-VENE PIIR* (The Estonian-Russian Border) (1993). No traces have been found that Estonia ever pressed this point during the long negotiations.
- 7 Treaty between the Republic of Estonia and the Russian Federation on the Estonian-Russian State Border (hereinafter Border Treaty), 18 May 2005, as published at II RIIGI TEATAJA, 11 July 2005, 18, 59. This treaty has not yet entered into force. See especially Annex I, entitled "Description of the course of the state border between the Estonian Republic and the Russian Federation on land".

In the area to be delimited the coast of Estonia runs in a general east-west direction, whereas that of Russia runs roughly north-south. Many islands are present in the area to be delimited.

This treaty is unusual because, after having been signed by both Parties in 2005, one of them later withdrew its signature.

## II CONSIDERATIONS

### 1 *Political, Strategic and Historical Considerations*

Political and historical considerations are of utmost importance for the proper understanding of the maritime delimitation treaty and especially its present-day status. Since the maritime boundary treaty was concluded on the same day as the land border agreement between Estonia and Russia,<sup>8</sup> the fate of both treaties is intimately interlinked. After the dissolution of the former Soviet Union a fundamental point of disagreement emerged between Estonia and Russia as to the exact legal status of the Estonian state.

Estonia is of the opinion that after the said dissolution this country regained the independence it had lost in 1941. The present Estonian state, in other words, is but the continuation of the state that had existed between 1921 and 1941. Of quintessential importance for the Estonian side is the Peace Treaty concluded at Tartu in 1921, in which the independence of Estonia was explicitly recognized.<sup>9</sup> Estonia consequently considers this treaty the founding document of the present-day Estonian state, including the border described therein.<sup>10</sup>

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8 Compare *supra* notes 2 and 7.

9 Peace Treaty, concluded between Esthonia and Russia (hereinafter Tartu Peace Treaty), 2 February 1920, League of Nations Treaty Series, vol. 11, 50-70. This treaty entered into force on 30 March 1920. Article 2 provides: "In consequence of the right of all peoples to self-determination, to the point of seceding completely from the State of which they form part, a right proclaimed by the Socialist and Federal Russian Republic of the Soviets, Russia unreservedly recognizes the independence and sovereignty of the State of Esthonia, and renounces voluntarily and for ever all sovereign rights possessed by Russia over the Esthonian people and territory whether these rights be based on the juridical position that formerly existed in public law, or in the international treaties which, in the sense here indicated, lose their validity in future. From the fact that Esthonia has belonged to Russia, no obligation whatsoever will fall on the Esthonian people and land to Russia."

10 *Id.*, Article 3. Of special importance is the point where the border meets the Bay of Narva and which is described in the following manner: "Starting from the Bay of Narva, one verst south of the Fishers' House, it [i.e. the frontier] turns toward Ropscha, then follows the course of the Rivers Mertvitskaia and Rosson...". This point is located about 9.5 n.m. to the north of the

Russia, on the other hand, argues that by becoming part of the Soviet Union in 1941 Estonia, as such, ceased to exist as a subject of international law. As a result, the treaties concluded between these two countries, including the Tartu Peace Treaty, became defunct at that time.<sup>11</sup> And even though it has been argued that according to a generally accepted rule of customary international law a succession of States does not affect the boundaries established by so-called territorial treaties,<sup>12</sup> Russia argues that until the independence of Estonia in 1991, the boundary between this republic and the RSFSR was determined by Soviet legislation based on mutual consent just like for all the other republics forming the Soviet Union. Leaving the Union simply does not allow any of them to change their boundaries unilaterally.<sup>13</sup> And since with respect to Estonia the land border ended in the mouth of the river Narva, that should be the starting point for the maritime boundary.

The Treaty on the Fundamentals of Interstate Relations concluded in 1991 between Estonia and the RSFSR did not touch upon this delicate issue.<sup>14</sup> It only provided that the boundary would be settled by separate agreement.<sup>15</sup> But when these negotiations started in 1992 this immediately became a central issue and remained so, not only during the numerous rounds of negotiations spread over more than ten years, but also once an agreement was finally reached in 2005.

These long negotiations can be divided in three main periods.<sup>16</sup> A first period runs between 1992 and 1994. Based on the different attitudes towards the legal significance of the Tartu Peace Treaty, as explained above, these negotiations soon headed towards an impasse. In 1995 the Estonian Prime Minister and President launched the idea that if Russia would be prepared to recognize the Tartu Peace Treaty, Estonia would be willing to take the

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mouth of the river Narva and connects by means of a straight line almost due east to the Mervitskaia river at a place named Ropscha.

- 11 As stated in a declaration by the Russian Ministry of Foreign Affairs of 4 July 1994, mentioned by HÉLÈNE HAMANT, DÉMEMBREMENT DE L'URSS ET PROBLÈMES DE SUCCESSION D'ÉTATS 146 (2007). The argument for such conclusion was formulated as follows: "Une telle conclusion est fondée sur la norme communément admise du droit international selon laquelle un Etat qui devient partie d'un autre Etat cesse d'exister en tant que sujet de droit international. En conséquence, les traités conclus entre ces deux Etats s'éteignent."
- 12 Rein Mullerson, *The Continuity and Succession of States, by Reference to the Former USSR and Yugoslavia*, 42 ICLQ 473, 485 (1993), specifically mentioning the Tartu Peace Treaty in this respect.
- 13 Declaration by the Russian Ministry of Foreign Affairs, *supra* note 11.
- 14 Treaty between the Russian Soviet Federative Socialist Republic and the Republic of Estonia on the Fundamentals of Interstate Relations, 12 January 1991, RIIGI TEATAJA, 14 January 1991, 2, 19. This treaty entered into force on 14 January 1992.
- 15 *Id.*, Article VI.
- 16 For more details about these three periods, see Franckx & Kamga, *supra* note 1, at 401-407.

boundary as it existed at that time as the starting point for negotiating adjustments. But after it became clear that this proved unacceptable to Russia, the only remaining way out for the negotiators was to leave out all references to the political history between the Parties. This finally opened the way toward an acceptable text which both Parties were able to initial in 1996, and a second time in 1999. This second period finally made it possible for the Parties to place their respective signatures upon a set of agreements, one with respect to the land border and the other with respect to the maritime boundary, at the occasion of a ceremony held at Moscow on 18 May 2005. This event started a third period, which is characterized by an extremely swift action-reaction pattern in the beginning, followed by the installation of a new stalemate which still remains operational today. Estonia was quick in completing its internal ratification procedure. By means of a single law of ratification dated 20 June 2005<sup>17</sup> and formal promulgation by the President two days later, this country indicated its willingness to become bound by these agreements. However, when ratifying both treaties, Parliament added an introductory declaration which stressed the legal continuity of the Estonian Republic proclaimed in 1918 and specifically referred to the Tartu Peace Treaty and the delimitation it contains.<sup>18</sup> The Russian Federation reacted immediately by stating that the above addition by the Estonian Parliament had made it impossible to submit these treaties to the Federal Assembly of the Russian Federation for ratification,<sup>19</sup> and, within a week, by announcing

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17 Published at II RIIGI TEATAJA, 11 July 2005, 18, 59.

18 This introductory declaration, added at the initiative of the Estonian Parliament, reads: "Proceeding from the legal continuity of the Republic of Estonia proclaimed on 24 February 1918, as it is stipulated in the Constitution of the Republic of Estonia, from the resolution of the Republic of Estonia Supreme Council of 20 August 1991 'On the National Independence of Estonia' and from the declaration of the Riigikogu of 7 October 1992 'On the Restoration of Constitutional Power', and keeping in mind that the Treaty referred to in Art. 1 of this Act shall, in accordance to Art. 122 of the Constitution of the Republic of Estonia, partially alters the state border line established by Art. III section I of the Tartu Peace Treaty of 2 February 1920, shall not influence the rest of the Treaty and shall not determine the treatment of bilateral issues not connected with border treaties, the Riigikogu decides [ ] [t]o ratify pursuant to Art. 121 Clause 1 and Art. 122 of the Constitution of the Republic of Estonia, ...", followed by the titles of the annexed Border Treaty and Maritime Boundary Treaty. II RIIGI TEATAJA, 11 July 2005, 18, 59. English translation found in a case before the Supreme Court of Estonia (*see infra* note 52), *sub* 5, which was itself translated into English.

19 Statement by the Ministry of Foreign Affairs of the Russian Federation Concerning the Ratification of the Border Treaties with Russia by the Estonian Parliament, 22 June 2005, as available on the webpages of the Russian Ministry of Foreign Affairs at <[www.mid.ru/brp\\_4.nsf/e78a48070f128a7b43256999005bcbb3/5400e7d6355b0634c3257028003c7a52?OpenDocument](http://www.mid.ru/brp_4.nsf/e78a48070f128a7b43256999005bcbb3/5400e7d6355b0634c3257028003c7a52?OpenDocument)>.

that it would withdraw its signature,<sup>20</sup> an intention which the Ministry of Foreign Affairs materialized by means of a *note verbale* transmitted to its Estonian counterpart on 6 September 2005.<sup>21</sup> The situation has not changed since.

Even though land boundary agreements normally precede maritime boundary agreements, in the particular historical context of the eastern Baltic Sea, after the dissolution of the Soviet Union, this is not necessarily the case, as illustrated by the Lithuanian-Russian precedent, where the land border and maritime boundary were also concluded on the same day.<sup>22</sup>

## 2 Legal Regime Considerations

After the dissolution of the Soviet Union in 1991, Estonia was not bound by any of the 1958 Law of the Sea Conventions because of the legal fiction of its restored independence. It never became a Party to any of them and only acceded to the LOS Convention a few months after the Maritime Boundary Treaty was signed in 2005. Also its national legislation with respect to the offshore was not well developed for the same reason at that time. The Soviet Union, on the other hand, was a Party to all of the 1958 Law of the Sea Conventions, except for the one on Fishing and Conservation of the Living Resources of the High Seas. It also was the first country in the Baltic to claim a 200 n.m. zone,<sup>23</sup> *i.e.* a fishery zone which became operational on

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20 The Moscow Times, 28 June 2005, p. 2, cols. 1-2, making reference to a statement by the Russian Minister of Foreign Affairs.

21 A note was delivered on that day by the Russian Foreign Ministry in which this country made its intention clear not to become a Party to the said treaties. Information available at: <[www.vm.ee/?q=en/node/93](http://www.vm.ee/?q=en/node/93)>. This note verbale was based on a Resolution of the Government of the Russian Federation (No. 1496 of 13 August 2005), later approved by the President (Order No. 394 of 31 August 2005). Information available respectively at: <[www.mid.ru/brp\\_4.nsf/english?OpenView&Start=6.691&Count=30&Expand=6#6](http://www.mid.ru/brp_4.nsf/english?OpenView&Start=6.691&Count=30&Expand=6#6)> and <[graph.document.kremlin.ru/doc.asp?ID=029417](http://graph.document.kremlin.ru/doc.asp?ID=029417)>, the latter in Russian.

22 See Lithuania-Russia (1997), Report Numbers 10-18(1) and 10-18(2). The simultaneity of both processes is even more pronounced in the Lithuania-Russia case, for the only sign of precedence of the land border agreement has to be found in the publication sequence in the official journal. As emphasized in Lithuania-Russia (1997), Report Number 10-18(2), note 1. Moreover, it should be noted that the territorial sea delimitation forms part of the treaty on the Lithuanian-Russian state border. In the present case, the land border agreement explicitly provides that the maritime border will be determined by means of a separate treaty, indicating a clearer substantial hierarchy between the land border and the maritime boundary. See Border Treaty, *supra* note 7, Article 1(2).

23 Edict of 10 December 1976, *On Provisional Measures for the Preservation of the Living Resources and for the Regulation of Fishing in Marine Areas Adjacent to the Coast of the*

1 April 1978,<sup>24</sup> and again to establish an EEZ in 1984,<sup>25</sup> which logically also applied to the Baltic.<sup>26</sup> After Estonia regained its independence, the Russian Federation enacted a Federal Law in 1998 on the exclusive economic zone which contained a delimitation provision,<sup>27</sup> but by that time the Maritime Boundary Treaty had already been initialed once by the Parties.<sup>28</sup>

Estonia adopted municipal legislation on the establishment of an exclusive economic zone in January 1993, which was further elaborated in more detail a few months later.<sup>29</sup> A close reading of this Estonian legal framework first reveals that the eastern starting point of the straight baselines as well as the outer limit of the territorial sea is located about 9.5 n.m. north of the mouth of the river Narva. The justification for this point, in other words, is to be found in the Tartu Peace Treaty,<sup>30</sup> as moreover specifically mentioned in the law.<sup>31</sup> Secondly, the Estonian legal framework established in 1993 also clearly indicated that if the outer limits of the territorial sea, exclusive

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*U.S.S.R.*, 50 VEDOMOSTI VERKHOVNOGO SOVETA S.S.S.R. (Communications of the Supreme Soviet of the U.S.S.R.) 728 (1976). For an English translation, see 15 I.L.M. 1381 (1976).

- 24 A special enactment was issued for this purpose, namely the Decree of 24 March 1978, as mentioned by A. Volkov and K. Bekiashev, *LAW OF THE SEA AND FISHERIES* (in Russian) 215 (1980).
- 25 Edict of 28 February 1984, *On the Economic Zone of the U.S.S.R.*, 9 VEDOMOSTI VERKHOVNOGO SOVETA S.S.S.R. (Communications of the Supreme Soviet of the U.S.S.R.) 137 (1984). For an English translation, see United Nations, *The Law of the Sea: National Legislation on the Exclusive Economic Zone, the Economic Zone and the Exclusive Fishery Zone* (U.N. Sales No. E.85.V.10) 314-21 (1986).
- 26 See Kazimierz Grzybowski, *The New Soviet Law of the Sea*, 32 *OSTEUROPA RECHT* 163, 174 (1986).
- 27 Federal Act of 17 December 1998, *On the Exclusive Economic Zone of the Russian Federation*, as available at <faolex.fao.org/docs/texts/rus27457.doc> in Russian and <www.un.org/Depts/los/LEGISLATIONANDTREATIES/PDFFILES/RUS\_1998\_Act\_EZ.pdf> in English. Article 2 provides: “The delimitation of the exclusive economic zone between the Russian Federation and the States with coasts opposite or adjacent to the coast of the Russian Federation shall be effected in accordance with the international treaties to which the Russian Federation is a party or the generally recognized principles and norms of international law.”
- 28 The Parties initialed the Border Treaty and the Maritime Boundary Treaty a first time in 1996. At the request of the Russian side this procedure was repeated in 1999 in order to be able to include some minor technical amendments as well as to attach all the charts and maps. See Franckx and Kanga, *supra* note 1, at 404 and Erik Franckx, *Region X, Baltic Sea Boundaries*, at 3514.
- 29 Economic Zone Act of 28 January 1993. This act was published in RIIGI TEATAJA, 15 February 1993, 7, 105. English translation available at <www.legaltext.ee/text/en/V00084.htm>. According to its Article 3 the delimitation with opposite and adjacent States will be arrived at by means of agreement, to be approved by the Riigikogu. This act was further implemented by means of the Law on the Boundaries of the Maritime Tract, 10 March 1993, I RIIGI TEATAJA, 31 March 1993, 14, 217, *reprinted* at 25 *LOS BULL.* 55 (1994).
- 30 See *supra* note 10.
- 31 Law on the Boundaries of the Maritime Tract, *supra* note 29, at Appendix I (entitled “The Baseline of the Territorial Sea of the Republic of Estonia”), remark under point 1.

economic zones and continental shelf could still be changed as a result of negotiations with Russia, however no such caveat is to be found with respect to the baselines.<sup>32</sup> As mentioned above, it was only in 1995 that Estonia decided that it would be willing to start negotiations with respect to the maritime boundary on the basis of the starting point in the mouth of the river Narva.<sup>33</sup>

At the time the negotiations on the maritime boundary were separated from the over-all negotiations involving other delicate issues such as the withdrawal of Russian troops and nuclear objects from Estonian territory; in 1994,<sup>34</sup> both countries were on equal footing as far as concerns the maritime zones that they each claimed. The resulting treaty is special in that it also includes pro-actively possible future maritime zones claimed by the Parties in accordance with international law.<sup>35</sup>

### 3 Economic and Environmental Considerations

A closer study of the charts attached to the Maritime Boundary Treaty as well as the Border Treaty, indicate that navigational interests seem to have played a role in the determination of the first and second turning points. Since the land boundary follows the thalweg of the river Narva to the point where it empties into the Gulf of Narva, point one is not equidistant from the banks of the river, but has rather been determined by the location of its thalweg. Also turning point two is not equidistant and has rather to be explained as having the function of allowing vessels of both States to enter

32 *Id.*, at Appendix II (entitled “The Boundary of the Territorial Sea of the Republic of Estonia”), remark under the Appendix, where it is stated: “Since the boundary of the territorial sea within the Bay of Narva has not been determined at the negotiations between the Republic of Estonia and the Russian Federation, the boundary of the territorial sea extending from point 1 to point 39 through 37 and 38 may change as a result of these negotiations”, and Appendix III (entitled “The Boundary of the Exclusive Economic Zone and Continental Shelf of the Republic of Estonia), remark under the Appendix, where it is stated: “Since the boundary of the exclusive economic zone and continental shelf near Vaindlo Island in the Gulf of Finland has not been determined at the negotiations between the Republic of Estonia and the Russian Federation, the boundary of the exclusive economic zone and continental shelf extending from point 38 to point 70 may change as a result of these negotiations.”

33 *See sub II*, I.

34 Information kindly obtained from R. Mälk, who headed the Estonian delegation from 1994 onward, at the occasion of an interview in Brussels on 3 July 2008. Hereinafter Interview R. Mälk.

35 Maritime Boundary Treaty, *supra* note 2, Article 3. This is a rather exceptional and novel practice in the Baltic Sea (*see* Franckx, *supra* note 28, at 3521) and follows the example set by Estonia when settling its maritime boundary with Latvia. *See* Estonia-Latvia, Report Number 10-15, at 3001.

the natural access route to the entrance of the river, which runs in the general direction of the segment between turning points one and two.

Even though this part of the Baltic Sea is not particularly promising with respect to possible future oil and gas extraction, the Parties nevertheless included a unity of resource clause. After the dissolution of the Soviet Union, all the boundaries agreed upon between the Russian Federation and its former republics contain such clauses, with the exception of the Estonia-Latvia delimitation agreement.<sup>36</sup> The clause agreed upon between Estonia and the Russian Federation is however the first in the Baltic Sea region which includes a reference to the prevention of pollution of the marine environment.

#### 4 *Geographic Considerations*

The geographical configuration of the maritime boundary area is one of oppositeness and adjacency alike, for the river Narva empties into the Gulf of Finland in an area where the Estonian coast runs in a general east-west direction, whereas the Russian coast rather in a north-south one. The area immediately surrounding the mouth of the river Narva is concave on a smooth coast. The length of the Estonian mainland coastline in the area to be delimited is substantially longer than the Russian one, but this is somewhat compensated by the presence of islands in the area and their ownership, as will be seen next.

#### 5 *Islands, Rocks, Reefs, and Low-tide Elevations Considerations*

There are many islands in the area to be delimited, great and small, but most of them belong to the Russian Federation. All of them were given full effect, as explicitly indicated in the agreement.<sup>37</sup> The islands that seem to have had a direct impact on the delimitation line are Vaindloo on the Estonian side, and Rodser, Maloi Tjuters, and Bolsoi Tjuters on the Russian side.

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<sup>36</sup> Franckx, *supra* note 28, at 3528.

<sup>37</sup> Maritime Boundary Treaty, *supra* note 2, Article 1, where it is stated that the median line will be measured between points on the low-water line along the coasts, "including islands".



## 6 *Baseline Considerations*

When the Soviet Union introduced a system of straight baselines in the Baltic Sea in 1985,<sup>38</sup> the entire Gulf of Narva and most of the waters of the Gulf of Finland in the area to be delimited today between Estonia and the Russian Federation, were to be found on the inside of the relevant segments of these baselines, determined by turning points located on the islands of Vaindloo, Rodser and Gogland.<sup>39</sup> Theoretically, therefore, the Parties could have claimed in 1991 that the area surrounding the Gulf of Narva constituted historic waters, common to both Parties. Estonia, however, had already indicated, when similar issues were at stake in its relationship with Latvia in the Gulf of Riga, that it strongly objected to such a legal construction, exactly with the Gulf of Narva in mind.<sup>40</sup>

Estonia introduced its proper system of baselines in the area in 1993, as already mentioned above.<sup>41</sup> It is clear when analyzing the starting point of the Maritime Boundary Treaty, which is located at the mouth of the river Narva, that the starting point of the Estonian baseline system was not upheld, since it is located on the Russian side of the 2005 delimitation line.

The baselines themselves do not seem to have influenced the delimitation line. Only certain of its turning points did have such effect.

## 7 *Geological and Geomorphological Considerations*

Despite the fact that a unity of resource clause was included in the Maritime Boundary Treaty, geological and geomorphological considerations do not appear to have played any significant role in the bilateral negotiations between the Parties concerned.

In the area under consideration, no marked seabed features can be found. Depths in the area never reach 200 meters.

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38 Decree of 15 January 1985, On the Confirmation of a List of Geographic Coordinates Determining the Position of the Baseline in the Arctic Ocean, the Baltic Sea and Black Sea from which the Width of the Territorial Waters, Economic Zone and Continental Shelf of the U.S.S.R. is Measured, 1 (Annex) *IZVESHCHENIA MOREPLAVATELIAM* 22-39 and 47 (1986) (hereinafter 1985 Decree).

39 For a visualization of the 1985 Decree, see *ATLAS OF THE STRAIGHT BASELINES 200* (Tullio Scovazzi, Giampiero Francalanci, Daniela Romano & Sergio Mongardini eds., 1989).

40 Estonia-Latvia (1996), Report Number 10-15, at 3000.

41 See *sub* II, 1.

## 8 *Method of Delimitation Considerations*

The agreement itself indicates that the delimitation line is based on the median line measured from the low-water mark along the mainland coasts and those of islands. A closer study of the turning points indicates that some of them appear to be equidistant, while others are not, indicating that area-compensation has been applied in order to arrive at the delimitation line described in the Maritime Boundary Treaty.

Some ambiguity exists when reading the Maritime Boundary Treaty with respect to the manner in which the tripoint with Finland has to be arrived at. Article 1 suggests that this point still has to be arrived at by means of a separate agreement with Finland, whereas Article 2 fixes the terminal point in the west by means of fixed coordinates. This probably has to be explained by the fact that during the long negotiations at a particular moment in time, when progress was made during the years 1995-1996, technical experts of the three neighboring States consulted with each other with a view to arrive at a trilateral agreement. However, due to the remaining fundamental differences between Estonia and the Russian Federation, this did not materialize. As a result, it might well be that point nine of the present agreement reflects the outcome of these trilateral contacts held during the middle of the 1990s, indicating that the three countries will have no difficulty in agreeing on the tripoint already mentioned in Article 2.<sup>42</sup>

## 9 *Technical Considerations*

The lines connecting the different turning points are loxodromes, i.e. straight lines. Two sets of coordinates are provided for the nine turning or terminal points, one using the 1942 coordinate system called Karasov ellipsoid, relied upon by the Russian charts, and the other using the World Geodetic System 1984 (ellipsoid WGS-84), used by the Estonian charts. In this respect the Maritime Boundary Treaty resembles the Lithuania-Russia agreement concerning the exclusive economic zone and the continental shelf, and thus constitutes only the third exception to the settled practice in the Baltic Sea that all maritime boundary agreements concluded since the 1990s have used

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42 For more details, see Franckx and Kamga, *supra* note 1, at 403 and 409, note 89.

WGS-84.<sup>43</sup> The Russian Federation, in other words, is the only country insisting on using its proper, be it older system.

Both sets of geographical coordinates define the same location on the earth's surface and are said in the Treaty to be equivalent. The appended charts form an integral part of the treaty. This again is rather exceptional when compared with the other delimitation agreement recently concluded in the area. Once again the present agreement resembles the maritime delimitation treaty practice between Latvia and the Russian Federation.<sup>44</sup> But if a discrepancy were to occur between the line determined according to the geographic coordinates and the line depicted on the charts, the former prevails.

### 10 Other Considerations

This is only the fourth agreement belonging to the fourth chronological group in the overall Baltic Sea delimitation effort,<sup>45</sup> which has been exclusively drawn up in the respective languages of the Parties.<sup>46</sup>

At the same time it is only the fourth instance, but this time since the Second World War, in the practice of the Baltic States that a dispute settlement provision has been included in a maritime delimitation agreement.<sup>47</sup> It only specifically mentions negotiations as a means to resolve possible future difficulties with respect to the interpretation or application of the Maritime Boundary Treaty.<sup>48</sup>

### III CONCLUSIONS

This agreement is unique in the State practice of the Baltic Sea maritime delimitation process in that it is the first time that one of the Parties, after

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43 Lithuania-Russia (1997), Report Number 10-18(1), at 3067-3068. The second agreement concluded between these two countries on the same day, delimiting their land border and territorial sea, even does totally away with the WGS-84 system, since only the Russian 1942 system of coordinates is relied upon. Lithuania-Russia (1997), Report Number 10-18(2), at 3081.

44 Lithuania-Russia (1997), Report Number 10-18(1), at 3068 and Report Number 10-18(2), at 3081.

45 See *supra* note 3.

46 For the other agreements, see Estonia-Finland (1996), Report Number 10-16 and Lithuania-Russia (1997), Report Numbers 10-18(1) and 10-18(2).

47 For the other agreements containing such a provision, see Estonia-Latvia (1996), Report Number 10-15, Lithuania-Russia (1997), Report Number 10-18(1) and Latvia-Lithuania (1999), Report Number 10-20.

48 In that it resembles the Lithuanian-Russian agreement, for the other two agreements mentioned in the previous note also refer to other possible means of dispute resolution.

having signed a delimitation agreement, informs its counterpart that it will not ratify the agreement. As explained before, this withdrawal of signature can only be explained by reference to what some have qualified as an “undigested past” between the two Parties.<sup>49</sup>

Neither the Border Treaty, nor the Maritime Boundary Treaty are therefore at present legally binding between the Parties. Nevertheless the Parties have been living in respect of this demarcation line for quite some time now.<sup>50</sup> Moreover, the head of the Russian delegation, V. Chizhov, has expressed the view that, even if the Russian Federation insists on the fact that negotiations have to start all over again, it lies not in the intention to start drawing new lines.<sup>51</sup> An attempt by some Estonian citizens to contest the constitutionality of the Act of Ratification of the Border Treaty and the Maritime Boundary Treaty has in the mean time been dismissed by the Supreme Court of Estonia.<sup>52</sup> The analysis of the present maritime boundary may, as a consequence, not be devoid of any concrete relevance after all.<sup>53</sup>

#### IV RELATED LAW IN FORCE

##### A *Law of the Sea Conventions*

Estonia: Not Party to any of the four 1958 Conventions, or to the 1982 UN Convention on the Law of the Sea at time of signature.

Russia: Party to the Convention on the Territorial Sea and the Contiguous Zone, the Convention on the High Seas, as well as the Convention on Continental Shelf (ratified 22 November 1960); Party to the 1982 UN Convention on the Law of the Sea (ratified 12 March 1997).

49 Jeroen Bult, *Everyday Tensions Surrounded by Ghosts from the Past: Baltic-Russian Relations Since 1991*, in GLOBAL AND REGIONAL SECURITY CHALLENGES: A BALTIC OUTLOOK 127 (Heli Tiirmaa-Klaar, Tiago Marques eds., 2006).

50 Interview R. Mälk, *supra* note 34.

51 The Ministry of Foreign Affairs of Russia is Ready to Discuss the Frontier with Estonia Once Again (in Russian), *Lenta Ru*, 6 July 2005. As available at <lenta.ru/news/2005/07/06/estonia/>. Or as stated a few day later by the A. Yakovenko, spokesman of the Russian Ministry of Foreign Affairs: “But we surely do not bear in mind to discuss drawing any new border lines”. As available at <www.mid.ru/brp\_4.nsf/e78a48070f128a7b43256999005bcb3/995e86ebdf9efc9ec325703c0057999a?OpenDocument>.

52 Ruling of the Constitution Review Chamber of the Supreme Court of 8 September 2005, II RIIGI TEATAJA, 11 July 2005, 18, 59. English translation available at <www.nc.ee/?id=380>.

53 As already argued by the present author elsewhere. See Franckx and Kamga, *supra* note 1, at 395-396 and 419-420.

**B** *Maritime Jurisdiction Claimed at the Time of Signature*

Estonia: 12 n.m. territorial sea; 200 n.m. EEZ.

Russia: 12 n.m. territorial sea; 200 n.m. continental shelf and/or the outer edge of the continental margin; 200 n.m. EEZ.

**C** *Maritime Jurisdiction Claimed Subsequent to Signature*

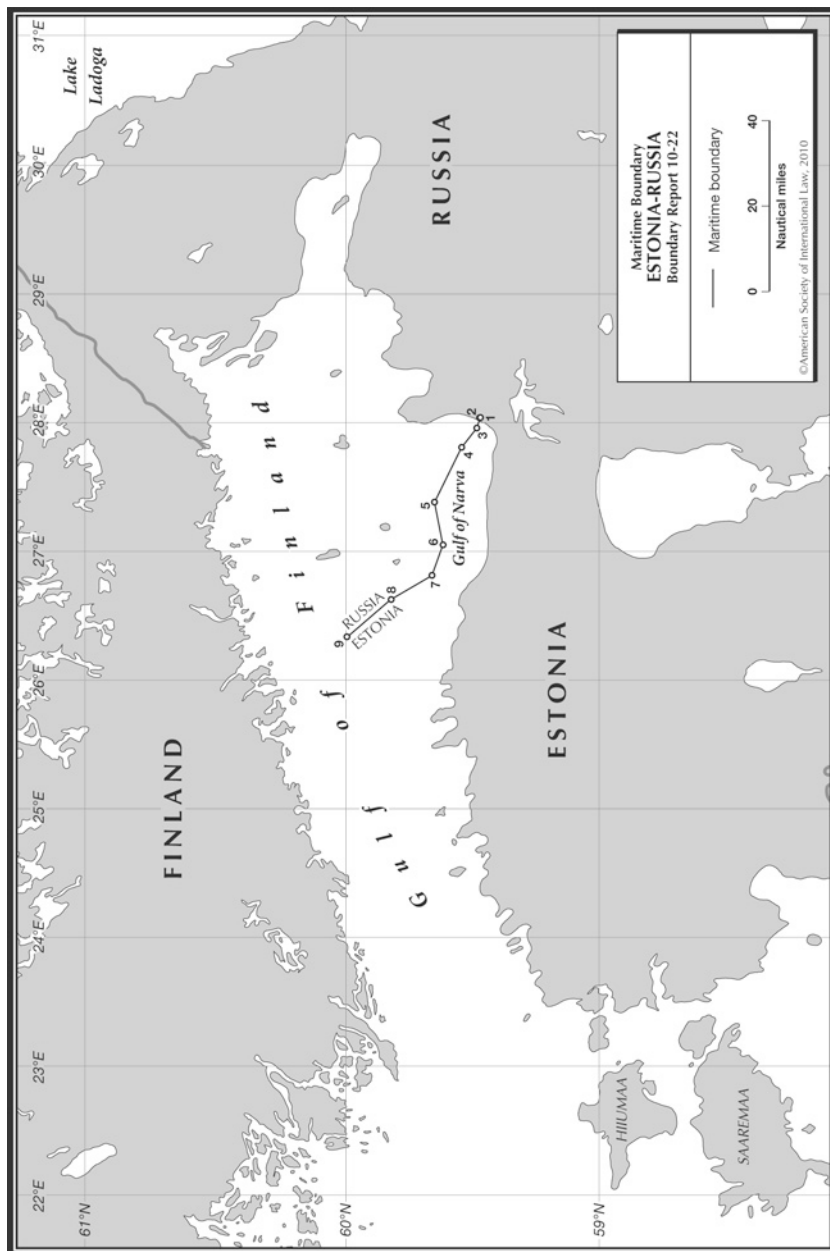
Estonia: Acceded to the 1982 LOS Convention on 26 August 2005.

Russia: No change.

## V REFERENCES AND ADDITIONAL READINGS

Erik Franckx and Maurice Kamga, *L'existence éphémère du Traité de délimitation maritime entre la République d'Estonie et la Fédération de Russie en mer Baltique*, 12 ANNUAIRE DU DROIT DE LA MER 2007 393 (2008).

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**Treaty between the Republic of Estonia and the Russian Federation  
on the Delimitation of the Maritime Areas in the Gulf of Narva and  
the Gulf of Finland<sup>54</sup>**

The Republic of Estonia and the Russian Federation, hereinafter referred to as the Parties,

Desiring to delimit the maritime areas in the Gulf of Narva and the Gulf of Finland based on the principles of respect for State sovereignty and territorial integrity,

Aspiring to develop good neighborly relations between the two countries,

Taking into account the provisions of the United Nations Convention on the Law of the Sea of 10 December 1982,

Have agreed as follows:

**Article 1**

The delimitation line of the maritime areas between the Republic of Estonia and the Russian Federation in the Gulf of Narva and the Gulf of Finland (hereinafter “delimitation line”) is based on the median line drawn in such a manner that every point is equidistant to the closest point on the low-water line along the coasts (including islands) of both States.

The starting point of the delimitation line (point 1) is located at the mouth of the river Narva and corresponds to the land border terminal point between the Republic of Estonia and the Russian Federation. The terminal point of the delimitation line (point 9) is located at the point of intersection of the lines delimiting the maritime areas between the Republic of Estonia, the Russian Federation, and the Republic of Finland, to be determined by a separate agreement between these three States.

**Article 2**

The delimitation line follows straight lines (loxodromes) connecting points with the following geographic coordinates:

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<sup>54</sup> Translated into English from the original Russian version by the author.

– in the 1942 coordinate system (Karasov ellipsoid)

- 1) Latitude 59°28.300' N, Longitude 28°02.695' E;
- 2) Latitude 59°28.485' N, Longitude 28°02.577' E;
- 3) Latitude 59°29.154' N, Longitude 27°57.791' E;
- 4) Latitude 59°32.739' N, Longitude 27°48.832' E;
- 5) Latitude 59°39.150' N, Longitude 27°23.250' E;
- 6) Latitude 59°37.117' N, Longitude 27°03.333' E;
- 7) Latitude 59°39.750' N, Longitude 26°49.133' E;
- 8) Latitude 59°49.337' N, Longitude 26°37.865' E;
- 9) Latitude 59°59.700' N, Longitude 26°20.500' E.

The enumerated points and the delimitation line are depicted on the attached Russian chart No. 22061 (INT 1214) scale 1:250,000, published in 1997.

– in the WGS-84 coordinate system (ellipsoid WGS-84):

- 1) Latitude 59°28.297' N, Longitude 28°02.564' E;
- 2) Latitude 59°28.481' N, Longitude 28°02.446' E;
- 3) Latitude 59°29.150' N, Longitude 27°57.660' E;
- 4) Latitude 59°32.735' N, Longitude 27°48.701' E;
- 5) Latitude 59°39.146' N, Longitude 27°23.118' E;
- 6) Latitude 59°37.112' N, Longitude 27°03.201' E;
- 5) Latitude 59°39.745' N, Longitude 26°49.001' E;
- 8) Latitude 59°49.332' N, Longitude 26°37.732' E;
- 9) Latitude 59°59.695' N, Longitude 26°20.366' E.

The enumerated points and the delimitation line are depicted on the attached Estonian chart scale 1:250,000 (1998 special edition).

The corresponding points on the delimitation line thus determined in the aforementioned coordinate systems are equivalent.

The aforementioned Estonian and Russian charts that illustrate the delimitation line constitute an integral part of this Treaty.

Within the framework of interpretation of this article, the description of the course of the delimitation line given herein will be of decisive importance.



### **Article 3**

Each Party observes the delimitation line as the limit of its sovereignty, of its sovereign rights and of any other form of coastal State jurisdiction that can be exercised over maritime areas in accordance with international law.

### **Article 4**

In the event of discovery of mineral resources (deposits) lying on both sides of the delimitation line, the Parties will endeavor to reach agreement on the most efficient methods of joint exploitation of the deposit, as well as on the mineral resource extraction processes in order to ensure the adoption of appropriate measures to prevent pollution of the marine environment, as foreseen by the Convention on the Protection of the Marine Environment of the Baltic Sea Area of 1992 (Helsinki Convention).

### **Article 5**

Any dispute concerning the interpretation or application of this Treaty will be resolved through negotiations between the Parties.

### **Article 6**

This Treaty is subject to ratification and will enter into force 30 days after the exchange of instruments of ratification.

Done in Moscow on 18 May 2005 in two original versions, each in the Estonian and Russian languages, both texts having equal authority.

For the Republic of Estonia

For the Russian Federation

## Benin-Nigeria

*Report Number 4-14*

### **Treaty on the Maritime Boundary Delimitation between The Federal Republic of Nigeria and The Republic of Benin**

*Signed:* 4 August 2006

*Entry into force:* Not in force

*Published at:* Unpublished

#### I SUMMARY

The Treaty provides for a boundary drawn according to modified equidistance principles, according to which each State ceded to the other equal areas of maritime space in order to arrive at a solution which each regarded as equitable. The boundary is described as “partial”, but that description is applied only to denote the fact that the southern terminus of the boundary is dependent upon reaching agreement with a third State on a tri-point.

#### II CONSIDERATIONS

##### 1 *Political, Strategic and Historical Considerations*

The land boundary between Nigeria and Benin runs for the most part in a direct North-South line from the River Niger to the coast. The original delimitation is contained in the Anglo-French Treaty of 1906, as modified in part by a Protocol of 1912. These agreements set out the boundary between the British and French possessions from the Gulf of Guinea to the Niger. They were adopted by Nigeria on Independence, 1 October 1960. No specific agreement was contained in the legal instruments concerning the maritime boundary: in so far as there was a boundary, it was the customary line extending three n.m. offshore.

In 1968 an American oil company interested in the potential for offshore deposits was requested by the Benin government to carry out a delimitation exercise in order to facilitate exploration. Nigeria protested at this action and agreement was reached to set up a Joint Boundary Commission to study and delimit the maritime boundary. That Commission did not in fact meet until June 1981 in Lagos, Nigeria. At the meeting it was noted that no delimitation existed and three other items were agreed:

- a) The topographic map of the Benin/Nigeria coastal region produced by Nigeria's Federal Surveys at a scale of 1:25,000 would be adopted as the Commission's initial material;
- b) The median line principle as defined in Article 6 of the Geneva Convention on the Continental Shelf would be adopted in order to delimit a boundary up to 200 n.m. offshore; and
- c) A Joint Team of Experts should meet to delimit the boundary.

The Joint Commission held several meetings in 1981-1982 and a draft agreement was prepared and presented to the respective governments in October 1982. The line that was proposed was a single straight line running slightly east of south for 200 n.m., terminating within Nigeria's EEZ. The Commission met again in June 1983 and resolved that its recommendations regarding the maritime boundary should be given legal effect. However a review of the proposed delimitation was then undertaken by a panel of experts, who concluded that the materials and methods used were inadequate. The technical reports produced by the Nigerian experts were not ratified by the Federal Government.

Then, in December 1982, the United Nations Law of the Sea Convention was signed by 119 nations, including Nigeria, and Benin signed in 1983. Nigeria ratified the Convention in 1986, and Benin in 1997. All further deliberations were conducted under the aegis of the Convention. Proper Admiralty Charts were procured and, in due course, satellite imagery and ground-truthing exercises were carried out by experts to determine the precise course of the coastline.

A debate also took place as to whether a median line or perpendicular solution was more appropriate. These debates were given added force by increasing hydrocarbon exploration activity in the area, particularly in the Seme Field, which was adjacent to the putative boundary. Ashland Oil was carrying out exploration on behalf of Benin, and the Nigerian National Petroleum Corporation held an oil prospecting licence to the east of Seme.

One of the issues that had been identified on the Nigerian side was the interdependence of the Benin boundary with Nigeria's other potential maritime boundaries in the Gulf of Guinea. These issues were potentially of great importance in determining the southward reach of the delimitation, taking into account full 200 n.m. Exclusive Economic Zones. Furthest to the east was Nigeria's unresolved maritime boundary with Cameroon, in respect of which Cameroon made potentially far-reaching claims before the International Court of Justice in the proceedings which commenced in March 1994. That boundary was not resolved until the Court gave judgment in October 2002. During the intervening period Nigeria embarked upon intensive negotiations with both Equatorial Guinea and Sao Tome and Principe. The Court's Judgment and the treaties concluded by Nigeria are the subject of Report Numbers 4-1, 4-9, and 4-10 herein.

It was apparent that the Benin-Nigeria line was always going to be subject to a degree of 'cut-off' to the south. It was also apparent that Benin was unlikely ever to be able to make a claim to extend its EEZ under Article 76 of UNCLOS. This was in fact an important consideration for Nigeria. At the time the boundary negotiations were being conducted Nigeria was itself well advanced in its consideration of a submission under Article 76. However, the main factor inhibiting Benin's desire to 'reach open sea' was quite simply the natural configuration of Nigeria's coastline once the principle of a median line solution was accepted. Benin was always going to be bounded to the east and south by Nigeria's EEZ.

These and other considerations became the subject of intensive negotiations within the Joint Commission, and a series of meetings were held, alternating between Cotonou and Lagos commencing in 2001 and culminating in signature of the Treaty in Abuja in August 2006.

## *2 Legal Regime Considerations*

The Treaty was negotiated in accordance with the provisions of UNCLOS and provides for a single, all purpose boundary. For the avoidance of doubt, the Treaty (Article 5) sets out expressly that the Federal Republic of Nigeria shall not "claim, or exercise sovereignty, sovereign rights or jurisdiction over the airspace, waters, seabed or subsoil" to the west of the boundary established by the Treaty. A reciprocal obligation is imposed on Benin in respect of such rights lying to the east of the boundary line. Article 9 of the Treaty provides that disputes between the Parties concerning interpretation or application of the Treaty shall be settled by negotiation between the two States,

but that, “in the absence of a consensual agreement”, the Parties “may have recourse either together or individually to mediation or any international legal process”.

### 3 *Economic and Environmental Considerations*

As already indicated, the initial impetus for maritime boundary delimitation between the two States stemmed from the desire of the commercial oil companies to impose certainty on the limits for exploration and possible future development. The offshore area was never likely to yield hydrocarbon deposits in the proximity to be found offshore the Niger Delta fan lying to the east, and mainly within the area of Nigeria’s EEZ; thus, the need for certainty was more pressing for Benin’s economic development than that of Nigeria. Benin also felt a strong compulsion to try to push both east and south as far as it could within the constraints of a median-line driven delimitation. There was the added consideration, referred to further below, that the configuration of the Togo coastline westwards from Benin is such that a median line solution between those two States leads inevitably to a ‘pincer’ movement reminiscent of Germany’s geographical disadvantage in the North Sea (although Togo suffers from a much more acute version of that disadvantage, caught as it is in a concave stretch of coast between Benin and Ghana).

The history of offshore hydrocarbon development in the area started with the drilling of ten wells offshore Benin between 1967 and 1973, resulting in the discovery of the Seme North Field in 1968, and Seme South in 1970. The initial exploration and development was by Saga Petroleum of Norway. Thereafter, the Benin Ministry of Energy took over the operation with support from Ashland Oil. The World Bank supported a major restructuring effort in the 1990’s, and by 2000 there was sufficient interest for Benin to license a 2.5 million acre deepwater offshore block ranging from depths of 300 to 10,000 ft to Kerr-McGee Corp. of Oklahoma City. The operation had always been regarded as economically marginal, but reserve additions in the mid-1990’s and increased investment with guaranteed gas contracts extended the field life. It was believed by Kerr-McGee that there could be considerable exploration potential since Benin is perceived to be on the fringes of the ‘Golden Triangle’ of the Atlantic Margin basins which stretch from West Africa to the Gulf of Mexico and down to Brazil.

All this interest spurred on Benin to seek a properly delimited boundary with Nigeria.

#### 4 *Geographic Considerations*

The smooth nature of the coastal configuration as between Nigeria, Benin and Togo, with a gentle curve westwards bending in a more southerly direction as it approaches Ghana was such as to produce a median line proceeding from the most southerly boundary pillar (BN 12) at 6° 22' 28.30" N, 2° 42' 25.30" E slightly east of due south for a distance of some 150 n.m., and then, at a point with the co-ordinates 3° 38' 14.90" N, 3° 00' 58.05" E, suddenly shifts markedly west of south. The reason for this is the configuration caused by the major 'bulge' in Nigeria's coastline, and the lesser 'bulge' in Ghana's coastline which means that the median line "every point of which is equidistant from the nearest base points on the baselines of the states concerned" (as per the wording of the 1958 and 1982 Conventions) generated a line which took a sharp turn away from the Nigerian coastline and back towards Ghana, thus "cutting off" quite a sizeable triangle of maritime space as far as Benin was concerned. The line thus produced is then intersected by the Togo/Ghana line and the last 12 n.m. becomes a purely Nigeria/Ghana line as it heads towards the outer limits of the respective Nigerian and Ghanaian EEZ's.

#### 5 *Islands, Rocks, Reefs, and Low-tide Elevations Considerations*

There are no island, rock, reef, or low-tide elevation considerations to be taken into account along this virtually featureless length of coastline, which shelves gently into the so-called Bight of Benin.

#### 6 *Baseline Considerations*

The straight and featureless nature of the coastline means that very small variations in coastal points close to the boundary could have a very large influence on the direction of the median line. As soon as the points on the Niger Delta coast, and, latterly, the Ghanaian coast, are taken into account a much more stable line is produced. For these reasons a very detailed coastal survey on either side of the median line start point was undertaken, in order to produce the most accurate baselines possible. As mentioned, a combination of satellite imagery and ground truthing exercises were undertaken to generate the most stable representation of the median line possible.

As a result of these surveys it became apparent that all existing charts, including those produced by the UK Hydrographic Office, were out of date

and in fact misrepresented the coastline as it existed by the time of the negotiations. This was mainly because the coastline of Benin had actually receded as the result of the extensive sand mining which had taken place since the last set of charts had been produced, and parts of the Nigerian coast were in error by as much as two n.m. in places. The northern part of the boundary was based on the new survey and the southern part of the boundary was established using a satellite image-based coastal model which Nigeria had produced.

## 7 *Geological and Geomorphological Considerations*

Apart from the near-shore discovery of the Seme Field there has been little exploration in the western part of the Niger Delta in the region of the Benin-Nigeria boundary. Likewise exploration in Benin has so far proved disappointing. Although some of the geological structures are likely to extend westwards from the main producing areas in Nigeria, the hydrocarbon potential in the boundary region is not comparable with that in the main delta region to the east.

## 8 *Method of Delimitation Considerations*

A strict median line construction of the boundary produces, as has been noted above, a line which appears to “chop out” a triangle of maritime space in the southern part of the delimitation. Despite the incontrovertible nature of the median line calculation caused by the “accidents of geography” in the area, Benin felt strongly that a more equitable result would be achieved if there was to be a less marked “turn” of the line. Work was therefore done to “straighten out” the most southerly section, resulting in a “gain” by Benin of some 800 sq. km. of space. In the event, Nigeria agreed to this, but the *quid pro quo* was that Nigeria should “gain” 800 sq. km. in the northern section of the line. This was achieved by adjusting the median line marginally to the west until Nigeria had an equivalent amount of additional space. The resultant line thus looks not unlike a straightforward meridian drawn as a perpendicular from the coastline, terminating at the limit of Benin’s 200 n.m. EEZ limit: only then does the line swing westwards, now at an angle close to 90 degrees to the meridian. The line then tracks the 200 n.m. southern limit of Benin’s EEZ, stopping one n.m. short of the putative Nigeria/Benin/Ghana tripoint. Finalisation of the line awaits the outcome of negotiations between Nigeria and Ghana.

## 9 Technical Considerations

Whilst the final Treaty signed by the respective Heads of State in Abuja on 4 August 2006 reflects the agreement reached by the Joint Technical Committee at their final meeting in Abuja on 10 June 2005, it will be noted that the graphic annexed to the Treaty, and initialled by the Heads of State is not, in fact, a maritime chart, as described in Article 4, but a graphic. As the rubric on the graphic states, it was produced to illustrate the proposed Nigeria-Benin Maritime Boundary in Abuja in February 2005. As such, it was, in fact, the graphic portrayal of the line which was to be agreed by the Joint Technical Committee. The graphic also sets out on its face the table of Coordinates for the six Boundary Turning Points, marked 'A' to 'F', giving by way of additional information the coordinates of four other points used in the construction of the line. WGS84 was used to reference the coordinates, and it is stated that all lines are geodesics.

Reference to the wording in the Treaty however reveals the use both of coordinates and azimuths, which is potentially confusing, as azimuths are generally quoted with range and bearings. A geodetic azimuth would be a valid concept for the start of a line, but geodesic lines are by nature curved, and will change continuously along their length on a mercator chart. If the line was to be drawn as a series of 'geodetic azimuths', the bearings for each sector of the line would be as follows:

A-B 172° 48' 40.6"  
 B-C 175° 04' 33.5"  
 C-D 185° 34' 19.2"  
 D-E 262° 15' 18.2"  
 E-F 263° 54' 14.4"  
 F-G 264° 52' 34.8"

If the D-F section was to be changed to reflect 200 n.m. arcs (which would be the technically correct approach), the basepoint from which to measure those arcs would be 6° 22' 28.3" N, 2° 42' 25.3" E. By connecting D-E-F with straight lines rather than using arcs, Benin loses about 0.5 sq. km. (0.3 sq. km. re D-E, and 0.2 sq. km. re E-F).

Technically speaking Article 2, sub-para vi of the Treaty is incorrectly stated as the azimuth will change after point F, as indicated above: also, the line is clearly more westerly than south westerly in direction.

With regard to the start point of the line on the coast, this is given in Article 2 as 'Point A', with geographical coordinates. Those are the coordinates of the final land boundary pillar (BN12, referred to above), not, as



described in the Treaty, ‘the intersection of the Nigeria-Benin land boundary and the coastline’.

The reference in Article 6 to resources “over-lapping” the boundary line is clearly intended as a reference to potential straddling resources, in respect of which unitisation or a joint development regime appears to be contemplated.

### 10 *Other Considerations*

None.

## III CONCLUSIONS

Agreement on the Benin-Nigeria maritime boundary took five years to reach, despite the seemingly relatively straightforward configuration of the coastline. It did however mark the effective culmination of a determined policy on the part of Nigeria to delimit all her maritime boundaries in the Gulf of Guinea. This rapidly came to the forefront of Nigeria’s foreign policy following the return to civilian rule under Olusegun Obasanjo in May 1999 after successive years of military dictatorship. It was an impressive display of determined political will and formed a valuable contribution to the international rule of law. The final agreement on the line was the result of genuine concessions being made on both sides in a true sense of African compromise, coupled with an ingenious technical solution which was both elegant and eminently practical.

## IV RELATED LAW IN FORCE

### A *Law of the Sea Conventions*

Nigeria: Party to the 1958 Geneva Conventions on the Law of the Sea; Party to the 1982 UN Convention on the Law of the Sea (ratified 1986).

Benin: Party to the 1982 UN Convention on the Law of the Sea (ratified 1997).

### B *Maritime Jurisdiction Claimed at the Time of Signature*

Nigeria: 12 n.m. territorial sea (1998); 200 n.m. EEZ (Exclusive Economic Zone Decree 1978, No 28).

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Benin: 200 n.m. territorial sea (Decree 76-92: effective 2 April 1976).

*C Maritime Jurisdiction Claimed Subsequent to Signature*

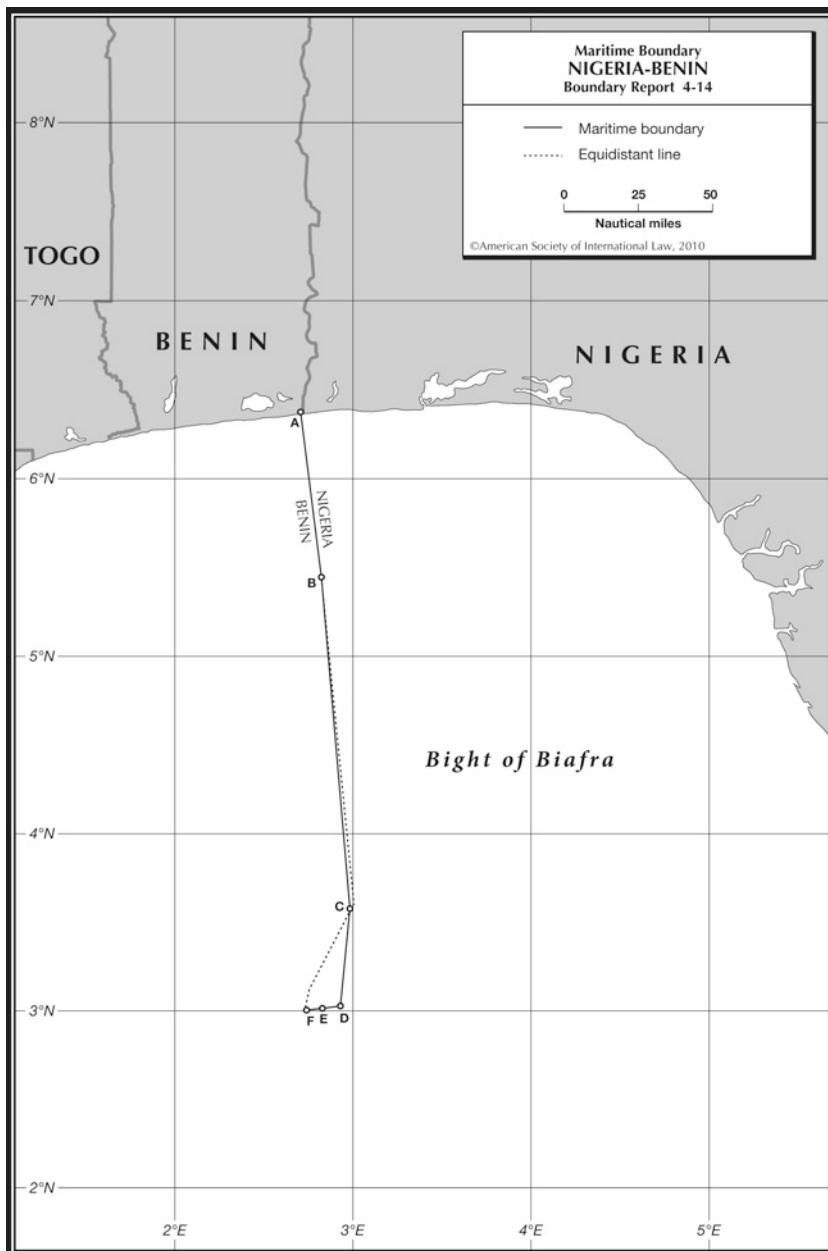
Nigeria: No change.

Benin: 12 n.m. territorial sea; 200 n.m. EEZ.

V REFERENCES AND ADDITIONAL READINGS

None.

*Prepared by Prepared by Tim Daniel  
(with the assistance of Robin Cleverly of UKHO)*



**Treaty on the Maritime  
Boundary Delimitation  
between  
The Federal Republic of Nigeria  
and  
The Republic of Benin**

**Preamble**

The Government of the Federal Republic of Nigeria

And

The Government of the Republic of Benin  
Hereinafter called “the Parties”

- Desirous to strengthen the excellent friendly relationship and cooperation between the Parties;
- Desirous to establish, through negotiations, the common maritime boundary;
- Taking into account the United Nation’s Convention on the Law of the Sea of 10th December, 1982 (Montego Bay Convention);
- Concerned about the common interests of the Parties, as immediate neighbours and in the spirit of brotherliness and goodwill;
- Relying on the results of the different exercises of Boundary Delimitation by the Parties.

**HAVE AGREED AS FOLLOWS:**

***CHAPTER I: Purpose of the Treaty and Description of the Maritime Boundary***

***Article 1  
Purpose***

The purpose of this Treaty is to establish the partial maritime boundary between the Federal Republic of Nigeria and the Republic of Benin and provide for the remainder of the maritime boundary in accordance with Article 2(vi).

**Article 2**  
**Description of the Maritime Boundary**

Starting from Point A with the geographical coordinates, Latitude: 06° 22' 29.5"N, Longitude: 02° 42' 25.3"E situated on the intersection of the Nigeria-Benin land boundary and the coastline, established and accepted as the point of reference by the two countries, the boundary line runs:

- i. On the geodetic line on an azimuth of 172° 49' 37.2" up to Point B with the geographical coordinates, Latitude: 05° 26' 44.4"N, Longitude: 02° 49' 26.3"E.
- ii. From Point B, the boundary line runs on an azimuth of 175° 05' 59.8" up to Point C, with the geographical coordinates, Latitude: 03° 34' 36.4"N, Longitude: 02° 59' 03.1"E.
- iii. From Point C the boundary line runs on an azimuth of 185° 32' 33.5" up to Point D, with the geographical coordinates, Latitude: 03° 01' 39.9"N, Longitude: 02° 55' 51.3"E on the 200M line of Benin EEZ.
- iv. From Point D, the boundary line runs on an azimuth of 262° 12' 42.0" on the 200M line of Benin EEZ to Point E with the geographical coordinates, Latitude: 03° 00' 50.1"N, Longitude: 02° 49' 47.2"E.
- v. From Point E it runs on an azimuth of 263° 52' 10.0" to Point F with the geographical coordinates, Latitude: 03° 00' 15.6"N, Longitude: 02° 44' 26.0"E.
- vi. Beyond Point F, the maritime boundary shall continue in a south westerly direction along the same azimuth as the geodetic line joining Point E and F, as far as the point at which it meets any maritime boundary to be agreed between either of the Parties and a third State.

**CHAPTER II: Reference of the Points used and the Delimitation of the Boundary**

**Article 3**  
**Datum**

All the geographical positions mentioned in Article 2 are referenced to the World Geodetic System 1984 (WGS. 84)

**Article 4**  
**Charting the Line**

The layout of the maritime boundary between the Federal Republic of Nigeria and the Republic of Benin, is as shown on the maritime chart attached to this Treaty as Annexure.

**CHAPTER III: Sovereignty, Jurisdiction of States and Exploitation of Resources**

**Article 5**  
**Sovereignty and jurisdiction of States**

*For the avoidance of doubt and subject to any other agreement on the matter that they may come to, the Parties agree on the following:*

- i. To the West of the boundary established by this Treaty, the Federal Republic of Nigeria shall not claim or exercise sovereignty, sovereign rights or jurisdiction over the airspace, waters, sea-bed or subsoil.
- ii. To the East of the boundary established by this Treaty the Republic of Benin shall not claim or exercise sovereignty, sovereign rights or jurisdiction over the airspace, waters, sea-bed or subsoil.

**Article 6**  
**Exploitation of Common Resources**

In the case of the discovery of natural resources over-lapping the boundary line, both countries shall work out an equitable sharing agreement.

**CHAPTER IV: Miscellaneous Provisions**

**Article 7**

- i. This Treaty shall be subject to ratification in accordance with the extant procedure in each of the two countries.
- ii. This Treaty shall be applied provisionally, as from the date of signature, and shall enter into force upon the exchange of the instruments of ratification between the Parties.
- iii. The annexure is an integral part of this Treaty.

**Article 8**  
**Registration**

As soon as possible after this Treaty has entered into force, it shall be registered with the Secretariat of the United Nations, in accordance with Article 102 of the Charter of the United Nations.

**Article 9**  
**Resolution of disputes**

- i. Disputes between the Parties concerning the interpretation or application of this Treaty shall be settled by negotiation between the two States.
- ii. In the absence of a consensual agreement, the Parties may have recourse either together or individually to mediation or any international legal process.

Done at Abuja this 4th day of August 2006, in two originals of French and English, both texts being equally authentic.

H.E. Olusegun Obasanjo, GCFR  
President of the Federal  
Republic of Nigeria.

H.E. Dr. Boni YAYI  
President of the  
Republic of Benin,  
Head of State,  
Head of Government.

## Norway-Russian Federation

*Report Number 9-6 (2)*

### **Agreement between the Kingdom of Norway and the Russian Federation on the Maritime Delimitation in the Varangerfjord area**

*Signed:* 11 July 2007  
*Entry into force:* 9 July 2008  
*Published at:* Norway: Electronic Treaty Register <http://www.lovdاتا.no/traktater> (2007-07-11 No. 15); Stortingsproposisjon nr. 3 (2007-2008).<sup>1</sup>

#### I SUMMARY

This Agreement establishes a short all-purpose maritime boundary between Norway and Russia in the Varangerfjord area. The boundary delimits the territorial sea, the exclusive economic zone, the continental shelf and “other maritime areas established in accordance with international law.” Provision is made for the unitization of transboundary deposits in the continental shelf.

The Agreement effectively replaces the 1957 Agreement and Descriptive Protocol delimiting the territorial waters between Norway and the Soviet Union.<sup>2</sup> It updates and clarifies certain points established in the 1957 Agreement, supplements the latter Agreement and establishes the delimitation line for the continental shelf and other areas of jurisdiction within the mouth of the Varangerfjord and beyond the latter in a roughly northeasterly direction into the Barents Sea. The total length of the all-purpose boundary established by the Agreement is of 39.41 n.m. (73 km.).

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1 The Norwegian parliamentary bill is available at <http://www.regjeringen.no/nb/dep/ud/dok/regpubl/stprp/2007-2008/stprp-nr-3-2007-2008-.html?id=488644>.

2 Report Number 9-6 in volume II of this work.



## II CONSIDERATIONS

### 1 *Political, Strategic and Historical Considerations*

As of April 2010, the 2007 Agreement (which effectively replaces that of 1957) is the only maritime delimitation agreement in force between Norway and the Russian Federation. However, on 27 April 2010, Norwegian and Russian negotiating delegations reached a preliminary agreement on the bilateral maritime delimitation in the Barents Sea and the Arctic Ocean. A comprehensive Treaty concerning maritime delimitation and cooperation in those areas is envisaged.<sup>3</sup>

During the Cold War the area covered by this Agreement marked the boundary between two opposing alliances, NATO and the Warsaw Pact. It was an area of considerable political and military sensitivity.<sup>4</sup> Even with the end of the Cold War, the area remains sensitive.

### 2 *Legal Regime Considerations*

Both Norway and Russia are Parties to the UN Convention on the Law of the Sea, and both have now enacted legislation concerning the territorial sea (of 12 n.m.), contiguous zone, exclusive economic zone and continental shelf, as well as baselines. Russia had already established a territorial sea of 12 n.m. prior to the conclusion of the 1957 Agreement, while Norway's territorial sea had at the time a breadth of 4 n.m. As of 1 January 2004, Norway extended its territorial sea to 12 n.m. Both Parties have also adopted legislation concerning a 24 n.m. contiguous zone.

The 1957 Agreement had established a delimitation line for the territorial waters in the inner part of the Varangerfjord, up to the intersection of the Russian 12 n.m. limit and the Norwegian 4 n.m. limit. The Agreement furthermore prohibited any extension of the Parties' territorial waters beyond a straight line extending from that intersection up to the median point in the mouth of the Varangerfjord, between Cape Nemetsky and Cape Kibergnes (Article 1, second paragraph).<sup>5</sup>

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3 Joint Statement on maritime delimitation and cooperation in the Barents Sea and the Arctic Ocean, signed by the Norwegian Prime Minister and the Russian President on 27 April 2010.

4 See Report Number 9-6.

5 The median point between Cape Nemetsky and Cape Kibergnes is referred to as point 4 in the 2007 Agreement.

The 2007 Agreement maintains the delimitation line for the territorial waters established in 1957, which is the segment between points 1 and 2. It supplements the 1957 Agreement by continuing the line between the Parties' territorial seas, along the straight line referred to, through the segment between points 2 and 3, reflecting Norway's extension of its territorial sea to 12 n.m. in 2004. The total length of the delimitation line between the two States' territorial seas is thus of 22.67 n.m. (42 km.). Through the 2007 Agreement the two States furthermore supplemented the 1957 Agreement by deciding, by common agreement, to continue 3.77 n.m. (7 km.) along that straight line to establish the delimitation line between the Norwegian territorial sea and the Russian continental shelf, economic zone and contiguous zone, partly within and then beyond the mouth of the Varangerfjord. The remaining 12.95 n.m. (24 km.) of the line constitute the delimitation line between the Parties' continental shelf, economic zones and contiguous zones.

### 3 *Economic and Environmental Considerations*

Economic and environmental considerations do not seem to have played a significant role as regards the boundary.

### 4 *Geographic Considerations*

The area covered by the Agreement lies in and beyond the mouth of the Varangerfjord into the Barents Sea. Most of the marine area in question lies between that part of the Norwegian coast forming the southern coastline of the Varanger Peninsula (south of Vardø) and Russia's westernmost northern coastline (chiefly the western side of the Rybachiy Peninsula). Points 5 and 6 take the delimitation line in a northeasterly direction by approximately 15 n.m. beyond the mouth of the Varangerfjord.

### 5 *Islands, Rocks, Reefs, and Low-tide Elevations Considerations*

As was the case with the 1957 Agreement, no such features were relevant in this case.

## 6 *Baseline Considerations*

For a description of Norway's straight baseline across the mouth of the Varangerfjord, *see* Report Number 9-6.

## 7 *Geological and Geomorphological Considerations*

As was the case in 1957, geological and geomorphological considerations were not taken into account in determining the course of the boundary.

## 8 *Method of Delimitation Considerations*

The method adopted in 1957 is described in Report Number 9-6. The insertion of a new point (no. 3) into the 1957 line does not appear to affect the course of the line to any significant degree. It marks the point where the outer limits of the respective 12 n.m. territorial seas meet. Like point 4 (which was the last point in the 1957 Agreement), points 5 and 6 are equidistant points: point 5 is equidistant between Cape Kibergnes (Norway) and Cape Nemetsky (Russia); and point 6 is equidistant between the Norwegian island of Vardø and Cape Nemetsky.

## 9 *Technical Considerations*

The coordinates are defined in the World Geodetic System 1984 (WGS84), whereas those in the 1957 Agreement had used the 1932 Pulkova system. The six points in the present Agreement include (as points 1, 2 and 4) those defined in the 1957 Agreement. Point 3, which is new, is the point of intersection of the outer limits of the respective 12 n.m. territorial seas of the two Parties.

## 10 *Other Considerations*

None.

## III CONCLUSIONS

As noted in Report Number 9-6, the 1957 Agreement was a special case in that the boundary ran through or very close to the territorial seas of the Parties in the mouth of a gulf. Except as regards its final point, it was not based on equidistance, but represented a pragmatic solution. The extension of the straight line drawn in the 2007 Agreement, by way of contrast, is based on equidistance, which may be thought appropriate as the line moves further from the coast and beyond the mouth of the gulf.

## IV RELATED LAW IN FORCE

A *Law of the Sea Conventions*

Norway: Party to the Convention on the Continental Shelf 1958; Party to the 1982 UN Convention on the Law of the Sea (ratified 24 June 1996).

Russian Federation: Party to the Convention on the Continental Shelf 1958; Party to the 1982 UN Convention on the Law of the Sea (ratified 12 March 1997).

B *Maritime Jurisdiction Claimed at the Time of Signature*

Norway: 12 n.m. territorial sea; continental shelf; exclusive economic zone; contiguous zone.

Russian Federation: 12 n.m. territorial sea; continental shelf; exclusive economic zone; contiguous zone.

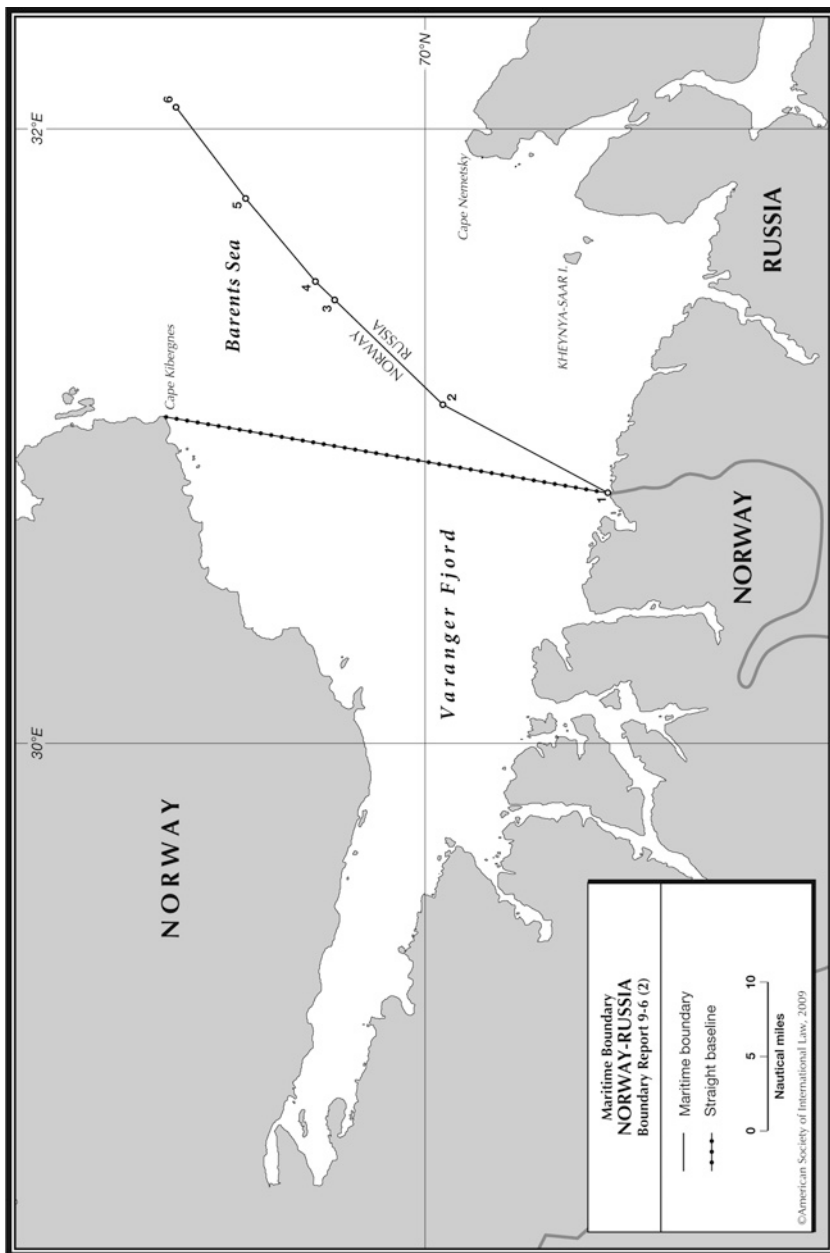
C *Maritime Jurisdiction Claimed Subsequent to Signature*

None.

## V REFERENCES AND ADDITIONAL READINGS

None.

*Prepared by Michael Wood*



## **Agreement between the Russian Federation and the Kingdom of Norway on the Maritime Delimitation in the Varangerfjord area**

The Russian Federation and the Kingdom of Norway,

desiring to maintain and strengthen the good neighbourly relations,

having regard to the Agreement between the Royal Norwegian Government and the Government of the Union of Soviet Socialist Republics concerning the Sea Frontier between Norway and the USSR in the Varangerfjord of 15 February 1957 and the Descriptive Protocol relating to the Sea Frontier between Norway and the Union of Soviet Socialist Republics in the Varangerfjord, demarcated in 1957 of 29 November 1957,

taking into account the relevant provisions of the United Nations Convention on the Law of the Sea of 10 December 1982,

have agreed as follows:

### *Article 1*

The line described in Article 2 of the present Agreement shall delimit the territorial sea, the exclusive economic zone, the continental shelf and other maritime areas established in accordance with international law between Norway and the Russian Federation in the Varangerfjord area.

### *Article 2*

The line referred to in Article 1 of the present Agreement shall consist of straight geodetic lines connecting the following points, including the points defined in the Agreement between the Royal Norwegian Government and the Government of the Union of Soviet Socialist Republics concerning the Sea Frontier between Norway and the USSR in the Varangerfjord of 15 February 1957 and the Descriptive Protocol relating to the Sea Frontier between Norway and the Union of Soviet Socialist Republics in the Varangerfjord, demarcated in 1957 of 29 November 1957:

- |                     |                  |
|---------------------|------------------|
| 1. 69° 47' 41.42" N | 30° 49' 03.55" E |
| 2. 69° 58' 45.49" N | 31° 06' 15.58" E |
| 3. 70° 05' 58.84" N | 31° 26' 41.28" E |

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- |                     |                  |
|---------------------|------------------|
| 4. 70° 07' 15.20" N | 31° 30' 19.43" E |
| 5. 70° 11' 51.68" N | 31° 46' 33.57" E |
| 6. 70° 16' 28.95" N | 32° 04' 23.00" E |

The geographical coordinates of the above listed points are defined in World Geodetic System 1984 (WGS84).

Point 3 on this line is the point of intersection of the outer limits of the territorial sea of the Russian Federation and of the territorial sea of Norway in the Varangerfjord as established in accordance with international law on the date of the entry into force of the present Agreement.

By way of illustration, the delimitation line and the points listed above have been drawn on the schematic chart annexed to the present Agreement. In case of difference between the description of the line provided for in this Article and the drawing of the line on the schematic chart, the description of the line in this Article shall prevail.

### *Article 3*

If, with respect to the continental shelf delimited by the present Agreement, the existence of a hydrocarbon deposit in the continental shelf of one of the Parties is established and the other Party is of the opinion that the said deposit extends to its continental shelf, the latter Party may notify the former Party accordingly and shall submit the data on which it bases its opinion. In such event, the Parties shall discuss the extent of the deposit. If it is confirmed that the deposit extends on both sides of the delimitation line, the Parties shall make an agreement on the exploitation of such transboundary deposit as a unit. Such agreement shall include the manner in which any such deposit shall be most effectively exploited, the appointment of operator, the manner in which the deposit and the proceeds relating thereto shall be apportioned between the Parties and procedures to settle any disagreement relating thereto.

Any agreement between the Parties on exploitation of transboundary hydrocarbon deposits in the continental shelf north of Point 6 as defined in Article 2 of the present Agreement shall also apply to the hydrocarbon deposits in the continental shelf, crossed by the delimitation line described by the present Agreement, unless otherwise agreed by the Parties.

*Article 4*

The present Agreement is without prejudice to the Parties' positions with respect to issues that are not governed by it and with respect to the rules of international law relating to the law of the sea. Nothing in the present Agreement shall affect the Parties' positions with respect to delimitation in other maritime areas, or shall be used in any way for the purpose of such delimitation, unless otherwise agreed by the Parties.

*Article 5*

This Agreement shall be subject to ratification and shall enter into force on the 30th day after the date of exchange of instruments of ratification.

Done in duplicate in Moscow on the 11th of July 2007, each in Russian and Norwegian languages, both texts being equally authoritative.



## Jordan-Saudi Arabia

*Report Number 8-23*

### **Agreement on the Delimitation of the Maritime Boundaries in the Gulf of Aqaba between the Kingdom of Saudi Arabia and the Hashemite Kingdom of Jordan**

*Signed:* 16 December 2007  
*Entered into force:* 10 June 2010  
*Published at:* 2710 UNTS 307 (I-47974); 74 LOS Bull. 69 (2010)

#### I SUMMARY

The Agreement delimits a short maritime boundary between the adjacent States of the Kingdom of Saudi Arabia and the Hashemite Kingdom of Jordan in the northern part of the Gulf of Aqaba. The boundary is an adjusted median line of approximately 4 nautical miles (M). The Agreement entered into force on 10 June 2010 and was registered with the United Nations on 22 November 2010.

#### II CONSIDERATIONS

##### 1 *Political, Strategic, and Historical Considerations*

The Agreement between the Kingdom of Saudi Arabia and the Hashemite Kingdom of Jordan, signed on 16 December 2007, completes the delimitation of both the land and maritime boundaries between the two States. The land boundary was agreed on 9 August 1965 and the short maritime boundary has now also been delimited on the basis of an agreement. Press reports at the time of signature indicate that “the [maritime boundary] negotiations were conducted smoothly and easily.”<sup>1</sup>

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<sup>1</sup> Mariam Al Hakeem, *Saudi Arabia and Jordan sign maritime border agreement*, GULF NEWS (17 December 2007) (quoting Saudi Interior Minister Prince Naif Bin Abdulaziz),

## *2 Legal Regime Considerations*

Both countries are party to the 1982 United Nations Convention on the Law of the Sea. Saudi Arabia claims a 12 M territorial sea, and in the Gulf of Aqaba all her waters are territorial in nature. Jordan only claims a 3 M territorial sea. The boundary is therefore territorial in nature for Saudi Arabia and all purpose for Jordan. There are no provisions in the Agreement which relate to dispute settlement or other forms of cooperation in the maritime field.

## *3 Economic and Environmental Considerations*

There is no indication that either environmental or economic considerations played any part in the delimitation of this boundary.

## *4 Geographic Considerations*

The Gulf of Aqaba is a narrow stretch of water in the northern part of the Red Sea, some 96 M in length and only about 10 M in width. Saudi Arabia and Jordan are adjacent states in the north of the Gulf on its eastern side. Two other coastal States, Egypt and Israel, are in the vicinity of this delimitation. Assuming equidistance delimitations with the nearest opposite state, the maximum length of this boundary would be only approximately 4 M to a potential equidistant tripoint with Egypt.

## *5 Islands, Rocks, Reefs, and low-Tide Elevation Considerations*

There were no islands, rocks, reefs or low-tide elevations considered in this delimitation.

## *6 Baseline Considerations*

The territorial sea baseline of the Kingdom of Saudi Arabia is defined by a system of straight baselines enacted by Council of Ministers Resolution

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*available at* <http://gulfnews.com/news/gulf/saudi-arabia/saudi-arabia-and-jordan-sign-maritime-border-agreement-1.218622>.

No. (15) dated 25/1/1431H (11 January 2010). The Kingdom of Jordan has a normal territorial sea baseline as enacted by the Fisheries Act No. 25 of 2 December 1943. There is no indication that baseline considerations played any part in the delimitation.

### *7 Geological and Geomorphological Considerations*

There were no geological or geomorphological considerations to be taken into account for this delimitation.

### *8 Method of Delimitation Considerations*

Although not expressly stated in the Agreement this delimitation appears to be an adjusted median line. The narrowness of the Gulf of Aqaba limited the scope to adjust this boundary. It would appear that the only departure from a true median line is an adjustment that discounts the Saudi Arabian promontory named Al Jawf just to the south of the land boundary terminus. This apparent adjustment moves the agreed line approximately 0.2 M south of a strict median line.

### *9 Technical Considerations*

The boundary is defined by 3 points with specified geographic coordinates joined by a line approximately 3.9 M in length. Point 1 is the land boundary terminus, defined as “the point at which the land border extending toward the sea . . . intersects the lowest low-water line along the coast.”<sup>2</sup> Point 2 is the only inflection point in the line, and point 3 is the last defined point on the line. Provision is made in the Agreement to extend the boundary in a straight line from Point 3 “until the end of the maritime boundary in the Gulf of Aqaba between the two countries.”<sup>3</sup> Assuming the use of equidistance between opposite states, this would extend the boundary to a notional tripoint with Egypt approximately 0.2 M beyond Point 3. The geographic coordinates are referred to World Geodetic System 1984 (WGS 84).

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2 Art. I(1).

3 Art. I(4).

## 10 *Other Considerations*

An illustrative map, at a scale of 1:25,000, depicting the locations of the turning points and the maritime boundary between the two States, is attached to the Agreement. Article II(2) makes clear that the geographical coordinates contained in Article I form the definitive definition of the boundary and the map is only for explanatory purposes.

### III CONCLUSIONS

This short maritime boundary of approximately 4 M in length is an adjusted median line between two adjacent States in the Gulf of Aqaba. The only remaining work to conclude this boundary is agreement on a tripoint with a third State.

### IV RELATED LAW IN FORCE

#### A *Law of the Sea Conventions*

Saudi Arabia: Party to the 1982 UN Law of the Sea Convention (ratified 24 April 1996).

Jordan: Party to the 1982 UN Law of the Sea Convention (acceded 27 November 1995).

#### B *Maritime Jurisdiction Claimed at the Time of Signature*

Saudi Arabia: 12 M territorial sea; 18 M contiguous zone.

Jordan: 3 M territorial sea.

#### C *Maritime Jurisdiction Claimed Subsequent to Signature*

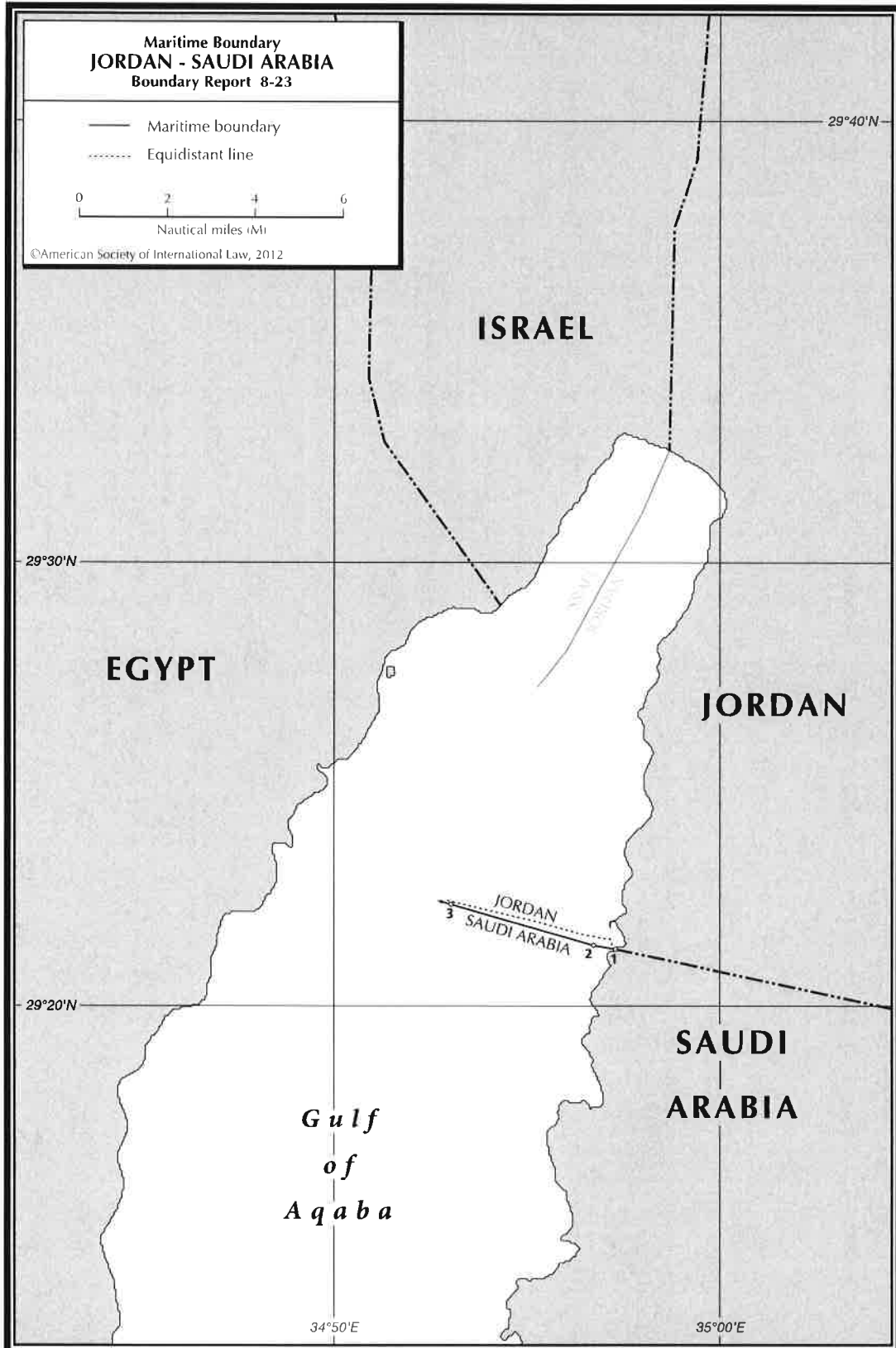
Saudi Arabia: Definitive list of straight baseline turning points (2010).

Jordan: No change.

### V REFERENCES AND ADDITIONAL READINGS

None.

*Prepared by Chris Carleton*



5110 Report 8-23

**Agreement on the Delimitation of the Maritime Boundaries in the  
Gulf of Aqaba between the Kingdom of Saudi Arabia and the  
Hashemite Kingdom of Jordan**

Drawing on the fraternal bonds between the kindred peoples and countries of the Kingdom of Saudi Arabia and the Hashemite Kingdom of Jordan, under the leadership of the Custodian of the Two Holy Mosques King Abdullah Bin Abdulaziz Al Saud of Saudi Arabia and His Majesty King Abdullah II Bin Al Hussein of Jordan; seeking to reaffirm those special bonds; desirous to realize and preserve the shared interests of both countries, promoting strong and lasting neighbourly relations; and acting on the basis of the Agreement on the delimitation of boundaries concluded by the two countries on 12 Rabi' II, A.H. 1385, corresponding to 9 August, A.D. 1965; the Government of the Kingdom of Saudi Arabia and the Government of the Hashemite Kingdom of Jordan have agreed to delimit the maritime boundary in the Gulf of Aqaba between the two countries as follows.

*Article I*

1. The maritime boundaries in the Gulf of Aqaba between the Kingdom of Saudi Arabia and the Hashemite Kingdom of Jordan shall begin from boundary point No. 1, the point at which the land border extending towards the sea at the Gulf of Aqaba intersects with the lowest low-water line along the coast. Its geographic coordinates are as follows:

29° 21' 26.599" North  
34° 57' 38.486" East

2. The maritime boundaries between the two countries shall then extend in a straight line from boundary point No. 1 to boundary point No. 2, whose geographic coordinates are as follows:

29° 21' 32.735" North  
34° 56' 57.915" East

3. The maritime boundaries shall then extend in a straight line from boundary point No. 2 to boundary point No. 3, whose geographic coordinates are as follows:

29° 22' 28.257" North  
34° 53' 17.136" East

4. The maritime boundaries shall then extend in a straight line from boundary point No. 3 until the end of the maritime boundary in the Gulf of Aqaba between the two countries.

5. The geographic coordinates established above shall be referenced to the World Geodetic System of 1984 (WGS 84).

#### *Article II*

1. Attached to this Agreement is an illustrative map at a scale of 1:25,000 signed by both parties, showing the locations and geographic coordinates of the boundary points and the delimitation of the maritime boundaries in the Gulf of Aqaba between the two countries. The map shall constitute an integral part of this Agreement.

2. The geographic coordinates of the boundary points established in article I shall constitute the fundamental reference delimiting the maritime boundaries in the Gulf of Aqaba between the two countries. The map is for explanatory purposes only.

#### *Article III*

This Agreement shall be subject to ratification by both States and shall enter into force thirty days after the exchange of instruments of ratification.

Done and signed at Jeddah, Kingdom of Saudi Arabia, in two original copies in the Arabic language, on Sunday, 6 Dhu 'l-Hijjah A.H. 1428, corresponding to 16 December A.D. 2007.

(Signed) For the Government of the Kingdom of Saudi Arabia:  
Nayif Bin Abdulaziz  
Minister of the Interior

(Signed) For the Government of the Hashemite Kingdom of Jordan:  
Ayd Bin Za'al Al-Fayiz  
Minister of the Interior

## Albania-Greece

*Report Number 8-21*

**Agreement between the Hellenic Republic and the Republic of  
Albania on the Delimitation of their Respective Continental Shelf  
Areas and Other Maritime Zones to which They Are Entitled under  
International Law**

*Signed:* 27 April 2009  
*Entry into force:* Not in force  
*Published at:* Unpublished

### I SUMMARY

On 27 April 2009 the Foreign Ministers of Albania and Greece signed an agreement relating to delimitation in the Strait of Corfu and beyond it into the south-eastern Adriatic Sea. It would delimit the territorial sea, the continental shelf and other potential maritime zones between the adjacent coasts of Albania and Greece as well as between the opposite coasts of Albania and of the Greek island of Corfu and other minor Greek islands. The negotiated boundary line extends 64.4 n.m. and connects 150 points by 149 straight segments. The method of delimitation is equidistance.

It is unlikely, however, that the Agreement will be ratified by Albania. Nonetheless, the negotiated text is important and instructive on several points.

### II CONSIDERATIONS

#### 1 *Political, Strategic and Historical Considerations*

##### A *Between the Parties*

On 15 April 2010 the Constitutional Court of Albania found that in the Agreement there are procedural and substantive violations of the Constitution and of the 1982 Law of the Sea Convention. The Court acted under Article



131 of the 1998 Albanian Constitution (“The Constitutional Court decides on...*b*) compatibility of international agreements with the Constitution, prior to their ratification”). The decision by the Court, composed of nine judges, was taken unanimously. The specific reasons for this decision are not yet known. In a press interview given immediately after the decision, the Albanian Minister of Foreign Affairs stated that the government will respect the finding by the Court.

The negotiated line relates to the delimitation of the territorial waters in the Strait of Corfu, a waterway connecting the Ionian and the Adriatic Sea, and between the continental coasts of Greece and Albania, on the one side, and the Greek island of Corfu, on the other. In a Judgment rendered on 9 April 1949 (*Corfu Channel* case, United Kingdom v. Albania),<sup>1</sup> the International Court of Justice found that the Strait of Corfu is “a useful route for international maritime traffic”, connecting two parts of the high seas and being used for international navigation, even if there is an alternative and much wider route of navigation west of Corfu, between this island and the continental coast of Italy. The case related to an accident which occurred on 22 October 1946, when two destroyers of the British Navy in transit through the strait struck a minefield in the northern exit of the strait laid by an unknown State. 44 British sailors died and 42 suffered injuries, while one ship (the *Saumarez*) was lost and the other (the *Volage*) damaged. Without elaborating about the precise maritime boundary between Albania and Greece, the Court assumed that, due to its very short distance from the Albanian coast, the minefield had been laid “in Albanian territorial waters”. In fact, “the distance of the nearest mine from the coast was only 500 metres”, “the minelayers must have passed at not more than about 500 metres from the coast between Denta Point and St. George’s Monastery”, and “the laying of a minefield in these waters could hardly fail to have been observed by the Albanian coastal defences”. The Court concluded that, even if it had not laid the mines, Albania was under an obligation to notify, “for the benefit of shipping in general, the existence of a minefield in Albanian territorial waters” and to warn “the approaching British warships of the imminent danger to which the minefield exposed them.”

The decision by the Court had a great influence on the codification of the regime of international straits, as reflected in the 1958 Geneva Convention on the Territorial Sea and the Contiguous Zone and the 1982 UN LOS Convention. The text of the negotiated Agreement (Article 5) sets forth that none of its provisions affects “the navigational rights and freedoms”, as provided for in the 1982 UN LOS Convention. However, the

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1 ICJ Reports 1949, p. 244.

regime applying today to the Strait of Corfu is not fully clear. It could be transit passage, that is the general 1982 UN LOS Convention regime applying to straits used for international navigation. But it could also be innocent passage, if the Strait of Corfu is considered as falling under the exceptional regime set forth by Article 38, paragraph 1, of the same Convention for straits “formed by an island of a State bordering the strait and its mainland”. The doubt is due to the fact that the mainland side of the strait is bordered by two States and not only by the State to which the island of Corfu belongs, as the provision seems to require if literally interpreted.

### B *Between the Parties and Third States in the Region*

Terminal point No. 150 of the negotiated line, located at a distance of 21.3 n.m. from the coasts of Albania and Greece and 22.2 n.m. from the coast of Italy, falls slightly short of the equidistant triple point between Albania, Greece and Italy. In the text, Albania and Greece provide that “the delimitation shall subsequently be extended until it meets the equidistant tripoint by applying the same methods as those used to determine the limit between points 1 and 150” (Article 1, paragraph 4). Such a wording seems in contradiction with the fact that any agreement on whether the triple point shall be an “equidistant” point and on how to determine it must be reached with the participation of the third State concerned (Italy). In the 1992 agreement on the delimitation of their continental shelves (*see* Report Number 8-11 in volume III of this work), Italy and Albania stopped the boundary line before reaching the tri-point, reserving the completion of the line to later agreements with the third States concerned, in the north Montenegro, and in the south Greece. While it seems that there have been diplomatic contacts between Greece and Italy and between Albania and Italy, negotiations between the three countries have not yet taken place.

## 2 *Legal Regime Considerations*

In the preamble and in Article 2 the signatories make a general reference to the relevant provisions of the 1982 UN LOS Convention, which is in force for both Albania and Greece.

In the preamble the signatories declare themselves “aware of the need to delimit precisely the maritime spaces over which the two countries exercise or shall exercise sovereignty, sovereign rights or jurisdiction in accordance with international law”. Taking also into account Article 2, this

general formula can be understood as meaning an all-purpose delimitation, applying to waters, seabed and subsoil, and delimiting the existing maritime zones (territorial sea, continental shelf). In the future it would also apply to the other zones that Albania and Greece are entitled to establish if they wish to do so (exclusive economic zone or, as some other Mediterranean States have done, fishing zone or ecological protection zone).

As the width of the respective territorial seas is different (12 n.m. for Albania, 6 n.m. for Greece) the negotiated line would presently relate to the respective territorial seas in the areas where the distance between the base-points does not exceed 12 n.m., to the Albanian territorial sea and the Greek continental shelf in the areas where this distance extends between 12 and 24 n.m. and to the respective continental shelves in the areas where this distance exceeds 24 n.m.

Under Article 6, disputes relating to the interpretation or application of the negotiated Agreement should be settled by diplomatic means. If the dispute is not settled within four months, it can be submitted “at the request of either party, to the International Court of Justice or to any international body chosen by mutual consent”. This provision would seem to constitute a basis for the compulsory jurisdiction of the International Court of Justice, if the Agreement were to enter into force.

### 3 *Economic and Environmental Considerations*

Article 3 includes a rather detailed provision applying if a deposit of non-living resources, including sand and gravel, straddles the boundary line. Article 3.1 would require the parties to endeavour to reach an agreement on the method of exploitation, after prior consultations with the holders of licenses. The same procedure would apply to determine a just compensation if the resources have already been exploited (Article 3, paragraph 2). Previously granted licenses would remain in force only within the limits of the boundary established (Article 3, paragraph 3).

Under Article 4, all possible measures are to be taken to ensure that the exploration or exploitation of the continental shelf does not adversely affect the ecological balance or unjustifiably interfere with other legitimate uses of the sea. This seems to be an implicit reference to activities, such as navigation and fishing, that take place in the superjacent waters.

#### 4 *Geographic Considerations*

The configuration of the coastline in the area where the land boundary between Albania and Greece reaches the sea has the effect of making an equidistant line start in a south-west direction to turn rather suddenly northwards, as soon as Corfu Island exercises its influence. Subsequently, the general directions of the opposite coasts of Albania, on the one side, and of the three Greek relevant islands of Corfu, Erikoussa and Othonoi (called also Fanos), on the other, tend to diverge, the Albanian coastline being longer than the sum of the coastlines of the Greek islands.

#### 5 *Islands, Rocks, Reefs, and Low-tide Elevations Considerations*

Article 1, paragraph 1 specifies that the line is equidistant from the nearest points on the baselines, "both continental and insular". While the Albanian basepoints are located on the continental coast, almost all the Greek basepoints are found on islands, either of medium (Corfu, 641 km<sup>2</sup>) or of small size, such as the islands of Erikoussa (less than 5 km<sup>2</sup>) and Othonoi (about 10 km<sup>2</sup>), both located north-west of Corfu. All the Greek islands seem to have been granted a full effect in the determination of the equidistant line.

#### 6 *Baseline Considerations*

Article 1, paragraph 1 also provides that the equidistance line will be measured "from the nearest points on the baseline (both continental and insular) from which the breadth of the territorial sea is measured" (Article 1, paragraph 1), without specifying whether the low-water line or straight baselines are used. In fact, for the purpose of determining the equidistance line, the negotiators took into account the closing lines of juridical bays existing along their respective coastlines, that is of those bays that meet the conditions set forth in Article 10, paragraphs 1 to 5 of the UN LOS Convention (closing line not exceeding 24 n.m. and the semi-circle rule). While Greece has not claimed straight baselines for any part of its coast, Albania has established a straight baseline system along certain parts of its coastline (Decree No. 4650 of 9 March 1970, modified by Decree No. 7366 of 24 March 1990). However, because of geographical reasons, the Albanian straight baselines do not seem to influence the determination of the equidistant line.

## 7 *Geological and Geomorphological Considerations*

Geological and geomorphological considerations did not influence this negotiation.

## 8 *Method of Delimitation Considerations*

The preamble (“deciding that the maritime boundary shall be determined on the basis of the principle of equidistance that is expressed by the median line”), as well as Article 1, paragraphs 1, 2 and 4, clearly state the intention to effect a delimitation on the basis of equidistance and refer to it as a “principle”. The same principle was used in the 1977 agreement on the delimitation of the continental shelf between Greece and Italy (*see* Report Number 8-4 in volume II of this work). It is likely that the preference by Greece for equidistance is also due to the complex and unsettled maritime boundary issue with Turkey where Greece upholds equidistance as a “principle” as regards the many Greek islands involved in the delimitation.

## 9 *Technical Considerations*

While specifying the geodetic system (Article 1, paragraph 3), the text makes no reference to a nautical chart. Due to the desire to be as specific as possible and due to the relatively limited length of the negotiated line, the 150 turning points are located very close to one another. The average density is of about one turning point every 740 meters. This may explain why, unlike other boundary treaties that define the coordinates of the turning points in degrees, minutes, seconds and tenths of seconds, this text records the coordinates to the hundredths of seconds. The geodetic system is WGS84 (Article 1, paragraph 3).

## 10 *Other Considerations*

None.

## III CONCLUSIONS

If the signed Agreement ever enters into force, it will be an all purpose delimitation treaty, applying for the time being to the territorial sea and the continental shelf and subsequently to the other maritime zones that Albania and Greece could establish. The method of equidistance was chosen both for the short lateral delimitation between their continental coasts and, more extensively, for the opposite delimitation between the Albanian continental coast and a number of Greek islands of different size.

## IV RELATED LAW IN FORCE

*C Law of the Sea Conventions*

Albania: Party to the 1958 Geneva Continental Shelf Convention (acceded 7 December 1974); Party to the 1982 UN Convention on the Law of the Sea (acceded 23 June 2003).

Greece: Party to the 1958 Geneva Continental Shelf Convention (acceded 6 November 1972 with reservation); Party to the 1982 UN Convention on the Law of the Sea (ratified 21 July 1995).

*D Maritime Jurisdiction Claimed at the Time of Signature*

Albania: 12 n.m. territorial sea (Decree No. 7366 of 24 March 1990).

Greece: 6 n.m. territorial sea (Legislative Decree No. 187 of 1973).

*E Maritime Jurisdiction Claimed Subsequent to Signature*

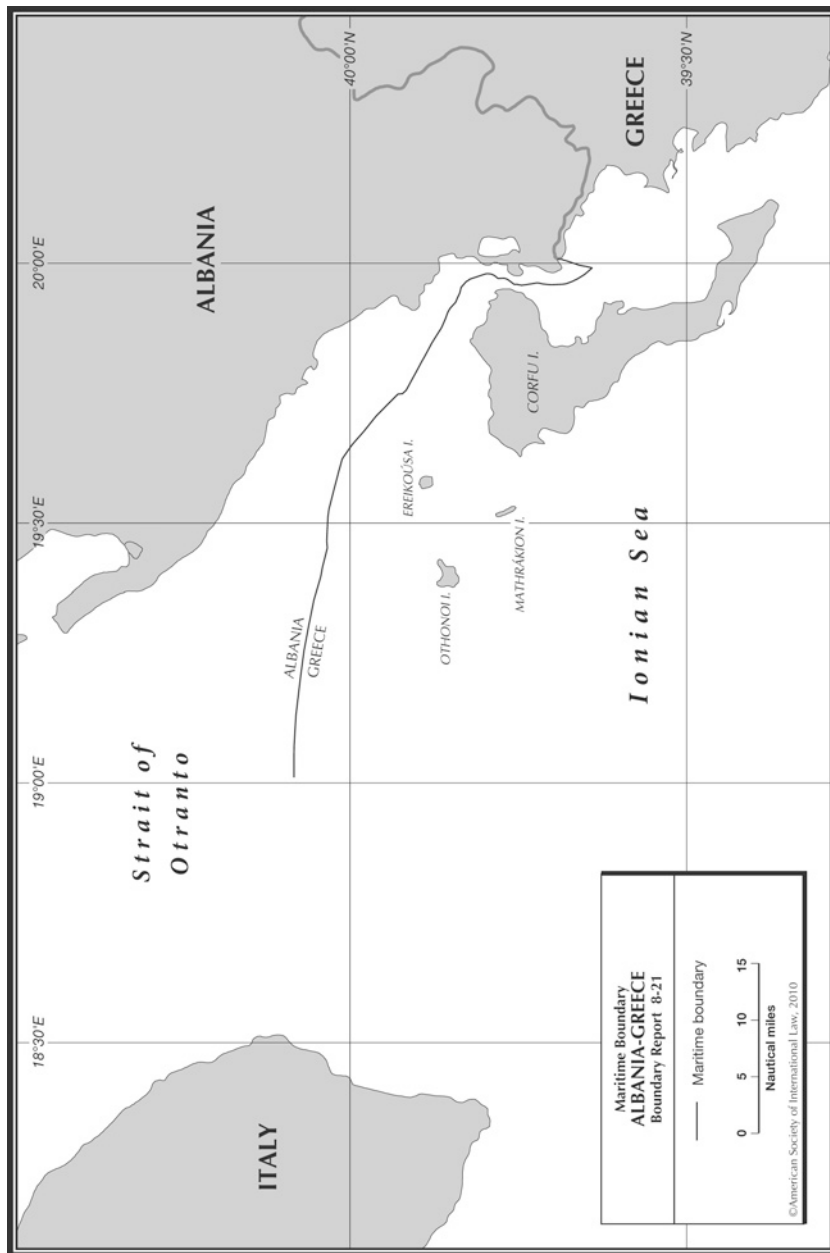
Albania: No change.

Greece: No change.

## V REFERENCES AND ADDITIONAL READINGS

None.

*Prepared by:*  
*Tullio Scovazzi and Irini Papanicolopulu (legal analysis)*  
*and Giampiero Francalanci (technical analysis)*



**Agreement Between the Republic of Albania and the Hellenic Republic on the Delimitation of their Respective Continental Shelf Areas and other Maritime Zones to which they are Entitled Under International Law**

**PREAMBLE**

The Republic of Albania and the Hellenic Republic (hereinafter the “Parties”); DESIRING to strengthen the ties of good-neighborliness and co-operation between the two countries;

DESIRING to further develop the existing co-operation based on the Treaty of Friendship, Cooperation, Good Neighborliness and Security between the Republic of Albania and the Hellenic Republic, signed on 21.03.1996;

AWARE of the need to delimit precisely the maritime spaces over which the two countries exercise or shall exercise sovereignty, sovereign rights or jurisdiction in accordance with international law;

RECOGNIZING in particular the importance of the delimitation of the continental shelf for the purpose of development in both countries;

RECALLING and implementing the relevant provisions of the United Nations Convention on the Law of the Sea (1982), to which the two countries are parties;

DECIDING that the maritime boundary shall be determined on the basis of the principle of equidistance that is expressed by the median line;

DESIRING to protect effectively the marine environment from exploration and exploitation activities that may cause or are likely to cause pollution;

HAVE AGREED as follows:

**Article 1**

1. The maritime boundary between the Republic of Albania and the Hellenic Republic shall be established in accordance with the principle of equidistance. More specifically, the delimitation line shall be the median line,



every point of which is equidistant from the nearest points on the baselines (both continental and insular) from which the breadth of the territorial sea is measured.

2. The median line is determined by a geodetic line connecting the following points:

COORDINATES WGS84						
#	Lat			Lon		
1	39° 41' 30.05"	N		20° 00' 30.87"	E	
2	39° 41' 24.99"	N		20° 00' 30.42"	E	
3	39° 41' 23.83"	N		20° 00' 30.33"	E	
4	39° 41' 21.72"	N		20° 00' 30.14"	E	
5	39° 41' 16.32"	N		20° 00' 29.88"	E	
6	39° 41' 14.64"	N		20° 00' 29.34"	E	
7	39° 41' 05.85"	N		20° 00' 29.19"	E	
8	39° 40' 58.54"	N		20° 00' 23.05"	E	
9	39° 40' 56.12"	N		20° 00' 22.71"	E	
10	39° 40' 53.44"	N		20° 00' 22.36"	E	
11	39° 40' 50.66"	N		20° 00' 22.02"	E	
12	39° 40' 48.00"	N		20° 00' 20.96"	E	
13	39° 40' 44.68"	N		20° 00' 19.68"	E	
14	39° 40' 38.63"	N		20° 00' 17.00"	E	
15	39° 40' 29.00"	N		20° 00' 12.79"	E	
16	39° 39' 52.92"	N		19° 59' 56.90"	E	
17	39° 39' 34.30"	N		19° 59' 48.76"	E	
18	39° 39' 14.64"	N		19° 59' 44.14"	E	
19	39° 38' 50.94"	N		19° 59' 38.46"	E	
20	39° 38' 25.97"	N		19° 59' 29.25"	E	
21	39° 39' 04.42"	N		19° 58' 46.11"	E	
22	39° 39' 42.58"	N		19° 58' 14.44"	E	
23	39° 39' 56.44"	N		19° 58' 05.82"	E	
24	39° 40' 11.38"	N		19° 57' 56.37"	E	
25	39° 40' 42.31"	N		19° 57' 41.47"	E	
26	39° 41' 01.85"	N		19° 57' 36.39"	E	
27	39° 41' 13.66"	N		19° 57' 35.07"	E	
28	39° 41' 19.91"	N		19° 57' 34.84"	E	
29	39° 41' 56.65"	N		19° 57' 34.00"	E	
30	39° 42' 07.20"	N		19° 57' 33.70"	E	
31	39° 42' 29.79"	N		19° 57' 35.70"	E	
32	39° 42' 33.93"	N		19° 57' 36.34"	E	
33	39° 42' 47.82"	N		19° 57' 38.70"	E	
34	39° 43' 11.57"	N		19° 57' 45.29"	E	
35	39° 43' 20.82"	N		19° 57' 46.44"	E	

(cont.)

COORDINATES WGS84					
#	Lat			Lon	
36	39° 44'	23.78"	N	19° 57'	33.07" E
37	39° 44'	34.37"	N	19° 57'	31.58" E
38	39° 44'	42.11"	N	19° 57'	29.10" E
39	39° 44'	46.99"	N	19° 57'	30.43" E
40	39° 44'	57.34"	N	19° 57'	33.16" E
41	39° 45'	04.55"	N	19° 57'	35.14" E
42	39° 45'	16.23"	N	19° 57'	35.61" E
43	39° 45'	20.85"	N	19° 57'	35.78" E
44	39° 45'	23.47"	N	19° 57'	36.35" E
45	39° 45'	34.06"	N	19° 57'	47.15" E
46	39° 45'	40.97"	N	19° 57'	54.58" E
47	39° 45'	45.12"	N	19° 57'	57.74" E
48	39° 45'	51.23"	N	19° 58'	03.75" E
49	39° 45'	55.50"	N	19° 58'	07.74" E
50	39° 46'	00.97"	N	19° 58'	11.19" E
51	39° 46'	05.71"	N	19° 58'	14.06" E
52	39° 46'	12.96"	N	19° 58'	17.81" E
53	39° 46'	16.50"	N	19° 58'	18.22" E
54	39° 46'	22.44"	N	19° 58'	18.76" E
55	39° 46'	22.88"	N	19° 58'	18.80" E
56	39° 46'	36.86"	N	19° 58'	17.20" E
57	39° 46'	49.99"	N	19° 58'	17.48" E
58	39° 46'	57.02"	N	19° 58'	26.55" E
59	39° 47'	10.17"	N	19° 58'	38.89" E
60	39° 47'	24.23"	N	19° 58'	46.60" E
61	39° 47'	26.16"	N	19° 58'	47.29" E
62	39° 47'	29.08"	N	19° 58'	48.16" E
63	39° 47'	38.86"	N	19° 58'	49.78" E
64	39° 47'	49.07"	N	19° 58'	49.54" E
65	39° 47'	53.92"	N	19° 58'	48.99" E
66	39° 48'	03.02"	N	19° 58'	45.13" E
67	39° 48'	11.79"	N	19° 58'	41.37" E
68	39° 48'	35.96"	N	19° 58'	30.70" E
69	39° 49'	02.40"	N	19° 58'	18.87" E
70	39° 49'	18.96"	N	19° 58'	11.41" E
71	39° 49'	26.88"	N	19° 58'	04.48" E
72	39° 49'	31.81"	N	19° 58'	00.14" E
73	39° 49'	37.35"	N	19° 57'	56.35" E
74	39° 50'	00.06"	N	19° 57'	22.84" E
75	39° 50'	05.09"	N	19° 57'	15.48" E
76	39° 50'	12.68"	N	19° 56'	35.46" E
77	39° 50'	13.43"	N	19° 56'	33.98" E

(cont.)

COORDINATES WGS84					
#	Lat			Lon	
78	39° 50' 24.24"	N		19° 56' 04.44"	E
79	39° 50' 33.77"	N		19° 55' 34.85"	E
80	39° 50' 34.43"	N		19° 55' 32.33"	E
81	39° 50' 39.39"	N		19° 55' 25.26"	E
82	39° 50' 43.17"	N		19° 55' 19.99"	E
83	39° 51' 03.02"	N		19° 54' 52.56"	E
84	39° 51' 06.01"	N		19° 54' 46.19"	E
85	39° 51' 08.95"	N		19° 54' 39.84"	E
86	39° 51' 16.33"	N		19° 54' 24.09"	E
87	39° 51' 29.19"	N		19° 53' 39.17"	E
88	39° 51' 48.71"	N		19° 52' 39.80"	E
89	39° 51' 56.98"	N		19° 52' 22.19"	E
90	39° 52' 00.30"	N		19° 52' 15.10"	E
91	39° 52' 21.63"	N		19° 51' 31.76"	E
92	39° 52' 29.29"	N		19° 51' 16.53"	E
93	39° 52' 33.53"	N		19° 51' 07.36"	E
94	39° 52' 43.23"	N		19° 50' 45.71"	E
95	39° 52' 48.49"	N		19° 50' 33.24"	E
96	39° 53' 00.61"	N		19° 50' 04.28"	E
97	39° 53' 23.97"	N		19° 49' 08.57"	E
98	39° 53' 33.75"	N		19° 48' 45.16"	E
99	39° 53' 56.88"	N		19° 47' 49.96"	E
100	39° 54' 14.75"	N		19° 47' 07.07"	E
101	39° 54' 25.66"	N		19° 46' 41.03"	E
102	39° 54' 40.29"	N		19° 46' 06.07"	E
103	39° 54' 58.79"	N		19° 45' 21.68"	E
104	39° 55' 18.81"	N		19° 44' 58.13"	E
105	39° 55' 36.41"	N		19° 44' 56.07"	E
106	39° 55' 42.99"	N		19° 44' 55.41"	E
107	39° 55' 48.13"	N		19° 44' 48.74"	E
108	39° 56' 16.97"	N		19° 44' 11.31"	E
109	39° 56' 34.76"	N		19° 43' 48.11"	E
110	39° 56' 44.07"	N		19° 43' 35.98"	E
111	39° 57' 04.87"	N		19° 43' 08.45"	E
112	39° 57' 37.60"	N		19° 42' 25.23"	E
113	39° 57' 51.30"	N		19° 42' 03.81"	E
114	39° 58' 40.23"	N		19° 40' 45.21"	E
115	39° 58' 49.33"	N		19° 40' 30.55"	E
116	39° 59' 22.73"	N		19° 39' 41.40"	E
117	39° 59' 48.08"	N		19° 39' 04.09"	E
118	40° 00' 27.13"	N		19° 37' 50.92"	E
119	40° 00' 38.23"	N		19° 37' 30.10"	E

(cont.)

COORDINATES WGS84					
#	Lat			Lon	
120	40° 00'	40.05"	N	19° 37'	24.39" E
121	40° 00'	41.91"	N	19° 37'	18.84" E
122	40° 00'	51.32"	N	19° 36'	33.43" E
123	40° 00'	58.25"	N	19° 35'	59.86" E
124	40° 01'	05.81"	N	19° 35'	23.14" E
125	40° 01'	24.19"	N	19° 33'	53.35" E
126	40° 01'	27.06"	N	19° 33'	37.91" E
127	40° 01'	50.85"	N	19° 31'	34.46" E
128	40° 01'	50.96"	N	19° 31'	33.50" E
129	40° 01'	55.55"	N	19° 30'	50.14" E
130	40° 01'	56.30"	N	19° 30'	42.67" E
131	40° 02'	02.24"	N	19° 27'	57.04" E
132	40° 01'	59.27"	N	19° 27'	11.43" E
133	40° 01'	59.11"	N	19° 27'	09.54" E
134	40° 02'	11.76"	N	19° 26'	05.32" E
135	40° 02'	24.88"	N	19° 24'	58.68" E
136	40° 02'	34.42"	N	19° 23'	50.99" E
137	40° 03'	10.57"	N	19° 21'	09.09" E
138	40° 03'	33.58"	N	19° 18'	42.55" E
139	40° 03'	36.87"	N	19° 18'	20.42" E
140	40° 03'	50.49"	N	19° 16'	48.48" E
141	40° 04'	03.42"	N	19° 15'	18.42" E
142	40° 04'	19.35"	N	19° 12'	40.34" E
143	40° 04'	19.82"	N	19° 12'	35.57" E
144	40° 04'	33.24"	N	19° 10'	21.61" E
145	40° 04'	46.11"	N	19° 07'	49.84" E
146	40° 04'	55.27"	N	19° 04'	36.73" E
147	40° 04'	55.98"	N	19° 04'	18.91" E
148	40° 04'	56.51"	N	19° 03'	19.85" E
149	40° 04'	56.79"	N	19° 01'	38.49" E
150	40° 04'	56.52"	N	19° 00'	40.32" E

3. The geodetic system is the WGS 84.
4. The Parties have agreed that, at present, the delimitation should not extend beyond point 150. The delimitation shall subsequently be extended until it meets the equidistant tripoint by applying the same methods as those used to determine the limit between points 1 and 150.

## **Article 2**

In implementing the United Nations Convention on the Law of the Sea (1982) to which both countries are Parties, on the side of the maritime boundary fixed in article 1 of this Agreement, adjacent to the Hellenic Republic, the Republic of Albania shall not, and, on the side of the maritime boundary adjacent to the Republic of Albania, the Hellenic Republic shall not, claim or exercise for any purpose sovereignty, sovereign rights or jurisdiction with respect to the waters, seabed or subsoil.

## **Article 3**

1. If a deposit of non-living natural resources, including sand and gravel, is split by the boundary line as fixed in article 1 of this Agreement, and if that part of the deposit which is situated on one side of the boundary line is exploitable, wholly or in part, by means of installations situated on the other side of the line, the Parties shall endeavour, after prior consultations with the holders of the exploitation licenses, if any, to reach agreement as to the method of exploitation of the deposit, in order to ensure that such exploitation is as profitable as possible and that each Party preserves its full rights over such resources. In particular, this procedure shall apply if the method of exploitation of that part of the deposit, which is situated on one side of the boundary line, affects the conditions for exploitation of the other part of the deposit.

2. If the non-living natural resources of a deposit located on both sides of the said boundary line have already been exploited, the Parties shall endeavour after prior consultation with the holders of exploitation licenses, if any, to reach agreement on just compensation.

3. Exploitation licenses granted before the conclusion of this Agreement shall remain in force only within the limits of the respective maritime area, as fixed by the boundary in article 1 of this Agreement, of the Party which granted the licenses.

## **Article 4**

The Parties shall take all possible measures to ensure that the exploration of the continental shelf and the exploitation of its natural resources do not adversely affect the ecological balance or unjustifiably interfere with other legitimate uses of the sea.

### Article 5

None of the provisions of this Agreement shall affect the navigational rights and freedoms, provided for in the United Nations Convention on the Law of the Sea (1982).

### Article 6

1. The Parties shall endeavour to settle, through diplomatic means, any dispute which may arise concerning the interpretation or application of this Agreement.

2. If such a dispute is not settled within four months from the date of which one of the Parties gave notice of its intention to initiate the procedure provided for in the preceding paragraph, it shall be referred, at the request of either Party, to the International Court of Justice or to any other international body chosen by mutual consent.

### Article 7

1. This Agreement shall be subject to ratification. The instruments of ratification shall be exchanged in Athens.

2. This Agreement shall enter into force on the date of exchange of the instruments of ratification.

DONE in Tirana, on 27th April 2009, in duplicate, in Albanian, Greek and English languages, all texts being equally authentic. In case of divergence of interpretation the English text will prevail.

FOR THE REPUBLIC OF  
ALBANIA

Lulzim Basha

MINISTER OF FOREIGN  
AFFAIRS

FOR THE HELLENIC  
REPUBLIC

Theodora Bakoyannis

MINISTER OF FOREIGN  
AFFAIRS

## Ecuador-Peru

*Report Number 3-9 (Add. 1)*

### **Agreement by Exchange of Notes of Identical Content between the Republic of Peru and the Republic of Ecuador**

*Signed:* 2 May 2011  
*Entry into force:* 20 May 2011  
*Published at:* 2756 UNTS 223 (I-48631); 76 LOS Bull. 30 (2011)

#### I SUMMARY

On 2 May 2011, the governments of Peru and Ecuador exchanged diplomatic notes indicating their agreement on the delimitation of their maritime boundary in the Pacific Ocean. The Agreement amicably settles any maritime border disputes between two countries which have in the past engaged in armed conflict over the demarcation of their land border.

Under the Agreement the maritime boundary extending through the water column, seabed, and subsoil runs west along the geographic parallel of latitude 03° 23' 31.65" S from "the point of convergence between the [straight] baselines of Peru and Ecuador,"<sup>1</sup> for a distance of 200 nautical miles (M) from that starting point.<sup>2</sup> The parallel of latitude corresponds to the land boundary established by the 1942 Rio de Janeiro Protocol and confirmed in the 1998 Act of Brasilia at Boca de Capones.<sup>3</sup> The Agreement also establishes the boundary dividing the adjacent internal waters of the parties along the same parallel of latitude.<sup>4</sup>

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1 Paragraph 3.

2 Paragraph 4.

3 See Report Number 3-9, I IMB 829, 832.

4 Paragraph 5.

## II CONSIDERATIONS

1 *Political, Strategic, and Historical Considerations*

Peru and Ecuador, together with Chile, are parties to two maritime agreements. The 1952 Declaration on the Maritime Zone (“Santiago Declaration”) asserted exclusive sovereignty and jurisdiction over a maritime zone to include the water column, seabed, and subsoil to a minimum distance of 200 M from the coast.<sup>5</sup> The Santiago Declaration also suggested that maritime zones would be circumscribed “by the parallel at the point at which the land frontier of the States concerned reaches the sea.”<sup>6</sup> A subsequent tripartite agreement, the 1954 Agreement Relating to a Special Maritime Frontier Zone, established 10 M zones of tolerance on either side of the noted geographic parallels beyond 12 M from the coast in which small fishing vessels could accidentally intrude without sanction.<sup>7</sup> In regard to the 1952 Agreement, an earlier report in this series provided as follows:

In a tripartite joint declaration issued on 18 August 1952 by Chile, Peru, and Ecuador it was declared that the general maritime zone of their countries shall be bounded by the parallel of latitude drawn from the point where the land frontier between the respective countries reaches the sea (Article IV). This delimitation line divides both the area of sea adjacent to the coasts of these countries and the sea floor and subsoil thereof (Articles II and III). It is an all-purpose delimitation line...<sup>8</sup>

Together the 1952 and 1954 agreements have over the years buttressed both Ecuador and Chile’s claims to an existing conventional delimitation of their maritime borders with Peru running along geographic parallels.<sup>9</sup> For its part, Peru has claimed the agreements were not intended to be delimitation agreements.<sup>10</sup> In 2008 Peru instituted proceedings against Chile before the

5 See Report Number 3-5, I IMB 793; Report Number 3-9, I IMB 829; see also Declaration on the Maritime Zone (“Santiago Declaration”), Articles II, III, 18 August 1952, 1006 UNTS 324.

6 *Id.* at Article IV.

7 See Report Number 3-9, I IMB 829, 830-31; Agreement on the Special Maritime Border Zone, Article 1, 4 December 1954, 2274 UNTS 527.

8 Report Number 3-5, I IMB 793, 793.

9 See, e.g., Lara Brozzesi, *La Delimitación Marítima Entre el Ecuador y el Perú: Nuevas Aclaraciones*, 42 Revista de las Asociación de Funcionarios y Empleados del Servicio Exterior Ecuatoriano 51 (2005), available at <http://www.afese.com/img/revistas/revista42/delimitacion.pdf> (last visited 16 July 2013).

10 Ministerio de Relaciones Exteriores de la República del Perú, Comunicado Oficial 004-12: Cancillería peruana reitera posición sobre Límites Marítimos con Ecuador, 26 July 2012, available at [http://www.rreec.gob.pe/Noticias/Paginas/CO\\_004\\_12.aspx](http://www.rreec.gob.pe/Noticias/Paginas/CO_004_12.aspx) (last visited 16 July 2013).



International Court of Justice, claiming *inter alia* that “[t]he maritime zones between Chile and Peru have never been delimited by agreement or otherwise.”<sup>11</sup> In any case, the 2011 Agreement between Ecuador and Peru resolves any outstanding disagreement between the two on this point.

Finally, both Ecuador (in 1971)<sup>12</sup> and Peru (2005 and amended in 2011 following the Agreement)<sup>13</sup> have declared straight baselines which together stretch across the mouth of the Gulf of Guayaquil and effectively extend areas of territorial sovereignty from the coast out through newly-formed internal waters to the straight baselines. This extension of coastal state sovereignty had the effect of moving the start of the maritime boundary approximately 50 M seaward from the long-recognized land boundary terminus on the coast at Boca de Capones to the intersection of the parties’ straight baselines.

## 2 *Legal Regime Considerations*

At the time of the 2011 Agreement neither Ecuador nor Peru was a party to the United Nations Convention on the Law of the Sea (“UNCLOS”). Following the 2011 Agreement, Ecuador acceded to UNCLOS on 24 September 2012. For its part, Peruvian law establishes the notion of a 200 M “maritime dominion,” in which it exercises sovereignty and jurisdiction in a manner arguably consistent with UNCLOS.<sup>14</sup> Both Ecuador and Peru have legislation providing for straight baselines in the vicinity.<sup>15</sup>

## 3 *Economic and Environmental Considerations*

No economic or environmental considerations are cited in the 2011 Agreement.

11 Maritime Dispute (Peru v. Chile), Application Instituting Proceedings, para. 2, 16 January 2008, available at <http://www.icj-cij.org/docket/files/137/14385.pdf> (last visited 16 July 2013).

12 Supreme Decree No. 959-A of 28 June 1971, Articles 1, 2.

13 Law No. 29687 of 19 May 2011, amending Law No. 28621 of 3 November 2005: Baselines Law of the Maritime Dominion of Peru. See El Peruano, Ley que adecua la ley 28621, ley de líneas de base del dominio marítimo del Perú, 19 May 2011, available at <http://www.congreso.gob.pe/ntley/Imagenes/Leyes/29687.pdf>.

14 Supreme Decree 781 of 1947; 1993 Constitution, Article 54, available at Website of the Ministerio de Relaciones Exteriores de la República del Perú, <http://delimitacionmaritima.rree.gob.pe/fondo.html> (last visited 16 July 2013).

15 See *infra*, Part II-6.

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#### 4 *Geographic Considerations*

The Gulf of Guayaquil is the most salient geographical feature in the border area. The 2011 Agreement notes the intent of both parties to undertake joint actions towards the recognition of the Gulf of Guayaquil as a historic bay.<sup>16</sup> Since 1971, when Ecuador enacted legislation providing for straight baselines along its continental coast, a significant portion of the Gulf (including its inner concavity) has been composed of Ecuador's internal waters. The 2011 Agreement confirms this understanding.<sup>17</sup>

#### 5 *Islands, Rocks, Reefs, and Low-tide Elevations Considerations*

None.

#### 6 *Baseline Considerations*

Ecuador's legislation provides for straight baselines along its continental coast and that of the Galapagos Islands.<sup>18</sup> Peru's own baseline legislation provides for straight baselines along the Peruvian coast, including in the vicinity of the boundary.<sup>19</sup> The terms of the 2011 Agreement provide that the maritime delimitation line will run from the convergence point of their respective baselines at coordinates 03° 23' 31.65" S, 81° 09' 12.53" W, and extend along the agreed parallel of latitude for 200 M from that starting point.<sup>20</sup>

#### 7 *Geological and Geomorphological Considerations*

Under the 2011 Agreement the maritime boundary extends through the water column, seabed, and subsoil.<sup>21</sup> The continental shelf in the immediate vicinity is a narrow margin shelf with no indication that the geomorphology of

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16 Paragraph 1; *see also* UNCLOS, Articles 7, 8, 10, 10 December 1982, 1833 UNTS 397, 21 ILM 1261.

17 Paragraph 5.

18 Supreme Decree No. 959-A of 28 June 1971.

19 Law 28621 of 3 November 2005, as amended by Law No. 29687 of 19 May 2011.

20 Paragraphs 3, 4.

21 Paragraph 2.

the seabed would allow either country to establish continental shelf entitlements beyond 200 M.

### 8 *Method of Delimitation Considerations*

Ecuador and Peru are adjacent coastal states along the Pacific Ocean. The 2011 Agreement followed the parallel-of-latitude method of delimitation. As noted by Jiménez de Aréchaga in Volume I of this series, the use of the equidistance method would have placed the boundary between Ecuador and Peru farther north.<sup>22</sup>

### 9 *Technical Considerations*

The parties to the 2011 Agreement recognized that the coordinates that had defined the parallel of latitude of their land boundary terminus required updating and transformation to coordinates referenced to a modern geodetic datum. The exchange provides for this transformation and specifies the WGS 84 coordinates of the land boundary terminus, the starting point for the maritime boundary and the geographic parallel which forms that boundary.<sup>23</sup>

### 10 *Other Considerations*

None.

## III CONCLUSIONS

The 2011 exchange of notes between Ecuador and Peru indicates their agreement on the delimitation of their maritime boundary starting from the point of convergence between their respective baselines and extending seaward along the geographic parallel of latitude 03° 23' 31.65" S through the water column, seabed, and subsoil for a distance of 200 M. The 2011 Agreement is not inconsistent with their 1952 Declaration in which they proclaimed sovereignty and jurisdiction over the sea, subsea, and subsoil thereof along

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22 See Report Number 3-9, I IMB 829.

23 Paragraphs 2, 3.

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the coasts of their respective countries to a minimum distance of 200 M from these coasts.

#### IV RELATED LAW IN FORCE

##### A *Law of the Sea Conventions*

Ecuador: Acceded to UNCLOS on 24 September 2012.

Peru: Not Party to the 1958 Conventions or UNCLOS.

##### B *Maritime Jurisdiction Claimed at the Time of Signature*

Ecuador: 200 M territorial sea.

Peru: 200 M territorial sea (“maritime dominion”).

##### C *Maritime Jurisdiction Claimed Subsequent to Signature*

Ecuador: 12 M territorial sea; 200 M exclusive economic zone; continental shelf “to a distance of 350 nautical miles measured from the baselines of the Galapagos Archipelago.”<sup>24</sup>

Peru: No changes.

#### V REFERENCES AND ADDITIONAL READINGS

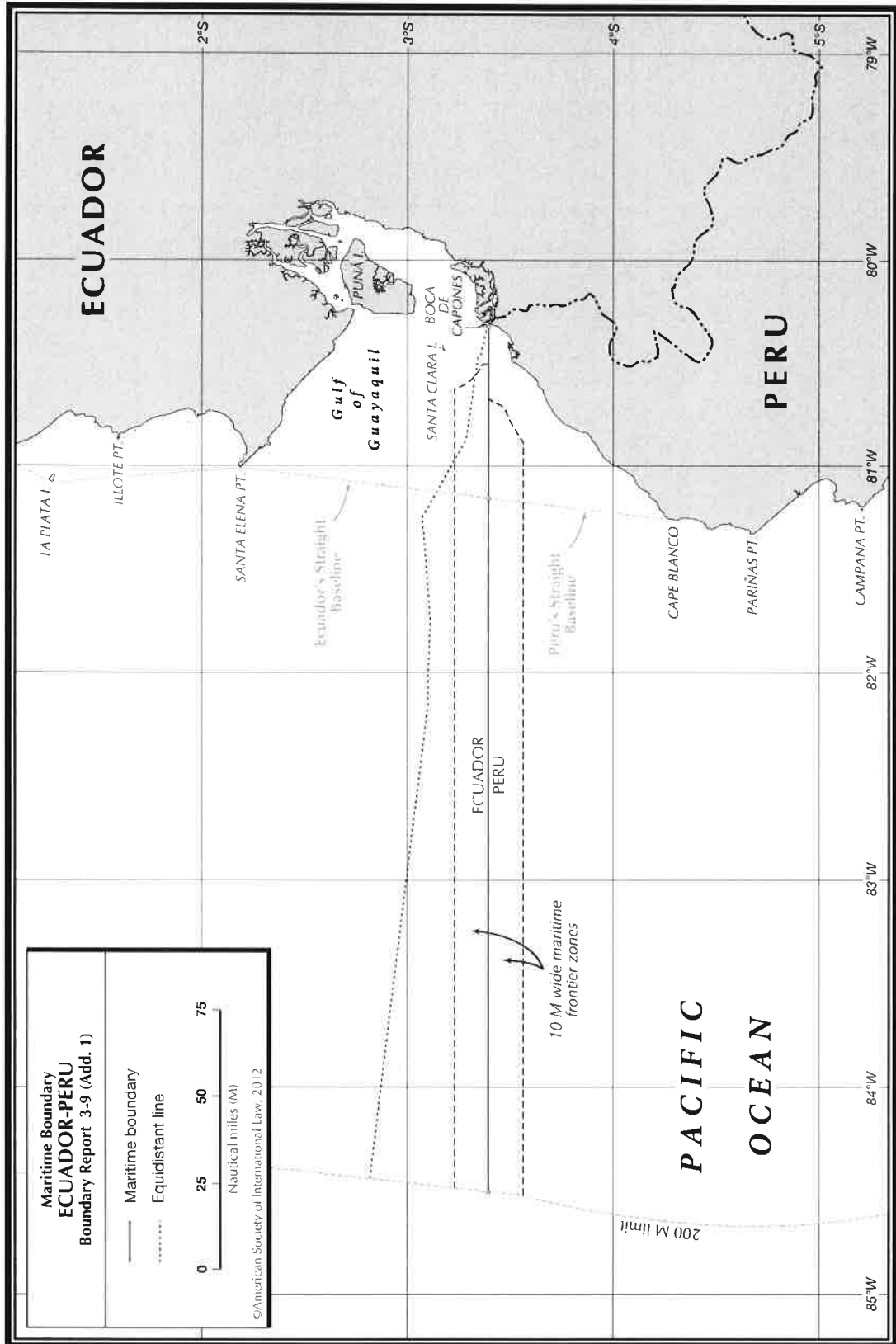
Jiménez de Aréchaga, *Ecuador-Peru (1952)*, Report Number 3-9, I IMB 829.

US Dep’t of State, *Maritime Boundary: Ecuador-Peru*, LIMITS IN THE SEAS, No. 88 (1979).

UN Div. for Ocean Affs. & Law of the Sea, *Maritime Space: Maritime Zones and Maritime Delimitation*, <http://www.un.org/Depts/los/LEGISLATIONANDTREATIES/regionslist.htm> (last visited 16 July 2012).

*Prepared by Hernando Otero*

<sup>24</sup> See Declaration of Ecuador upon Ratification of UNCLOS, 24 September 2012, Parts II, V, available at [http://www.un.org/depts/los/convention\\_agreements/convention\\_declarations.htm](http://www.un.org/depts/los/convention_agreements/convention_declarations.htm) (last visited on 16 July 2013).



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**Agreement by Exchange of Notes of Identical Content between the  
Republic of Peru and the Republic of Ecuador**

Note (GAB) No. 6-12-YY/01

Lima, 2 May 2011

Sir,

I have the honour to express the consent of the Republic of Peru to enter into an agreement with the Republic of Ecuador, as follows:

1. Peru and Ecuador hereby express their desire to carry out joint actions for the recognition of the Gulf of Guayaquil as a historic bay.
2. In view of the existence of special circumstances in the area adjacent to the land boundary between our two countries, the boundary between the maritime spaces over which Peru and Ecuador have sovereignty or sovereign rights and jurisdiction, including both the water column and the bed and subsoil thereof, shall extend along the geographical parallel  $03^{\circ} 23' 33.96''$  S, which, at meridian  $80^{\circ} 19' 16.31''$  W, corresponds to the starting point of the land boundary established by the Act of Brasilia of 26 October 1998, of which the equivalent coordinates under the World Geodetic System 1984 (WGS 84),  $03^{\circ} 23' 31.65''$  S and  $80^{\circ} 18' 49.27''$  W, respectively, were established in the Act signed at the end of the fourth meeting of the Peru-Ecuador Joint Standing Committee on Border Demarcation, held in Lima on 23 and 24 April 2009.
3. The starting point of the maritime boundary shall be set at  $03^{\circ} 23' 31.65''$  S latitude,  $81^{\circ} 09' 12.53''$  W longitude under WGS 84, corresponding to the point of convergence between the baselines of Peru and Ecuador.
4. The line described in paragraph 2 above shall extend for a distance of 200 nautical miles from the starting point of the maritime boundary referred to in paragraph 3 above.
5. The internal waters adjacent to both States shall be demarcated by the geographical parallel  $03^{\circ} 23' 31.65''$  S under WGS 84, referred to in paragraph 2 above. The nature of the internal waters of the two States shall be understood to be without prejudice to the freedom of international communication under customary international law, as reflected in the United Nations Convention on the Law of the Sea.

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6. The map depicting the course of the maritime boundary between Peru and Ecuador as defined in the foregoing paragraphs shall form an integral part of the present agreement. This agreement and the annexed map shall be registered with the United Nations jointly by both countries.

7. The present note from Peru and an identical note to be transmitted by Ecuador shall constitute an agreement between the two countries, which shall enter into force on the date of the last communication whereby the parties notify each other of the completion of their respective domestic procedures for that purpose. The time limit for such notification shall be 120 days from the date of the exchange of notes between the two countries.

Accept, Sir, the renewed assurances of my highest consideration.

(Signed) Jose Antonio Garcia Belaunde

Minister for Foreign Affairs

Note No. 9428 GMRECI/CGJ/2011

Quito, 2 May 2011

Sir,

I have the pleasure to acknowledge receipt of your note No. (GAB) 6-12-YY/OI of today's date, which reads as follows:

"I have the honour to express the consent of the Republic of Peru to enter into an agreement with the Republic of Ecuador, as follows:

1. Peru and Ecuador hereby express their desire to carry out joint actions for the recognition of the Gulf of Guayaquil as a historic bay.

2. In view of the existence of special circumstances in the area adjacent to the land boundary between our two countries, the boundary between the maritime spaces over which Peru and Ecuador have sovereignty or sovereign rights and jurisdiction, including both the water column and the bed and subsoil thereof, shall extend along the geographical parallel 03° 23' 33.96" S, which, at meridian 80° 19' 16.31" W, corresponds to the starting point of the land boundary established by the Act of Brasilia of 26 October 1998, of which the equivalent coordinates under the World Geodetic System 1984 (WGS 84), 03° 23' 31.65" S and 80° 18' 49.27" W, respectively, were established in the Act signed at the end of the fourth meeting of the Peru-Ecuador

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Joint Standing Committee on Border Demarcation, held in Lima on 23 and 24 April 2009.

3. The starting point of the maritime boundary shall be set at 03° 23' 31.65" S latitude, 81° 09' 12.53" W longitude under WGS 84, corresponding to the point of convergence between the baselines of Peru and Ecuador.

4. The line described in paragraph 2 above shall extend for a distance of 200 nautical miles from the starting point of the maritime boundary referred to in paragraph 3 above.

5. The internal waters adjacent to both States shall be demarcated by the geographical parallel 03° 23' 31.65" S under WGS 84, referred to in paragraph 2 above. The nature of the internal waters of the two States shall be understood to be without prejudice to the freedom of international communication under customary international law, as reflected in the United Nations Convention on the Law of the Sea.

6. The map depicting the course of the maritime boundary between Peru and Ecuador as defined in the foregoing paragraphs shall form an integral part of the present agreement. This agreement and the annexed map shall be registered with the United Nations jointly by both countries.

7. The present note from Peru and an identical note to be transmitted by Ecuador shall constitute an agreement between the two countries, which shall enter into force on the date of the last communication whereby the parties notify each other of the completion of their respective domestic procedures for that purpose. The time limit for such notification shall be 120 days from the date of the exchange of notes between the two countries.

Accept, Sir, the renewed assurances of my highest consideration."

In this connection, I am pleased to express the consent of the Republic of Ecuador to the terms of the abovementioned agreement, thereby complying with the provisions of paragraph 7 thereof.

Accept, Sir, the assurances of my highest consideration.

(Signed) Ricardo Patiño Aroca  
Minister for Foreign Affairs, Trade and Integration of the Republic of Ecuador



## France-Italy

*Report Number 8-2(2)*

### **Agreement between the Government of the French Republic and the Government of the Italian Republic regarding the Delimitation of the Territorial Seas and Zones under National Jurisdiction between France and Italy**

*Signed:* 21 March 2015  
*Entry into force:* Not in force  
*Published at:* Not published officially<sup>1</sup>

#### I SUMMARY

This Agreement between France and Italy on the delimitation of their entire maritime boundary in the Mediterranean has been given little publicity, although this constitutes a significant development against the background of outstanding delimitations in the Mediterranean. Agreement on the terms of the delimitation was reached after lengthy negotiations, which is probably due to the fact that the delimitation exercise was taking place in a complex geographical and hydrographical setting featuring a succession of adjacent and opposite coasts, systems of straight baselines claimed by both parties, and the presence of major and smaller islands in the relevant area. The Agreement covers the territorial seas, the continental shelf, and the waters under jurisdiction of the parties. The agreed delimitation line is formed by straight lines connecting 42 points, starting from the land boundary terminus between France and Italy (Point T) to the tripoint among France, Italy, and Spain (Point 42). Upon entry into force, this Agreement will replace the 1986 delimitation agreement between the parties, which delimited the territorial sea in the Strait of Bonifacio.<sup>2</sup>

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1 The French original text of the Agreement is available on an unofficial website at [http://reglementation-polmer.chez-alice.fr/Textes/accord\\_frontiere\\_maritime\\_franco\\_italien.pdf](http://reglementation-polmer.chez-alice.fr/Textes/accord_frontiere_maritime_franco_italien.pdf).

2 See Report Number 8-2, II IMB 1571.

2 *Report Number 8-2(2)*

## II CONSIDERATIONS

1 *Political, Strategic and Historical Considerations*

Long-standing good neighborly relations exist between Italy and France allowing negotiations, reported in the Preamble of the Agreement, to have been conducted between 2006 and 2012 and to have reached a mutually convenient solution. Both States have well-established maritime policies. Italy has been in past decades the most active state in the Mediterranean in delimiting maritime boundaries. France for its part has engaged for several years a proactive policy of asserting its maritime zones, regarding both those surrounding the coasts of the metropolitan territory and those generated by the various overseas territories of France.<sup>3</sup>

2 *Legal Regime Considerations*

The Agreement results in a full delimitation of the territorial seas, the continental shelf, and zones under national jurisdiction of the parties, as expressed in Article 1.

It may be noted that France had previously established an EEZ off the coast of its territory in the Mediterranean.<sup>4</sup> Italy for its part has not established an EEZ, but an Ecological Protection Zone (EPZ) covering the north-west Mediterranean, the Ligurian Sea, and the Tyrrhenian Sea in 2011<sup>5</sup> pursuant to a law on the EPZ adopted in 2006.<sup>6</sup> The external boundaries of these zones were established unilaterally “waiting for the delimitation agreements with France and Spain.”<sup>7</sup>

3 See A. Sandrin-Deforge, *Ressources marines et délimitation des zones en mer : les grandes manœuvres*, in BULLETIN DU DROIT DE L'ENVIRONNEMENT INDUSTRIEL 56, 21-23 (2015).

4 Decree No. 2012-1148 of 12 October 2012. The list of relevant geographical coordinates was deposited with the UN Secretary General on 21 February 2013, pursuant to Article 75, para. 2 of UNCLOS. See the communication from DOALOS at [http://www.un.org/depts/los/LEGISLATIONANDTREATIES/PDFFILES/mzn\\_s/mzn94ef.pdf](http://www.un.org/depts/los/LEGISLATIONANDTREATIES/PDFFILES/mzn_s/mzn94ef.pdf).

5 See Presidential Decree No. 209 of 27 October 2011, enacting regulations establishing ecological protection zones in the north-west Mediterranean, the Ligurian Sea and the Tyrrhenian Sea. (11G0252), Gazzetta Ufficiale No. 293 of 17 December 2011.

6 *Italian Law 61 on the Establishment of an ecological protection zone beyond the outer limit of the territorial sea*, in LAW OF THE SEA BULLETIN No. 61, 98 (2006).

7 Presidential Decree No. 209 of 27 October 2011, Gazzetta Ufficiale No. 293 of 17 December 2011, Art. 2.

Regarding preexisting agreements, it is to be recalled that France and Italy delimited part of their maritime boundary in the area of the Strait of Bonifacio in 1986. This 1986 agreement confirmed and repealed an earlier fishing agreement of 18 January 1908. This partial delimitation line appeared to be roughly based on equidistance.<sup>8</sup>

Article 5 of the Agreement does not provide for binding third-party dispute settlement but only for bilateral negotiation in the event of a dispute regarding its interpretation or application.

### 3 *Economic and Environmental Considerations*

There is no indication that economic or environmental considerations affected the location of the boundary except as regards the following: Article 2 of the Agreement allows French and Italian coastal fishing vessels to carry out their activities in the traditional fishing areas located within a zone defined by a line joining four points (Points A to D), which corresponds roughly – even if not exactly – to the similar fishing zone already existing under the 1986 delimitation agreement in the area of the Strait of Bonifacio. More generally, extensive fishing activities taking place in the area and affected by the delimitation were likely taken into account in the delimitation.

Article 4 of the Agreement provides for the rights and obligations of the parties in situations where offshore hydrocarbon deposits straddling the maritime boundary might be found to exist. Both States are under an obligation to negotiate towards settling the terms applicable to the development of the straddling deposit after prior consultation with holders of exploration or exploitation rights as the case may be. It should be noted that the wording of the relevant clause seems to reflect French practice as it is largely based on the wording of the similar clause in the 1974 agreement between France and Spain on delimitation in the Bay of Biscay.<sup>9</sup>

Further, the need for a delimitation of maritime zones in the area located between Corsica and mainland Italy may have been affected by the GALSI gas pipeline project, which is designed to transport gas from Algeria to mainland Italy through Sardinia and which was reported to possibly include

8 V. Prescott and C. Schofield, *THE MARITIME POLITICAL BOUNDARIES OF THE WORLD* 391-92 (2005).

9 See the 1974 Convention between the Government of the French Republic and the Government of the Spanish State on the delimitation of the continental shelves of the two states in the Bay of Biscay, Article 4, reproduced in *INTERNATIONAL MARITIME BOUNDARIES* Vol. II 1728-1734 (J.I. Charney & L.M. Alexander eds., 1998).

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a branch connecting with Corsica (currently not connected to the gas networks).

4 *Geographic Considerations*

The determination of the coasts relevant to the delimitation between France and Italy raised a specific issue given the presence of the maritime area of Monaco on the French side of the mainland coast.<sup>10</sup> It is unclear whether the delimitation line between the adjacent coasts of France and Italy (Points T to 7) was constructed to take into consideration the coast of Monaco. Its relevance to the delimitation was doubtful in light of the jurisprudence of the International Court of Justice in the *Cameroon/Nigeria* case where the Court affirmed that the coasts relevant to the delimitation do not include those of third States.<sup>11</sup> In any event, the potential effect of the coast of Monaco would have been negligible. It is also unclear whether the existing delimitation between France and Monaco played a role, but it does not appear to have been taken into account.

5 *Islands, Rocks, Reefs, and Low-tide Elevations Considerations*

A number of islands, both major and minor, and at least one rock (Scoglio d’Africa), have affected the location of the boundary. It is noteworthy that Scoglio d’Africa, a small feature that obviously qualifies only as a rock under Article 121(3) of UNCLOS as unable to sustain human habitation or economic life of its own, was given full effect generating a base point from which the equidistance line with the eastern coast of Corsica was constructed (near Points 18 and 19).

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10 The delimitation between France and Monaco has been effected by a Convention on maritime delimitation signed on 16 February 1984, 1411 UNTS 290 (1985). This convention provides for two parallel straight lines running in a south southeastern direction, producing a long, narrow maritime zone for Monaco. *See* Report Number 8-3, II IMB 1581.

11 *Land and Maritime Boundary (Cameroon/Nigeria; Equatorial Guinea intervening)*, 2002 I. C. J. Reports 303, para. 291 (10 Oct. 2002) (“the maritime boundary between Cameroon and Nigeria can only be determined by reference to points on the coastlines of these two States and not of third States”).

## 6 Baseline Considerations

Both Italy and France have enacted legislation measuring the breadth of the territorial sea from straight baselines connecting specific points located on their coasts. At the time of signature of this Agreement, the French domestic legislation providing for a system of straight baselines enacted in 1967 was still in force.<sup>12</sup> While the French baselines used along its Atlantic coast have attracted much criticism (some commentators pointed to the fact that the coast of Brittany arguably does not meet the requirements of Article 7 of UNCLOS), those used in the Mediterranean and the island of Corsica have generally been considered acceptable.

Straight baselines have also been enacted along the western and south-eastern coasts of the island of Corsica, which are deeply indented and/or fringed with a number of islands and islets.<sup>13</sup>

It may be noted that, just a few months after the signature of the Agreement, the French government enacted a new decree defining the baselines from which the breadth of the French territorial sea adjacent to the territory of mainland France and Corsica is measured.<sup>14</sup> A note accompanying the decree explains that “pursuant to the relevant provisions of the United Nations Convention on the Law of the Sea of 10 December 1982, the present decree updates and clarifies the baselines defined in the decree of 19 October 1967, which it repeals and replaces.”<sup>15</sup>

Italy for its part has enacted legislation providing for straight baselines along part of its coasts (including some of those relevant to the present

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12 Decree of 19 October 1967 defining the straight baselines and the closing lines of bays serving to determine the baselines from which the breadth of the territorial waters is measured, is reprinted and analyzed in U.S. Department of State, *Limits in the Seas*, No. 37 *Straight Baselines: France*, Feb. 29, 1972, available at <http://www.state.gov/documents/organization/61542.pdf>.

13 It is to be noted that these 1967 French straight baselines have been published on several charts of the Service Hydrographique de la Marine (SHOM), some of which are relevant to the area covered by the Agreement: Chart No. 1303P DU CAP DE CREUX AU CAP MARTIN, 1:448, 270, 1971, and Chart No. 4993P, ILE DU CORSE, 1:229, 500, 1970.

14 Decree No. 2015-958 of 31 July 2015 defining the baselines from which the breadth of the French territorial sea adjacent to the territory of mainland France and Corsica is measured, in English is available at [http://www.un.org/depts/los/LEGISLATIONANDTREATIES/PDFFILES/DEPOSIT/fra\\_mainland\\_corsica\\_en.pdf](http://www.un.org/depts/los/LEGISLATIONANDTREATIES/PDFFILES/DEPOSIT/fra_mainland_corsica_en.pdf).

15 See Decree No. 2015-958 of 31 July 2015 defining the baselines from which the breadth of the French territorial sea adjacent to the territory of mainland France and Corsica is measured. The French decree of July 2015 reportedly intends to make the limits of zones under national jurisdiction known to the public, via the technical website of SHOM. As of 30 March 2016, however, the boundaries agreed in the March 2015 Agreement are not depicted on the relevant webpage, which instead features unspecified maritime boundaries in the area concerned, see <http://data.shom.fr>.

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Agreement) by means of Presidential Decree No. 816 of 26 April 1977.<sup>16</sup> The straight baselines of Italy are drawn so as to include in Italian internal waters the islands forming the so-called “Tuscany Archipelago” composed of the islands and islets of Gorgona, Capraia, Elba, Pianosa, Scoglio d’Africa, Montecristo, Giglio, and Giannutri.<sup>17</sup> It is likely that the French strongly challenged the application of these straight baselines, but it appears that these were nonetheless ultimately taken into consideration in the delimitation process.

7 *Geological and Geomorphological Considerations*

There is no publicly available evidence pointing to the fact that geological or geomorphological considerations may have affected the location and extent of the boundary.

8 *Method of Delimitation Considerations*

While the drafters of the Agreement have referred in the preamble to “the principle of equidistance in the delimitation of their territorial seas and the principle of equity in the delimitation of maritime spaces under their jurisdiction,” it is, however, difficult to evaluate precisely the respective weight and importance of the various methods used in the delimitation process. It appears that the negotiators of both countries were strongly committed during the negotiations not to disclose to the other party the precise rationale behind the various segments of the delimitation line. The following analysis is therefore tentative in nature.

From the land boundary terminus (Point T) to Point 6, the delimitation line of the adjacent territorial seas and contiguous zones follows a south-southeasterly course that appears to be based broadly on equidistance. From Points 6 to 27, the delimitation is effected between the EEZs of the parties. It generally follows the south-southeasterly course of the previous section of the boundary until it encounters the projections of the northwestern coast of Corsica and consequently turns to an easterly (Points 7 to 8) then northeasterly

<sup>16</sup> Published in *Gazzetta Ufficiale* No. 305 of 9 November 1977.

<sup>17</sup> See S. Kopela, *DEPENDENT ARCHIPELAGOS IN THE LAW OF THE SEA* 83 (2013) (arguing that the Tuscany Archipelago is “a case of a coastal archipelago which cannot qualify easily as a fringe of islands despite the fact that it lies close to the coast.”)

(Points 8 to 11) direction. In that area the equidistance line between the opposite coasts of Italy and France (Corsica) seems to have been broadly respected, and the closing line of the juridical bay of Gulf of St. Florent in northern Corsica seems to have been taken into account. Starting at Point 11, the opposite coast of Corsica and the relevant coast of Italy (from the Gulf of Genova eastwards) create a southeasterly shift in the delimitation line (until Point 26). In this section of the boundary it appears that the drawing of the equidistance line reflects a general acceptance of the straight baselines extending from the “Tuscany Archipelago” claimed by Italy, which significantly shifts the boundary westwards notably in the areas where Corsica faces the islands of Capraia and Elba and the rock of Scoglio d’Africa.<sup>18</sup> In that area the maritime boundary of the EEZ of France extends deeply into the Tyrrhenian Sea forming a triangular zone the easternmost points of which are Points 25 and 26. West of Point 26 to Point 40, the line is drawn between the coasts of southern Corsica and northern Sardinia. From Point 27 to 33, the boundary line follows generally a line closely mirroring (even if not exactly) the preexisting line agreed under the 1986 delimitation agreement on the maritime boundary in the area of the Strait of Bonifacio. From Point 34, the delimitation line between the EEZs restarts following what seems to be a general equidistance line between the relevant western coasts of Sardinia and Corsica, first (from Points 34 to 40), then an equidistance line between the projections of the coasts of Sardinia and southern mainland coast of France until it reaches the area where the maritime zones of Spain, Italy, and France converge (and potentially overlap) (Points 40 to 42). Point 42 appears to be roughly equidistant from Menorca Island (one of Spain’s Balears Islands), France’s Cap d’Armes, and Italy’s Isola Asinara off the northern coast of Sardinia. The northernmost point delimited by the 1974 agreement between Italy and Spain, Point A, is estimated to be 5 nautical miles south of the equidistant tripoint.<sup>19</sup>

Overall, it appears that the need for both countries to ensure the consistency of their negotiating positions vis-à-vis previous actions or statements of their governments, or in view of a possible “estoppel” effect of expressed principled positions (on equidistance and other relevant rules) in future

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18 This was stressed in a Communiqué of the Italian Ministry of Foreign Affairs of 18 February 2016, according to which “[d]uring the negotiations that led to the signing of the Agreement, Italy was able to retain unchanged the definition of the basic straight line for the Tuscan archipelago, previously fixed by Italy for establishing the boundaries of territorial waters in 1977”. See Farnesina, *Communiqué on establishing the sea border between Italy and France*, Feb. 18, 2016, available at [http://www.esteri.it/mae/en/sala\\_stampa/archivionotizie/comunicati/2016/02/nota-della-farnesina-sulla-delimitazione.html](http://www.esteri.it/mae/en/sala_stampa/archivionotizie/comunicati/2016/02/nota-della-farnesina-sulla-delimitazione.html).

19 See Report Number 8-5, II IMB 1601.

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negotiations or litigation with third States, is likely to have dictated the behavior of the negotiators. It appears that the delimitation line has been traced following a pragmatic and progressive step-by-step approach in a rather creative mode using the equidistance line as a starting point which could then be deviated from on an *ad hoc* basis.

9 *Technical Considerations*

The Agreement refers in its Article 3 to a chart which is attached to the Agreement. This is a *carte illustrative* or *mappa illustrativa* with a scale of 1:2,000,000, in both French and Italian, featuring the boundary turning points and the straight segments connecting them. Article 3 also specifies that the geographical coordinates are based on the geodetic system WGS 84.

10 *Other Considerations*

None.

## III CONCLUSIONS

Public concerns have been expressed mainly on the Italian side, in particular by representatives of fisheries, about the impact of the delimitation on the activity of Italian fisheries off the coasts of Liguria.<sup>20</sup> These concerns have been exacerbated by an incident that took place off the French coast in the vicinity of Menton during which an Italian fishing vessel was seized by the French authorities, allegedly while fishing in French territorial waters as determined by the Agreement. This incident occurred in January 2016 at a time when the Agreement was not yet in force. Prospects of joint exploitation of the sea bed and its subsoil in the delimited area, referred to in Article 4 of the Agreement, have also raised environmental concerns especially in Italy.

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<sup>20</sup> See e.g. La Repubblica, *Confini marittimi tra Italia e Francia, "libertà di trivellare le risorse, altro che la guerra dei gamberoni*, Feb. 26, 2016, available at [http://genova.repubblica.it/cronaca/2016/02/25/news/com\\_e\\_profondo\\_il\\_mare\\_sui\\_confini\\_mai\\_liberta\\_di\\_trivellare\\_le\\_risorse\\_altra\\_che\\_la\\_guerra\\_dei\\_gamberoni\\_-134233095/](http://genova.repubblica.it/cronaca/2016/02/25/news/com_e_profondo_il_mare_sui_confini_mai_liberta_di_trivellare_le_risorse_altra_che_la_guerra_dei_gamberoni_-134233095/).



## IV RELATED LAW IN FORCE

A *Law of the Sea Conventions*

France: Party to UNCLOS (ratified 11 April 1996).

Italy: Party to UNCLOS (ratified 2 December 1994, entered into force 13 January 1995).

B *Maritime Jurisdiction Claimed at the Time of Signature*

France: 12 M territorial sea; 12 M contiguous zone; 200 M EEZ; continental shelf.

Italy: 12 M territorial sea; 12 M contiguous zone; 200 M EEZ; continental shelf. In 2004 Italy also established a 24 M archaeological zone, and in 2006 it established an EPZ.

C *Maritime Jurisdiction Claimed Subsequent to Signature*

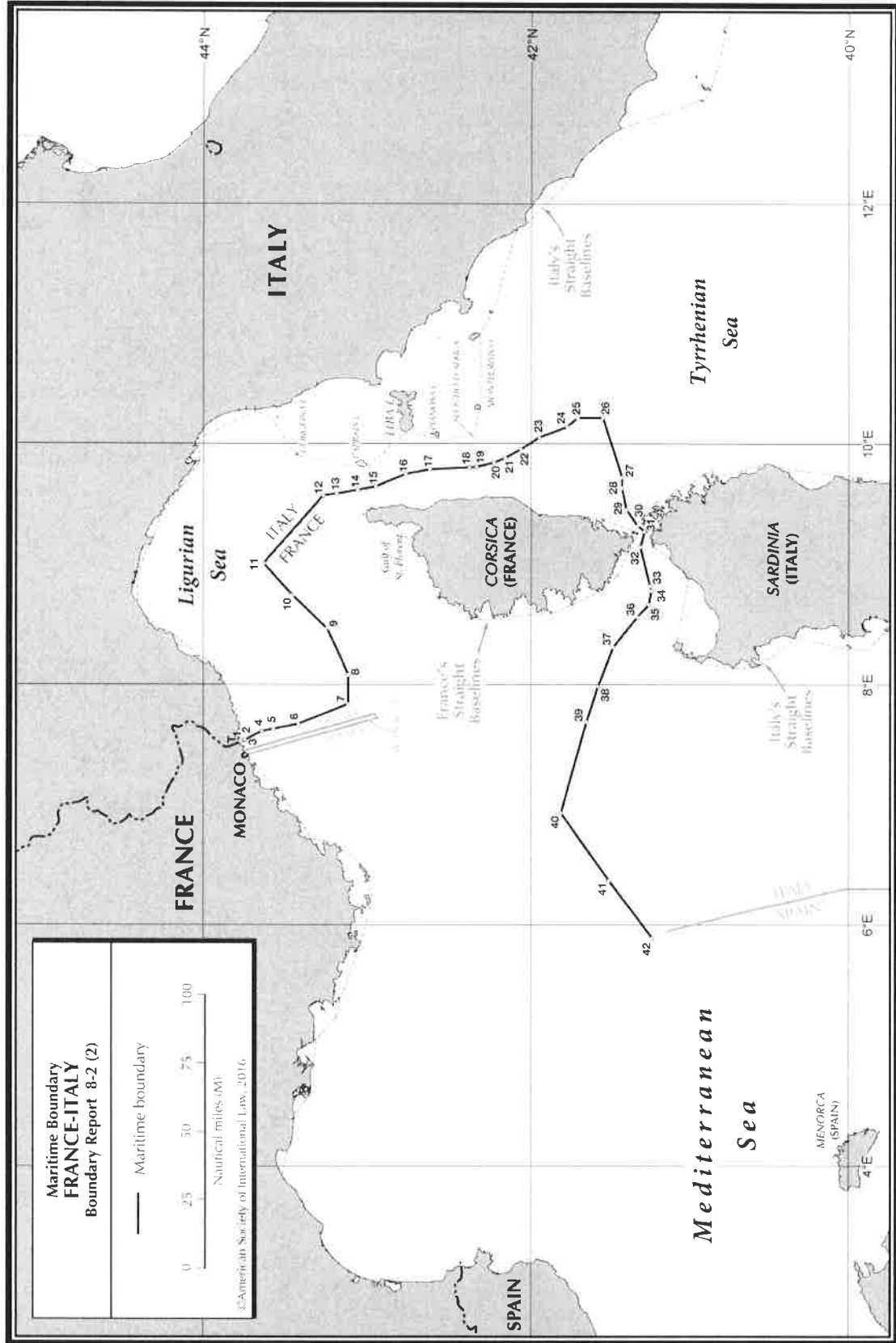
France: No change.

Italy: No change.

## V REFERENCES AND ADDITIONAL READINGS

- U. Leanza, *La délimitation des espaces maritimes dans la Méditerranée*, in COLLECTED COURSES V 127-460, 236 (1992).
- MEDITERRANEAN CONTINENTAL SHELF: DELIMITATIONS AND REGIMES (U. Leanza & L. Sico eds., 1988).
- I. Papanicolopulu, *The Mediterranean Sea*, in THE OXFORD HANDBOOK OF THE LAW OF THE SEA 604-625 (D.R. Rothwell, A.G. Oude Elferink, K. N. Scott, & T. Stephens eds., 2015).
- V. Becker-Weinberg, JOINT DEVELOPMENT OF HYDROCARBON DEPOSITS IN THE LAW OF THE SEA 49-50 (2014).
- ATLAS OF THE STRAIGHT BASELINES (T. Scovazzi, G. Francalani, D. Romano and S. Mongardini eds., 2<sup>nd</sup> ed. 1989).

*Prepared by Pierre-Emmanuel Dupont*



**Agreement between the Government of the French Republic and  
the Government of the Italian Republic regarding the Delimitation  
of the Territorial Seas and Zones under National Jurisdiction between  
France and Italy**

The Government of the French Republic and the Government of the Italian Republic, hereafter referred to as “the Parties”;

Relying on the rules and principles of international law applicable in matters of maritime delimitation, as these are expressed in the United Nations Convention on the Law of the Sea of 10 December 1982, in particular the principle of equidistance in the delimitation of their territorial seas and the principle of equity in the delimitation of maritime spaces under their jurisdiction;

Considering the Convention regarding the delimitation of the maritime boundaries in the area of the Strait of Bonifacio signed in Paris on 28 November 1986;

Referring to the four sessions of negotiations which took place successively in Rome on 14 December 2006, in Paris on 28 March 2007, on the Island of Elba on 28 September 2007, and in Rome on 26 March 2012,

Have agreed the following:

**Article 1**

The line of delimitation between the territorial seas, the continental shelf and waters under jurisdiction of the French Republic and of the Italian Republic is defined by the lines joining the following points:

Point	Latitude N	Longitude E
T	43° 47' 03.4"	007° 31' 47.8"
1	43° 46' 28"	007° 31' 43"
2	43° 45' 09"	007° 32' 15"
3	43° 44' 39"	007° 32' 17"
4	43° 38' 43"	007° 36' 44"
5	43° 34' 31"	007° 37' 50"
6	43° 25' 31"	007° 40' 20"
7	43° 07' 26"	007° 50' 20"
8	43° 07' 26"	008° 04' 54"
9	43° 15' 12"	008° 27' 35"
10	43° 27' 41"	008° 44' 14"

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(cont.)

Point	Latitude N	Longitude E
11	43° 38' 13"	008° 59' 58"
12	43° 16' 31"	009° 34' 14"
13	43° 11' 37"	009° 35' 02"
14	43° 03' 56"	009° 36' 51"
15	42° 57' 18"	009° 38' 30"
16	42° 46' 21"	009° 44' 45"
17	42° 37' 33"	009° 46' 59"
18	42° 22' 54"	009° 47' 56"
19	42° 20' 15"	009° 48' 11"
20	42° 13' 50"	009° 50' 19"
21	42° 09' 40"	009° 52' 43"
22	42° 03' 51"	009° 57' 06"
23	41° 57' 08"	010° 03' 18"
24	41° 46' 39"	010° 08' 36"
25	41° 42' 38"	010° 13' 06"
26	41° 33' 13"	010° 13' 06"
27	41° 26' 01"	009° 43' 01"
28	41° 26' 01"	009° 37' 50"
29	41° 24' 23"	009° 27' 00"
30	41° 20' 10"	009° 19' 00"
31	41° 17' 31"	009° 16' 12"
32	41° 19' 05"	009° 08' 06"
33	41° 15' 28"	008° 48' 46"
34	41° 15' 00"	008° 46' 30"
35	41° 15' 53"	008° 39' 36"
36	41° 20' 10"	008° 33' 24"
37	41° 29' 15"	008° 18' 17"
38	41° 34' 59"	007° 59' 13"
39	41° 39' 18"	007° 41' 21"
40	41° 48' 57"	006° 55' 49"
41	41° 30' 51"	006° 22' 10"
42	41° 14' 36"	005° 53' 23"

**Article 2**

For the purpose of ensuring that this Agreement shall not interfere with fishing traditions of the professional fishermen of the two countries, the Parties agree, by way of neighborly arrangements, to allow French and Italian coastal fishing vessels to exercise their activities in the traditional fishing areas located within a zone defined by a line joining the following points:

Point	Latitude N	Longitude E
A	41° 16' 16"	008° 59' 56"
B	41° 20' 36"	008° 59' 56"
C	41° 20' 36"	009° 05' 56"
D	41° 16' 16"	009° 05' 56"

### Article 3

The geographical coordinates referred to in Articles 1 and 2 are based on the geodetic system WGS 84 (World Geodetic System 1984).

The line of delimitation defined at Article 1 is drawn on the chart annexed to this Agreement.

### Article 4

If a deposit of natural resources of the sea-bed or its subsoil extends across the line of delimitation of the continental shelf, and if the resources located on one side of this line may be exploited from installations located on the other side, the Parties, after having consulted holders of exploration or production rights as the case may be, shall seek an agreement on terms for exploiting the deposit in the most efficient possible way, and in such manner that each of the Parties shall preserve all its sovereign rights over the natural resources of its continental shelf. This procedure is applicable in particular if the method of production of the resources located on one side of the delimitation line affects conditions for exploiting the resources located on the other side.

In the event that the natural resources of a deposit located across the dividing line of the continental shelves are already being exploited, the Parties shall consult to determine the modalities of production of the said resources, after having consulted holders of production authorizations as the case may be.

### Article 5

Any dispute arising between the Parties with respect to the interpretation or the application of this Agreement shall be resolved by way of bilateral negotiations, in accordance with international law.

### Article 6

The Parties shall inform each other by means of exchange of diplomatic notes of the completion of domestic procedures required for the entry into force of this Agreement. This Agreement shall enter into force on the first day of the second month following the date of the later notification.

The Convention between the Government of the French Republic and the Government of the Italian Republic regarding the Delimitation of the Maritime Boundaries in the Area of the Strait of Bonifacio, signed in Paris on 28 November 1986, shall be abrogated as of that date.

IN WITNESS WHEREOF, the undersigned, duly authorized for this purpose by their respective Government, have signed this Agreement.

DONE at Caen on 21 March 2015, in duplicate, in the French and Italian languages, both texts being equally authentic.

For the Government of the French  
Republic

*(signed)*

Laurent Fabius  
Minister of Foreign Affairs and  
International Development

For the Government of the Italian  
Republic

*(signed)*

Paolo Gentiloni  
Minister of Foreign Affairs and  
International Cooperation

*Unofficial translation*

### **Annex 136**

Exchange of Notes between the United Republic of Tanzania and Kenya Concerning the Delimitation of the Territorial Waters Boundary between the Two States, 9 July 1976, JI Charney and LM Alexander (eds), *International Maritime Boundaries I* (Nijhoff 1993) p. 881.

# Kenya–Tanzania

*Report Number 4–5*

## **Agreement between Kenya and the United Republic of Tanzania on Delimitation of the Maritime Boundary between the Two States**

*Signed:* 9 July 1976

*Entered into force:* Immediately upon signature

*Published at:* National Legislative Series, UN Doc. No. ST/LEG/SER.B/19, p. 406 (1980)

Limits in the Seas No. 92 (1981)

I Canadian Annex 407 (1983)

II Libyan Annex No. 46 (1983)

II Conforti & Francalanci 49 (1987)

### I SUMMARY

This agreement establishes the territorial sea boundary together with other maritime areas of national jurisdiction between Kenya (mainland) and Tanzania (Pemba Island), by dividing the 50-mile territorial sea claimed by Tanzania and the 200-mile exclusive economic zone claimed by Kenya. Part of The Pemba Island coast and Kenyan coast are opposite each other while in the seaward sector the coasts are adjacent. This fact resulted in the decision to use a combination of methods and principles to delimit the boundary. The first segment of the line is described as a 'median line.' It begins at the land boundary in the west and runs in a southwesterly direction ending at a pre-determined Point A. The second segment connects that Point A to Point B which is one of two points of intersection of arcs with 12 nautical-mile (n.m.) radii drawn from basepoints on the coastlines of the parties (Mpunguti ya Juu lighthouse and Ras Kigomasha lighthouse). As such, Point B is an equidistant point east-southeast of Point A. Points A and B are connected by an arc having a six-mile radius. The same 12 n.m. arcs used to locate Point B also intersect at Point C which is north-northeast of Point B. Points B and C are connected by a straight line which could be considered to be a simplified



equidistant line. The remainder of the boundary seaward of Point C is a line of latitude that neither approximates an equidistant line nor runs perpendicular to the general direction of the two nations' coasts. The seaward limit of the boundary is not specified, rather it runs to the outermost limits of the national jurisdiction of the two states.

The parties recognized economic issues such as the existing fishing habits (rights) of their nationals within 12 n.m. on either side of the boundary line, but did not take such rights into account in connection with the actual location of the boundary line. The location of the boundary was also not affected either by The Pemba Island belonging to Tanzania and lying 25-30 miles offshore or by any environmental issues. The actual delimitation of the boundary line was, however, influenced by the existence of Mpunguti ya Juu lighthouse belonging to Kenya, which was accommodated by the arc in the southern segment as mentioned above.

## II CONSIDERATIONS

### 1 *Political, Strategic, and Historical Considerations*

The negotiations which led to the exchange of notes between the two states constituting the maritime delimitation agreement in question were prompted by an incident concerning the arrest in 1971, by the Tanzanian authorities, of certain members of the Pemba Fisheries Club based in Vanga, Kenya. The Tanzanian authorities alleged that these Kenyans had been carrying out fishing activities in the maritime areas claimed by it. In the background was also the desire by Kenya to establish a 12-mile territorial sea and a 200-mile exclusive economic zone. Tanzania had established a 50-mile territorial sea. The parties thus realized that potential conflicts of jurisdiction existed, especially in the Pemba Channel area. Taking advantage of the new ideas on the law of the sea that were already emerging within the United Nations Sea-Bed Committee, the representatives of Kenya and Tanzania began a series of negotiations directed towards establishing their respective areas of jurisdiction in that maritime area. The parties also were cognizant of the fact that mammoth oil tankers that could cause pollution navigated in the area. Considerations of all these factors convinced the two parties that it would be in their interest to undertake the delimitation of the maritime boundary.

### 2 *Legal Regime Considerations*

The agreement establishes a territorial sea boundary between The Pemba Island (Tanzania) and the mainland of Kenya which are opposite coasts, and then proceeds seaward to constitute an overall boundary line aimed at establishing 'other areas of national jurisdiction' between the two states. The negotiation of the all-purpose boundary made it possible for the parties to accommodate

each other's interests in the various segments of the delimitation, thus achieving an equitable result.

### 3 *Economic and Environmental Considerations*

While economic issues did not influence the actual location of the boundary as indicated above, it is important to note that the two parties tried to settle in a special way the question of fishing rights of a specific group of nationals. The agreement took into account the historic fishing habits of the indigenous fishermen engaged in subsistence fishing, allowing them to continue to fish within 12 nautical miles of the Pemba Channel on either side of the boundary. The two parties further agreed to accord each other reciprocal recognition of fisheries licences, regulations, and practices that were applicable to the indigenous fishermen who engaged in that activity *for subsistence*. This achieved a pragmatic solution to an otherwise potential source of difficulty in the implementation of the agreement. Similarly, while concern with the protection of the marine environment supported the need to delimit the boundary and settle jurisdiction in the areas, this did not affect the actual location of the boundary itself. Furthermore there were no known non-living resources affected by the delimitation. But it was generally felt, though not written in the agreement, that any non-living resources that may later be found to lie across the boundary would be managed by the two parties, in accordance with the emerging concept of shared natural resources.

### 4 *Geographic Considerations*

Except in the Pemba Channel area, where Kenya's coast to the north and The Pemba Island to the southeast are opposite, the coasts of Kenya and Tanzania are adjacent to each other. Thus, the boundary line, influenced by this adjacency, runs in approximately a north-northeast/south-southwest direction. From Point C seaward, the boundary follows a parallel of latitude instead of continuing by an equidistant line which could have diminished the Kenyan coastal area. The parallel of latitude was thus used by the parties in order to maximize their access seaward from Point C of the boundary line. The boundary in the Pemba Channel was based on the equidistant line to establish the territorial seas of the two parties commensurate with the width of the area. The two methods (equidistance and the parallel of latitude) which were adopted by the parties suited the geography of the area and were consistent with the parties' desire to reach an equitable delimitation. For Kenya, the result was considered helpful in ensuring that a similar cut-off effect would be avoided in the event of delimitation of the maritime boundary with Somalia.

### 5 *Islands, Rock, Reefs, and Low-Tide Elevations Considerations*

The boundary was affected by the existence of the Mpunguti ya Juu light-

house which belongs to Kenya but is located off the coast of Tanzania to the south. This resulted in a southwestern arc of the delimitation to include the lighthouse in Kenya's maritime areas. The drying reefs on the Kenya side which could have influenced the location of the boundary line were ignored so as to ensure an equitable result.

### *6 Baseline Considerations*

The location of the boundary was influenced only by predetermined baselines chosen by the parties for the purpose of the delimitation and described in the first part of the agreement. If the normal baselines had been used to generate an equidistant line, it would have been necessary first to draw an arc from a point on the coast of Kenya and Pemba Island. The drawing of such an arc on the basis of the normal baselines would have deflected the course of the boundary in a northerly direction, which would have considerably diminished Kenya's exclusive economic zone.

### *7 Geological and Geomorphological Considerations*

The seabed in the area descends to depths in the range of 1000–3000 meters (m) off of the east-facing coasts of the two parties. The bathymetric contour, however, runs mostly parallel to the direction of the mainland coasts. The parties were aware also of the need to keep in mind issues relating to the concept of shared natural resources with respect to the non-living resources that may later be found to exist across their national jurisdictions as delimited under the agreement. But such considerations did not affect the location of the boundary.

### *8 Methods of Delimitation Considerations*

The territorial sea boundary incorporates the equidistant line from each state's baselines, coupled with a straight line between two designated equidistant points. A six-mile arc is drawn in the southern segment from a predetermined point. The eastern segment is then established along a line of latitude. Thus, the overall boundary line is delimited by a combination of equidistance, simplified equidistance, a constructed arc, and a parallel of latitude, all aimed at achieving an equitable delimitation.

### *9 Technical Considerations*

A Mercator Projection map in the form of marine charts of 1 : 250,000 was chosen by the parties for describing the coordinates of the four points of the boundary: the west, the east, the south, and seaward.

10 *Other Considerations*

None.

## III CONCLUSIONS

This is an example of a delimitation of a maritime boundary by agreement in which the two parties clearly set out to achieve an equitable result. Thus they used the equidistance method where appropriate and equitable principles where necessary for achieving maximum access seaward. The parties agreed to treat The Pemba Island as a unit of 'continental territory,' which did not thus affect the course of the boundary, while allowing more flexibility in establishing the boundary line to accommodate the parties' interests in the various segments of the delimitation. A combination of both the equidistance and equitable principle in one boundary delimitation is thus possible, and could be emulated by others where appropriate, as it was in this case.

## IV RELATED LAW IN FORCE

*A Law of the Sea Conventions*

Kenya: Party to all four 1958 Geneva Conventions, ratified the 1982 LOS Convention

Tanzania: Ratified the 1982 LOS Convention

*B Maritime Jurisdiction Claimed at the Time of Signature*

Kenya: 12-mile territorial sea

Tanzania: 12-mile territorial sea

*C Maritime Jurisdiction Claimed Subsequent to Signature*

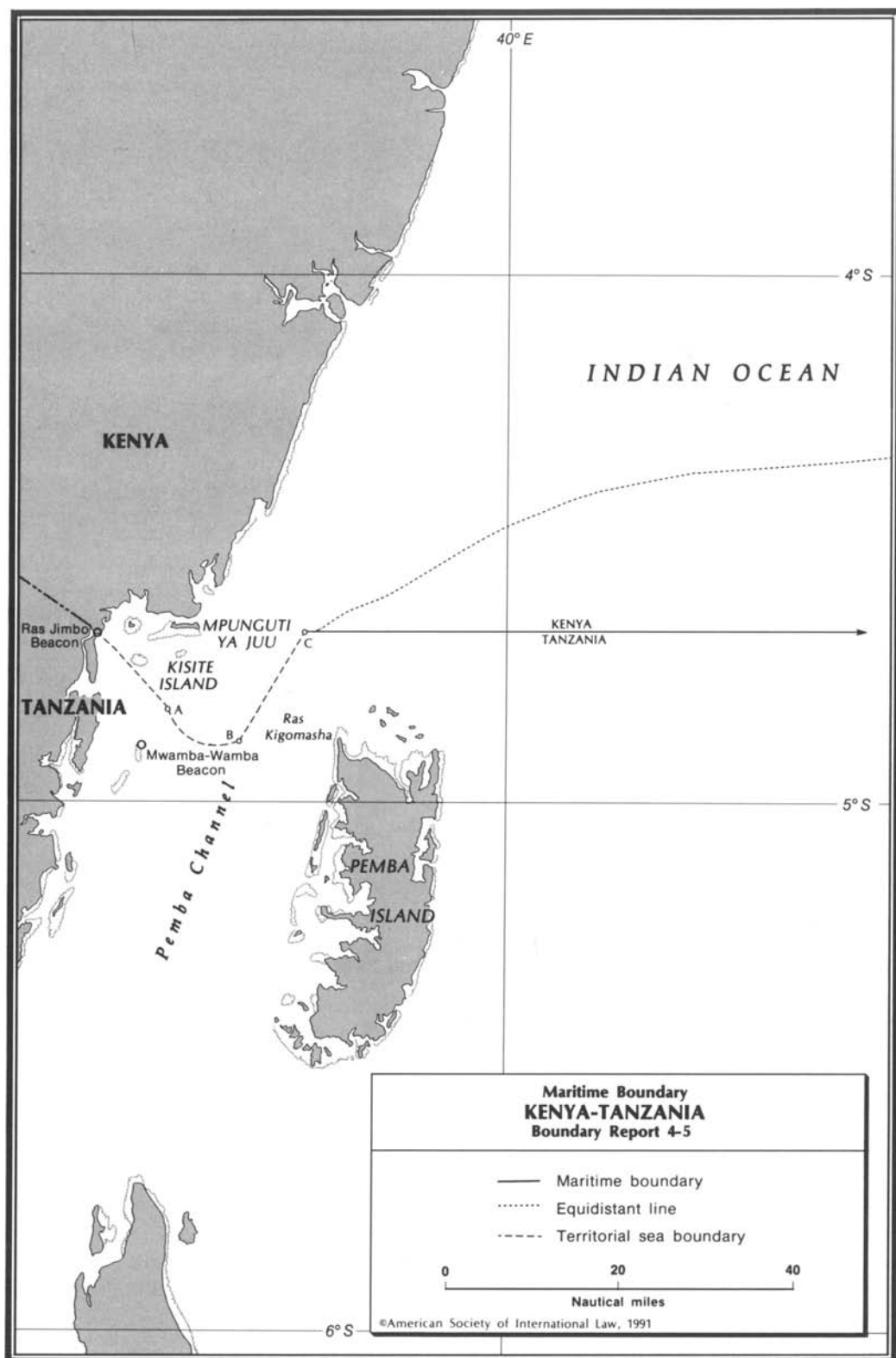
Kenya: 200-mile exclusive economic zone

Tanzania: 200-mile exclusive economic zone

## V REFERENCES AND ADDITIONAL READINGS

LIMITS IN THE SEAS No. 92 (1981)

*Prepared by Andronico O. Adede*



**Maritime Boundary  
KENYA-TANZANIA  
Boundary Report 4-5**

— Maritime boundary  
 ..... Equidistant line  
 - - - Territorial sea boundary

0 20 40  
 Nautical miles

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**Exchange of Notes between the United Republic of Tanzania and  
Kenya Concerning the Delimitation of the Territorial  
Waters Boundary between the Two States**

I  
KENYAN NOTE

December 17th, 1975

Your Excellency,

I have the honour to refer to the meetings held between officials of the United Republic of Tanzania and of the Republic of Kenya on 8th May, 1972 at Mombasa, Kenya and from 6th to 8th August, 1975 at Arusha, Tanzania and on 4th September, 1975 at Dar-es-Salaam, Tanzania, on the delimitation of the territorial waters boundary between our two countries and to state that, as a result of the said meetings, the following points were agreed:

1. Boundary:

Base Lines:

- (a) Ras Jimbo beacon–Kisite Island (rock)
- (b) Ras Jimbo–Mwamba-wamba beacon
- (c) Mwamba-wamba beacon–Fundo Island beacon (rock)
- (d) Fundo Island beacon (rock)–Ras Kigomasha lighthouse
- (e) Kisite Island (rock)–Mpunguti ya Juu lighthouse

2. The description of the boundary:

- (a) On the West: The median line between the Ras Jimbo beacon–Kisite Island/Ras Jimbo–Mawamba-wamba beacon base lines to a point 12 nautical miles from Ras Jimbo up to a point hereinafter referred to as 'A', located at 4° 49' 56" S and 39° 20' 58" E;
- (b) On the East: The median line derived by the Intersection of two arcs

each being 12 nautical miles drawn from Mpunguti ya Juu lighthouse and Ras Kigomasha lighthouse respectively hereinafter referred to as point 'B', located at 4° 53' 31" S and 39° 28' 40" E and point C, located at 4° 40' 52" S and 39° 36' 18" E;

- (c) On the South: An arc with the centre as the Northern Intersection of arcs with radii 6 nautical miles from point 'A' as described in paragraph 2(a) above and point 'B' which is the Southern Intersection of arcs from Ras Kigomasha lighthouse and Mpunguti ya Juu lighthouse.
- (d) The eastward boundary from Point C, which is the Northern Intersection of arcs from Ras Kigomasha lighthouse and Mpunguti ya Juu lighthouse as described under paragraph 2(b) above, shall be the latitude extending eastwards to a point where it intersects the outermost limits of territorial water boundary or areas of national jurisdiction of two States.
- (e) The marine charts of 1 : 250,000 describing the co-ordinates of the above points shall form an integral part of this agreement.

### 3. Fishing and fisheries:

- (a) It was agreed that indigenous fishermen from both countries engaged in fishing for subsistence, be permitted to fish within 12 nautical miles of either side of the territorial sea boundary in accordance with existing regulations.
- (b) It was agreed that there be reciprocal recognition of fisheries licences, regulations and practices of either State applicable to indigenous fishermen aforesaid. The fishing within the area specified in paragraph 3(a).

After due consideration of the said points of agreement, including the attached map describing the co-ordinates of the boundary as delimited, the Government of the Republic of Kenya hereby confirms that it accepts the above recommendations having been fully convinced that they are for the mutual benefit of our two countries.

If the Government of the United Republic of Tanzania is of the same view, then it is suggested that this Note and your reply thereto in the affirmative shall constitute an Agreement for the territorial waters boundary between our two states and other related matters referred to above and the same shall enter into force on the date of the receipt of your said Note in reply.

Accept, Your Excellency, the assurances of my highest consideration.

Yours

Dr. Munyua Waiyaki  
Minister for Foreign Affairs

H. E. Mr. Ibrahim Kaduma, M.P.,  
Minister for Foreign Affairs,  
United Republic of Tanzania  
Dar es Salaam, Tanzania

II  
TANZANIAN NOTE

9th July, 1976

Your Excellency,

I have the honour to acknowledge receipt of your letter Ref. No. MFA.273/430/001A/120 of 17th December, 1975 which reads as follows:

[See Letter I]

I have the honour to confirm that the foregoing is acceptable to the Government of the United Republic of Tanzania.



**Annex 137**

Treaty on the delimitation of marine and submarine areas and related matters (with maps)  
(Colombia and Panama), 20 November 1976, 1074 UNTS 221.

**No. 16398**

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**COLOMBIA  
and  
PANAMA**

**Treaty on the delimitation of marine and submarine areas  
and related matters (with maps). Signed at Cartagena  
on 20 November 1976**

*Authentic text: Spanish.*

*Registered jointly by Colombia and Panama on 3 February 1978.*

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**COLOMBIE  
et  
PANAMA**

**Traité relatif à la délimitation des zones marines et sous-  
marines et à des sujets connexes (avec cartes). Signé à  
Carthagène le 20 novembre 1976**

*Texte authentique : espagnol.*

*Enregistré conjointement par la Colombie et le Panama le 3 février 1978.*

## [TRANSLATION — TRADUCTION]

TREATY<sup>1</sup> ON THE DELIMITATION OF MARINE AND SUBMARINE  
AREAS AND RELATED MATTERS BETWEEN THE REPUBLIC  
OF PANAMA AND THE REPUBLIC OF COLOMBIA

The Republic of Panama and the Republic of Colombia,

Aware of the fact that international co-operation and reciprocity offer the best means of settling matters of common concern to friendly nations, especially when those nations are linked naturally by proximity;

Being of one mind with respect to the expediency and necessity of delimiting their marine and submarine areas in the Pacific Ocean and the Caribbean Sea;

Having agreed on the safeguarding of sovereignty and jurisdiction in the marine areas belonging to each country and of free and expeditious passage through them;

Believing the adoption of satisfactory measures for the preservation, conservation and exploitation of existing resources in those waters and the prevention, control and elimination of pollution therein to be in their mutual interest, and

Convinced of the desirability of the adoption by the two States of measures based on recent developments in the law of the sea,

Have decided to conclude a treaty and have for that purpose appointed as their Plenipotentiaries:

His Excellency the President of the Republic of Panama: His Excellency Mr. Aquilino E. Boyd, Minister for Foreign Affairs;

His Excellency the President of the Republic of Colombia: His Excellency Dr. Indalecio Liévano Aguirre, Minister for Foreign Affairs;

who, having exchanged their full powers, found to be in good and due form, have agreed on the following:

*Article I.* To designate as the boundary between their respective marine and submarine areas, irrespective of the legal regime established or to be established therein:

*A. In the Caribbean Sea:*

1. The median line whose points are all equidistant from the nearest points of the baselines from which the breadth of the territorial sea of each State is measured, from the point at which the international land frontier meets the sea at Cape Tiburón (latitude 8° 41' 07" 3 north and longitude 77° 21' 50" 9 west) to a point situated at latitude 12° 30' 00" north and longitude 78° 00' 00" west.

In accordance with the principle of equidistance hereby agreed upon, except for a few minor deviations which have been agreed upon in order to simplify the drawing of the line, the median line in the Caribbean Sea shall be constituted by straight lines joining the following points:

<sup>1</sup> Came into force on 30 November 1977, the date of exchange of the instruments of ratification, which took place at Panama, in accordance with article VII.

	<i>Latitude north</i>	<i>Longitude west</i>
Point A :	8° 41' 07" 3	77° 21' 50" 9
Point B :	9° 09' 00"	77° 13' 00"
Point C :	9° 27' 00"	77° 03' 00"
Point D :	10° 28' 00"	77° 15' 00"
Point E :	11° 27' 00"	77° 34' 00"
Point F :	12° 00' 00"	77° 43' 00"
Point G :	12° 19' 00"	77° 49' 00"
Point H :	12° 30' 00"	78° 00' 00"

2. From the point at latitude 12° 30' 00" north and longitude 78° 00' 00" west the delimitation of the marine and submarine areas belonging to each State shall be constituted by a series of straight lines joining the following points:

	<i>Latitude north</i>	<i>Longitude west</i>
Point H :	12° 30' 00"	78° 00' 00"
Point I :	12° 30' 00"	79° 00' 00"
Point J :	11° 50' 00"	79° 00' 00"
Point K :	11° 50' 00"	80° 00' 00"
Point L :	11° 00' 00"	80° 00' 00"
Point M :	11° 00' 00"	81° 15' 00"

From Point M, the delimitation continues in a straight line at azimuth 225° (45° south-west) to the point where the maritime boundaries with a third State require delimitation.

#### B. *In the Pacific:*

1. The median line whose points are all equidistant from the nearest points of the baselines from which the breadth of the territorial sea of each State is measured, from the point at which the international land frontier meets the sea at latitude 7° 12' 39" 3 north and longitude 77° 53' 20" west to the point situated at latitude 5° 00' 00" north and longitude 79° 52' 00" west.

In accordance with the principle of equidistance hereby agreed upon, except for some minor deviations which have been agreed upon to simplify the drawing of the line, the median line in the Pacific Ocean shall be constituted by straight lines joining the following points:

	<i>Latitude north</i>	<i>Longitude west</i>
Point A :	7° 12' 39" 3	77° 53' 20" 9
Point B :	6° 44' 00"	78° 18' 00"
Point C :	6° 28' 00"	78° 47' 00"
Point D :	6° 16' 00"	79° 03' 00"
Point E :	6° 00' 00"	79° 14' 00"
Point F :	5° 00' 00"	79° 52' 00"

2. From the point situated at latitude 5° 00' 00" north and longitude 79° 52' 00" west the delimitation of the marine and submarine areas belonging to each State shall be constituted by the parallel 5° 00' 00" as far as the point where delimitation with a third State is required.

*Paragraph:* The lines and points agreed upon are shown on the nautical charts which, having been signed by the plenipotentiaries, are appended to this Treaty as annexes I and II,<sup>1</sup> it being understood that the wording of the Treaty shall prevail in all cases.

*Article II.* To recognize and respect the procedures through which each State at present exercises or may in future exercise sovereignty, jurisdiction, surveillance, control or rights in the marine and submarine areas adjacent to its coasts delimited by virtue of this Treaty, in accordance with the conditions established or to be established by each country and with the regulations of its own domestic law.

*Article III.* In view of the great importance which the Republic of Panama attaches to express recognition by the Republic of Colombia, as the neighbouring country on the Gulf of Panama, of that gulf's status of historic bay, it has requested such recognition of Colombia.

The Republic of Colombia, aware that its express recognition that the Gulf of Panama has the status of historic bay is of great importance for the incontrovertibility of that status, declares that it has no objection to the provisions on that subject set forth by the Republic of Panama in Act No. 9 of 30 January 1956.

*Article IV.* The Republic of Panama and the Republic of Colombia shall, on a reciprocal basis, recognize, in the marine areas under their sovereignty, jurisdiction, surveillance or control, freedom of navigation, innocent passage and transit passage, as appropriate, for their vessels sailing in those areas. Such recognition shall apply without prejudice to the right of each Party to designate sea lanes and traffic separation schemes in its territorial sea, and to the observance of the provisions of the domestic law of each Party and of international law.

*Article V.* To promote co-operation between the two States in order to co-ordinate any conservation measures applied by each of them in the marine areas under its sovereignty, jurisdiction, surveillance or control, particularly in respect of species which migrate beyond their respective marine areas, taking into account for that purpose the recommendations of the competent agencies and the most reliable and up-to-date scientific data.

Such co-operation shall not affect the sovereign right of each State to adopt, within the framework of its respective jurisdiction, such rules and regulations as it deems appropriate.

*Article VI.* Each Party affirms its resolve to co-operate with the other, to the maximum extent possible, in the implementation of the most satisfactory measures to prevent, reduce and control any pollution of the marine environment, from whatever source, which may affect the neighbouring State, and to co-ordinate, as far as possible, any measures to that end provided for in its domestic law.

*Article VII.* This Treaty shall be submitted for ratification through the constitutional procedures of the High Contracting Parties and shall enter into force upon the exchange of instruments of ratification, which shall take place at Panama.

<sup>1</sup> See insert in a pocket at the end of this volume.

IN WITNESS WHEREOF, the Plenipotentiaries have signed this Treaty, in duplicate, on this twentieth day of November one thousand nine hundred and seventy-six, at Cartagena, Republic of Colombia.

[Signed]

AQUILINO E. BOYD

[Signed]

INDALECIO LIÉVANO AGUIRRE

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### **Annex 138**

Treaty on Delimitation of Marine and Submarine Areas and Maritime Cooperation between the Republic of Colombia and the Republic of Costa Rica, 17 March 1977, JI Charney and LM Alexander (eds), *International Maritime Boundaries Vol I* (Nijhoff 1993) p. 474.

## Colombia–Costa Rica

*Report Number 2–1*

### **Treaty on Delimitation of Marine and Submarine Areas and Maritime Cooperation Between the Republic of Colombia and the Republic of Costa Rica**

*Signed:* 17 March 1977

*Entered into force:* Not yet in force

*Published at:* Limits in the Seas No. 84 (1979)  
 Maritime Boundary Agreements (1970–84) 154 (1987)  
 I Canadian Annex 443 (1983)  
 II Libyan Annex No. 50 (1983)  
 II Conforti & Francalanci 149 (1987)  
 VIII New Directions 93 (1980)

(Quoted Source: Government of Colombia)

#### I SUMMARY

The Colombia–Costa Rica treaty on maritime delimitation and cooperation was adopted following the new developments in the law of the sea in the 1970s, particularly after the Third United Nations Law of the Sea Conference sparked an unmistakable trend towards the extension of jurisdiction by coastal states. The third to be negotiated by Colombia in pursuance of a policy to establish all of its maritime boundaries, this agreement involves a short sector in the western Caribbean Sea, between the opposite coasts of a continental state (Costa Rica) and an insular territory of the other (Colombia). Seven years later the same two states signed another agreement delimiting their insular domains in the Pacific (see Colombia–Costa Rica (1984) No. 3–6).

As in the case of the agreement between Colombia and Ecuador in 1975, as well as in the forthcoming Colombian agreement with the Dominican Republic, the treaties concerned were termed ‘Delimitation of marine and submarine areas and on maritime cooperation.’ The treaty that had been concluded with Panama a few months earlier was entitled ‘Delimitation of marine



and submarine areas and associated matters' (*asuntos conexos*). This terminology suggests, besides the direct delimitation objective, the presence of a corollary *leitmotiv* which seems to take shape on reading the preamble and text of the agreements. Although the Columbia–Costa Rica agreement did not establish a common Joint Scientific Research and Common Fishing Exploitation Zone (as would be the case between Colombia and the Dominican Republic), once the delimitation issue was settled, five distinct frameworks for cooperation were defined to deal with (a) protection of renewable or non-renewable resources; (b) conservation measures, including international cooperation with due regard to the recommendations of appropriate international organizations; (c) scientific research; (d) reduction and control of pollution; and (e) promotion of navigation in the respective areas of the parties.

The agreement does not mention any specific procedure for the settlement of potential disputes.

The delimitation applies between the relatively brief coastline of Costa Rica on the Caribbean Sea (116 nautical miles (n.m.)) and the opposite Colombian archipelagos of Albuquerque Cay, South Southeast Cay, and San Andrés Island. These are the westernmost among Colombia's Caribbean islands and cays grouped under the administrative unit known as Intendencia San Andrés y Providencia (44 square kilometers (sq. km.)). It lies at an average distance of 165 n.m. from the general oblique direction of Costa Rica's coast, and about 110 n.m. from Nicaragua's to the west. No reference to the method employed is stated and it is definitely not equidistance. One straight line A–B (47 n.m. long) was drawn along a determined parallel starting on the (dotted) final line prescribed in the Colombia–Panama 1976 agreement (Colombia–Panama (1976) No. 2–5). From Point B, another open-ended (dotted) line runs along a given meridian to at least 11° N lat. where a delimitation with a third party (Nicaragua) enters under consideration. Apparently, the shape of the line was meant to harmonize with the stepped-parallel/meridian Colombia–Panama boundary.

It may be added that the background of this agreement is closely related to the historical process of Central America's land boundary settlements, albeit the two states involved are not adjacent on land. This is a case where perceived legal constraints might have affected the positions of the parties. If there is a lesson to be derived from this agreement, given the difficulties in the face of its entry into force, it may relate to the fact that maritime delimitation agreements are better accepted when each party shares the same concern about their usefulness at a particular moment.

## II CONSIDERATIONS

### 1 *Political, Strategic, and Historical Considerations*

The maritime area between Colombia's mid-ocean islands and Central America has been linked to one of the most important strategic and naval geopolitical

issues in the western hemisphere, namely the construction of the interoceanic canal. As long as Colombia sustained its historic claims (based on Spanish territorial divisions, specifically on a Royal Order which annexed the Mosquitia coast of Nicaragua to the territory of the colonial Viceroyalty in 1803), neither Great Britain nor the United States was successful in their attempts to dig the waterway across the Central American isthmus.

Colombia carried out a 90-year long dispute with Costa Rica not only over the precise boundary that would have defined their continental territory (while the Department of Panama was part of Colombia), but also on the Mosquitia coast itself and adjacent islands. The occupation by Nicaraguan troops of said coast and adjacent islands in the late 19th century did not prevent Colombia from maintaining such a claim with respect to Costa Rica, the legal heir and the state more contiguous to Colombia, the province of Panama then included. The arbitral award pronounced by the President of France in 1900 set the land boundary on the Caribbean at Punta Mona, a few miles to the northwest of the current starting point in the thalweg at the mouth of the Sixaola river (according to another award pronounced by US Chief Justice White in 1914, arbitrating between Costa Rica and the successor state, Panama).

What really matters to the present maritime delimitation is the fact that the 1914 American award did not alter other basic decisions of the French 1900 award in regard to the (a) rejection of Colombia's claim to the Mosquitia coast and coastal islands; and (b) confirmation of the status of the mid-ocean islands, San Andrés, Providencia, and Albuquerque Cays as belonging to Colombia. Colombia proceeded to occupy San Andrés archipelago effectively in 1916 after a brief lease to a German firm that ran a wireless relay station for the Colombian government.<sup>1</sup> The administrative consolidation of the Intendencia of San Andrés y Providencia took place in 1912.

Nicaragua has made current and renewed claims to Colombia's insular territory by denouncing the 1928–30 Treaty which virtually established meridian 82° 00' 00" W as the maximum extension of their respective claims. As a consequence, the present maritime delimitation treaty between Colombia and Costa Rica acquires singular importance as a legal precedent, since the individual components of the only Colombian territory relevant to it (San Andrés island, Cays of Albuquerque, Cay Este Sudeste, also known as Courtown) were specifically recognized as such in the French arbitration award. Both the Nicaraguan and the Colombian governments issued their own 'White Papers' on the sovereignty over the archipelago (see Colombia–Honduras (1986) No. 2–4). This was probably the reason why Colombia's Senate approved the agreement within seven months of its signature, while the Costa Rican Assembly, not having any urgent interest perhaps, deferred the issue causing the ratification process to be withdrawn in 1983. Costa Rica's Assembly faced a strong lobby against the agreement. Some of its opponents argued that the San Andrés archipelago should only be granted a 12-n.m.

<sup>1</sup> O. F. JAEN, *DERECHO DEL MAR: DELIMITACION DE AREAS MARINAS EN EL CARIBE* 16 (1987).

territorial sea in the light of the Channel Islands award between France and the United Kingdom, while others suggested the elimination of the use of a right angle for a line parallel to the coast. A solution to the impasse was found by negotiating another agreement with Colombia on the Pacific boundary in 1984, and linking the ratification of both instruments (Colombia–Costa Rica (1984) No. 3–6).<sup>2</sup>

During the late eighties, the Costa Rican Foreign Ministry seemed to have renewed its interest in getting parliamentary approval of these agreements. It is highly improbable, however, that the National Assembly would be able to include them on its agenda in the foreseeable future. In the meanwhile, both parties appear to consider the agreements operating *de facto*. Early in 1989, a Binational Technical Commission approved an official map considered definitive, while a protocol therewith was signed.<sup>3</sup>

One may want to attribute specific value to this agreement as a legal precedent within an area of great geopolitical tension, especially since the bigger actor, Colombia, acted under the legal constraint of its potential difficulties with a third party – Nicaragua – on issues linked to sovereignty over insular territory. It could have caused it to relegate principles and methods of delimitation to a secondary role and to concentrate on the immediate political results of the agreement per se. Not incidentally perhaps, the rectangle-shaped boundary harmonizes with a pattern of parallels and meridians linked to two previous agreements and also relates to the Colombia–Nicaragua territorial dispute. Although, it would need to be slightly tilted in a northeasterly direction to meet meridian 82° W (for a probable explanation, see Technical Considerations).

## 2 *Legal Regime Considerations*

As had become common in the Middle American and Caribbean region during the late 1970s, the term ‘marine and submarine areas’ was used to denote what might be any extended jurisdiction out to a potential 200-mile limit, whatever the individual legal regime. In this case, Costa Rica was bound by its 1975 legislation on an exclusive economic zone. It was probably the only state in the world that, for a short period (February 1972–May 1975), had anticipated the concept by proclaiming a Patrimonial Sea of 200 n.m. on the basis of the thesis advanced by Venezuela’s delegation at the Seabed Committee in Geneva (1971) prior to the adoption of the Santo Domingo regional proclamation on the Patrimonial Sea in June 1972.<sup>4</sup>

Colombia, on the other hand, had not claimed a 200-mile exclusive

<sup>2</sup> *Id.* at 16 and *passim*.

<sup>3</sup> Letter from Licenciado Carlos Murillo Zamora to Kaldone G. Nweihed (11 August 1989).

<sup>4</sup> K. G. NWEIHED, *EL CARIBE DE LA PESCA* 216–219 (1983). Cf. Pulvenis, *La Mer des Caraïbes*, 4 *REVUE GÉNÉRALE DE DROIT INTERNATIONAL PUBLIC* (1980) (Pulvenis cites the number and date of the short-lived ‘patrimonial sea’ decree: Decreto No. 2204 of 10 February 1972). On the transition from one concept to the other, see Aguilar, *The Patrimonial Sea or Economic Sea Concept*, 11 *SAN DIEGO LAW REVIEW* 579–602 (1974).

economic zone although it did so a year later in 1978. In fact, Article II of the agreement stresses the acceptance and respect of each party of the methods by which the other currently exercises or may in the future exercise its sovereignty, jurisdiction, supervision, control, or rights in its areas delimited pursuant to this treaty.

As has been said in the Summary, no specific procedures for settlement of disputes were included. No joint development zones are established, no provision on mineral deposits either. The five distinct frameworks of cooperation appear to be fundamentally of an economic nature and/or ecologically oriented, so they may be rather reviewed under Economic and Environmental Considerations.

### 3 *Economic and Environmental Considerations*

Although there is no evidence that any of the following functions affected the course of the boundary, the agreement did define its collateral goals (on maritime cooperation) by calling upon the parties to practice the following:

- (a) protection of the renewable resources and the use of same for the welfare of their peoples and their national development (Article III);
- (b) support for the broadest international cooperation in order to coordinate the conservation measures which each state applies in its areas, particularly as regards migratory species, taking into account the recommendations of appropriate regional organizations and the most accurate scientific data without impairing their individual rights to adopt their own rules in their respective jurisdictions (Article IV);
- (c) scientific research, technical collaboration, and the encouragement of mixed corporations (Article V);
- (d) application of the most adequate measures to prevent, reduce, and control pollution of any source (Article VI); and
- (e) support for the broadest cooperation to promote rapid development of international navigation in seas subject to their sovereignty or jurisdiction (Article VII).

Except for some shrimping on Costa Rica's coastal waters, the area is poor in renewable resources. The delimitation was not affected by Costa Rica's conservation policy regarding the green turtle which spawns on its coast, particularly in Tortuguero. No mineral resources conditioned the location of the boundary either, since it is presumed that such resources do not exist in the boundary area. After the second Colombia–Costa Rica agreement (on their Pacific Ocean boundary) was concluded in 1984, some publications suggested that while Costa Rica did not benefit economically from the Caribbean delimitation, the areas accorded to Isla de Coco (Costa Rica) on the Pacific side were considered rich in migratory species;<sup>5</sup> a sort of a compensatory action, resource-wise.

<sup>5</sup> Murillo Zamora, *El Derecho del Mar y la Delimitacion de Areas Maritimas entre Costa Rica y Colombia*, REVISTA RELACIONES INTERNACIONALES 23 (1987).

No incident with respect to the application of this agreement has been reported. Neither of the parties is known to practice significant fishery activities around the Caribbean boundary.

#### 4 *Geographic Considerations*

Geographic considerations, particularly oppositeness between insular territory and a mainland coast, seem to have influenced the boundary's course. In fact, Costa Rica's coastline gently curves between Panama's, which runs roughly along a latitudinal direction, and Nicaragua's, which turns along a longitudinal course, thus constituting a 'padded cushion' in between. This curve was not reflected in the delimitation; instead a right angle appears to translate its geometric components at Point B, perhaps in detriment to the natural configuration of the coastline and certainly 15 n.m. (approximately) closer to Costa Rica than to Colombia. Point A, however, is closer to Panama and Colombia than to Costa Rica.<sup>6</sup> Thus, some sort of compensation has been achieved on both sides of a hypothetical equidistant line which would have reflected the curvature. It is significant to note, furthermore, that the subsequent Costa Rica-Panama Treaty ((1980) No. 2-6) settled on Point A of the present agreement with no apparent difficulties.

#### 5 *Islands, Rocks, Reefs, and Low-Tide Elevations Considerations*

The Colombian insular territory considered relevant to this delimitation is but a part of the 44 sq. km. that compose the area of the whole Intendencia (considering that Providencia Island and the northern cays of Serrana, Quitasueño and Roncador are not relevant) with a population less than 22,000 (again taken as a whole). The agreement having been negotiated on the basis of equitable principles, equal 'weight' was basically accorded to the Colombian small archipelago of Albuquerque, in front of the coast of a country inhabited by 2,250,000 people. It seems that the islands obtained full 'weight' or effect, though, with regard to hypothetical equidistance; Point A, as mentioned *supra*, slightly favored Costa Rica; (turning) Point B favored Colombia, thus producing a compensatory effect which both governments deemed satisfactory.

Coastal Isla Uvita, off the Costa Rican port of Limon, was used as a base-point for the determination of Point B, with minimal benefit to Costa Rica due to the proximity of the island to the coast.

The jurisdiction-generating capacity of the islands, cays, and other formations constituting Intendencia San Andrés y Providencia has been the subject of more than one controversy. Sandner and Ratter from the University of Hamburg (Department of Geography) quote former Costa Rican Minister of Foreign Affairs and signatory of the instant agreement, Gonzalo Facio, as

<sup>6</sup> US Department of State, *Maritime Boundary: Colombia-Costa Rica*, LIMITS IN THE SEA No. 84 (1979). Cf. *Delimitation of the Maritime Boundary in the Gulf of Maine Area*, (Canada/United States), 1983 I.C.J. 1 (map on p. 444).

having tried to mediate between the contradicting White Papers of Colombia and Nicaragua when he stressed the difference between inhabited and politically differentiated islands such as San Andrés and Providencia, on the one hand and on the other uninhabited cays emerging from a coastal state's shelf as Quitasueño, Roncador, and Serrana, meaning that Colombia may keep the inhabited islands while Nicaragua may accede to the cays.<sup>7</sup>

### 6 *Baselines Considerations*

It does not appear that any unusual baseline system was used for the coasts relevant to this agreement. A year after its conclusion, Colombia promulgated its Law on the Territorial Sea, Exclusive Economic Zone, and Continental Shelf which employed, in the words of *The Geographer* of the US Department of State, 'a general language for application of straight baseline systems.' Article 9 of that law promised the establishment of such baselines along the 'continental territory, the archipelago of San Andrés and Providencia and the remaining insular territories.' When Decree No. 1436 was issued in 1984, however, said article was applied to both continental coasts, with no particular provisions on any insular territory. Costa Rica had no baseline system established at the time. The parties did not seem to consider baseline systems.

### 7 *Geological and Geomorphological Considerations*

While the seabed is relatively deep in this area (averaging 2000–4000 meters), no single geological or geomorphological feature seems to have either interfered in or guided the negotiations. Costa Rica's continental shelf, unlike its neighbor Nicaragua, is quite narrow and follows the shore's contours quite closely. So does the equally narrow slope between the shelf and the 1000-fathom isobath. This factor was ignored by the parties who were mainly concerned with the water surface and column, despite the mention of 'submarine areas' in the title of the agreement.

### 8 *Method of Delimitation Considerations*

No specific delimitation principle or method is advocated. Equidistance was not even mentioned. The boundary appears, for all purposes, to be the result of a conventional agreement on the basis of equity. The actual method consisted of a defined parallel and an open-ended meridian.

It is important to state that the 225° azimuth established by Colombia and Panama as their final segment in the Caribbean was used in this agreement to plot the course of the instant line from starting Point A, at a distance of approximately 15.6 n.m. from the final fixed point M, established by the

<sup>7</sup> Sandner and Ratter, *Topographical Problem Areas in the Delimitation of Maritime Boundaries and their Political Relevance: Case Studies from the Western Caribbean*, 26 IGU Congress 13 (Sydney 1988).

Colombia–Panama agreement. Line A–B between Colombia and Costa Rica runs along parallel  $10^{\circ} 49''$  N. for a distance of approximately 47 n.m., whereupon the boundary takes a right-angle northerly direction along meridian  $82^{\circ} 14''$  W., until a delimitation with Nicaragua, a third party, becomes necessary. Apparently, one may deduce that the parties intended to develop a boundary at a right angle in order to fit into the general shape of the already established line between Colombia and Panama. Based upon public comments when the agreement was considered for ratification, it appears that the negotiators' prime difficulty lay in drawing a boundary in 'empty' space, i.e., in an area devoid of previously settled termini with third parties: Panama and Nicaragua.<sup>8</sup> That is probably why the line was conceived as a right-angled corner whose terminal points would have to be technically determined. The objective to be accomplished by using this line rather than alternative possibilities was probably to assert the step-like meridian and parallel method in the Western Caribbean (*vis-à-vis* true or modified equidistance) in order to validate the  $82^{\circ} 00''$  W. meridian as the westernmost boundary of Colombia's jurisdiction in front of Nicaragua.<sup>9</sup> This is strengthened by the fact that the latter shortly later denounced the 1928 agreement and its 1930 exchange of notes.

### 9 *Technical Considerations*

This agreement may conflict with future negotiations between the states concerned and third parties. In the first place, the line separating Colombia and Nicaragua's maritime zones of jurisdictions follows meridian  $82^{\circ} 00' 00''$ . In the second place, turning Point B is closer to Costa Rica by roughly 15 n.m., and along its meridian at latitude  $11^{\circ}$  N., the closest Nicaraguan territory is only 78 n.m. from the boundary, causing the boundary to lie a short distance closer to Nicaragua than to Costa Rica.

The parties attached a nautical chart on which the lines and points were depicted as an annex to the Treaty, with the understanding that in any case the 'tenor of the Treaty shall prevail.' Since the Spanish wording of this paragraph is identical to the one used for the Colombia–Panama Agreement ((1976) No. 2–5), *mutatis mutandis*, 'tenor' has been translated into unofficial English texts as the 'wording.' In view of the writer, 'tenor' did not exactly mean either 'wording' or 'spirit', but rather the course of thought that the signatories had in mind, thus according preeminence to the legal effect of the geographic references on land territory and irrespective of divergent interpretations that may result from distinct cartographic plotting.

The Department of State Geographer plotted the coordinates of Point A, and affirmed that 'they calculated to be  $10^{\circ} 49' 00''$  N,  $81^{\circ} 26' 15''$  W.' It is not clear why the longitude component of Point A ( $81^{\circ} 26' 15''$  W.) was not

<sup>8</sup> Murillo Zamora, *supra* note 5.

<sup>9</sup> On the legal value of the said meridian see C. A. Ayala Jiménez, *EL CARIBE: MAR INTERIOR DE LAS AMERICAS*, 123–141 (1978). Cf. D'Escoto Brockmann, *La Elevacion de Nicaragua and Promontorio de Nicaragua*, reproduced in Jaen, *supra* note 1, at 53–57.

specified in the agreement. The latitude component (10° 49' 00" N.) obviously had to be specified, constituting, as it does, the only fixed segment of the whole agreement.

It may be useful to add that in the corresponding agreement and exchange of notes, the 1928–30 divider between Colombia and Nicaragua was referred to a chart published by the Hydrographic Office of the United States Navy in Washington in October 1885.<sup>10</sup>

### 10 *Other Considerations*

It is advisable to read this treaty in conjunction with the Colombia–Panama ((1976) No. 2–5) and Costa Rica–Panama ((1980) No. 2–6) agreements. The Colombia–Costa Rica 1984 Treaty (No. 3–6) which is applicable to their marine and submarine areas in the Pacific constitutes a necessary reference. The reasons have been explained under both Political, Strategic, and Historical Considerations and Economic and Environmental Considerations, as well as in the Summary.

## III CONCLUSIONS

This agreement was negotiated as one in a series of rather similar instruments in the Caribbean during the latter half of the 1970s. Its motivations may be best understood if read within the political, strategic, and historical framework of the subregion in general, with economic objectives providing the formal setting.

The agreement uses the term 'marine and submarine areas' which, in the region concerned and during the respective period, was understood to mean extended jurisdiction to a 200-mile all-resources limit, whether an economic zone or a future economic zone, including all rights to the continental shelf.

The method consisted of constructing a short parallel and an open-ended meridian in open space between continental Costa Rica and Colombian insular territory which was the probable outcome of an agreement based on equitable principles.

## IV RELATED LAW IN FORCE

### A *Law of the Sea Conventions*

Colombia: Party to the 1958 Geneva Convention on the Continental Shelf since 1962 and the Convention on Fisheries since 1963

Costa Rica: Party to the 1958 Convention on the High Seas and the Convention on the Continental Shelf since 1972

<sup>10</sup> Text of the agreement and exchange of notes in *Tratados y Acuerdos de Colombia 1919–1938*, 384–85 (1940).



472 *Report Number 2-1*B *Maritime Jurisdiction Claimed at the Time of Signature*

Colombia: 3-n.m. territorial sea (1952), 12 n.m. for fishing (1922), 12 n.m. for hydrocarbons (1923)

Costa Rica: 12-n.m. territorial sea (1972, 1975), 200-n.m. exclusive economic zone (1975, formerly and since 1972, patrimonial sea)

C *Maritime Jurisdiction Claimed Subsequent to Signature*

Colombia: In 1978, Law No. 10 established a 12-n.m. territorial sea, a 200-n.m. exclusive economic zone, an undefined continental shelf, and announced potential application of baselines. In 1984, Straight Baselines Decree No. 1436 was issued.<sup>11</sup>

## V REFERENCES AND ADDITIONAL READINGS

Alexander, *Identification of Technical Issues of Maritime Boundary Delimitation within the Law of the Sea Convention Context*, in THE UN CONVENTION ON THE LAW OF THE SEA: IMPACT AND IMPLEMENTATION 272 (Brown and Churchill eds. 1987)

C. A. AYALA JIMÉNEZ, EL CARIBE: MAR INTERIOR DE LAS AMÉRICAS (1978)

Facio, *El Diferendo entre Nicaragua y Colombia sobre el Archipiélago de San Andrés y Providencia*, REVISTA RELACIONES INTERNACIONALES 2(1), 13-28 (1981)

O. F. JAEN, DERECHO DEL MAR: DELIMITACION DE AREAS MARINAS EN EL CARIBE (1987)

C. MURILLO ZAMORA, *El Derecho del Mar y la Delimitación de Areas Maritimas entre Costa Rica y Colombia*, REVISTA RELACIONES INTERNACIONALES (1987)

C. MURILLO ZAMORA, COSTA RICA Y EL DERECHO DEL MAR (1990)

Nweihed, *Delimitation Principles and Problems in the Caribbean*, MARITIME ISSUES IN THE CARIBBEAN (F. Jhabvala ed. 1983)

K. G. NWEIHED, EL CARIBE DE LA PESCA (1983)

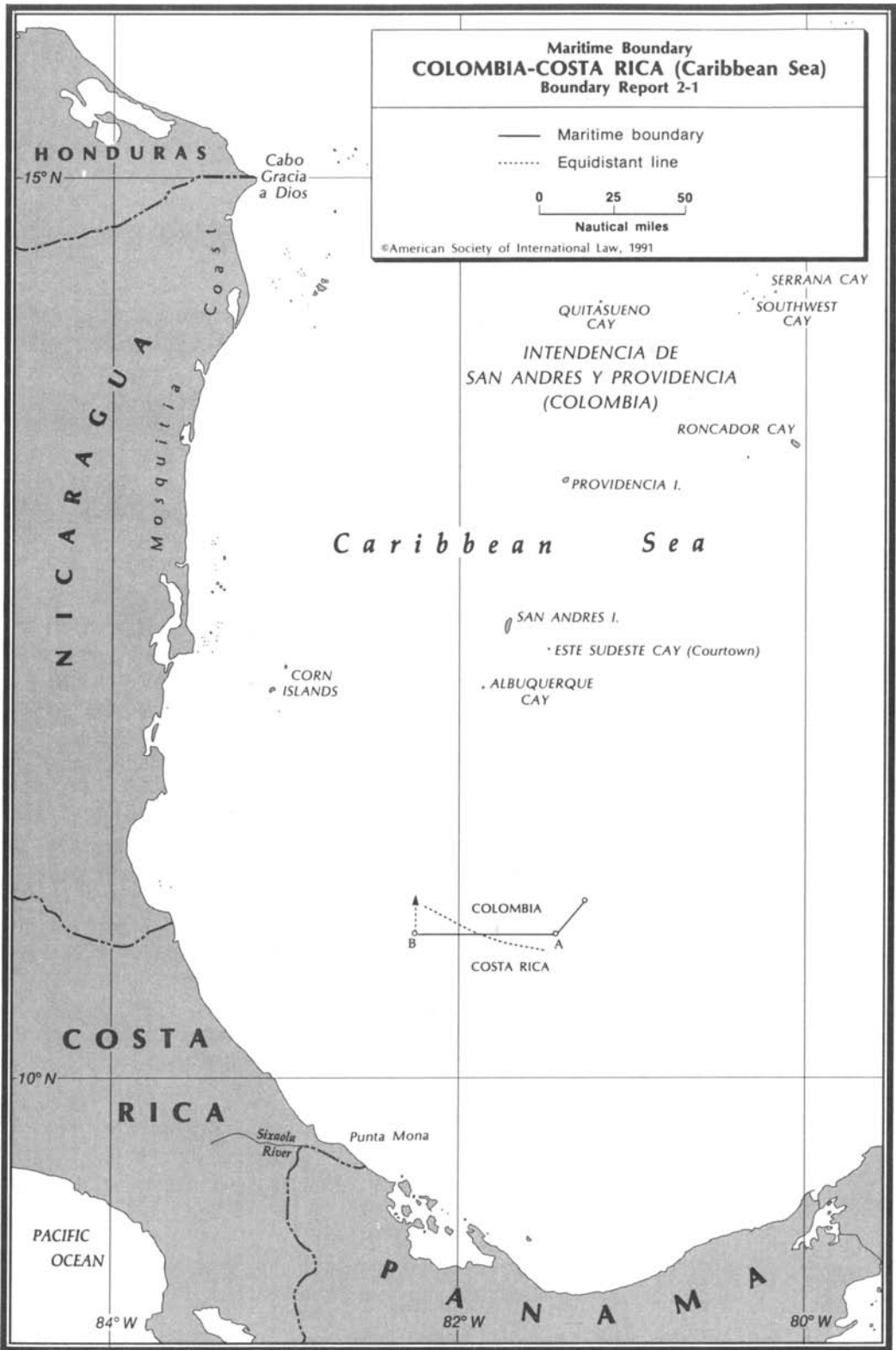
Sandner and Ratter, *Topographical Problem Areas in the Delimitation of Maritime Boundaries and their Political Relevance: Case Studies from the Western Caribbean*, 26 IGU Congress (Sydney 1988)

A. J. URIBE, COLOMBIA: VENEZUELA-COSTA RICA-ECUADOR-BRASIL-NICARAGUA Y PANAMA (1931)

Note: In Latin America treaties are usually referred to by the names of the plenipotentiaries who sign them. Thus the 1977 agreement on the Caribbean may be known as El Tratado Facio-Fernandez, 1977; the agreement on the Pacific, El Tratado Lloreda-Gutiérrez, 1984

*Prepared by Kaldone G. Nweihed*

<sup>11</sup> US Department of State, *National Claims to Maritime Jurisdiction* LIMITS IN THE SEA, No. 36 (1972), assigns to Colombia a 12 n.m. territorial sea as from 1970 without citing the legal source. In its 4th revised edition of 1981, the 3 n.m. (1952) limit is affirmed, besides the more recent and current 12 n.m. limit proclaimed in 1978.



**Treaty on Delimitation of Marine and Submarine Areas and Maritime Cooperation between the Republic of Colombia and the Republic of Costa Rica**

The Republic of Colombia and the Republic of Costa Rica,

Realizing that international cooperation and reciprocity constitute the best means to resolve matters of common interest to nations which are friends,

Agreeing on the advisability and need to delimit their marine and submarine areas in the Caribbean Sea,

Concurring on safeguarding the sovereignty and jurisdiction of marine areas belonging to each country and the free and unimpeded transit through them,

Mutually interested in the adoption of adequate means for the preservation, conservation, and exploitation of the resources existing in those areas, and for the prevention, control, and elimination of their pollution, have decided to conclude a Treaty and for that purpose have appointed as their plenipotentiaries:

The President of the Republic of Colombia: Dr. Heraclio Fernandez Sandoval, Ambassador Extraordinary and Plenipotentiary in Costa Rica;

The President of the Republic of Costa Rica: Dr. Gonzalo J. Facio, Minister of Foreign Relations,

Who, after exchanging their respective full powers found in proper and due form, have agreed as follows:

*Article I*

To delimit their respective marine and submarine waters which are established or may be established in the future by the following lines:

- A. From the intersection of a straight line, drawn with azimuth 225° (45° SW) from a point located at lat. 11° 00' 00" N. and long. 81° 15' 00" W., with the parallel 10° 49' 00" N. West along the said parallel to its intersection with the meridian 82° 14' 00" W.
- B. From the intersection of the parallel 10° 49' 00" N. and the meridian 82° 14' 00" W., the boundary shall continue north along the said meridian to where delimitation must be made with a third State.

N. B. The agreed lines and points are shown on the nautical chart, signed by the plenipotentiaries, which is annexed to this Treaty, it being understood that in all cases the wording of the Treaty shall prevail.

#### *Article II*

To accept and respect the methods by which each of the two States currently exercises or may in the future exercise its sovereignty, jurisdiction, supervision, control, or rights in the marine and submarine areas adjacent to its coasts, delimited pursuant to this Treaty, in conformity with what each country has established or may establish in the future and with the regulations laid down by its domestic law.

#### *Article III*

To develop the broadest cooperation between the two countries for the protection of the renewable or nonrenewable resources found within the marine or submarine areas over which they exercise or may in the future exercise sovereignty, jurisdiction, or supervision and to use those resources for the welfare of their peoples and their national development.

#### *Article IV*

To support the broadest international cooperation in order to coordinate the conservation measures which each State applies in the zones of the sea subject to its sovereignty or jurisdiction, particularly as regards species that move beyond its jurisdictional zone, taking into account the recommendations of appropriate regional organizations and the most accurate and current scientific data. The said cooperation shall not impair the sovereign right of each State to adopt, within the framework of its respective maritime jurisdictions, the rules and regulations that it deems pertinent.

#### *Article V*

To offer each other the greatest possible facilities for the purpose of developing activities to exploit and use the living resources of their respective maritime jurisdictional zones through the exchange of information, cooperation in scientific research, technical collaboration, and encouragement of the formation of mixed corporations.

#### *Article VI*

Each of the Parties expresses its determination to cooperate with the other, in accordance with its possibilities, in the application of the most adequate measures to impede, reduce, and control any pollution of the marine envi-

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ronment which affects the neighboring State, irrespective of the source of such pollution.

*Article VII*

To support the broadest cooperation to promote rapid development of international navigation in seas subject to the sovereignty or jurisdiction of each State.

*Article VIII*

This Treaty shall be subject to the constitutional formalities of ratification by the High Contracting Parties and shall enter into force upon the exchange of the instruments of ratification which shall take place at Bogota, Republic of Colombia.

This treaty is signed in two copies, in the Spanish language, both texts being equally authentic.

Signed at San Jose, Republic of Costa Rica, on March 17, 1977.

Heraclio Fernandez Sandoval  
Gonzalo J. Facio

**Annex 139**

Delimitation Treaty (with map) (France and Venezuela), 17 July 1980, 1319 UNTS 215.

**No. 21969**

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**FRANCE  
and  
VENEZUELA**

**Delimitation Treaty (with map). Signed at Caracas on 17 July  
1980**

*Authentic texts: French and Spanish.*

*Registered by France on 27 June 1983.*

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**FRANCE  
et  
VENEZUELA**

**Traité de délimitation (avec carte). Signé à Caracas  
le 17 juillet 1980**

*Textes authentiques : français et espagnol.*

*Enregistré par la France le 27 juin 1983.*

[TRANSLATION — TRADUCTION]

DELIMITATION TREATY<sup>1</sup> BETWEEN THE GOVERNMENT OF THE FRENCH REPUBLIC AND THE GOVERNMENT OF THE REPUBLIC OF VENEZUELA

The Government of the French Republic and the Government of the Republic of Venezuela,

Desiring to strengthen the relations of good-neighbourliness and friendship between the two countries,

Aware of the need to delimit precisely and equitably the economic zones situated off the coast of their territories,

Basing themselves on the relevant rules and principles of international law and taking into account the work of the Third United Nations Conference on the Law of the Sea,

Further to the negotiations held at Paris from 18 February 1980 and at Caracas from 11 March 1980 in accordance with the notes exchanged between the Venezuelan Government and the French Government on 30 August 1978 and 12 December 1978 respectively and with the French-Venezuela communiqué issued at the end of the official visit to France of the Minister for Foreign Affairs of Venezuela on 7 December 1979,

Have agreed as follows:

*Article 1.* The maritime delimitation line between the French Republic off the coasts of Guadeloupe and Martinique and the Republic of Venezuela shall be constituted by the meridian 62° 48' 50".

*Article 2.* For the purposes of this Treaty, the reference map shall be map No. 6332<sup>2</sup> entitled "From Puerto Rico to the Gulf of Paria" (scale 1/1,203,000 at latitude 13° 30' (1963 edition)) of the Hydrographic and Oceanographic Service of the French Navy. That map is annexed to this Treaty, of which it forms an integral part.

*Article 3.* The line thus established shall constitute the maritime border between the zones over which the Contracting Parties exercise or will exercise sovereign rights or jurisdiction in accordance with international law.

*Article 4.* Any dispute which may arise between the Parties concerning the interpretation or application of this Treaty shall be settled by the peaceful means recognized by international law.

*Article 5.* Each Party shall notify the other of completion of the constitutional procedures required of it for ratification of this Treaty.

This Treaty shall enter into force on the date of the exchange of the instruments of ratification.

<sup>1</sup> Came into force on 28 January 1983 by the exchange of the instruments of ratification, which took place at Caracas, in accordance with article 5.

<sup>2</sup> See insert in a pocket at the end of this volume.



IN WITNESS WHEREOF the undersigned, duly authorized by their respective Governments, have signed this Treaty.

DONE at Caracas on 17 July 1980 in two original copies, each in the French and Spanish languages, both texts being equally authentic.

For the Government of the French Republic:

OLIVIER STIRN

Secretary of State at the Ministry of Foreign Affairs

For the Government of the Republic of Venezuela:

GUSTAVO PLANCHART MANRIQUE

Plenipotentiary

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**Annex 140**

Convention on Maritime Delimitation between the Government of the French Republic and  
the Government of His Serene Highness the Prince of Monaco, 16 February 1984, 1411  
UNTS 289.

**No. 23631**

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**FRANCE  
and  
MONACO**

**Convention on maritime delimitation (with map). Signed at  
Paris on 16 February 1984**

*Authentic text: French.*

*Registered by France on 22 November 1985.*

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**FRANCE  
et  
MONACO**

**Convention de délimitation maritime (avec carte). Signée à  
Paris le 16 février 1984**

*Texte authentique : français.*

*Enregistrée par la France le 22 novembre 1985.*

[TRANSLATION — TRADUCTION]

CONVENTION<sup>1</sup> ON MARITIME DELIMITATION BETWEEN THE GOVERNMENT OF THE FRENCH REPUBLIC AND THE GOVERNMENT OF HIS SERENE HIGHNESS THE PRINCE OF MONACO

The Government of the French Republic and the Government of His Serene Highness the Prince of Monaco,

Considering the special relations of friendship existing between the Principality of Monaco and France,

Considering the Franco-Monegasque Declaration of 20 April 1967 relating to the limits of the territorial waters of the Principality of Monaco,

Noting that, as a result of the extension of the breadth of French and Monegasque territorial waters to 12 nautical miles, it is necessary to undertake a new delimitation of those waters,

Have agreed as follows:

*Article 1.* The limits of the territorial waters of the two States shall be the following:

(1) To the west, the limit shall be the loxodromic curve connecting the points B0 and B2, defined by the following co-ordinates:

	<i>Longitude E</i>	<i>Latitude N</i>
B0	7° 25' 10.5"	43° 43' 32.9"
B2	7° 29' 48"	43° 31' 46"

(2) To the east, the limit shall be constituted by two lines established as indicated below.

The first shall be the loxodromic curve connecting points A0 and A1, defined by the following co-ordinates:

	<i>Longitude E</i>	<i>Latitude N</i>
A0	7° 26' 22.14"	43° 45' 01.49"
A1	7° 27' 12.6"	43° 44' 35.5"

The second shall be the loxodromic curve connecting point A1 and a point A2 with the following co-ordinates:

	<i>Longitude E</i>	<i>Latitude N</i>
A2	7° 31' 42"	43° 33' 09"

(3) The territorial waters of Monaco shall be of the same breadth as the territorial waters of France. The outer limit of these waters is the loxodromic curve connecting points A2 and B2.

<sup>1</sup> Came into force on 22 August 1985, the date of the last of the notifications (of 23 July and of 22 August 1985) by which the Parties informed each other of the completion of the required constitutional procedures, in accordance with article 5.

*Article 2.* The limits of the maritime areas situated beyond the territorial sea of Monaco over which the Principality of Monaco exercises or shall exercise sovereign rights in accordance with international law shall be the following:

(1) To the west, the limit shall be the loxodromic curve connecting point B2 and a point B3 with the following co-ordinates:

	<i>Longitude E</i>	<i>Latitude N</i>
B3	7° 43' 26"	42° 56' 47"

(2) To the east, the limit shall be the loxodromic axis connecting point A2 and a point A3 with the following co-ordinates:

	<i>Longitude E</i>	<i>Latitude N</i>
A3	7° 45' 25"	42° 57' 59"

(3) In the south, the limit shall be the loxodromic curve connecting points A3 and B3.

Points A3 and B3 shall be equidistant from the French (Corsican) and Monegasque coasts.

*Article 3.* (1) The co-ordinates of the points defining the above-mentioned limits shall be expressed in terms of the compensated European Geodetic System (Europe 50).

(2) These limits shall be shown on the chart annexed to this Convention.

*Article 4.* To prevent this Convention from being prejudicial to the normal fishing practices of the professional fishermen of the two countries, the Parties agree, as a neighbourly arrangement, to allow the Monegasque and French coastal fishing vessels to continue fishing the traditional fishing areas situated within Monegasque territorial waters and the neighbouring French territorial waters.

These provisions shall not, however, constitute an obstacle to the establishment by each of the Parties, in its territorial waters, of one or more sanctuaries or areas for the protection of marine fauna and flora. The nationals of each of the Parties shall enjoy the same rights and shall be subject to the same obligations in the above-mentioned areas.

*Article 5.* Each Party shall notify the other of the completion of the constitutional procedures required for the entry into force of this Convention, which shall enter into force on the date of the last notification.

The Franco-Monegasque Declaration of 20 April 1967<sup>1</sup> shall be rescinded on that date.

IN WITNESS WHEREOF, the undersigned, duly authorized for this purpose, have signed this Convention.

DONE at Paris, in duplicate, on 16 February 1984.

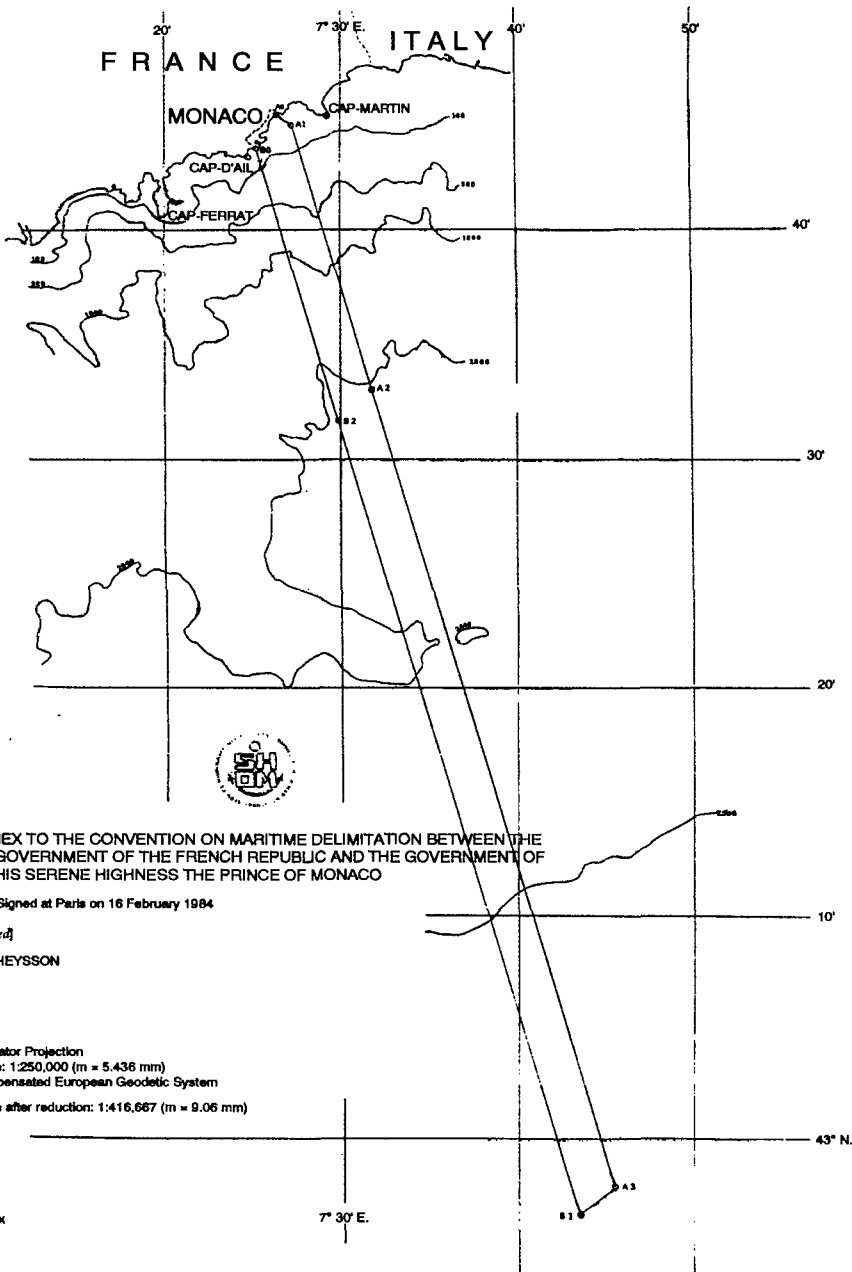
For the Government  
of the French Republic:

[CLAUDE CHEYSSON]

For the Government  
of His Serene Highness  
the Prince of Monaco:

[JEAN HERLY]

<sup>1</sup> United Nations, *Treaty Series*, vol. 1516, I-26262.



ANNEX TO THE CONVENTION ON MARITIME DELIMITATION BETWEEN THE GOVERNMENT OF THE FRENCH REPUBLIC AND THE GOVERNMENT OF HIS SERENE HIGHNESS THE PRINCE OF MONACO

Signed at Paris on 16 February 1984

[Signed]

C. CHEYSSON

Mercator Projection

Scale: 1:250,000 (m = 5.436 mm)

Compensated European Geodetic System

Scale after reduction: 1:416,667 (m = 9.06 mm)

3749X

7° 30' E.

43° N.

**Annex 141**

Treaty of Peace and Friendship (with annexes and maps) (Chile and Argentina), 29 November 1984, 1399 UNTS 102.

**No. 23392**

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**CHILE  
and  
ARGENTINA**

**Treaty of peace and friendship (with annexes and maps).  
Signed at Vatican City on 29 November 1984**

*Authentic text: Spanish.*

*Registered by Chile on 17 June 1985.*

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**CHILI  
et  
ARGENTINE**

**Traité de paix et d'amitié (avec annexes et cartes). Signé à  
la Cité du Vatican le 29 novembre 1984**

*Texte authentique : espagnol.*

*Enregistré par le Chili le 17 juin 1985.*



[TRANSLATION — TRADUCTION]

TREATY<sup>1</sup> OF PEACE AND FRIENDSHIP

IN THE NAME OF GOD THE ALL-POWERFUL

The Government of the Republic of Chile and the Government of the Argentine Republic,

Recalling that on 8 January 1979<sup>2</sup> they requested the Holy See to act as a Mediator in the dispute which has arisen in the southern zone, with the aim of guiding them in the negotiations and assisting them in the search for a solution; and that they sought his valuable aid in fixing a boundary line, which would determine the respective areas of jurisdiction to the east and to the west of this line, from the end of the existing boundary;

Convinced that it is the inescapable duty of both Governments to give expression to the aspirations of peace of their peoples;

Bearing in mind the Boundary Treaty of 1881,<sup>3</sup> the unshakeable foundation of relations between the Argentine Republic and the Republic of Chile, and its supplementary and declaratory instruments;

Reiterating the obligation always to solve all its disputes by peaceful means and never to resort to the threat or use of force in their mutual relations;

Desiring to intensify the economic co-operation and physical integration of their respective countries;

Taking especially into account the "Proposal of the Mediator, Suggestions and Advice", of 12 December 1980;

Conveying, on behalf of their peoples, their thanks to His Holiness Pope John Paul II for his enlightened efforts to reach a solution of the dispute and to strengthen friendship and understanding between both nations;

Have resolved to conclude the following Treaty, which constitutes a compromise, for which purpose they have designated as their representatives:

His Excellency the President of the Republic of Chile Mr. Jaime del Valle Alliende,  
Minister for Foreign Affairs,

His Excellency the President of the Argentine Republic Mr. Dante Mario Caputo,  
Minister for Foreign Affairs and Worship,

who have agreed as follows:

## PEACE AND FRIENDSHIP

*Article 1.* The High Contracting Parties, responding to the fundamental interests of their peoples, reiterate solemnly their commitment to preserve, strengthen and develop their unchanging ties of perpetual friendship.

The Parties shall hold periodic meetings of consultation in which they shall consider especially any occurrence or situation which is likely to alter the harmony

<sup>1</sup> Came into force on 2 May 1985 by the exchange of the instruments of ratification, which took place at Vatican City, in accordance with article 18.

<sup>2</sup> See "Act of Montevideo" in United Nations, *Treaty Series*, vol. 1137, p. 219.

<sup>3</sup> *British and Foreign State Papers*, vol. LXXII, p. 1103.

between them, they shall try to ensure that any difference in their viewpoints does not cause controversy and they shall suggest or adopt specific measures to maintain and strengthen good relations between both countries.

*Article 2.* The Parties confirm their obligation to refrain from resorting directly or indirectly to any form of threat or use of force and from adopting any other measures which may disturb the peace in any sector of their mutual relations.

They also confirm their obligation to solve, always and exclusively by peaceful means, all controversies, of whatever nature, which for any cause have arisen or may arise between them, in conformity with the following provisions.

*Article 3.* If a dispute arises, the Parties shall adopt appropriate measures to maintain the best general conditions of coexistence in all aspects of their relations and to prevent the dispute from becoming worse or prolonged.

*Article 4.* The Parties shall strive to reach a solution of any dispute between them through direct negotiations, carried out in good faith and in a spirit of co-operation.

If, in the judgement of both Parties or one of them, direct negotiations do not achieve a satisfactory result, either of the Parties may invite the other to seek a solution to the dispute by means of peaceful settlement chosen by mutual agreement.

*Article 5.* In the event that the Parties, within a period of four months from the invitation referred to in the preceding article, do not reach agreement on another means of settlement and on the time-limit and other procedures for its application, or in the event that, such agreement having been obtained, a solution is not reached for any reason, the conciliation procedure stipulated in annex 1, chapter I, shall be applied.

*Article 6.* If both Parties or any one of them has not accepted the settlement terms proposed by the Conciliation Commission within the time-limit fixed by its Chairman, or if the conciliation procedure should break down for any reason, both Parties or any one of them may submit the dispute to the arbitral procedure established in annex 1, chapter II.

The same procedure shall apply when the Parties, in conformity with article 4, choose arbitration as a means of settlement of the dispute, unless they agree on other rules.

Questions which have been finally settled may not be brought up again under this article. In such cases, arbitration shall be limited exclusively to questions raised about the validity, interpretation and implementation of such agreements.

#### MARITIME BOUNDARY

*Article 7.* The boundary between the respective sovereignties over the sea, seabed and subsoil of the Argentine Republic and the Republic of Chile in the sea of the southern zone from the end of the existing boundary in the Beagle Channel, i.e., the point fixed by the co-ordinates 55°07.3' South latitude and 66°25.0' West longitude shall be the line joining the following points:

From the point fixed by the co-ordinates 55°07.3' South latitude and 66°25.0' West longitude (point A), the boundary shall follow a course towards the south-east

along a loxodromic line until a point situated between the coasts of the Isla Nueva and the Isla Grande de Tierra del Fuego whose co-ordinates are South latitude  $55^{\circ}11.0'$  and West longitude  $66^{\circ}04.7'$  (point B); from there it shall continue in a south-easterly direction at an angle of  $45^{\circ}$  measured at point B and shall extend to the point whose co-ordinates are  $55^{\circ}22.9'$  South latitude and  $65^{\circ}43.6'$  West longitude (point C); it shall continue directly south along that meridian until the parallel  $56^{\circ}22.8'$  of South latitude (point D); from there it shall continue west along that parallel, 24 miles to the south of the most southerly point of Isla Hornos, until it intersects the meridian running south from the most southerly point of Isla Hornos at co-ordinates  $56^{\circ}22.8'$  South latitude and  $67^{\circ}16.0'$  West longitude (point E); from there the boundary shall continue south to a point whose co-ordinates are  $58^{\circ}21.1'$  South latitude and  $67^{\circ}16.0'$  West longitude (point F).

The maritime boundary described above is shown on annexed map No. I.<sup>1</sup>

The exclusive economic zones of the Argentine Republic and the Republic of Chile shall extend respectively to the east and west of the boundary thus described.

To the south of the end of the boundary (point F), the exclusive economic zone of the Republic of Chile shall extend, up to the distance permitted by international law, to the west of the meridian  $67^{\circ}16.0'$  West longitude, ending on the east at the high sea.

*Article 8.* The Parties agree that in the area included between Cape Horn and the easternmost point of Isla de los Estados, the legal effects of the territorial sea shall be limited, in their mutual relations, to a strip of three marine miles measured from their respective base lines.

In the area indicated in the preceding paragraph, each Party may invoke with regard to third States the maximum width of the territorial sea permitted by international law.

*Article 9.* The Parties agree to call the maritime area delimited in the two preceding articles "Mar de la Zona Austral" (Sea of the Southern Zone).

*Article 10.* The Argentine Republic and the Republic of Chile agree that at the eastern end of the Strait of Magellan (Estrecho de Magallanes) defined by Punta Dungeness in the north and Cabo del Espíritu Santo in the south, the boundary between their respective sovereignties shall be the straight line joining the "Dungeness Marker (Former Beacon)", located at the very tip of the said geographical feature, and "Marker I on Cabo del Espíritu Santo" in Tierra del Fuego.

The boundary described above is shown in annexed map No. II.<sup>1</sup>

The sovereignty of the Argentine Republic and the sovereignty of the Republic of Chile over the sea, seabed and subsoil shall extend, respectively, to the east and west of this boundary.

The boundary agreed on here in no way alters the provisions of the 1881 Boundary Treaty, whereby the Strait of Magellan is neutralized forever with free navigation assured for the flags of all nations under the terms laid down in article V.

The Argentine Republic undertakes to maintain, at any time and in whatever circumstances, the right of ships of all flags to navigate expeditiously and without obstacles through its jurisdictional waters to and from the Strait of Magellan.

<sup>1</sup> See insert in a pocket at the end of this volume.

*Article 11.* The Parties give mutual recognition to the base lines which they have traced in their respective territories.

#### ECONOMIC CO-OPERATION AND PHYSICAL INTEGRATION

*Article 12.* The Parties agree to establish a permanent Bi-National Commission with the aim of strengthening economic co-operation and physical integration. The Bi-National Commission shall be responsible for promoting and developing initiatives, *inter alia*, on the following subjects: global system of terrestrial links, mutual development of free ports and zones, land transport, air navigation, electrical interconnections and telecommunications, exploitation of natural resources, protection of the environment and tourist complementarity.

Within six months following the entry into force of this Treaty, the Parties shall establish the Bi-National Commission and shall draw up its rules of procedure.

*Article 13.* The Republic of Chile, in exercise of its sovereign rights, shall grant to the Argentine Republic the navigation facilities specified in articles 1 to 9 of annex 2.

The Republic of Chile declares that ships flying the flag of third countries may navigate without obstacles over the routes indicated in articles 1 and 8 of annex 2, subject to the pertinent Chilean regulations.

Both Parties shall allow in the Beagle Channel the navigation and pilotage system specified in annex 2, articles 11 to 16.

The stipulations in this Treaty regarding navigation in the southern zone shall replace those in any previous agreement on the subject between the Parties.

#### FINAL CLAUSES

*Article 14.* The Parties solemnly declare that this Treaty constitutes the complete and final settlement of the questions with which it deals.

The boundaries indicated in this Treaty shall constitute a final and irrevocable confine between the sovereignties of the Argentine Republic and the Republic of Chile.

The Parties undertake not to present claims or interpretations which are incompatible with the provisions of this Treaty.

*Article 15.* Articles 1 to 6 of this Treaty shall be applicable in the territory of Antarctica. The other provisions shall not affect in any way, nor may they be interpreted in any way, that they can affect, directly or indirectly, the sovereignty, rights, juridical positions of the Parties, or the boundaries in Antarctica or in its adjacent maritime areas, including the seabed and subsoil.

*Article 16.* Welcoming the generous offer of the Holy Father, the High Contracting Parties place this Treaty under the moral protection of the Holy See.

*Article 17.* The following form an integral part of this Treaty:

- (a) Annex 1 on conciliation and arbitration procedure, consisting of 41 articles;
- (b) Annex 2 on navigation, consisting of 16 articles; and
- (c) The maps referred to in articles 7 and 10 of the Treaty and articles 1, 8 and 11 of annex 2.

References to this Treaty shall be understood as references also to its respective annexes and maps.<sup>1</sup>

*Article 18.* This Treaty is subject to ratification and shall enter into force on the date of the exchange of the instruments of ratification.

*Article 19.* This Treaty shall be registered in conformity with Article 102 of the Charter of the United Nations.

IN WITNESS WHEREOF, they sign and affix their seals to this Treaty in six identical copies of which two shall remain in the possession of the Holy See and the others in the possession of each of the Parties.

DONE in Vatican City on 29 November 1984.

[ DANTE MARIO CAPUTO ]

[ JAIME DEL VALLE ALLIENDE ]

*Before me:*

[ AGOSTINO Cardinal CASAROLI ]

## ANNEX I

### CHAPTER I. CONCILIATION PROCEDURE PROVIDED FOR IN ARTICLE 5 OF THE TREATY OF PEACE AND FRIENDSHIP

*Article 1.* Within six months following the entry into force of this Treaty, the Parties shall establish an Argentino-Chilean Permanent Conciliation Commission, hereinafter called "the Commission".

The Commission shall be composed of three members. Each one of the Parties shall appoint a member, who may be chosen from among its nationals. The third member, who shall act as Chairman of the Commission, shall be chosen by both Parties from among the nationals of third States who do not have their habitual residence in the territory of the Parties and are not employed in their service.

Members shall be appointed for a period of three years and may be reappointed. Each of the Parties may proceed at any time with the replacement of the member appointed by it. The third member may be replaced during his term of office by agreement between the Parties.

Vacancies caused by death or any other reason shall be filled in the same manner as initial appointments, within a period not longer than three months.

If the appointment of the third member of the Commission cannot be made within a period of six months from the entry into force of this Treaty or within a period of three months from the beginning of the vacancy, as the case may be, any one of the Parties may request the Holy See to make the appointment.

*Article 2.* In the situation provided for in article 5 of the Treaty of Peace and Friendship, the dispute shall be brought before the Commission in the form of a written request, either jointly by the two Parties or separately, addressed to the Chairman of the Commission. The subject of the dispute shall be briefly indicated in the request.

If the request is not submitted jointly, the Party making it shall immediately notify the other Party.

<sup>1</sup> See footnote on p. 105 of this volume.

*Article 3.* The written request or requests whereby the dispute is brought before the Commission shall contain, as far as possible, the designation of the delegate or delegates by whom the Party or Parties originating the request will be represented on the Commission.

It shall be the responsibility of the Chairman of the Commission to invite the Party or Parties who have not appointed a delegate to proceed promptly with such an appointment.

*Article 4.* Once a dispute has been brought before the Commission, and solely for this purpose, the Parties may designate, by common agreement, two more members to form part of it. The third member already appointed shall continue to serve as the Chairman of the Commission.

*Article 5.* If, when a dispute is brought before the Commission, any of the members appointed by a Party is unable to participate fully in the conciliation procedure, that Party must replace him as soon as possible for the sole purpose of the conciliation.

At the request of any one of the Parties, or on his own initiative, the Chairman may require the other Party to proceed with such a replacement.

If the Chairman of the Commission is unable to participate fully in the conciliation procedure, the Parties must replace him by common agreement as soon as possible for the sole purpose of the conciliation. If there is no such agreement, any of the Parties may request the Holy See to make the appointment.

*Article 6.* Having received a request, the Chairman shall fix the place and the date of the first meeting and shall invite to it the members of the Commission and the delegates of the Parties.

At the first meeting the Commission shall appoint its Secretary, who shall not be a national of any of the Parties, shall not have a permanent residence in their territory and shall not be employed in their service. The Secretary shall remain in office as long as the conciliation lasts.

At the same meeting, the Commission shall determine the procedure which is to govern the conciliation. Except if the Parties agree otherwise, the procedure shall be adversarial.

*Article 7.* The Parties shall be represented in the Commission by their delegates; they may also be accompanied by advisers and experts appointed by them for these purposes and they may request any testimony they consider appropriate.

The Commission shall have the power to request explanations from the delegates, advisers and experts of the Parties and from other persons they consider useful.

*Article 8.* The Commission shall meet in a place the Parties agree on and, failing such an agreement, in the place designated by its Chairman.

*Article 9.* The Commission may recommend that the Parties adopt measures to prevent the dispute from becoming worse or the conciliation from becoming more difficult.

*Article 10.* The Commission may not meet without the presence of all its members.

Unless the Parties agree otherwise, all the Commission's decisions shall be taken by a majority vote of its members. In the Commission's records no mention shall be made of whether decisions were made unanimously or by a majority.

*Article 11.* The Parties shall facilitate the work of the Commission and shall, as far as possible, provide it with all useful documents and information. Similarly, they shall allow it to proceed in their respective territories with the summoning and hearing of witnesses and experts and with the carrying out of on-the-spot inspections.

*Article 12.* In finalizing its consideration of the dispute, the Commission shall strive to define the terms of a settlement likely to be accepted by both Parties. The Commission may, for this purpose, proceed to exchange views with the delegates of the Parties, whom they may hear jointly or separately.

The terms proposed by the Commission shall be only in the nature of recommendations submitted for the consideration of the Parties to facilitate a mutually acceptable settlement.

The terms of the settlement shall be communicated in writing by the Chairman to the delegates of the Parties, whom he shall invite to inform him, within the time-limit fixed by him, whether the respective Governments accept the proposed settlement or not.

In making this communication, the Chairman shall explain personally the reasons why, in the Commission's opinion, they advise the Parties to accept the settlement.

If the dispute is only about questions of fact, the Commission shall confine itself to investigating these facts and shall draw up its conclusions in a report.

*Article 13.* Once the settlement proposed by the Commission is accepted by both Parties, a document embodying the settlement shall be drawn up; it shall be signed by the Chairman, the Secretary of the Commission and the delegates. A copy of the document, signed by the Chairman and the Secretary, shall be sent to each Party.

*Article 14.* If both Parties or one of them does not accept the settlement proposed and if the Commission deems it useless to try to obtain agreement on different settlement terms, a document shall be drawn up, signed by the Chairman and Secretary, which, without reproducing the settlement terms, shall state that the Parties could not be reconciled.

*Article 15.* The work of the Commission shall be concluded within six months from the day on which the dispute was brought to its attention, unless the Parties agree otherwise.

*Article 16.* No statement or communication of the delegates or members of the Commission on the substance of the dispute shall be included in the records of the meetings, unless the delegate or member responsible for the statement or communication consents. On the other hand, the written or oral reports of experts, the records of on-the-spot inspections and the statements of witnesses shall be annexed to the records, unless the Commission decides otherwise.

*Article 17.* Authentic copies of the records of meetings and their annexes shall be sent to the delegates of the Parties through the Secretary of the Commission, unless the Commission decides otherwise.

*Article 18.* The Commission's discussions shall be made public only by virtue of a Decision taken by the Commission with the assent of both Parties.

*Article 19.* No admission or proposal made during the conciliation proceedings, whether by one of the Parties or by the Commission, may prejudice or affect, in any way, the rights or claims of either Party in the event that the conciliation procedure is not successful. Similarly, the acceptance by either Party of a draft settlement formulated by the Commission shall in no way imply acceptance of considerations of fact or law on which such a settlement may be based.

*Article 20.* Once the Commission's work is completed, the Parties shall consider whether they will authorize the total or partial publication of the relevant documentation. The Commission may address to them a recommendation for this purpose.

*Article 21.* During the work of the Commission, each of its members shall receive financial remuneration the amount of which shall be fixed by common agreement between the Parties. The Parties shall each pay half of this remuneration.

Each of the Parties shall pay its own expenses and half of the Commission's joint expenses.

*Article 22.* At the end of the conciliation, the Chairman of the Commission shall deposit all the relevant documentation in the archives of the Holy See, thus maintaining the reserved nature of this documentation, within the limits indicated in articles 18 and 20 of this annex.

CHAPTER II. ARBITRAL PROCEDURE PROVIDED FOR IN ARTICLE 6 OF THE  
TREATY OF PEACE AND FRIENDSHIP

*Article 23.* The Party intending to have recourse to arbitration shall so inform the other in writing. In the same communication, it shall request the constitution of the arbitral tribunal, hereinafter called "the Tribunal", shall indicate briefly the nature of the dispute, shall name the arbitrator it has chosen as a member of the Tribunal and shall invite the other Party to reach an arbitral settlement.

The other Party shall co-operate in the constitution of the Tribunal and in the elaboration of the settlement.

*Article 24.* Except as otherwise agreed by the Parties, the Tribunal shall consist of five members designated in their personal capacity. Each of the Parties shall appoint a member, who may be one of their nationals. The other three members, one of whom shall be Chairman of the Tribunal, shall be elected by common agreement from among the nationals of third States. These three arbitrators must be of different nationality, must not have their habitual residence in the territory of the Parties and must not be employed in their service.

*Article 25.* If all the members of the Tribunal have not been appointed within a time-limit of three months from the reception of the communication provided for in article 23, the appointment of the members in question shall be made by the Government of the Swiss Confederation at the request of either Party.

The Chairman of the Tribunal shall be designated by common agreement between the Parties within the time-limit specified in the preceding paragraph. If there is no such agreement, the designation shall be made by the Government of the Swiss Confederation at the request of either Party.

When all the members have been designated, the Chairman shall convene them to a meeting in order to declare the Tribunal constituted and to adopt the other agreements necessary for its operation. The meeting shall be held at the place, day and time indicated by the Chairman and the provisions of article 34 of this annex shall be applicable to it.

*Article 26.* Vacancies which may occur as a result of death, resignation or any other cause shall be filled in the following manner:

- If the vacancy is that of a member of the Tribunal appointed by a single one of the Parties, that Party shall fill it as soon as possible and, in any case, within a period of 30 days from the time the other Party invites it in writing to do so;
- If the vacancy is that of one of the members of the Tribunal appointed by common agreement, the vacancy shall be filled within a period of 60 days from the time one of the Parties invites the other in writing to do so;
- If, within the periods indicated in the foregoing paragraphs, the vacancies in question have not been filled, any of the Parties may request the Government of the Swiss Confederation to fill them.



*Article 27.* In the event that there is no agreement to bring the dispute before the Tribunal within a period of three months from the time of its constitution, either Party may bring the dispute before it following a written request.

*Article 28.* The Tribunal shall adopt its own rules of procedure, without prejudice to those which the Parties may have agreed upon.

*Article 29.* The Tribunal shall have the powers to interpret the settlement and decide on its own competence.

*Article 30.* The Parties shall co-operate in the work of the Tribunal and shall provide it with all useful documents, facilities and information. Similarly, they shall allow the Tribunal to conduct hearings in their respective territories, to summon and hear witnesses or experts and to practise on-the-spot inspections.

*Article 31.* The Tribunal shall have the power to order provisional measures designed to safeguard the rights of the Parties.

*Article 32.* When one of the Parties in the dispute does not appear before the Tribunal or refrains from defending its case, the other Party may request the Tribunal to continue the hearing and announce a decision. The fact that one of the Parties is absent or fails to appear shall not be an obstacle to the progress of the hearing or the announcement of a decision.

*Article 33.* The Tribunal shall base its decisions on international law, unless the Parties have agreed otherwise.

*Article 34.* The Tribunal's decisions shall be adopted by a majority of its members. The absence or abstention of one or two of its members shall not prevent the Tribunal from meeting or reaching a decision. In the case of a tie, the Chairman shall cast the deciding vote.

*Article 35.* The Tribunal's decision shall be accompanied by a statement of reasons. It shall mention the number of the members who have taken part in its adoption and the date on which it was rendered. Each member of the Tribunal shall have the right to have his separate or dissenting opinion added to the decision.

*Article 36.* The decision shall be binding on the Parties, final and unappealable. Its implementation shall be entrusted to the honour of the nations signing the Treaty of Peace and Friendship.

*Article 37.* The decision shall be executed without delay in the form and within the time-limits specified by the Tribunal.

*Article 38.* The Tribunal shall not terminate its functions until it has declared that, in its opinion, the decision has been carried out materially and completely.

*Article 39.* Unless the Parties have agreed otherwise, the disagreements which may arise between the Parties about the interpretation or the manner of execution of the arbitral decision may be brought by any Party before the Tribunal which rendered the decision. For this purpose, any vacancy occurring in the Tribunal shall be filled in the manner established in article 26 of this annex.

*Article 40.* Any Party may request the revision of the decision before the Tribunal which rendered it provided that the request is made before the time-limit for its execution has expired, and in the following cases:

1. If the decision has been rendered on the basis of a false or adulterated document;

2. If the decision is wholly or partly the result of an error of fact resulting from the hearings or documentation in the case.

For this purpose, any vacancy occurring in the Tribunal shall be filled in the manner established in article 26 of this annex.

*Article 41.* Each of the members of the Tribunal shall receive remuneration the amount of which shall be fixed by common agreement between the Parties, who shall each pay half of such remuneration.

Each Party shall pay its own expenses and half the joint expenses of the Tribunal.

[JAIME DEL VALLE ALLIENDE]

[DANTE MARIO CAPUTO]

## ANNEX 2

### NAVIGATION

#### *Navigation between the Strait of Magellan and Argentine ports in the Beagle Channel and vice versa*

*Article 1.* For maritime traffic between the Strait of Magellan and Argentine ports in the Beagle Channel and vice versa, through Chilean internal waters, Argentine vessels shall enjoy navigation facilities exclusively along the following route:

Canal Magdalena, Canal Cockburn, Paso Brecknock or Canal Ocasión, Canal Ballenero, Canal O'Brien, Paso Timbales, north-west arm of the Beagle Channel and the Beagle Channel as far as the meridian 68°36'38.5" West longitude and vice versa.

The description of the above route is given on annexed map No. III.<sup>1</sup>

*Article 2.* The passage shall be navigated with a Chilean pilot, who shall act as technical adviser to the commandant or captain of the vessel.

For the proper designation and embarkation of the pilot, the Argentine authority shall inform the Commander-in-Chief of the Third Chilean Naval Zone, at least 48 hours in advance, of the date on which the vessel will begin the navigation.

The pilot shall perform his functions between the point whose geographical co-ordinates are: 54°02.8' South latitude and 70°57.9' West longitude and the meridian 68°36'38.5' West longitude in the Beagle Channel.

In the passage from or to the eastern mouth of the Strait of Magellan, the pilot shall embark and disembark at the pilot station of Bahía Posesión in the Strait of Magellan. In the passage from or to the western mouth of the Strait of Magellan, the pilot shall embark and disembark at the corresponding point indicated in the previous paragraph. He shall be conveyed to and from the previously designated points by Chilean means of transport.

In the passage from or to Argentine ports in the Beagle Channel, the pilot shall embark and disembark in Ushuaia and shall be conveyed from Puerto Williams to Ushuaia or from Ushuaia to Puerto Williams by Argentine means of transport.

Merchant vessels must pay the pilot fees laid down in the Tariff Regulations of the General Department of Maritime Territory and Merchant Navy of Chile.

*Article 3.* The passage of Argentine vessels shall be continuous and uninterrupted. In case of stoppage or anchorage as a result of *force majeure* along the route indicated in article 1,

<sup>1</sup> See footnote on p. 105 of this volume.

the commander or captain of the Argentine vessel shall inform the nearest Chilean naval authority.

*Article 4.* In cases not provided for in this Treaty, Argentine vessels shall be subject to the norms of international law. During the passage, such vessels shall abstain from any activity not directly related to the passage, such as exercises or practices with arms of any nature; launching, landing or reception of aircraft or military devices on board; embarkation or disembarkation of persons; fishing activities; investigations; hydrographical surveys; and activities which may disturb the security and communication systems of the Republic of Chile.

*Article 5.* Submarines and any other submersible vessels must navigate on the surface. All vessels shall navigate with their lights on and flying their flags.

*Article 6.* The Republic of Chile may suspend temporarily the passage of vessels in case of any impediment to navigation as a result of *force majeure* for the duration of such an impediment. The suspension shall take effect as soon as notice is given to the Argentine authority.

*Article 7.* The number of Argentine warships which may navigate simultaneously along the route described in article 1 may not exceed three. The vessels may not carry embarkation units on board.

*Navigation between Argentine ports in the Beagle Channel and Antarctica and vice versa; or between Argentine ports in the Beagle Channel and the Argentine Exclusive Economic Zone adjacent to the maritime boundary between the Republic of Chile and the Argentine Republic and vice versa*

*Article 8.* For maritime traffic between Argentine ports in the Beagle Channel and Antarctica and vice versa; or between Argentine ports in the Beagle Channel and the Argentine Exclusive Economic Zone adjacent to the maritime boundary between the Republic of Chile and the Argentine Republic and vice versa, Argentine vessels shall enjoy navigation facilities for the passage through Chilean internal waters exclusively via the following route:

Paso Picton and Paso Richmond, then following from a point fixed by the co-ordinates 55°21.0' South latitude and 66°41.0' West longitude, the general direction of the arc between true 090° and 180°, emerging in the Chilean territorial sea; or crossing the Chilean territorial sea in the general direction of the arc between true 270° and 000°, and continuing through Paso Richmond and Paso Picton.

The passage may be effected without a Chilean pilot and without notice.

The description of this route is given in annexed map No. III.<sup>1</sup>

*Article 9.* The provisions contained in articles 3, 4 and 5 of this annex shall apply to passage via the route indicated in the preceding article.

*Navigation to and from the north through the Estrecho de Le Maire*

*Article 10.* For maritime traffic to and from the north through the Estrecho de Le Maire, Chilean vessels shall enjoy navigation facilities for the passage of that strait, without an Argentine pilot and without notice.

The provisions contained in articles 3, 4 and 5 of this annex shall apply to passage via this route *mutatis mutandis*.

<sup>1</sup> See footnote on p. 105 of this volume.

*System of navigation and pilotage in the Beagle Channel*

*Article 11.* The system of navigation and pilotage defined in the following articles shall be established in the Beagle Channel on both sides of the existing boundary between the meridian 68°36'38.5" West longitude and the meridian 66°25.0' West longitude indicated on annexed map No. IV.<sup>1</sup>

*Article 12.* The Parties shall grant freedom of navigation for Chilean and Argentine vessels along the route indicated in the preceding article.

Along the route indicated merchant vessels flying the flags of third countries shall enjoy the right of passage subject to the rules laid down in this annex.

*Article 13.* Warships flying the flags of third countries heading for a port of one of the Parties situated along the route indicated in article 11 of this annex must have the prior authorization of that Party. The latter shall inform the other Party of the arrival or departure of a foreign warship.

*Article 14.* Along the route indicated in article 11 of this annex, in the zones which are under their respective jurisdictions, the Parties undertake reciprocally to develop aids to navigation and to co-ordinate them in order to facilitate navigation and guarantee its security.

The usual navigation routes shall be permanently cleared of all obstacles or activities which may affect navigation.

The Parties shall agree on traffic control systems for the security of navigation in geographical areas where passage is difficult.

*Article 15.* Chilean and Argentine vessels are not required to take on pilots on the route indicated in article 11 of this annex.

Vessels flying the flags of third countries which navigate from or to a port situated along that route must obey the Pilotage Regulations of the country of the port of departure or destination.

When such vessels navigate between ports of either Party, they shall obey the Pilotage Regulations of the Party of the port of departure and the Pilotage Regulations of the Party of the port of arrival.

*Article 16.* The Parties shall apply their own regulations in the matter of pilotage in the ports situated within their respective jurisdictions.

Vessels using pilots shall hoist the flag of the country whose regulations they are applying.

Any vessel which uses pilotage services must pay the appropriate fees for these services and any other charge that exists in this respect in the regulations of the Party responsible for the pilotage.

The Parties shall provide pilots with maximum facilities in the performance of their task. Pilots may disembark freely in the ports of either Party.

The Parties shall strive to establish concordant and uniform rules for pilotage.

[ JAIME DEL VALLE ALLENDE ]

[ DANTE MARIO CAPUTO ]

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<sup>1</sup> See footnote on p. 105 of this volume.

### **Annex 142**

Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Republic of Ireland concerning the delimitation of areas of the continental shelf between the two countries, 7 November 1988, (1989) 13 Law of the Sea Bulletin 48.

LAW OF THE SEA  
BULLETIN

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No. 13

MAY 1989

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OFFICE FOR OCEAN AFFAIRS AND THE LAW OF THE SEA

2. Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Republic of Ireland concerning the delimitation of areas of the continental shelf between the two countries, 7 November 1988

The Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Republic of Ireland,

Wishing to open up further opportunities for their respective offshore petroleum and related industries by establishing boundaries between their respective parts of the continental shelf,

Have agreed as follows:

Article 1

IRISH SEA AND SOUTH-WEST AREA

(1) The boundary between the parts of the continental shelf which appertain to the United Kingdom and the Republic of Ireland, respectively, in the area south of latitude 53°39' North shall be a line composed of parallels of latitude and meridians of longitude joining, in the sequence given in Schedule A to this Agreement, the points set out in that Schedule.

(2) This line, described as "Line A", has been drawn by way of illustration on Map A annexed to this Agreement.

Article 2

NORTH-WEST AREA

(1) The boundary between the parts of the continental shelf which appertain to the United Kingdom and the Republic of Ireland, respectively, in the area west of longitude 6°45' west shall be a line composed of parallels of latitude and meridians of longitude joining, in the sequence given in Schedule B to this Agreement, the points set out in that Schedule.

(2) This line, described as "Line B", has been drawn by way of illustration on Map B annexed to this Agreement.

Article 3

CROSS-BOUNDARY FIELDS

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.

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Article 4

CONTINENTAL MARGIN

Nothing in this Agreement affects the position of either Government concerning the location of the outer edge of its continental margin.

Article 5

ENTRY INTO FORCE

This Agreement shall enter into force on the date on which the two Governments exchange notifications of their acceptance of this Agreement.

IN WITNESS WHEREOF the undersigned, being duly authorised thereto by their respective Governments, have signed this Agreement.

DONE in two originals at Dublin this 7th day of November, 1988.



## SCHEDULE A

<i>Position</i>	<i>Latitude</i>	<i>Longitude</i>
1	53° 39'.00N	5° 17'.00W
2	53° 32'.00N	5° 17'.00W
3	53° 32'.00N	5° 19'.00W
4	53° 26'.00N	5° 19'.00W
5	53° 26'.00N	5° 20'.00W
6	53° 09'.00N	5° 20'.00W
7	53° 09'.00N	5° 19'.00W
8	52° 59'.00N	5° 19'.00W
9	52° 59'.00N	5° 22'.50W
10	52° 52'.00N	5° 22'.50W
11	52° 52'.00N	5° 24'.50W
12	52° 44'.00N	5° 24'.50W
13	52° 44'.00N	5° 28'.00W
14	52° 32'.00N	5° 28'.00W
15	52° 32'.00N	5° 22'.80W
16	52° 24'.00N	5° 22'.80W
17	52° 24'.00N	5° 35'.00W
18	52° 16'.00N	5° 35'.00W
19	52° 16'.00N	5° 39'.00W
20	52° 12'.00N	5° 39'.00W
21	52° 12'.00N	5° 42'.00W
22	52° 08'.00N	5° 42'.00W
23	52° 08'.00N	5° 46'.00W
24	52° 04'.00N	5° 46'.00W
25	52° 04'.00N	5° 50'.00W
26	52° 00'.00N	5° 50'.00W
27	52° 00'.00N	5° 54'.00W
28	51° 58'.00N	5° 54'.00W
29	51° 58'.00N	5° 57'.00W
30	51° 54'.00N	5° 57'.00W
31	51° 54'.00N	6° 00'.00W
32	51° 50'.00N	6° 00'.00W
33	51° 50'.00N	6° 06'.00W
34	51° 40'.00N	6° 06'.00W
35	51° 40'.00N	6° 18'.00W
36	51° 30'.00N	6° 18'.00W
37	51° 30'.00N	6° 33'.00W
38	51° 20'.00N	6° 33'.00W
39	51° 20'.00N	6° 42'.00W
40	51° 10'.00N	6° 42'.00W
41	51° 10'.00N	6° 48'.00W
42	51° 00'.00N	6° 48'.00W
43	51° 00'.00N	7° 03'.00W
44	50° 50'.00N	7° 03'.00W
45	50° 50'.00N	7° 12'.00W
46	50° 40'.00N	7° 12'.00W
47	50° 40'.00N	7° 36'.00W
48	50° 30'.00N	7° 36'.00W
49	50° 30'.00N	8° 00'.00W
50	50° 20'.00N	8° 00'.00W
51	50° 20'.00N	8° 12'.00W
52	50° 10'.00N	8° 12'.00W
53	50° 10'.00N	8° 24'.00W
54	50° 00'.00N	8° 24'.00W
55	50° 00'.00N	8° 36'.00W
56	49° 50'.00N	8° 36'.00W

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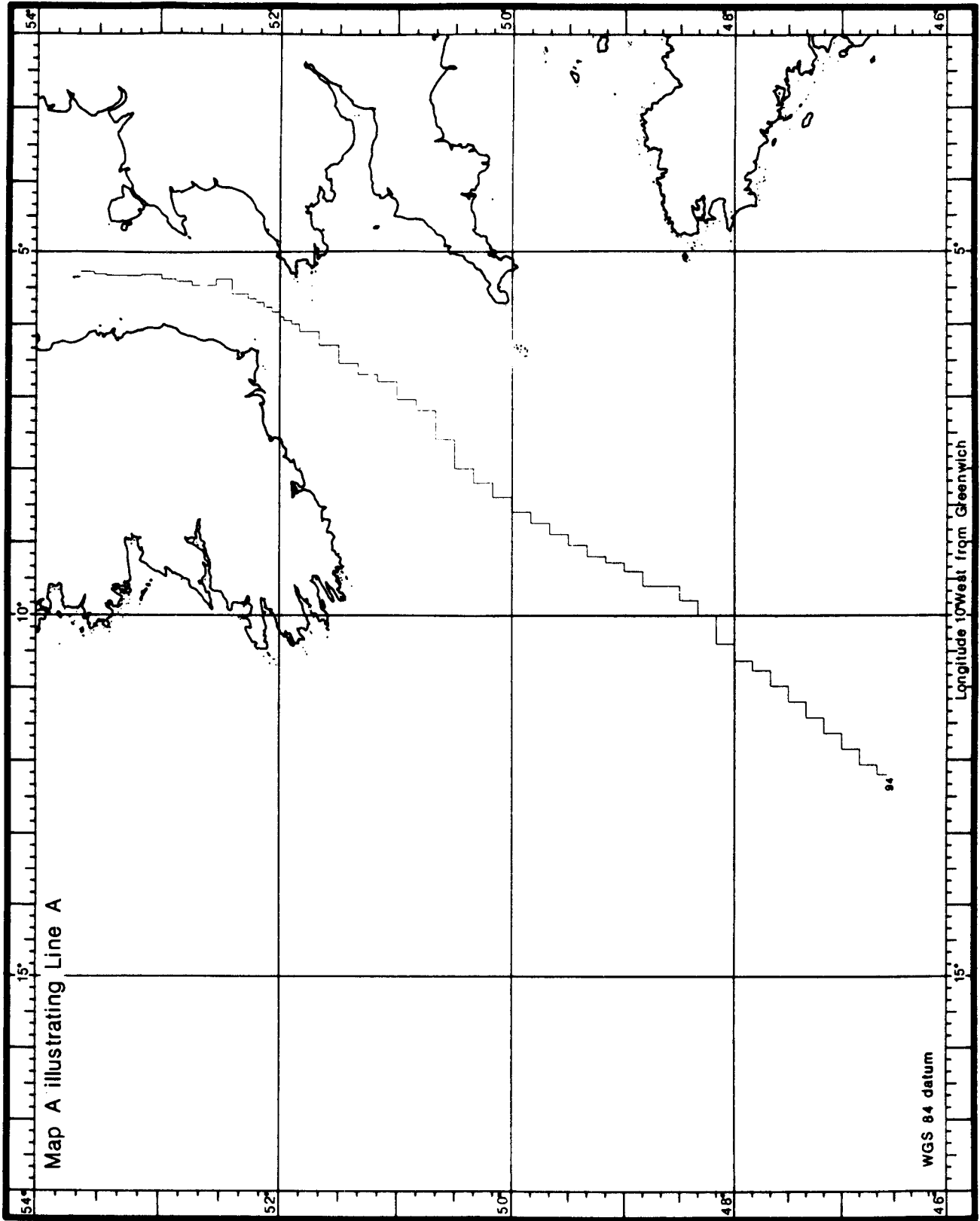
<i>Position</i>	<i>Latitude</i>	<i>Longitude</i>
57	49° 50'.00N	8° 45'.00W
58	49° 40'.00N	8° 45'.00W
59	49° 40'.00N	8° 54'.00W
60	49° 30'.00N	8° 54'.00W
61	49° 30'.00N	9° 03'.00W
62	49° 20'.00N	9° 03'.00W
63	49° 20'.00N	9° 12'.00W
64	49° 10'.00N	9° 12'.00W
65	49° 10'.00N	9° 17'.00W
66	49° 00'.00N	9° 17'.00W
67	49° 00'.00N	9° 24'.00W
68	48° 50'.00N	9° 24'.00W
69	48° 50'.00N	9° 36'.00W
70	48° 30'.00N	9° 36'.00W
71	48° 30'.00N	9° 48'.00W
72	48° 20'.00N	9° 48'.00W
73	48° 20'.00N	10° 00'.00W
74	48° 10'.00N	10° 00'.00W
75	48° 10'.00N	10° 24'.00W
76	48° 00'.00N	10° 24'.00W
77	48° 00'.00N	10° 38'.00W
78	47° 50'.00N	10° 38'.00W
79	47° 50'.00N	10° 46'.00W
80	47° 40'.00N	10° 46'.00W
81	47° 40'.00N	10° 59'.00W
82	47° 30'.00N	10° 59'.00W
83	47° 30'.00N	11° 12'.00W
84	47° 20'.00N	11° 12'.00W
85	47° 20'.00N	11° 25'.00W
86	47° 10'.00N	11° 25'.00W
87	47° 10'.00N	11° 38'.00W
88	47° 00'.00N	11° 38'.00W
89	47° 00'.00N	11° 51'.00W
90	46° 50'.00N	11° 51'.00W
91	46° 50'.00N	12° 04'.00W
92	46° 40'.00N	12° 04'.00W
93	46° 40'.00N	12° 12'.00W
94	46° 34'.00N	12° 12'.00W

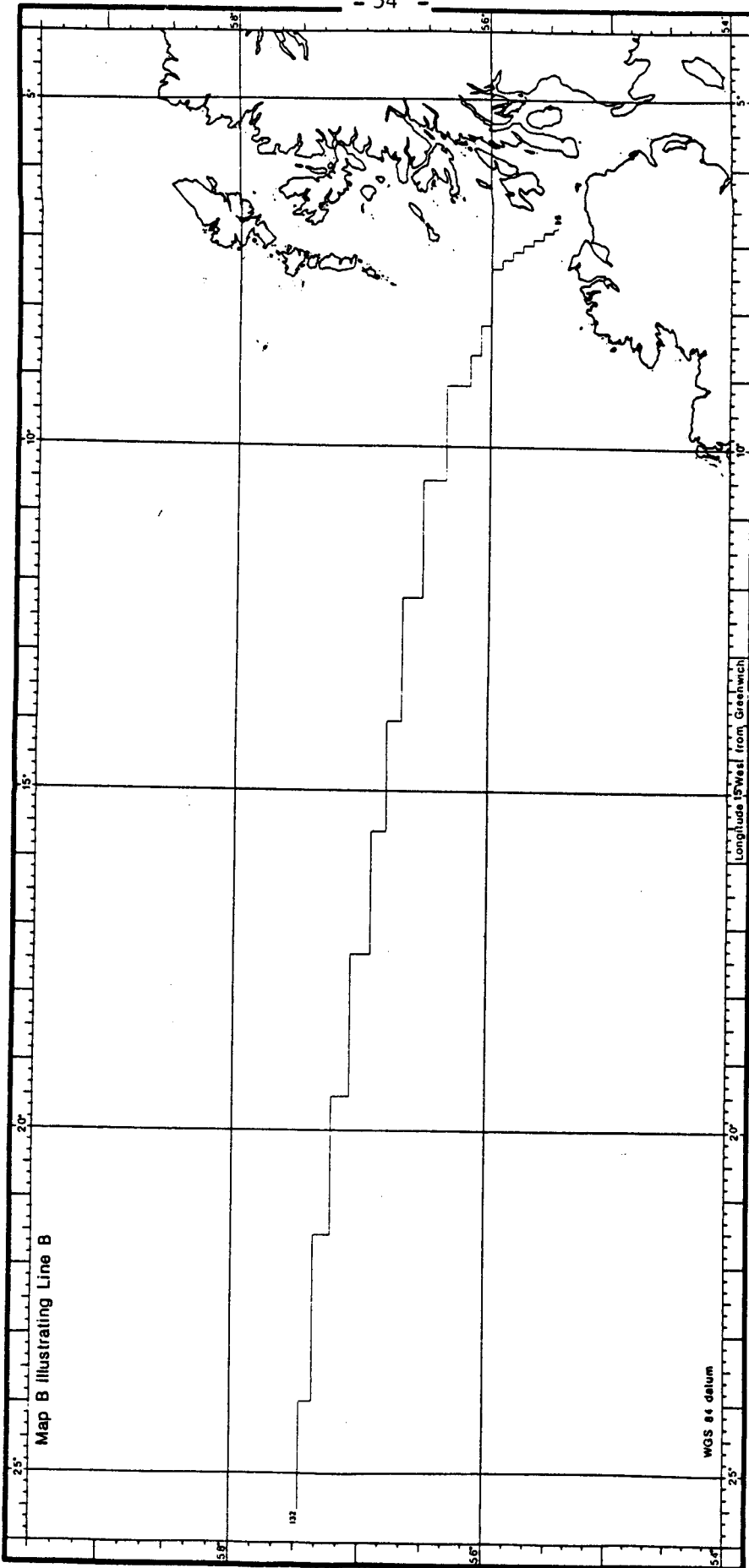
The positions of points 1 to 94 are defined by co-ordinates of latitude and longitude on World Geodetic System 1984 datum (WGS 84).

**SCHEDULE B**

<i>Position</i>	<i>Latitude</i>	<i>Longitude</i>
95	55° 28'.00N	6° 45'.00W
96	55° 28'.00N	6° 48'.00W
97	55° 30'.00N	6° 48'.00W
98	55° 30'.00N	6° 51'.00W
99	55° 35'.00N	6° 51'.00W
100	55° 35'.00N	6° 57'.00W
101	55° 40'.00N	6° 57'.00W
102	55° 40'.00N	7° 02'.00W
103	55° 45'.00N	7° 02'.00W
104	55° 45'.00N	7° 08'.00W
105	55° 50'.00N	7° 08'.00W
106	55° 50'.00N	7° 15'.00W
107	55° 55'.00N	7° 15'.00W
108	55° 55'.00N	7° 23'.00W
109	56° 00'.00N	7° 23'.00W
110	56° 00'.00N	8° 13'.00W
111	56° 05'.00N	8° 13'.00W
112	56° 05'.00N	8° 39'.50W
113	56° 10'.00N	8° 39'.50W
114	56° 10'.00N	9° 07'.00W
115	56° 21'.50N	9° 07'.00W
116	56° 21'.50N	10° 30'.00W
117	56° 32'.50N	10° 30'.00W
118	56° 32'.50N	12° 12'.00W
119	56° 42'.00N	12° 12'.00W
120	56° 42'.00N	14° 00'.00W
121	56° 49'.00N	14° 00'.00W
122	56° 49'.00N	15° 36'.00W
123	56° 56'.00N	15° 36'.00W
124	56° 56'.00N	17° 24'.00W
125	57° 05'.50N	17° 24'.00W
126	57° 05'.50N	19° 30'.00W
127	57° 14'.00N	19° 30'.00W
128	57° 14'.00N	21° 32'.00W
129	57° 22'.00N	21° 32'.00W
130	57° 22'.00N	23° 57'.40W
131	57° 28'.00N	23° 57'.40W
132	57° 28'.00N	25° 31'.50W

The position of points 95 to 132 are defined by co-ordinates of latitude and longitude on World Geodetic System 1984 datum (WGS 84).





Prepared by the Ministry's Research Office  
1996. Doc 000-133. CT 11/96 310307

### **Annex 143**

Agreement between the Government of the United Republic of Tanzania and the Government of the People's Republic of Mozambique Regarding the Tanzania/Mozambique Boundary, 28 December 1988, JI Charney and LM Alexander (eds), *International Maritime Boundaries I* (Nijhoff 1993) p. 898.

# Mozambique–Tanzania

*Report Number 4–7*

## **Agreement between the United Republic of Tanzania and the People's Republic of Mozambique**

*Signed:* 28 December 1988

*Entered into force:* Not yet in force

*Published at:* Not yet published

### I SUMMARY

This agreement establishes the land boundary and also an all-purpose maritime boundary (internal waters, territorial sea, and exclusive economic zone) between the United Republic of Tanzania and the People's Republic of Mozambique.

The internal waters boundary is (a) demarcated by a straight line drawn across the mouth of the Ruvuma Bay from Ras Matunda (10° 21' 32" S lat. and 40° 27' 35" E long.) to Cabo Suafo (10° 25' 14" S lat. and 40° 31' 33" E long.), and (b) apportioned by another straight line drawn across the Ruvuma Bay from Point B located at 10° 24' 53" S lat. and 40° 29' 34" E long. being the mid-point of the line demarcating the outer limit of such waters between Ras Matunda and Cabo Suafo, marked Point A.

The territorial sea is delimited by the application of an approximate equidistant straight line from Point B to a point 12 nautical miles (n.m.) seaward (10° 18' 46" S lat. and 40° 40' 07" E long.) marked Point C.

The exclusive economic zone is delimited by a combination of the application of (a) an approximate equidistant line, prolonged from the line demarcating the territorial sea boundary from Point C to a point 25.5 n.m. seaward (10° 05' 29" S lat. and 41° 02' 01" E long.) marked Point D and (b)

the application of equitable principle resulting in the continuation of the boundary from Point D by a line running due east along the parallel of Point D. The limits of the exclusive economic zone to be established later by an exchange of notes.

The parties to the agreement recognized the need to take advantage of the principles enshrined in the 1982 United Nations Convention on the Law of the Sea (of which they are both signatories) in order to delimit the maritime boundary between them, re-affirming the land boundary consistent with the aims and principles of the Charter of the Organization of African Unity, and solidifying the friendship, solidarity and good neighborliness existing between them. In drawing the maritime boundary, inspired by the 1982 United Nations Law of the Sea Convention, the parties sought to reach equitable results in accordance with international law.

## II CONSIDERATIONS

### 1 *Political, Strategic, and Historical Considerations*

The negotiations between the two states which resulted in the maritime boundary delimitation did not originate from any specific controversy, but from a general feeling by the parties to build upon the friendship, solidarity, and good neighborliness existing between them. Mindful of potential conflicts that may arise between them, in connection with the inherited boundaries from the colonial past (notwithstanding the principle of *uti possidetis* declared by the Organization of African Unity in 1964, recommending that the colonial boundaries existing at independence be respected), the two states decided to re-affirm their land boundary to eliminate doubts and, in the process, undertook the delimitation of their maritime boundary.

It was in the same spirit that a suggestion was made to make the said negotiations tripartite by including the government of the Islamic Federal Republic of the Comoros. This was not possible at the time, and the bilateral agreement between Tanzania and Mozambique was concorded and signed on 28 December 1988. The agreement nevertheless has clear implications for Comoros.

### 2 *Legal Regime Considerations*

The agreement establishes an all-purpose boundary of the internal waters, the territorial sea, and the exclusive economic zone. The outer limit of the exclusive economic zone is to be established by agreement of the parties at a later date, taking into account the interests of the Islamic Republic of Comoros.



### 3 *Economic and Environmental Considerations*

Neither economic nor environmental considerations influenced the location of the boundary since the parties were only concerned with bringing about an equitable delimitation in the spirit of good neighborliness.

### 4 *Geographic Considerations*

The coasts of Tanzania and Mozambique are adjacent. Since the area in question consists also of a mouth of a river and a bay, the delimitation of the boundary was influenced by the negotiated baseline from which the territorial sea and the exclusive economic zone were measured.

### 5 *Islands, Rocks, Reefs, and Low-Tide Elevations Considerations*

There is no evidence that such considerations influenced the location of the boundary.

### 6 *Baseline Considerations*

The baselines from which the territorial sea was measured were constituted by the outer limits of the internal waters as agreed upon by the parties. The outer limit of the internal waters was delimited by means of a straight line drawn across the mouth of the Ruvuma Bay from Ras Matunda, located at 10° 21' 32" S lat. and 40° 27' 35" E long. to Cabo Suafo, located at 10° 28' 14" S lat. and 40° 31' 33" E long. The internal waters were apportioned between Tanzania in the north and Mozambique in the south by means of a straight line drawn across the Ruvuma Bay from a Point B located at 10° 24' 53" S lat. and 10° 29' 34" E long. which is the midpoint of the line demarcating the outer limit of such waters, that is to say, between Ras Matunda and Cabo Suafo to Point A, the midpoint of the line drawn across the mouth of the Ruvuma River between Ras Mwambo and Ras Ruvuma.

### 7 *Geological and Geomorphological Considerations*

The decision to use the parallel of latitude in the delimitation of the exclusive economic zone underlined the desire of the parties to extend their maritime jurisdictions seaward to the maximum extent permitted by law, taking into account its implication to the Comoros. There is no evidence that specific geological or geomorphological features influenced the location of the boundary itself.

### 8 *Methods of Delimitation Considerations*

The territorial sea boundary was established by drawing a straight line from Point B (the midpoint of the baseline) seaward to a point 12 n.m., Point C, located at 10° 18' 46" S lat. and 40° 40' 07" E long. This approximate equidis-

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tant line was prolonged seaward 25.5 n.m. to delimit the exclusive economic zone at Point D, located at 10° 05' 29" S lat. and 41° 02' 01" E long. From that point, the exclusive economic zone was delimited by application of the principle of equity, by a line following the parallel of Point D.

### 9 *Technical Considerations*

The boundary was defined on the basis of the hydrographic charts of 1 : 200,000, Nos. 43620 and 40120 M.

### 10 *Other Considerations*

None.

## III CONCLUSIONS

This is another boundary delimitation negotiated by the two parties (Tanzania and Mozambique) with full recognition of the implications for a future delimitation in the area involving another neighboring party. The boundary therefore fully takes into account the potential delimitation which would otherwise be necessary for the Islamic Federal Republic of Comoros to undertake with its neighbors. It is another example of a delimitation exercise conducted in the spirit of good neighborliness and aimed at achieving equitable results.

## IV RELATED LAW IN FORCE

### A *Law of the Sea Conventions*

Tanzania: Ratified the 1982 LOS Convention

### B *Maritime Jurisdiction Claimed at the Time of Signature*

Mozambique: 12-mile territorial sea, 200-mile exclusive economic zone

Tanzania: 12-mile territorial sea, 200-mile exclusive economic zone

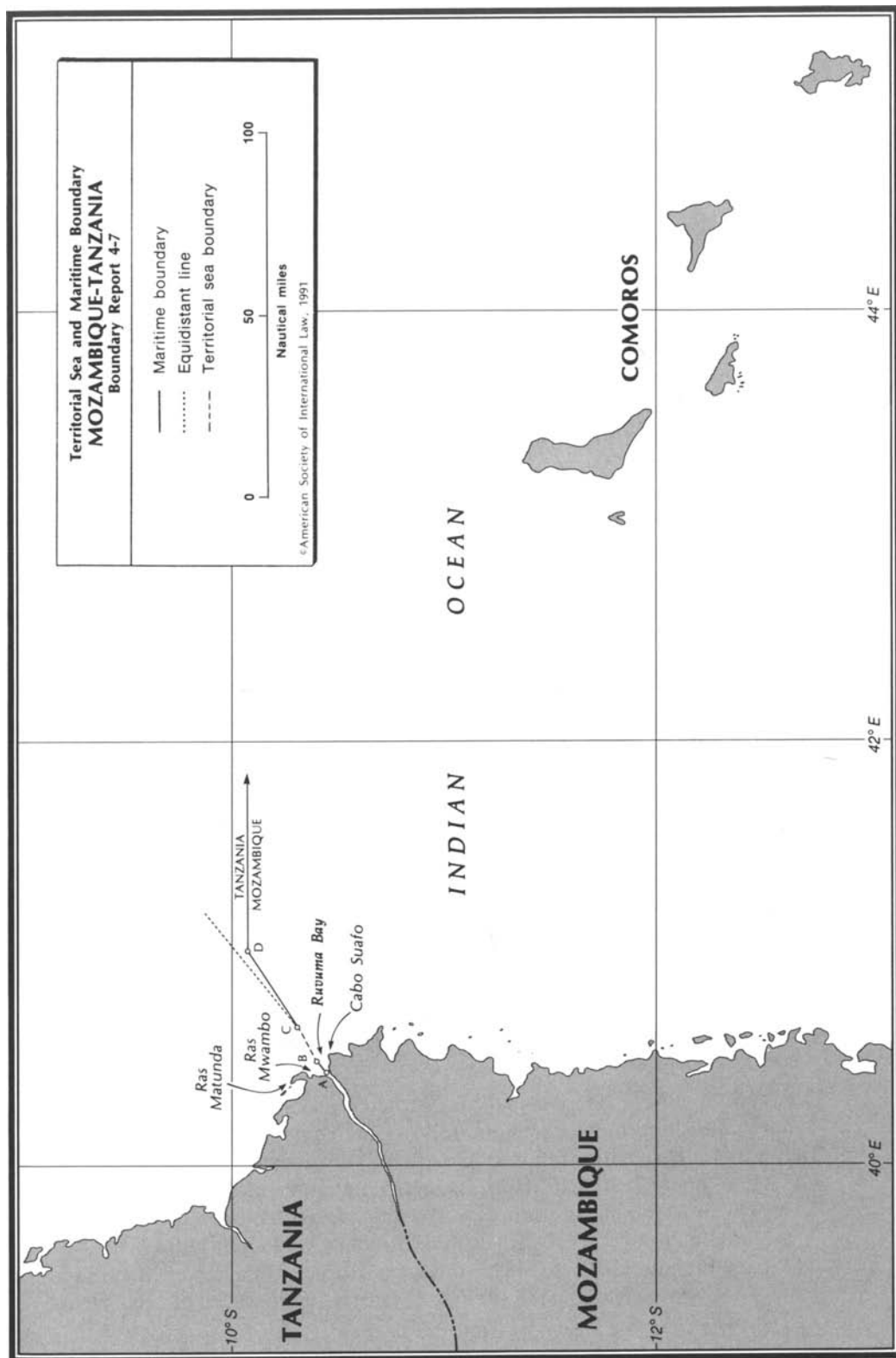
### C *Maritime Jurisdiction Claimed Subsequent to Signature*

No change

## V REFERENCES AND ADDITIONAL READINGS

(Still unpublished)

*Prepared by Andronico O. Adede*



**Agreement between the Government of the United Republic of  
Tanzania and the Government of the People's Republic of Mozambique  
Regarding the Tanzania/Mozambique Boundary**

The Government of the United Republic of Tanzania and the Government of the People's Republic of Mozambique

MINDFUL of the principles of International Law, in particular the principle of sovereign equality of states;

MINDFUL FURTHER of the aims and principles of the Charter of the Organisation of African Unity;

ANIMATED by the desire to draw closer the friendship, solidarity and good neighbourliness existing between their two countries;

CONVINCED that the strengthening of their traditional relations will contribute to the consolidation of peace and security on the African Continent;

DESIRING to conclude an agreement for the purpose of reaffirming the land boundary and delimiting the maritime boundary between their respective countries;

INSPIRED by the principles of the 1982 United Nations Convention on the Law of the Sea; and

BEARING in mind that the two Governments are signatories to the said Convention;

HAVE AGREED as follows:

*Article I  
Land Boundary*

The land boundary line between the United Republic of Tanzania and the People's Republic of Mozambique follows the course of the Ruvuma River from a point hereinafter referred to as point "A", located at latitude 10° 28' 04" S and longitude 40° 26' 19" E, being a point at the mouth of the Ruvuma River which is equidistant from Ras Mwambo located at latitude 10° 27' 48" S and longitude 40° 25' 50" E, and Ras Ruvuma located at latitude 10° 28' 21" S, and longitude 40° 26' 48" E to the confluence of the River Msinje and thence runs westerly along the parallel of latitude to the shore of Lake Nyasa

as established in the relevant agreements between Germany and Portugal and between Great Britain and Portugal to which the governments of the United Republic of Tanzania and the People's Republic of Mozambique consider themselves bound.

## *Article II* *Maritime Boundary*

### Internal Waters:

The outer limit of the internal waters of the two countries is delimited by means of a straight line drawn across the mouth of the Ruvuma Bay from Ras Matunda, located at latitude 10° 21' 32" S and longitude 40° 27' 35" E to Cabo Suafo, located at latitude 10° 28' 14" S and longitude 40° 31' 33" E.

All waters on the landward side of this line constitute the internal waters of the two countries.

The internal waters are apportioned by means of a straight line drawn across the Ruvuma Bay from a point hereinafter referred to as point "B", located at latitude 10° 24' 53" S and longitude 40° 29' 34" E which is the mid-point of the line demarcating the outer limit of such waters, that is to say, between Ras Matunda and Cabo Suafo to point "A", the mid-point of the line drawn across the mouth of the Ruvuma River between Ras Mwambo and Ras Ruvuma.

The waters bounded by points "A", "B" and Ras Matunda belong to the United Republic of Tanzania and the waters bounded by points "A", "B" and Cabo Suafo belong to the People's Republic of Mozambique.

## *Article III* *Territorial Sea*

The territorial sea boundary line between the two countries is delimited by application of the equidistance method of drawing a median straight line from point "B" to a point 12 nautical miles, located at latitude 10° 18' 46" S and longitude 40° 40' 07" E, hereinafter referred to as point "C".

## *Article IV* *Exclusive Economic Zone*

The delimitation of the Exclusive Economic Zone between the two countries is delimited in conformity with the equidistance method by prolonging the median straight line used for the delimitation of the territorial sea from point "C" to a point 25.5 nautical miles, located at latitude 10° 05' 29" S and longitude 41° 02' 01" E, hereinafter referred to as point "D". From this point,

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the Exclusive Economic Zone is delimited by application of the principle of equity, by a line running due east along the parallel of point "D". The point to termination of this line will be established through exchange of notes between the United Republic of Tanzania and the People's Republic of Mozambique at a future date.

*Article V*  
*Description of Maritime Boundary*

The description of the maritime boundary line and the points through which it passes is as follows:

This line commences at the mouth of the Ruvuma River from point "A", located at latitude 10° 28' 04" S and longitude 40° 26' 19" E, that is to say, the mid-point of the straight line drawn between Ras Mwambo, located at latitude 10° 27' 48" S and longitude 40° 25' 50" E and Ras Ruvuma, located at latitude 10° 28' 21" S and longitude 40° 26' 48" E, and from point "A" the line runs across the Ruvuma Bay in a north easterly direction in a straight line to point "B", located at latitude 10° 24' 53" S and longitude 40° 29' 34" E, that is to say, the mid-point of the base line demarcating the out limit of the internal waters between Ras Matunda, located at latitude 10° 21' 32" S and longitude 40° 27' 35" E and Cabo Suafo, located at latitude 10° 28' 14" S and longitude 40° 31' 33" E.

From point "B" the boundary line follows the median straight line derived by application of the equidistance method between Ras Matunda, located at latitude 10° 21' 32" S and longitude 40° 27' 35" E and Cabo Suafo, located at latitude 10° 28' 14" S and longitude 40° 31' 33" E and runs in a northeasterly direction in a straight line to point "C", located at latitude 10° 18' 46" S and longitude 40° 40' 07" E. From there it follows the same median line as far as point "D" located at latitude 10° 05' 29" S and longitude 40° 02' 01" E. Thence it runs due east along the parallel of point "D" to a point established pursuant to article IV.

*Article VI*  
*Schedule of Geographical Co-ordinates*

Schedule of geographical co-ordinates attached hereto as Annex "A", including the hydrographic chart of 1 : 200,000, number 42620-M (Channel of Mozambique – Mejumbe Island to Ruvuma Bay – 1986 publication) and the hydrographic chart of 1 : 2,000,000 number 40120-M (Channel of Mozambique 1984 publication) attached hereto as Annex "B" and "C" describing the co-ordinates of the boundary line as delimited, shall form an integral part of this Agreement.

*Article VII*  
*Co-operation*

The two Governments shall co-operate with each other whenever necessary in order to maintain the existing marks and other such points of reference, including such marks or other points of reference as may from time to time be established.

*Article VIII*  
*Ratification*

This Agreement shall be subject to ratification and shall come into force on the date of exchange of instruments of ratification.

Done in Maputo on 28th December 1988 in two original copies in the English and Portuguese language, both texts being equally authentic.

For and on behalf of the  
Government of The United  
Republic of Tanzania

For and on behalf of the  
Government of The People's  
Republic of Mozambique

Minister for Foreign Affairs

Minister for Foreign Affairs

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ANNEX A

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POINT	CO-ORDINATES	
	LATITUDE (Southly)	LONGITUDE (Eastings)
1. Ras Mwambo	10° 27' 48" S	40° 25' 50" E
2. Ras Ruvuma	10° 28' 21" S	40° 26' 48" E
3. Ras Matunda	10° 21' 32" S	40° 27' 35" E
4. Ras Suafo	10° 28' 14" S	40° 31' 33" E
5. Point "A"	10° 28' 04" S	40° 26' 19" E
6. Point "B"	10° 24' 53" S	40° 29' 34" E
7. Point "C"	10° 18' 46" S	40° 40' 07" E
8. Point "D"	10° 05' 29" S	41° 02' 01" E

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CORRIGENDUM

On page 1 of the English text of the Agreement between the Government of the United Republic of Tanzania, and the Government of the People's Republic of Mozambique, the word "neighbouriliness" should read "neighbourliness."

In the 6th para the word "delimitting" should read "delimiting" and "martime" should read "maritime".

In the last sentence of Article VI instead of "as" the word should read "an".

This corrigendum shall form an integral part of the Agreement between the Government of the United Republic of Tanzania and the Government of the People's Republic of Mozambique regarding the Tanzania/Mozambique boundary.

Signed in Maputo this 28th day of December 1988.

For and on behalf of the  
Government of The United  
Republic of Tanzania

For and on behalf of the  
Government of The People's  
Republic of Mozambique

Minister for Foreign Affairs

Minister for Foreign Affairs



**Annex 144**

Treaty of the delimitation of marine and submarine areas (with maps) (Venezuela and Trinidad and Tobago), 18 April 1990, 1654 UNTS 293.

**No. 28463**

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**VENEZUELA  
and  
TRINIDAD AND TOBAGO**

**Treaty on the delimitation of marine and submarine areas  
(with map). Signed at Caracas on 18 April 1990**

**Exchange of notes constituting an agreement relating to the  
above-mentioned Treaty. Caracas, 23 July 1991**

*Authentic texts: Spanish and English.*

*Registered by Venezuela on 8 November 1991.*

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**VENEZUELA  
et  
TRINITÉ-ET-TOBAGO**

**Traité relatif à la délimitation des régions maritimes et sous-  
maritimes (avec carte). Signé à Caracas le 18 avril 1990**

**Échange de notes constituant un accord relatif au Traité sus-  
mentionné. Caracas, 23 juillet 1991**

*Textes authentiques : espagnol et anglais.*

*Enregistré par le Venezuela le 8 novembre 1991.*

[SPANISH TEXT — TEXTE ESPAGNOL]

**TRATADO ENTRE LA REPÚBLICA DE VENEZUELA Y LA REPÚBLICA DE TRINIDAD Y TOBAGO SOBRE LA DELIMITACIÓN DE ÁREAS MARINAS Y SUBMARINAS**

El Gobierno de la República de Venezuela y el Gobierno de la República de Trinidad y Tobago de aquí en adelante denominados las Partes Contratantes:

Resolviendo, en un acentuado espíritu de cooperación y amistad, establecer de manera permanente, como buenos vecinos, los límites de las áreas marinas y submarinas dentro de las cuales los Gobiernos respectivos ejercen soberanía, derechos soberanos o jurisdicción, mediante el establecimiento de un límite marítimo preciso y equitativo entre ambos países;

Teniendo en cuenta las normas del derecho internacional y el desarrollo del nuevo derecho del mar;

**HAN ACORDADO LO SIGUIENTE**

**Artículo I**

Los límites marítimos entre la República de Venezuela y la República de Trinidad y Tobago referidos en el presente Tratado son los límites de los mares territoriales, las plataformas continentales, las zonas económicas exclusivas o cualesquiera áreas marinas o submarinas que hayan sido o que pudieren ser establecidas por las Partes, de conformidad con el Derecho Internacional.

**Artículo II**

Las líneas de delimitación con respecto a las áreas marinas y submarinas en el Mar Caribe, el Golfo de Paria, la Boca de la Serpiente y la zona del Atlántico son las líneas geodésicas que unen los puntos con las siguientes coordenadas geográficas:

- 1.- Latitud 11º 10' 30" Norte; Longitud 61º 43' 46" Oeste .
- 2.- Latitud 10º 54' 40" Norte; Longitud 61º 43' 46" Oeste.
- 3.- Latitud 10º 54' 15" Norte; Longitud 61º 43' 52" Oeste.
- 4.- Latitud 10º 48' 41" Norte; Longitud 61º 45' 47" Oeste.
- 5.- Latitud 10º 47' 38" Norte; Longitud 61º 46' 17" Oeste.
- 6.- Latitud 10º 42' 52" Norte; Longitud 61º 48' 10" Oeste.
- 7.- Latitud 10º 35' 20" Norte; Longitud 61º 48' 10" Oeste.
- 8.- Latitud 10º 35' 19" Norte; Longitud 61º 51' 45" Oeste.
- 9.- Latitud 10º 02' 46" Norte; Longitud 62º 04' 59" Oeste.
- 10.-Latitud 10º 00' 29" Norte; Longitud 61º 58' 25" Oeste.
- 11.-Latitud 09º 59' 12" Norte; Longitud 61º 51' 18" Oeste.
- 12.-Latitud 09º 59' 12" Norte; Longitud 61º 37' 50" Oeste.
- 13.-Latitud 09º 58' 12" Norte; Longitud 61º 30' 00" Oeste.
- 14.-Latitud 09º 52' 33" Norte; Longitud 61º 13' 24" Oeste.
- 15.-Latitud 09º 50' 55" Norte; Longitud 60º 53' 27" Oeste.
- 16.-Latitud 09º 49' 55" Norte; Longitud 60º 39' 51" Oeste.
- 17.-Latitud 09º 53' 26" Norte; Longitud 60º 16' 02" Oeste.
- 18.-Latitud 09º 57' 17" Norte; Longitud 59º 59' 16" Oeste.
- 19.-Latitud 09º 58' 11" Norte; Longitud 59º 55' 21" Oeste;
- 20.-Latitud 10º 09' 59" Norte; Longitud 58º 49' 12" Oeste.
- 21.-Latitud 10º 16' 01" Norte; Longitud 58º 49' 12" Oeste.

y, desde el punto 1, hacia el Norte, en rumbo verdadero constante siguiendo el meridiano 61º 43' 46" Oeste, hasta llegar al punto de encuentro con la jurisdicción de un tercer Estado; y desde el punto 21, siguiendo el azimut 067º hasta el borde exterior de la zona económica exclusiva y más allá hacia el punto 22, con las siguientes coordenadas geográficas: Latitud 11º 24' 00" Norte; Longitud 56º 06' 30" Oeste, el cual está ubicado aproximadamente en el borde exterior del margen continental

que delimita las áreas de jurisdicción nacional de la República de Venezuela y las de la República de Trinidad y Tobago con la Zona Internacional de los Fondos Marinos que es Patrimonio Común de la Humanidad.

2. Ambas Partes se reservan el derecho para el caso de determinarse que el borde exterior del margen continental esté ubicado más hacia las 350 millas náuticas contadas desde las respectivas líneas de base, a establecer y negociar sus respectivos derechos hasta ese borde tal como lo estipulan las disposiciones del Derecho Internacional, sin que lo establecido por el presente Tratado prejuzgue ni limite en modo alguno esos derechos, ni los derechos de terceros Estados.

### **Artículo III**

Queda entendido por las Partes Contratantes que, en el Mar Caribe y Golfo de Paria, la República de Venezuela, al Este y al Norte de la línea antes descrita y la República de Trinidad y Tobago, al Oeste y al Sur de la misma; y, en el Atlántico, la República de Venezuela, al Norte de la línea antes descrita, y la República de Trinidad y Tobago, al Sur de la misma, no reclamarán ni ejercerán con propósito alguno, soberanía, derechos soberanos o jurisdicción sobre las áreas marinas y submarinas a que se refiere el Artículo I del presente Tratado.

### **Artículo IV**

1.- La posición de los puntos antes descritos ha sido definida por latitudes y longitudes según Datum Provisional Suramericano de 1956 (Elipsoide Internacional 1924).

2.- Los límites y puntos antes señalados han sido trazados con fines meramente ilustrativos en el mapa aceptado por las Partes y anexo al presente Acuerdo.

### **Artículo V**

1.- Las Partes Contratantes convienen en crear una Comisión Mixta Venezolano-Trinitaria Demarcadora de Límites, la cual tendrá la responsabilidad de la efectiva demarcación de los puntos y líneas arriba

estipulados, en la medida de lo posible, así como de todas las actividades relacionadas con dicha demarcación.

2.- La demarcación referida en el párrafo 1 del presente Artículo se efectuará mediante las ayudas a la navegación que la Comisión considere conveniente.

3.- La Comisión estará integrada por tres (3) representantes de cada país, con los asesores que éste juzgue conveniente y cuyos nombres serán debidamente participados por la vía diplomática

4.- La Comisión se reunirá dentro de los tres (3) meses siguientes a la fecha de entrada en vigencia de ~~presente~~ Tratado, y luego, cada vez que lo solicite una de las Partes o la Comisión. Las reuniones se realizarán alternativamente en la República de Venezuela y en la República de Trinidad y Tobago.

## Artículo VI

Sin perjuicio de los derechos de navegación y sobrevuelo reconocidos por el derecho internacional en las demás áreas bajo soberanía y/o jurisdicción de las Partes Contratantes, en el estrecho existente entre la Isla de Trinidad y la Isla de Tobago, las naves y aeronaves venezolanas gozarán de la libertad de navegación y sobrevuelo solamente a los fines de tránsito expedito e ininterrumpido por las áreas marinas en referencia, que en lo sucesivo se denominará derecho de paso en tránsito. El paso en tránsito no es incompatible con el paso a través o sobre áreas marinas para entrar, salir de Trinidad y Tobago, el cual está sujeto a las condiciones que regulen la entrada a puertos o similares de acceso. En los otros estrechos existentes en el Golfo de Paria se aplica el paso inocente.

## Artículo VII

### Unidad de yacimiento

Si una misma estructura geológica o yacimiento de hidrocarburos o de cualquier otro recurso mineral, incluyendo arena y granzón, se extendiese a través de la línea de delimitación y que la parte de esta estructura o yacimiento que está situado de un lado de la línea de delimitación puede ser explotada, total o parcialmente, desde el otro lado de dicha línea, las

**Partes Contratantes, después de celebrar las consultas técnicas apropiadas, harán esfuerzos para lograr un Acuerdo sobre la forma de explotación más efectiva de dicha estructura o yacimiento y sobre la manera que se repartirán los costos y los beneficios relativos a dichas actividades.**

### **Artículo VIII**

**En caso de que cualquiera de las Partes Contratantes decida realizar o permitir actividades de perforación para la exploración o explotación, en áreas ubicadas dentro de quinientos (500) metros de distancia de la línea de delimitación deberá notificar dichas actividades a la otra Parte.**

**Las Partes Contratantes adoptarán todas las medidas para preservar el medio marino en las áreas marinas a que se refiere el presente Tratado. En consecuencia, las Partes convienen en:**

**a) suministrar a la otra Parte información relativa a las disposiciones legales y experiencia sobre preservación del medio marino;**

**b) suministrar información sobre las autoridades que sean competentes para conocer y decidir en materia de contaminación;**

**c) informarse mutuamente sobre cualquier indicio de contaminación actual, inminente o potencial, de carácter grave, que se origine en la zona limítrofe marítima.**

### **Artículo X**

**Cualquier discrepancia o controversia que surja en relación a la interpretación o aplicación del presente Tratado será resuelta pacíficamente mediante consulta o negociación directa entre las Partes Contratantes.**

### **Artículo XI**

**El presente Tratado será registrado en la Secretaría de las Naciones Unidas de conformidad con el artículo 102 de la Carta de las Naciones Unidas.**

### **Artículo XII**

**El presente Tratado está sujeto a ratificación y entrará en vigor desde la fecha de canje de los instrumentos de ratificación que tendrá lugar en Puerto España tan pronto como sea posible.**

**El Tratado entre el Presidente de los Estados Unidos de Venezuela y su Majestad el Rey de la Gran Bretaña, sobre las áreas submarinas del Golfo de Paria suscrito en Caracas el 26 de febrero de 1942 y el Acuerdo entre la República de Venezuela y la República de Trinidad y Tobago sobre la Delimitación de Areas Marinas y Submarinas (Primera Fase) suscrito en Puerto España el 4 de agosto de 1989 quedarán sin efecto entre las Partes Contratantes una vez que éstas estén obligadas por el presente Tratado.**



Hecho en la ciudad de Caracas, el día dieciocho (18) de abril de mil novecientos noventa (1990), en dos (2) ejemplares en el idioma castellano y en el idioma inglés, siendo ambos textos igualmente auténticos.

Por el Gobierno  
de la República de Venezuela:

[Signed — Signé]

CARLOS ANDRÉS PÉREZ

Presidente de la República

Por el Gobierno  
de la República de Trinidad y Tobago:

[Signed — Signé]

ARTHUR NAPOLEON RAYMOND

ROBINSON  
Prime Ministro

TREATY<sup>1</sup> BETWEEN THE REPUBLIC OF TRINIDAD AND TOBAGO  
AND THE REPUBLIC OF VENEZUELA ON THE DELIMITA-  
TION OF MARINE AND SUBMARINE AREAS

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The Government of the Republic of Trinidad and Tobago and the Government of the Republic of Venezuela hereinafter referred to as the Contracting Parties;

Resolving in a true spirit of cooperation and friendship to settle permanently as good neighbours the limits of the marine and submarine areas within which the respective Governments exercise sovereignty, sovereign rights and jurisdiction through the establishment of a precise and equitable maritime boundary between the two countries;

Taking into account the rules of international law and the development of the new law of the sea;

Have agreed as follows:-

ARTICLE I

The maritime boundary between the Republic of Trinidad and Tobago and the Republic of Venezuela referred to in this Treaty is the maritime boundary with respect to the territorial seas, the Continental Shelves and the Exclusive Economic Zones and to any other marine and submarine areas which have been or might be established by the Contracting Parties in accordance with International Law.

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<sup>1</sup> Came into force on 23 July 1991 by the exchange of the instruments of ratification, which took place at Port of Spain, in accordance with article XII.

ARTICLE II

The delimitation lines with respect to the marine and submarine areas in the Caribbean, the Gulf of Paria, the Serpent's Mouth and the Atlantic Ocean are geodesics connecting the following geographical coordinates:

1.	Latitude	11 <sup>o</sup>	10'	30" North;	Longitude	61 <sup>o</sup>	43'	46" West
2.	Latitude	10 <sup>o</sup>	54'	40" North;	Longitude	61 <sup>o</sup>	43'	46" West
3.	Latitude	10 <sup>o</sup>	54'	15" North;	Longitude	61 <sup>o</sup>	43'	52" West
4.	Latitude	10 <sup>o</sup>	48'	41" North;	Longitude	61 <sup>o</sup>	45'	47" West
5.	Latitude	10 <sup>o</sup>	47'	38" North;	Longitude	61 <sup>o</sup>	46'	17" West
6.	Latitude	10 <sup>o</sup>	42'	52" North;	Longitude	61 <sup>o</sup>	48'	10" West
7.	Latitude	10 <sup>o</sup>	35'	20" North;	Longitude	61 <sup>o</sup>	48'	10" West
8.	Latitude	10 <sup>o</sup>	35'	19" North;	Longitude	61 <sup>o</sup>	51'	45" West
9.	Latitude	10 <sup>o</sup>	02'	46" North;	Longitude	62 <sup>o</sup>	04'	59" West
10.	Latitude	10 <sup>o</sup>	00'	29" North;	Longitude	61 <sup>o</sup>	58'	25" West
11.	Latitude	09 <sup>o</sup>	59'	12" North;	Longitude	61 <sup>o</sup>	51'	18" West
12.	Latitude	09 <sup>o</sup>	59'	12" North;	Longitude	61 <sup>o</sup>	37'	50" West
13.	Latitude	09 <sup>o</sup>	58'	12" North;	Longitude	61 <sup>o</sup>	30'	00" West
14.	Latitude	09 <sup>o</sup>	52'	33" North;	Longitude	61 <sup>o</sup>	13'	24" West
15.	Latitude	09 <sup>o</sup>	50'	55" North;	Longitude	60 <sup>o</sup>	53'	27" West
16.	Latitude	09 <sup>o</sup>	49'	55" North;	Longitude	60 <sup>o</sup>	39'	51" West
17.	Latitude	09 <sup>o</sup>	53'	26" North;	Longitude	60 <sup>o</sup>	16'	02" West
18.	Latitude	09 <sup>o</sup>	57'	17" North;	Longitude	59 <sup>o</sup>	59'	16" West
19.	Latitude	09 <sup>o</sup>	58'	11" North;	Longitude	59 <sup>o</sup>	55'	21" West
20.	Latitude	10 <sup>o</sup>	09'	59" North;	Longitude	58 <sup>o</sup>	49'	12" West
21.	Latitude	10 <sup>o</sup>	16'	01" North;	Longitude	58 <sup>o</sup>	49'	12" West

and from point 1 northerly in constant and true direction following the meridian 61<sup>o</sup> 43' 46" West up to the point at which it meets the jurisdiction of a third State, and from point 21 along an azimuth of 067 degrees up to the outer limit of the Exclusive Economic Zone and thereafter towards point 22, with the following

geographic coordinates: Latitude 11° 24' 00" North and Longitude 56° 06' 30" West which is situated approximately on the outer edge of the continental margin which delimits the national jurisdiction of the Republic of Trinidad and Tobago and of the Republic of Venezuela and the International Seabed Area which is the common heritage of mankind.

2. Both parties reserve the right, in case of determining that the outer edge of the continental margin is located closer to 350 nautical miles from the respective baselines, to establish and negotiate their respective rights up to this outer edge in conformity with the provisions of International law; no provision of the present Treaty shall in any way prejudice or limit these rights or the rights of third parties.

#### A R T I C L E    I I I

It is understood by the Contracting Parties that in the Caribbean Sea and the Gulf of Paria, the Republic of Trinidad and Tobago to the West and South of said maritime boundary and the Republic of Venezuela to the East and North of that boundary; and in the Atlantic, the Republic of Trinidad and Tobago to the South of the said maritime boundary, and the Republic of Venezuela to the North of that boundary, shall not, for any purpose, claim or exercise sovereignty, sovereign rights or jurisdiction over the marine and submarine areas to which Article 1 of the present Treaty refers.

#### A R T I C L E    I V

1. The positions of the afore-mentioned points have been defined by latitude and longitude of the 1956 Provisional South American Datum (International Ellipsoid 1924).

2. The limits and points previously indicated have been drawn solely by way of illustration on the Map<sup>1</sup> accepted by the parties and annexed to this Treaty.

#### ARTICLE V

The Contracting Parties agree to create a Trinidad and Tobago/Venezuela Mixed Demarcation Commission. The Commission shall be responsible for the actual demarcation of the points and lines referred to above to the extent possible and all related activities.

2. The demarcation referred to in paragraph 1 of this Article shall be effected by such aids to navigation as the Commission deems appropriate.
3. The Commission shall be comprised of three (3) representatives of each country together with such advisors as may be deemed necessary and whose names shall be duly communicated through diplomatic channels.
4. The Commission shall convene within three (3) months following the date of the entry into force of the present Treaty and thereafter whenever requested by either Contracting Party or by the Commission itself. Meetings of the Commission shall be held alternatively in the Republic of Trinidad and Tobago and the Republic of Venezuela.

#### ARTICLE VI

Without prejudice to the rights of navigation and overflight recognized under International Law in the other areas under the sovereignty and or jurisdiction of the Contracting Parties, in the existing strait between the island of Trinidad and the island of Tobago, Venezuelan vessels and aircraft shall enjoy freedom of navigation and overflight for the sole purpose of expeditious and uninterrupted transit through the maritime areas in question, which shall henceforth be termed the right of transit passage.

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<sup>1</sup> See insert in a pocket at the end of this volume.

Transit passage does not preclude passage through or over maritime areas for the purpose of entering or leaving Trinidad and Tobago subject to the conditions regulating entry into ports or similar access conditions. In the other straits which exist in the Gulf of Paria, innocent passage shall apply.

ARTICLE VII

Unity of Deposits

If any single geological petroleum structure or petroleum field, or any single geological structure or field of any other mineral deposit, including sand and gravel, extends across the delimitation line and the part of such structure or field which is situated on one side of the delimitation line is exploitable, wholly or in part, from the other side of the said line, the Contracting Parties shall, after holding the appropriate technical consultations, seek to reach agreement as to the manner in which the structure or field shall be most effectively exploited and the manner in which the costs and benefits arising from such exploitation shall be apportioned.

ARTICLE VIII

In cases where either of the two Contracting Parties decides to carry out or to permit drilling activities for exploration or exploitation in areas five hundred metres (500 m) away from the delimitation line, such activities should be made known to the other Party.

ARTICLE IX

The Contracting Parties shall adopt all measures for the preservation of the marine environment in the marine areas to which the present Treaty refers. Consequently, the Parties agree:

- (a) to provide the other party with information on the legal provisions and on its experience in the preservation of the marine environment;
- (b) provide information on the authorities which are competent for ascertaining and taking decisions on pollution matters;
- (c) to inform each other about any indication of actual, imminent, or potential pollution of a serious nature which occurs in the maritime frontier zone.

A R T I C L E X

Settlement of disputes

Any difference or dispute arising out of the interpretation or application of this Treaty shall be settled peacefully by direct consultation or negotiation between the Contracting Parties.

A R T I C L E XI

The present Treaty shall be registered with the Secretariat of the United Nations in accordance with Article 102 of the Charter of the United Nations.

A R T I C L E XII

This Treaty shall be subject to ratification and shall enter into force from the date of the exchange of instruments of ratification which shall take place in Port of Spain as soon as possible.

2. The Treaty between His Majesty in respect of the United Kingdom and the President of the United States of Venezuela relating to the submarine areas of the Gulf of Paria, signed at Caracas on 26 February 1942<sup>1</sup> and the Agreement between the Government of the Republic of Trinidad and Tobago and the Government of the Republic of Venezuela on the delimitation of marine and submarine areas (First Phase) signed at Port of Spain on 4 August 1989 shall cease to have effect between the Contracting Parties on their becoming bound by this Treaty.

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<sup>1</sup> League of Nations, *Treaty Series*, vol. CCV, p. 121.



Done in the City of Caracas, on the 18th day of the month of April, One Thousand Nine Hundred and Ninety in duplicate in the English and Spanish languages both texts being equally authoritative.

For the Government  
of the Republic of Trinidad and Tobago:

*[Signed]*

ARTHUR NAPOLEON RAYMOND  
ROBINSON  
Prime Minister

For the Government  
of the Republic of Venezuela:

*[Signed]*

CARLOS ANDRÉS PÉREZ  
President of the Republic

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EXCHANGE OF NOTES CONSTITUTING AN AGREEMENT<sup>1</sup> BETWEEN THE REPUBLIC OF VENEZUELA AND THE REPUBLIC OF TRINIDAD AND TOBAGO RELATING TO THE TREATY OF 18 APRIL 1990 ON THE DELIMITATION OF MARINE AND SUBMARINE AREAS<sup>2</sup>

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I

MINISTER OF EXTERNAL AFFAIRS  
AND INTERNATIONAL TRADE

23rd July 1991

Excellency,

I have the honour to refer to Instruments of Ratification which we exchanged today relating to the Treaty Between the Republic of Trinidad and Tobago and the Republic of Venezuela on the Delimitation of Marine and Submarine Areas signed on 18 April 1990 by our respective Heads of Government.

I wish to draw to Your Excellency's attention that the words "Zona en Reclamación" which appear on the map attached to the Treaty are not to be interpreted as implying endorsement by the Government of the Republic of Trinidad and Tobago of the claim by the Government of the Republic of Venezuela to the area indicated.

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<sup>1</sup> Came into force on 23 July 1991 by the exchange of the said notes.

<sup>2</sup> See p. 301 of this volume.

Should Your Excellency agree to this reservation, I wish to propose that this Note and Your Excellency's reply in similar terms constitute thereon confirmation of the mutual understanding of our two Governments in this regard.

Accept, Excellency, the assurances of my highest consideration and esteem.

[Signed]

SAHADEO BASDEO  
Minister of External Affairs  
and International Trade

His Excellency  
Dr Armando Duran  
Minister of External Relations  
Ministry of External Relations  
Caracas  
Venezuela

[SPANISH TEXT — TEXTE ESPAGNOL]

II

REPÚBLICA DE VENEZUELA  
MINISTERIO DE RELACIONES EXTERIORES

Puerto España, 23 de julio de 1991

2266

Excelencia,

Tengo el honor de referirme a la Nota de Vuestra Excelencia de fecha 23 de julio de 1991, cuyo texto se transcribe a continuación:

"Excelencia:

Tengo el honor de referirme a los Instrumentos de Ratificación que canjeamos hoy, relativos al Tratado entre la República de Trinidad y Tobago y la República de Venezuela, sobre la Delimitación de Areas Marinas y Submarinas, firmado el 18 de abril de 1990, por nuestros respectivos Jefes de Gobierno.

Deseo señalar a la atención de Vuestra Excelencia que las palabras "Zona en Reclamación" que aparecen en el mapa anexo al Tratado no deben ser interpretadas como que implican un respaldo del Gobierno de la República de Trinidad y Tobago a la reclamación del Gobierno de la República de Venezuela al área indicada.

De concordar Vuestra Excelencia con esta reserva, desearía proponer que la presente Nota y la respuesta de Vuestra Excelencia en términos similares constituyen por tanto, la confirmación del entendimiento mutuo de nuestros dos Gobiernos al respecto.

Acepte, Excelencia, las seguridades de mi mas alta consideración y estima.

Deseo informar a Vuestra Excelencia que su Nota y esta Nota de respuesta constituyen confirmación del entendimiento mutuo de nuestros dos Gobiernos al respecto.

Acepte. Excelencia, las seguridades de mi mas alta consideración.

[Signed — Signé]

ARMANDO DURÁN  
Ministro de Relaciones Exteriores

Al Honorable Senador  
Doctor Sahadeo Basdeo  
Ministro de Asuntos Exteriores  
y Comercio Internacional  
Puerto España

[TRANSLATION — TRADUCTION]

REPUBLIC OF VENEZUELA  
MINISTRY OF FOREIGN AFFAIRS

Port-of-Spain, 23 July 1991

No. 2266

Sir,

I have the honour to refer to your note of 23 July 1991, which reads as follows:

*[See note I]*

I wish to inform you that your note and this note in reply constitute confirmation of the mutual understanding of our two Governments in this regard.

Accept, Sir, etc.

*[Signed]*

ARMANDO DURÁN  
Minister for Foreign Affairs

Mr. Sahadeo Basdeo  
Minister of External Affairs  
and International Trade  
Port-of-Spain

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[TRADUCTION — TRANSLATION]

TRAITÉ<sup>1</sup> ENTRE LA RÉPUBLIQUE DU VENEZUELA ET LA RÉPUBLIQUE DE TRINITÉ-ET-TOBAGO RELATIF À LA DÉLIMITATION DES RÉGIONS MARINES ET SOUS-MARINES

Le Gouvernement de la République du Venezuela et le Gouvernement de la République de Trinité-et-Tobago, ci-après dénommés les Parties contractantes;

Résolus, dans un véritable esprit de coopération et d'amitié, à définir, à titre permanent, en bons voisins, les limites des régions marines et sous-marines à l'intérieur desquelles les deux gouvernements exercent leur souveraineté, leurs droits souverains ou leur juridiction, en établissant une limite maritime précise et équitable entre les deux pays;

Compte tenu des règles de droit international et de l'élaboration du nouveau droit de la mer :

Sont convenus de ce qui suit :

*Article premier*

Les limites maritimes entre la République du Venezuela et la République de Trinité-et-Tobago visées dans le présent Traité sont les limites des mers territoriales, des plates-formes continentales, des zones économiques exclusives ou de toutes autres zones marines ou sous-marines qui ont été ou qui pourraient être établies par les Parties, conformément au droit international.

*Article II*

Les lignes de délimitation en ce qui concerne les régions marines et sous-marines dans la mer des Caraïbes, le Golfe de Paria, la Bouche du Serpent et l'Océan atlantique sont les lignes géodésiques reliant les points dont les coordonnées géographiques sont les suivantes :

1. Latitude 11°10'30" Nord; longitude 61°43'46" Ouest.

<sup>1</sup> Entré en vigueur le 23 juillet 1991 par l'échange des instruments de ratification, qui a eu lieu à Port of Spain, conformément à l'article XII.

2. Latitude 10°54'40" Nord; longitude 61°43'45" Ouest.
3. Latitude 10°54'15" Nord; longitude 61°43'52" Ouest.
4. Latitude 10°48'41" Nord; longitude 61°45'47" Ouest.
5. Latitude 10°47'38" Nord; longitude 61°46'17" Ouest.
6. Latitude 10°42'52" Nord; longitude 61°48'10" Ouest.
7. Latitude 10°35'20" Nord; longitude 61°48'10" Ouest.
8. Latitude 10°35'19" Nord; longitude 61°51'45" Ouest.
9. Latitude 10°02'46" Nord; longitude 62°04'59" Ouest.
10. Latitude 10°00'29" Nord; longitude 61°58'25" Ouest.
11. Latitude 09°59'12" Nord; longitude 61°51'18" Ouest.
12. Latitude 09°59'12" Nord; longitude 61°37'50" Ouest.
13. Latitude 09°58'12" Nord; longitude 61°30'00" Ouest.
14. Latitude 09°52'33" Nord; longitude 61°13'24" Ouest.
15. Latitude 09°50'55" Nord; longitude 60°53'27" Ouest.
16. Latitude 09°49'55" Nord; longitude 60°39'51" Ouest.
17. Latitude 09°53'26" Nord; longitude 60°16'02" Ouest.
18. Latitude 09°57'17" Nord; longitude 59°59'16" Ouest.
19. Latitude 09°58'11" Nord; longitude 59°55'21" Ouest.
20. Latitude 10°09'59" Nord; longitude 58°49'12" Ouest.
21. Latitude 10°16'01" Nord; longitude 58°49'12" Ouest.

et, depuis le point 1, vers le nord en ligne droite en suivant le méridien de 61°43'46" ouest, jusqu'au point de son intersection avec la juridiction d'un Etat tiers; et depuis le point 21, suivant l'azimut 067° jusqu'à la limite extérieure de la zone économique exclusive et au-delà vers le point 22, ayant pour coordonnées 11°24'00" de latitude nord et 56°06'30" de longitude ouest, qui se trouve approximativement sur le bord extérieur de la marge continentale constituant la limite entre la juridiction nationale de la République du Venezuela et celle de la République de Trinité-et-Tobago et la zone internationale des fonds marins qui est le patrimoine commun de l'humanité.

2. Les deux Parties se réservent le droit, au cas où il serait déterminé que le bord extérieur de la marge continentale est plus proche de 350 miles marins comptés à part de leurs lignes de base respectives, d'établir et de négocier leurs droits respectifs jusqu'à ce bord, conformément aux dispositions du droit international; les dispositions du présent Traité ne préjugent ou ne limitent en rien ces droits ou les droits d'Etats tiers.



*Article III*

Les Parties contractantes conviennent que, dans la mer des Caraïbes et dans le Golfe de Paria, la République du Venezuela, à l'est et au nord de la ligne précédemment décrite et la République de Trinité-et-Tobago, à l'ouest et au sud de cette même ligne, et, dans l'Atlantique, la République du Venezuela, au nord de la ligne précédemment décrite, et la République de Trinité-et-Tobago, au sud de cette même ligne, ne revendiqueront ni n'exerceront à aucune fin de souveraineté, de droits souverains ou de juridiction sur les zones marines et sous-marines visées à l'article premier du présent Traité.

*Article IV*

1. La latitude et la longitude des points précédemment décrits ont été déterminées d'après la Référence provisoire sud-américaine de 1956 et l'Ellipsoïde international de 1924.

2. Les limites et les points précédemment indiqués ont été reportés, à des fins purement illustratives, sur la carte<sup>1</sup> acceptée par les Parties et annexée au présent Traité.

*Article V*

1. Les Parties contractantes conviennent de créer une Commission mixte vénézuélienne-trinitaire de démarcation des limites, qui sera chargée de démarquer effectivement les points et lignes visés ci-dessous dans la mesure du possible ainsi que de toutes les activités connexes.

2. La démarcation visée au paragraphe 1 du présent article sera effectuée au moyen des aides à la navigation que la Commission jugera appropriées.

3. La Commission se composera de trois (3) représentants de chaque pays ainsi que de tous conseillers jugés nécessaires dont les noms seront dûment communiqués par la voie diplomatique.

4. La Commission se réunira dans les trois (3) mois suivant la date d'entrée en vigueur du présent Traité et, par la suite, quand l'une ou l'autre des Parties contrac-

<sup>1</sup> Voir hors-texte dans une pochette à la fin du présent volume.

tantes ou la Commission elle-même en feront la demande. Les réunions de la Commission se tiendront à tour de rôle dans la République de Trinité-et-Tobago et dans la République du Venezuela.

#### *Article VI*

Sans préjudice des droits de navigation et de survol reconnus par le droit international dans d'autres régions sous la souveraineté ou la juridiction des Parties contractantes, dans le détroit existant entre l'île de la Trinité et l'île de Tobago, les navires et aéronefs vénézuéliens jouiront de la liberté de navigation et de survol à la seule fin d'un passage rapide et ininterrompu en transit par les zones maritimes en question, droit qui sera ci-après dénommé le droit de passage en transit. Ce droit n'est pas incompatible avec le passage à travers ou au-dessus de zones maritimes pour entrer et sortir de Trinité-et-Tobago, lequel est soumis aux conditions régissant l'entrée dans des ports ou autres conditions similaires d'accès. Le droit de passage innocent est applicable aux autres détroits existants dans le Golfe de Paria.

#### *Article VII*

##### UNITÉ DE GISEMENT

Si une même structure géologique ou gisement d'hydrocarbures ou de toute autre ressource minérale, y compris le sable et le gravier, s'étend de part et d'autre de la ligne de délimitation et que la partie de cette structure ou gisement située d'un côté de la ligne de délimitation peut être exploitée, en totalité ou en partie, depuis l'autre côté, les Parties contractantes, après avoir procédé aux consultations techniques appropriées, s'efforcent de parvenir à un accord sur la forme d'exploitation la plus efficace de cette structure ou gisement et sur les modes de répartition des frais et des bénéfices découlant de cette activité.

#### *Article VIII*

Si l'une quelconque des Parties contractantes décide d'effectuer ou d'autoriser des activités de forage à des fins de recherche ou d'exploitation dans des zones situées à cinq cents (500) mètres de distance de la délimitation, elle devra notifier ces activités à l'autre Partie.

*Article IX*

Les Parties contractantes adopteront toutes les mesures voulues pour préserver le milieu marin dans les régions marines visées par le présent Traité. En conséquence, les Parties conviennent de :

a) Fournir à l'autre Partie des renseignements relatifs aux dispositions légales régissant la préservation du milieu marin et à leur expérience en la matière;

b) Fournir des renseignements sur les autorités compétentes pour connaître les questions de pollution et les trancher;

c) S'informer l'une l'autre de tout indice de pollution effective, imminente ou potentielle de caractère grave apparu dans la zone maritime limitrophe.

*Article X*

Tout différend ou litige concernant l'interprétation ou l'application du présent Traité sera réglé pacifiquement par voie de consultation ou de négociation directe entre les Parties contractantes.

*Article XI*

Le présent Traité sera enregistré auprès du Secrétariat de l'Organisation des Nations Unies conformément à l'article 102 de la Charte des Nations Unies.

*Article XII*

Le présent Traité est sujet à ratification et entrera en vigueur à compter de la date de l'échange des instruments de ratification qui aura lieu à Port of Spain aussitôt que possible.

Le Traité entre le Président des Etats-Unis du Venezuela et Sa Majesté le Roi de Grande-Bretagne relatif aux régions sous-marines du Golfe de Paria signé à Caracas le 26 février 1942<sup>1</sup> et l'Accord entre la République du Venezuela et la République de Trinité-et-Tobago sur la délimitation des zones marines et sous-marines (pre-

<sup>1</sup> Société des Nations, *Recueil des Traités*, vol. CCV, p. 121.

mière phase) signé à Port of Spain le 4 août 1989 demeureront sans effet entre les Parties contractantes à partir du moment où elles seront liées par le présent Traité.

FAIT en la ville de Caracas, le dix-huit (18) avril mil neuf cent quatre-vingt dix (1990), en deux (2) exemplaires, en langues espagnole et anglaise, les deux textes faisant également foi.

Pour le Gouvernement  
de la République du Venezuela :

Le Président de la République,

[Signé]

CARLOS ANDRÉS PÉREZ

Pour le Gouvernement  
de la République  
de Trinité-et-Tobago :

Le Premier Ministre,

[Signé]

ARTHUR NAPOLEON RAYMOND  
ROBINSON

ÉCHANGE DE NOTES CONSTITUANT UN ACCORD<sup>1</sup> ENTRE LA  
RÉPUBLIQUE DU VENEZUELA ET LA RÉPUBLIQUE DE  
TRINITÉ-ET-TOBAGO RELATIF AU TRAITÉ DU 18 AVRIL 1990  
RELATIF À LA DÉLIMITATION DES RÉGIONS MARINES ET  
SOUS-MARINES<sup>2</sup>

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I

MINISTÈRE DES AFFAIRES EXTÉRIEURES  
ET DU COMMERCE INTERNATIONAL

Port of Spain, 23 juillet 1991

Monsieur le Ministre,

J'ai l'honneur de me référer aux instruments de ratification du Traité relatif à la délimitation des régions marines et sous-marines entre la République de Trinité-et-Tobago et la République du Venezuela signé le 18 avril 1990 par nos Chefs respectifs de Gouvernement.

Je désire appeler votre attention sur le fait que les mots « Zona en Reclamación » qui apparaissent sur la carte jointe au Traité ne doivent pas être interprétés comme signifiant que le Gouvernement de la République de Trinité-et-Tobago souscrit à la revendication du Gouvernement de la République du Venezuela sur la zone indiquée.

Si vous acceptez cette réserve, je propose que la présente note et votre réponse en ce sens constituent une confirmation de l'accord mutuel de nos deux gouvernements à ce sujet.

Le Ministre des Affaires extérieures  
et du commerce international,

[Signé]

SAHADEO BASDEO

M. Armando Durán  
Ministre des relations extérieures  
Ministère des relations extérieures  
Caracas  
Venezuela

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<sup>1</sup> Entré en vigueur le 23 juillet 1991 par l'échange desdites notes.

<sup>2</sup> Voir p. 314 du présent volume.

## II

RÉPUBLIQUE DU VENEZUELA  
MINISTÈRE DES RELATIONS EXTÉRIEURES

Port of Spain, 23 juillet 1991

N° 2266

Monsieur le Ministre,

J'ai l'honneur de me référer à votre note du 23 juillet 1991, qui se lit comme suit :

[*Voir note I*]

Je désire vous faire savoir que votre note et la présente réponse constituent une confirmation de l'accord mutuel de nos deux Gouvernements.

Je vous prie d'agréer, etc.

Le Ministre des relations extérieures,

[*Signé*]

ARMANDO DURÁN

Monsieur Sahadeo Basdeo  
Sénateur  
Ministre des Affaires extérieures  
et du commerce international  
Port of Spain

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**Annex 145**

Agreement between the United States of America and the Union of Soviet Socialist Republics on the maritime boundary, 1 June 1990, (1991) 17 Law of the Sea Bulletin 15.

# LAW OF THE SEA BULLETIN

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No. 17

APRIL 1991

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OFFICE FOR OCEAN AFFAIRS AND THE LAW OF THE SEA



- 15 -

B. TreatiesBilateral treaties

- (a) Agreement between the United States of America and the Union of Soviet Socialist Republics on the maritime boundary, 1 June 1990

[Original: English and Russian]

The United States of America and the Union of Soviet Socialist Republics (hereinafter "the Parties"),

Recalling the United States-Russia Convention of March 18/30, 1867 (hereinafter "the 1867 Convention"),

Desiring to resolve issues concerning the maritime boundary between the United States and the Soviet Union,

Desiring to ensure that coastal State jurisdiction is exercised in all maritime areas in which such jurisdiction could be exercised for any purpose by either of the Parties, in accordance with international law, in the absence of a maritime boundary,

Have agreed as follows:

Article 1

1. The Parties agree that the line described as the "western limit" in article 1 of the 1867 Convention, as defined in article 2 of this Agreement, is the maritime boundary between the United States and the Soviet Union.
2. Each Party shall respect the maritime boundary as limiting the extent of its coastal State jurisdiction otherwise permitted by international law for any purpose.

Article 2

1. From the initial point, 65° 30' N., 168° 58' 37" W., the maritime boundary extends north along the 168° 58' 37" W. meridian through the Bering Strait and Chukchi Sea into the Arctic Ocean as far as permitted under international law.
2. From the same initial point, the maritime boundary extends southwestward and is defined by lines connecting the geographic positions set forth in the Annex, which is an integral part of this Agreement.
3. All geographic positions are defined in the World Geodetic System 1984 ("WGS 84") and, except where noted, are connected by geodetic lines.

Article 3

1. In any area east of the maritime boundary that lies within 200 nautical miles of the baselines from which the breadth of the territorial sea of the Soviet Union is measured but beyond 200 nautical miles of the baselines from

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which the breadth of the territorial sea of the United States is measured ("eastern special area"), the Soviet Union agrees that henceforth the United States may exercise the sovereign rights and jurisdiction derived from exclusive economic zone jurisdiction that the Soviet Union would otherwise be entitled to exercise under international law in the absence of the agreement of the Parties on the maritime boundary.

2. In any area west of the maritime boundary that lies within 200 nautical miles of the baselines from which the breadth of the territorial sea of the United States is measured by beyond 200 nautical miles of the baselines from which the breadth of the territorial sea of the Soviet Union is measured ("western special area"), the United States agrees that henceforth the Soviet Union may exercise the sovereign rights and jurisdiction derived from exclusive economic zone jurisdiction that the United States would otherwise be entitled to exercise under international law in the absence of the agreement of the Parties on the maritime boundary.

3. To the extent that either Party exercises the sovereign rights or jurisdiction in the special area or areas on its side of the maritime boundary as provided for in this article, such exercise of sovereign rights or jurisdiction derives from the agreement of the Parties and does not constitute an extension of its exclusive economic zone. To this end, each Party shall take the necessary steps to ensure that any exercise on its part of such rights or jurisdiction in the special area or areas on its side of the maritime boundary shall be so characterized in its relevant laws, regulations, and charts.

#### Article 4

The maritime boundary as defined in this Agreement shall not affect or prejudice in any manner either Party's position with respect to the rules of international law relating to the law of the sea, including those concerned with the exercise of sovereignty, sovereign rights or jurisdiction with respect to the waters or seabed and subsoil.

#### Article 5

For the purposes of this Agreement, "coastal State jurisdiction" refers to the sovereignty, sovereign rights, or any other form of jurisdiction with respect to the waters or seabed and subsoil that may be exercised by a coastal State in accordance with the international law of the sea.

#### Article 6

Any dispute concerning the interpretation or application of this Agreement shall be resolved by negotiation or other peaceful means agreed by the Parties.

This Agreement shall be subject to ratification and shall enter into force on the date of exchange of instruments of ratification.

IN WITNESS WHEREOF, the duly authorized representatives of the Parties have signed the present Agreement.

DONE at Washington, this first day of June, 1990, in duplicate, in the English and Russian languages, each text being equally authentic.

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## ANNEX

The geographic positions set forth in this Annex are on the World Geodetic System 1984 ("WGS 84") and, except where noted, are connected by geodetic lines. One nautical mile equals 1,852 meters.

The maritime boundary is defined as follows:

From the initial point, 65° 30' N., 168° 58' 37" W., the maritime boundary extends north along the 168° 58' 37" W. meridian through the Bering Strait and Chukchi Sea into the Arctic Ocean as far as permitted under international law.

From the same initial point, the maritime boundary extends southwestward connecting the following geographic positions:

2.	65° 19' 58" N.,	169° 21' 38" W.
3.	65° 09' 51" N.,	169° 44' 34" W.
4.	64° 59' 41" N.,	170° 07' 23" W.
5.	64° 49' 26" N.,	170° 30' 06" W.
6.	64° 39' 08" N.,	170° 52' 43" W.
7.	64° 28' 46" N.,	171° 15' 14" W.
8.	64° 18' 20" N.,	171° 37' 40" W.
9.	64° 07' 50" N.,	172° 00' 00" W.
10.	63° 59' 27" N.,	172° 18' 39" W.
11.	63° 51' 01" N.,	172° 37' 13" W.
12.	63° 42' 33" N.,	172° 55' 42" W.
13.	63° 34' 01" N.,	173° 14' 07" W.
14.	63° 25' 27" N.,	173° 32' 27" W.
15.	63° 16' 50" N.,	173° 50' 42" W.
16.	63° 08' 11" N.,	174° 08' 52" W.
17.	62° 59' 29" N.,	174° 26' 58" W.
18.	62° 50' 44" N.,	174° 44' 59" W.
19.	62° 41' 56" N.,	175° 02' 56" W.
20.	62° 33' 06" N.,	175° 20' 48" W.
21.	62° 24' 13" N.,	175° 38' 36" W.
22.	62° 15' 17" N.,	175° 56' 19" W.
23.	62° 06' 19" N.,	176° 13' 59" W.
24.	61° 57' 18" N.,	176° 31' 34" W.
25.	61° 10' 11" N.,	176° 49' 04" W.
26.	61° 39' 08" N.,	177° 06' 31" W.
27.	61° 29' 59" N.,	177° 23' 53" W.
28.	61° 20' 47" N.,	177° 41' 11" W.
29.	61° 11' 33" N.,	177° 58' 26" W.
30.	61° 02' 17" N.,	178° 15' 36" W.

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31.	60° 52' 57" N.,	178° 32' 42" W.
32.	60° 43' 35" N.,	178° 49' 45" W.
33.	60° 34' 11" N.,	179° 06' 44" W.
34.	60° 24' 44" N.,	179° 23' 38" W.
35.	60° 15' 14" N.,	179° 40' 30" W.
36.	60° 11' 39" N.,	179° 46' 49" W.;

thence, it extends along an arc with a radius of 200 nautical miles and a center at 60° 38' 23" N., 173° 06' 54" W. to

37.	59° 58' 22" N.,	179° 40' 55" W.;
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thence, it extends southwestward along the rhumb line, defined by the following points: 64° 05' 08" N., 172° 00' 00" W., 53° 43' 42" N., 170° 18' 31" E. to

38.	58° 57' 18" N.,	178° 33' 59" E.;
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thence, it extends along an arc with a radius of 200 nautical miles and a center at 62° 16' 09" N., 179° 05' 34" E. to

39.	58° 58' 14" N.,	178° 15' 05" E.
40.	58° 57' 58" N.,	178° 14' 37" E.
41.	58° 48' 06" N.,	177° 58' 14" E.
42.	58° 38' 12" N.,	177° 41' 53" E.
43.	58° 28' 16" N.,	177° 25' 34" E.
44.	58° 18' 17" N.,	177° 09' 18" E.
45.	58° 08' 15" N.,	176° 53' 04" E.
46.	57° 58' 11" N.,	176° 36' 52" E.
47.	57° 48' 04" N.,	176° 20' 43" E.
48.	57° 37' 54" N.,	176° 04' 35" E.
49.	57° 27' 42" N.,	175° 48' 31" E.
50.	57° 17' 28" N.,	175° 32' 28" E.
51.	57° 07' 11" N.,	175° 16' 27" E.
52.	56° 56' 51" N.,	175° 00' 29" E.
53.	56° 46' 29" N.,	174° 44' 32" E.
54.	56° 36' 04" N.,	174° 28' 38" E.
55.	56° 25' 37" N.,	174° 12' 46" E.
56.	56° 15' 07" N.,	173° 56' 56" E.
57.	56° 04' 34" N.,	173° 41' 08" E.
58.	55° 53' 59" N.,	173° 25' 22" E.
59.	55° 43' 22" N.,	173° 09' 37" E.
60.	55° 32' 42" N.,	172° 53' 55" E.

61.	55° 21' 39" N.,	172° 38' 14" E.
62.	55° 11' 14" N.,	172° 22' 36" E.
63.	55° 00' 26" N.,	172° 06' 59" E.
64.	54° 49' 36" N.,	171° 51' 24" E.
65.	54° 38' 43" N.,	171° 35' 51" E.
66.	54° 27' 48" N.,	171° 20' 20" E.
67.	54° 16' 50" N.,	171° 04' 50" E.
68.	54° 05' 50" N.,	170° 49' 22" E.
69.	53° 54' 47" N.,	170° 33' 56" E.
70.	53° 43' 42" N.,	170° 18' 31" E.
71.	53° 32' 46" N.,	170° 05' 29" E.
72.	53° 21' 48" N.,	169° 52' 32" E.
73.	53° 10' 49" N.,	169° 39' 40" E.
74.	52° 59' 48" N.,	169° 26' 53" E.
75.	52° 48' 46" N.,	169° 14' 12" E.
76.	52° 37' 43" N.,	169° 01' 36" E.
77.	52° 26' 38" N.,	168° 49' 05" E.
78.	52° 15' 31" N.,	168° 36' 39" E.
79.	52° 04' 23" N.,	168° 24' 17" E.
80.	51° 53' 14" N.,	168° 12' 01" E.
81.	51° 42' 03" N.,	167° 59' 49" E.
82.	51° 30' 51" N.,	167° 47' 42" E.
83.	51° 19' 37" N.,	167° 35' 40" E.
84.	51° 11' 22" N.,	167° 26' 52" E.
85.	51° 12' 17" N.,	167° 15' 35" E.
86.	51° 09' 09" N.,	167° 12' 00" E.
87.	50° 58' 39" N.,	167° 00' 00" E.

1 June 1990

Excellency:

I have the honor to refer to the Agreement between the United States of America and the Union of Soviet Socialist Republics on the Maritime Boundary, which has been signed by representatives of our two Governments today. I have the further honor to propose that, pending the entry into force of that Agreement, the two Governments agree to abide by the terms of that Agreement as of 15 June 1990.

On the basis of the foregoing, I have the honor to propose to Your Excellency that if the terms stipulated herein are acceptable to the Government of the Union of Soviet Socialist Republics, this note and Your Excellency's reply shall constitute an agreement between the two Governments, which shall enter into force on the day of your reply.

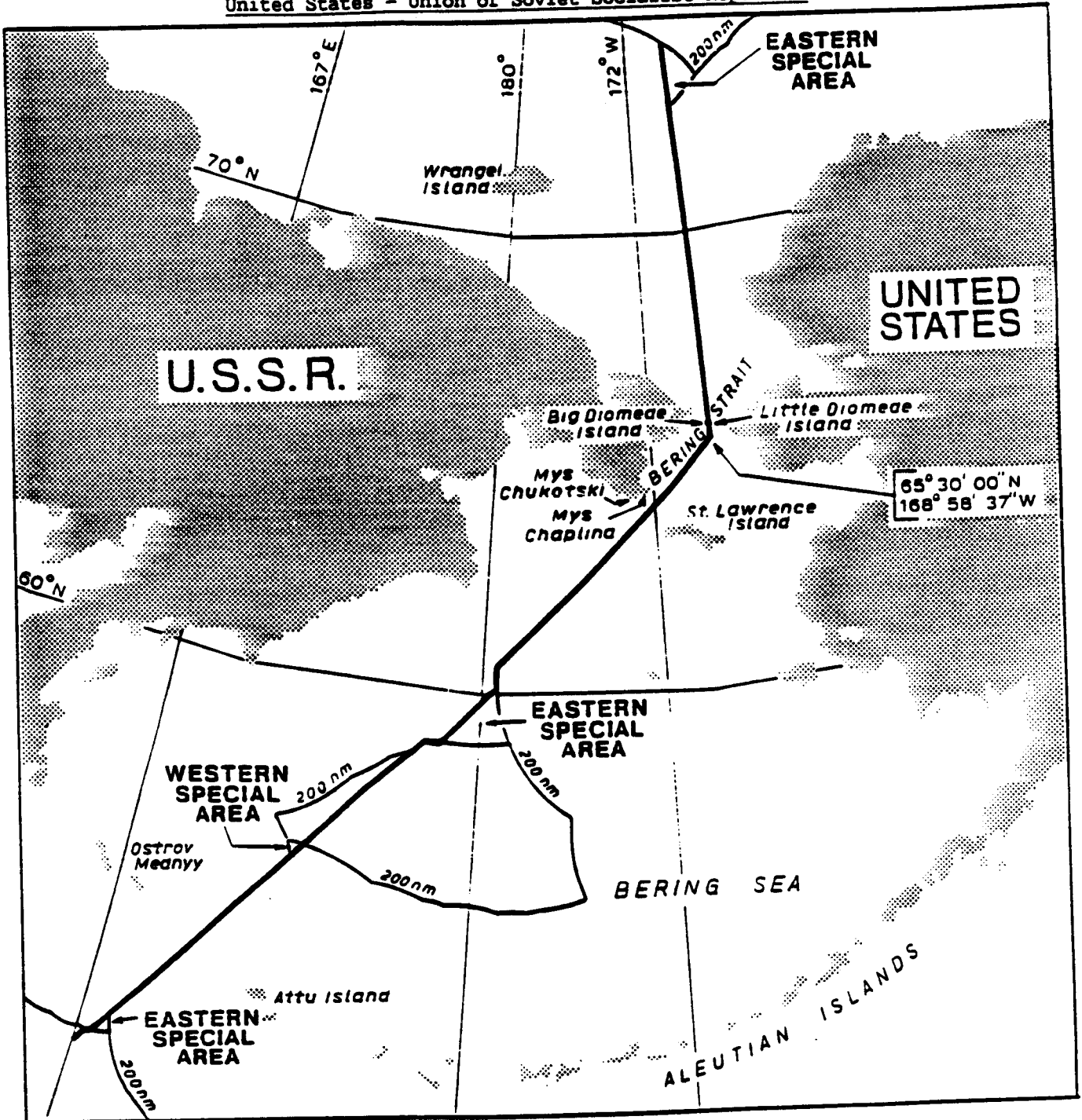
I avail myself of this opportunity to renew to Your Excellency the assurances of my highest consideration.

James Baker III

His Excellency  
Eduard A. Shevardnadze  
Minister of Foreign Affairs of the  
Union of Soviet Socialist Republics

MARITIME BOUNDARY

United States - Union of Soviet Socialist Republics \*



\* International Journal of Estuarine and Coastal Law, vol. 6, No. 1, February 1991.

(b) Joint statement on the conservation of fisheries between the Government of the Argentine Republic and the Government of the United Kingdom of Great Britain and Northern Ireland, 28 November 1990

[Original: English and Spanish]

1. The Government of the Argentine Republic and the Government of the United Kingdom of Great Britain and Northern Ireland agreed that the following formula on sovereignty, contained in the Joint Statement issued at Madrid on 19 October 1989, applies to this Statement and its results:

"(1) Nothing in the conduct or content of the present meeting or of any similar subsequent meetings shall be interpreted as:

- (a) a change in the position of the United Kingdom with regard to sovereignty or territorial and maritime jurisdiction over the Falkland Islands, South Georgia and the South Sandwich Islands and the surrounding maritime areas;
- (b) a change in the position of the Argentine Republic with regard to sovereignty or territorial and maritime jurisdiction over the Falkland Islands, South Georgia and the South Sandwich Islands and the surrounding maritime areas;
- (c) recognition of or support for the position of the United Kingdom or the Argentine Republic with regard to sovereignty or territorial and maritime jurisdiction over the Falkland Islands, South Georgia and the South Sandwich Islands and the surrounding maritime areas.

"(2) No act or activity carried out by the United Kingdom, the Argentine Republic or third parties as a consequence and in implementation of anything agreed to in the present meeting or in any similar subsequent meetings shall constitute a basis for affirming, supporting, or denying the position of the United Kingdom or the Argentine Republic regarding the sovereignty or territorial and maritime jurisdiction over the Falkland Islands, South Georgia and the South Sandwich Islands and the surrounding maritime areas."

2. In order to contribute to the conservation of fish stocks, the two Governments agreed to open the way for cooperation in this field on an ad-hoc basis; this will be done:

- (a) by means of the establishment of the "South Atlantic Fisheries Commission", composed of delegations from both States, to assess the state of fish stocks in the South Atlantic in accordance with paragraph 7 of the Joint Statement issued at Madrid on 15 February 1990;
- (b) by means of the temporary total prohibition of commercial fishing by vessels of any flag in the maritime area defined in the Annex to this Joint Statement, for conservation purposes.

The two Governments further agreed to review this Joint Statement annually, in particular the duration of the total prohibition.



3. The Commission will be composed of a delegation from each of the two States, and will meet at least twice a year, alternately in Buenos Aires and London. Recommendations shall be reached by mutual agreement. In accordance with paragraph 7 of the Madrid Joint Statement of 15 February 1990, the maritime area which the Commission will consider in relation to the conservation of the most significant offshore species will be waters between latitude 45°S and latitude 60°S.

4. The Commission will have the following functions:

- (a) In accordance with paragraph 7 of the Joint Statement issued at Madrid on 15 February 1990, to receive from both States the available information on the operations of the fishing fleets, appropriate catch and effort statistics and analyses of the status of the stocks of the most significant offshore species. Both Governments will provide such information in the form recommended by the Commission;
- (b) To assess the information received and to submit to both Governments recommendations for the conservation of the most significant offshore species in the area;
- (c) To propose to both Governments joint scientific research work on the most significant offshore species;
- (d) In accordance with international law, to recommend to both Governments possible actions for the conservation in international waters of migratory and straddling stocks and species related to them;
- (e) To monitor the implementation of the prohibition and make recommendations in this regard to both Governments.

5. The prohibition in paragraph 2 (b) will take effect on 26 December 1990; both Governments agreed to cooperate in order to implement it.

6. Each Government will take the appropriately related administrative measures in accordance with this Joint Statement.

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## ANNEX

The area referred to in paragraph 2 (b) is the one encompassed by the lines of the type specified in the second column, joining points in the first column defined to the nearest minute of arc on WGS 72 Datum by coordinates of latitude and longitude in the order given.

<u>Coordinates of latitude and longitude</u>	<u>Line type</u>
1. 47° 42' S, 60° 41' W	1-2 rhumb line along meridian.
2. 49° 00' S, 60° 41' W	2-3 parallel of latitude.
3. 49° 00' S, 60° 55' W	3-4 rhumb line along meridian.
4. 49° 20' S, 60° 55' W	4-5 arc of the circle which has a radius of 150 nautical miles and its centre at latitude 51° 40' S, longitude 59° 30' W, moving clockwise.
5. 54° 02' S, 58° 13' W	5-6 rhumb line.
6. 54° 38' S, 58° 02' W	6-7 meridian.
7. 55° 30' S, 58° 02' W	7-8 rhumb line.
8. 56° 14' S, 58° 31' W	8-9 a line drawn anti-clockwise along the maximum limit of jurisdiction over fisheries in accordance with international law.
9. 47° 42' S, 60° 41' W	

The area mentioned above is described for the sole purpose of the total prohibition in paragraph 2 (b) of this Joint Statement and, in particular, the formula on sovereignty in paragraph 1 of this Joint Statement applies to it.

#### **Annex 146**

Agreement between the People's Republic of China and the Socialist Republic of Viet Nam on the delimitation of the territorial seas, exclusive economic zones and continental shelves of the two countries in Beibu Gulf/Bac Bo Gulf (with maps), 25 December 2000, 2336 UNTS

179.

**No. 41860**

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**China  
and  
Viet Nam**

**Agreement between the People's Republic of China and the Socialist Republic of Viet Nam on the delimitation of the territorial seas, exclusive economic zones and continental shelves of the two countries in Beibu Gulf/Bac Bo Gulf (with maps). Beijing, 25 December 2000**

**Entry into force:** *30 June 2004 by the exchange of instruments of ratification, in accordance with article XI*

**Authentic texts:** *Chinese and Vietnamese*

**Registration with the Secretariat of the United Nations:** *China and Viet Nam, 12 October 2005*

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**Chine  
et  
Viet Nam**

**Accord entre la République populaire de Chine et la République socialiste du Viet Nam relatif à la délimitation des mers territoriales, des zones économiques exclusives et des plateaux continentaux des deux pays dans le Golfe Beibu/Golfe Bac Bo (avec cartes). Beijing, 25 décembre 2000**

**Entrée en vigueur :** *30 juin 2004 par échange des instruments de ratification, conformément à l'article XI*

**Textes authentiques :** *chinois et vietnamien*

**Enregistrement auprès du Secrétariat des Nations Unies :** *Chine et Viet Nam, 12 octobre 2005*

[ CHINESE TEXT — TEXTE CHINOIS ]

## 中华人民共和国和 越南社会主义共和国关于两国 在北部湾领海、专属经济区和 大陆架的划界协定

中华人民共和国和越南社会主义共和国(以下简称“缔约双方”),为巩固和发展中越两国和两国人民之间的传统睦邻友好关系,维护和促进北部湾的稳定和发展,在相互尊重独立、主权和领土完整,互不侵犯,互不干涉内政,平等互利和和平共处的原则基础上,本着互谅互让、友好协商和公平合理地解决划分北部湾问题的精神,达成协议如下:

### 第 一 条

一、缔约双方根据一九八二年《联合国海洋法公约》,公认的国际法各项原则和国际实践,在充分考虑北部湾所有有关情况的基础上,按照公平原则,通过友好协商,确定了两国在北部湾的领海、专属经济区和大陆架的分界线。

二、在本协定中,“北部湾”系指北面为中国和越南两

国陆地领土海岸、东面为中国雷州半岛和海南岛海岸、西面为越南大陆海岸所环抱的半封闭海湾，其南部界限是自地理坐标为北纬18度30分19秒、东经108度41分17秒的中国海南岛莺歌嘴最外缘突出点经越南昏果岛至越南海岸上地理坐标为北纬16度57分40秒、东经107度08分42秒的一点之间的直线连线。

缔约双方确定，上述区域构成本协定的划界范围。

## 第 二 条

缔约双方同意，两国在北部湾的领海、专属经济区和大陆架分界线由以下21个界点以直线顺次连接确定，其地理坐标如下：

第1界点 北纬21度28分12.5秒，东经108度06分04.3秒；

第2界点 北纬21度28分01.7秒，东经108度06分01.6秒；

第3界点 北纬21度27分50.1秒，东经108度05分57.7秒；

第4界点 北纬21度27分39.5秒，东经108度05分51.5秒；

第5界点 北纬21度27分28.2秒, 东经108度05分39.9秒;

第6界点 北纬21度27分23.1秒, 东经108度05分38.8秒;

第7界点 北纬21度27分08.2秒, 东经108度05分43.7秒;

第8界点 北纬21度16分32秒, 东经108度08分05秒;

第9界点 北纬21度12分35秒, 东经108度12分31秒;

第10界点 北纬20度24分05秒, 东经108度22分45秒;

第11界点 北纬19度57分33秒, 东经107度55分47秒;

第12界点 北纬19度39分33秒, 东经107度31分40秒;

第13界点 北纬19度25分26秒, 东经107度21分00秒;

第14界点 北纬19度25分26秒, 东经107度12分43秒;

第15界点 北纬19度16分04秒, 东经107度11分23秒;

第16界点 北纬19度12分55秒, 东经107度09分34秒;

第17界点 北纬18度42分52秒, 东经107度09分34秒;

第18界点 北纬18度13分49秒, 东经107度34分00秒;

第19界点 北纬18度07分08秒, 东经107度37分34秒;

第20界点 北纬18度04分13秒, 东经107度39分09秒;

第21界点 北纬17度47分00秒, 东经107度58分00秒。

### 第 三 条

一、本协定第二条所规定的第1界点至第9界点的分界线是两国在北部湾的领海分界线。

二、本条第一款所规定的两国领海分界线沿垂直方向划分两国领海的上空、海床和底土。

三、除非缔约双方另有协议，任何地形变化不改变本条第一款所规定的第1界点至第7界点的两国领海分界线。

### 第 四 条

本协定第二条所规定的第9界点至第21界点的分界线是两国在北部湾的专属经济区和大陆架的分界线。

### 第 五 条

本协定第二条所规定的第1界点至第7界点的两国领海分界线用黑线标绘在缔约双方于二〇〇〇年共同测制的比例尺为一万分之一的北仑河口专题地图上，第7界点至第21界点的两国领海、专属经济区和大陆架分界线用黑线



标绘在由缔约双方于二〇〇〇年共同测制的比例尺为五十万分之一的北部湾全图上。上述分界线均为大地线。

上述北仑河口专题地图和北部湾全图为本协定的附图。上述地图采用ITRF-96坐标系。本协定第二条所规定各界点的地理坐标均系从上述地图上量取。本协定所规定的分界线标绘在本协定附图上,仅用于说明的目的。

## 第 六 条

缔约双方应相互尊重按照本协定所确定的两国各自在北部湾的领海、专属经济区和大陆架的主权、主权权利和管辖权。

## 第 七 条

如果任何石油、天然气单一地质构造或其他矿藏跨越本协定第二条所规定的分界线,缔约双方应通过友好协商就该构造或矿藏的最有效开发以及公平分享开发收益达成协议。

## 第 八 条

缔约双方同意就北部湾生物资源的合理利用和可持续发展以及两国在北部湾专属经济区的生物资源养护、管理和利用的有关合作事项进行协商。

## 第 九 条

两国根据本协定对北部湾领海、专属经济区和大陆架分界线的划定对缔约各方有关海洋法方面国际法规则的立场不造成任何影响或妨害。

## 第 十 条

缔约双方对本协定的解释或适用所产生的任何争议，应通过友好协商和谈判予以解决。

## 第 十 一 条

本协定须经缔约双方批准，并自互换批准书之日起生

效。批准书在河内互换。

本协定于二〇〇〇年十二月二十五日在北京签订，一式两份，每份都用中文和越文写成，两种文本同等作准。

中华人民共和国

全权代表

唐家璇

(签字)

越南社会主义共和国

全权代表

阮怡年

(签字)

[ VIETNAMESE TEXT — TEXTE VIETNAMIEN ]

**HIỆP ĐỊNH**  
GIỮA  
**NƯỚC CỘNG HÒA NHÂN DÂN TRUNG HOA**  
VÀ  
**NƯỚC CỘNG HÒA XÃ HỘI CHỦ NGHĨA VIỆT NAM**  
**VỀ PHÂN ĐỊNH LÃNH HẢI, VÙNG ĐẶC QUYỀN KINH TẾ**  
**VÀ THÊM LỤC ĐỊA CỦA HAI NƯỚC TRONG VỊNH BẮC BỘ**

Nước Cộng hòa Nhân dân Trung Hoa và nước Cộng hòa xã hội chủ nghĩa Việt Nam (dưới đây gọi là "hai Bên ký kết");

Nhằm củng cố và phát triển mối quan hệ láng giềng hữu nghị truyền thống giữa hai nước và nhân dân hai nước Trung Quốc và Việt Nam, giữ gìn và thúc đẩy sự ổn định và phát triển của Vịnh Bắc Bộ;

Trên cơ sở các nguyên tắc tôn trọng độc lập, chủ quyền và toàn vẹn lãnh thổ của nhau, không xâm phạm lẫn nhau, không can thiệp vào công việc nội bộ của nhau, bình đẳng cùng có lợi, cùng tồn tại hòa bình;

Trên tinh thần thông cảm, nhân nhượng lẫn nhau, hiệp thương hữu nghị và giải quyết một cách công bằng, hợp lý vấn đề phân định Vịnh Bắc Bộ;

Đã thỏa thuận như sau:

## ĐIỀU I

1. Hai Bên ký kết căn cứ vào Công ước của Liên hợp quốc về luật Biển năm 1982, các nguyên tắc luật pháp và thực tiễn quốc tế được công nhận, trên cơ sở suy xét đầy đủ mọi hoàn cảnh hữu quan trong Vịnh Bắc Bộ, theo nguyên tắc công bằng, qua thương lượng hữu nghị đã phân định lãnh hải, vùng đặc quyền kinh tế và thêm lục địa của hai nước trong Vịnh Bắc Bộ.

2. Trong Hiệp định này, Vịnh Bắc Bộ là vịnh nửa kín được bao bọc ở phía Bắc bởi bờ biển lãnh thổ đất liền của hai nước Trung Quốc và Việt Nam, phía Đông bởi bờ biển bán đảo Lôi Châu và đảo Hải Nam của Trung Quốc, phía Tây bởi bờ biển đất liền Việt Nam và giới hạn phía Nam bởi đoạn thẳng nối liền từ điểm nhô ra nhất của mép ngoài cùng của mũi Oanh Ca - đảo Hải Nam của Trung Quốc có tọa độ địa lý là vĩ tuyến  $18^{\circ} 30' 19''$  Bắc, kinh tuyến  $108^{\circ} 41' 17''$  Đông, qua đảo Côn Cỏ của Việt Nam đến một điểm trên bờ biển của Việt Nam có tọa độ địa lý là vĩ tuyến  $16^{\circ} 57' 40''$  Bắc và kinh tuyến  $107^{\circ} 08' 42''$  Đông.

Hai Bên ký kết xác định khu vực nói trên là phạm vi phân định của Hiệp định này.

## ĐIỀU II

Hai Bên ký kết đồng ý đường phân định lãnh hải, vùng đặc quyền kinh tế và thêm lục địa giữa hai nước trong Vịnh Bắc Bộ được xác định bằng 21 điểm nối tuần tự với nhau bằng các đoạn thẳng, tọa độ địa lý của 21 điểm này như sau :

Điểm số 1 :	Vĩ độ	$21^{\circ} 28' 12''.5$ Bắc
	Kinh độ	$108^{\circ} 06' 04''.3$ Đông

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Điểm số 2 :	Vĩ độ	21° 28' 01".7 Bắc
	Kinh độ	108° 06' 01".6 Đông
Điểm số 3 :	Vĩ độ	21° 27' 50".1 Bắc
	Kinh độ	108° 05' 57".7 Đông
Điểm số 4 :	Vĩ độ	21° 27' 39".5 Bắc
	Kinh độ	108° 05' 51".5 Đông
Điểm số 5 :	Vĩ độ	21° 27' 28".2 Bắc
	Kinh độ	108° 05' 39".9 Đông
Điểm số 6 :	Vĩ độ	21° 27' 23".1 Bắc
	Kinh độ	108° 05' 38".8 Đông
Điểm số 7 :	Vĩ độ	21° 27' 08".2 Bắc
	Kinh độ	108° 05' 43".7 Đông
Điểm số 8 :	Vĩ độ	21° 16' 32" Bắc
	Kinh độ	108° 08' 05" Đông
Điểm số 9 :	Vĩ độ	21° 12' 35" Bắc
	Kinh độ	108° 12' 31" Đông
Điểm số 10 :	Vĩ độ	20° 24' 05" Bắc
	Kinh độ	108° 22' 45" Đông
Điểm số 11 :	Vĩ độ	19° 57' 33" Bắc
	Kinh độ	107° 55' 47" Đông

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Điểm số 12 :	Vĩ độ	19° 39' 33" Bắc
	Kinh độ	107° 31' 40" Đông
Điểm số 13 :	Vĩ độ	19° 25' 26" Bắc
	Kinh độ	107° 21' 00" Đông
Điểm số 14 :	Vĩ độ	19° 25' 26" Bắc
	Kinh độ	107° 12' 43" Đông
Điểm số 15 :	Vĩ độ	19° 16' 04" Bắc
	Kinh độ	107° 11' 23" Đông
Điểm số 16 :	Vĩ độ	19° 12' 55" Bắc
	Kinh độ	107° 09' 34" Đông
Điểm số 17 :	Vĩ độ	18° 42' 52" Bắc
	Kinh độ	107° 09' 34" Đông
Điểm số 18 :	Vĩ độ	18° 13' 49" Bắc
	Kinh độ	107° 34' 00" Đông
Điểm số 19 :	Vĩ độ	18° 07' 08" Bắc
	Kinh độ	107° 37' 34" Đông
Điểm số 20 :	Vĩ độ	18° 04' 13" Bắc
	Kinh độ	107° 39' 09" Đông
Điểm số 21 :	Vĩ độ	17° 47' 00" Bắc
	Kinh độ	107° 58' 00" Đông

## ĐIỀU III

1. Đường phân định từ điểm số 1 đến điểm số 9 quy định tại Điều II của Hiệp định này là biên giới lãnh hải của hai nước trong Vịnh Bắc Bộ.

2. Mặt thẳng đứng đi theo đường biên giới lãnh hải của hai nước quy định tại khoản 1 điều này phân định vùng trời, đáy biển và lòng đất dưới đáy biển của lãnh hải hai nước.

3. Mọi sự thay đổi địa hình đều không làm thay đổi đường biên giới lãnh hải hai nước từ điểm số 1 đến điểm số 7 quy định tại khoản 1 Điều này, trừ khi hai Bên ký kết có thỏa thuận khác.

## ĐIỀU IV

Đường phân định từ điểm số 9 đến điểm số 21 quy định tại Điều II của Hiệp định này là ranh giới giữa vùng đặc quyền kinh tế và thềm lục địa của hai nước trong Vịnh Bắc Bộ.

## ĐIỀU V

Đường phân định lãnh hải của hai nước quy định tại Điều II từ điểm số 1 đến điểm số 7 được thể hiện bằng đường màu đen trên bản đồ chuyên đề cửa sông Bắc Luân tỷ lệ 1:10.000 do hai Bên ký kết cùng nhau thành lập năm 2000. Đường phân định lãnh hải, vùng đặc quyền kinh tế và thềm lục địa của hai nước từ điểm số 7 đến điểm số 21 được thể hiện bằng đường màu đen trên Tổng đồ toàn diện Vịnh Bắc Bộ tỷ lệ 1:500.000 do hai Bên ký kết cùng nhau thành lập năm 2000. Các đường phân định này đều là đường trắc địa.

Bản đồ chuyên đề cửa sông Bắc Luân và Tổng đồ toàn diện Vịnh Bắc Bộ nói trên là bản đồ đính kèm Hiệp định. Các bản đồ trên sử dụng



hệ tọa độ ITRF-96. Các tọa độ địa lý của các điểm quy định tại Điều II Hiệp định này đều được xác định trên các bản đồ nói trên. Đường phân định quy định trong Hiệp định này được thể hiện trên các bản đồ kèm theo Hiệp định chỉ nhằm mục đích minh họa.

#### ĐIỀU VI

Hai Bên ký kết phải tôn trọng chủ quyền, quyền chủ quyền và quyền tài phán của mỗi Bên đối với lãnh hải, vùng đặc quyền kinh tế và thềm lục địa trong Vịnh Bắc Bộ được xác định theo Hiệp định này.

#### ĐIỀU VII

Trong trường hợp có các cấu tạo mỏ dầu, khí tự nhiên đơn nhất hoặc mỏ khoáng sản khác nằm vắt ngang đường phân định quy định tại Điều II của Hiệp định này, hai Bên ký kết phải thông qua hiệp thương hữu nghị để đạt được thỏa thuận về việc khai thác hữu hiệu nhất các cấu tạo hoặc mỏ khoáng sản nói trên cũng như việc phân chia công bằng lợi ích thu được từ việc khai thác.

#### ĐIỀU VIII

Hai Bên ký kết đồng ý tiến hành hiệp thương về việc sử dụng hợp lý và phát triển bền vững tài nguyên sinh vật ở Vịnh Bắc Bộ cũng như các công việc hợp tác có liên quan đến bảo tồn, quản lý và sử dụng tài nguyên sinh vật ở vùng đặc quyền kinh tế hai nước trong Vịnh Bắc Bộ.

#### ĐIỀU IX

Việc phân định lãnh hải, vùng đặc quyền kinh tế và thềm lục địa hai nước trong Vịnh Bắc Bộ theo Hiệp định này không gây bất kỳ ảnh

hưởng hoặc phương hại nào đến lập trường của mỗi Bên ký kết đối với các quy phạm luật pháp quốc tế về luật Biển.

#### ĐIỀU X

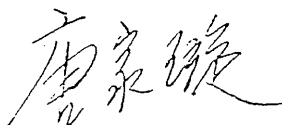
Mọi tranh chấp giữa hai Bên ký kết liên quan đến việc giải thích hoặc thực hiện Hiệp định này phải được giải quyết thông qua hiệp thương và đàm phán hữu nghị.

#### ĐIỀU XI

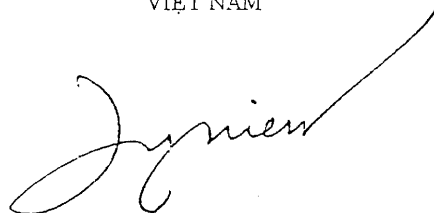
Hiệp định này phải được hai Bên ký kết phê chuẩn và có hiệu lực kể từ ngày trao đổi các văn kiện phê chuẩn. Các văn kiện phê chuẩn được trao đổi tại Hà Nội.

Hiệp định này được ký tại Bắc Kinh, ngày 25 tháng 12 năm 2000 thành hai bản, mỗi bản bằng tiếng Trung và tiếng Việt, cả hai văn bản đều có giá trị như nhau.

ĐẠI DIỆN TOÀN QUYỀN NƯỚC  
CỘNG HÒA NHÂN DÂN TRUNG HOA



ĐẠI DIỆN TOÀN QUYỀN NƯỚC  
CỘNG HÒA XÃ HỘI CHỦ NGHĨA  
VIỆT NAM



[TRANSLATION - TRADUCTION]

AGREEMENT BETWEEN THE PEOPLE'S REPUBLIC OF CHINA AND THE SOCIALIST REPUBLIC OF VIET NAM ON THE DELIMITATION OF THE TERRITORIAL SEAS, EXCLUSIVE ECONOMIC ZONES AND CONTINENTAL SHELVES OF THE TWO COUNTRIES IN BEIBU GULF/ BAC BO GULF

The People's Republic of China and the Socialist Republic of Viet Nam (hereinafter referred to as "the two Contracting Parties");

With an aim to consolidating and developing the traditional bonds of friendship and good-neighbourliness between the two countries and peoples of China and Viet Nam, maintaining the stability and promoting the development of Beibu Gulf/Bac Bo Gulf;

On the basis of the principles of mutual respect for independence, sovereignty and territorial integrity, mutual non-aggression, non-interference in each other's internal affairs, equality, mutual benefit and peaceful co-existence;

In the spirit of mutual understanding and mutual accommodation, friendly consultations for an equitable and rational solution of the delimitation of Beibu Gulf/Bac Bo Gulf;

Have agreed as follows:

*Article I*

1. The two Contracting Parties, on the basis of the 1982 United Nations Convention on the Law of the Sea, generally recognised principles of international law and practices, taking into account all relevant circumstances in Beibu Gulf/Bac Bo Gulf, in accordance with the principle of equality, through friendly consultation, have delimited the territorial seas, exclusive economic zones and continental shelves of the two countries in Beibu Gulf/Bac Bo Gulf.

2. Under this Agreement, Beibu Gulf/Bac Bo Gulf is a semi-enclosed gulf bordered by the continental coastlines of China and Viet Nam to the North, by the coastline of Lei Zhou peninsula and Hainan island of China to the East, by the continental coastline of Viet Nam to the West and by the straight lines connecting the outermost points of the outer edge of the Ying Ge cape, Hainan island of China defined by the geographical coordinates of latitude 18° 30' 19" North, longitude 108° 41' 17" East, crossing Con Co island of Viet Nam to a point situated on the coastline of Viet Nam specified by the geographical coordinates of latitude 16° 57' 40" North and longitude 107° 08' 42" East.

The two Contracting Parties have defined the above-mentioned area as the area to be delimited under this Agreement.

*Article II*

The two Contracting Parties agreed on the line of delimitation of the territorial seas, exclusive economic zones and continental shelves of the two countries as defined by the

straight lines connecting the following 21 points specified by coordinates and in the sequence given below:

Point 1:	Latitude	2° 28' 12.5" Nord
	Longitude	108° 06' 04.3" East
Point 2:	Latitude	21° 28' 01.7" North
	Longitude	108° 06' 01.6" East
Point 3:	Latitude	21° 27' 50.1" North
	Longitude	108° 05' 57.7" East
Point 4:	Latitude	21° 27' 39.5" North
	Longitude	108° 05' 51.5" East
Point 5:	Latitude	21° 27' 28.2" North
	Longitude	108° 05' 39.9" East
Point 6:	Latitude	21° 27' 23.1" North
	Longitude	108° 05' 38.8" East
Point 7:	Latitude	21° 27' 08.2" North
	Longitude	108° 05' 43.7" East
Point 8:	Latitude	21° 16' 32" North
	Longitude	108° 08' 05" East

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Point 9:	Latitude	21° 12' 35" North
	Longitude	108° 12' 31" East
Point 10:	Latitude	20° 24' 05" North
	Longitude	108° 12' 31" East
Point 11:	Latitude	19° 57' 33" North
	Longitude	107° 55' 47" East
Point 12:	Latitude	19° 39' 33" North
	Longitude	107° 31' 40" East
Point 13:	Latitude	19° 25' 26" North
	Longitude	107° 21' 00" East
Point 14:	Latitude	19° 25' 26" North
	Longitude	107° 12' 43" East
Point 15:	Latitude	19° 16' 04" North
	Longitude	107° 11' 23" East
Point 16:	Latitude	19° 12' 55" North
	Longitude	107° 09' 34" East
Point 17:	Latitude	18° 42' 52" North
	Longitude	107° 09' 34" East

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Point 18:	Latitude	18° 13' 49" North
	Longitude	107° 34' 00" East
Point 19:	Latitude	18° 07' 08" North
	Longitude	107° 37' 34" East
Point 20:	Latitude	18° 04' 13" North
	Longitude	107° 39' 09" East
Point 21:	Latitude	17° 47' 00" North
	Longitude	107° 58' 00" East

### *Article III*

1. The line of delimitation from point 1 to point 9 stipulated in Article II of this Agreement shall be the boundary of the territorial seas of the two countries in Beibu Gulf/Bac Bo Gulf.

2. The vertical plane holding the boundary of the territorial seas stipulated in Paragraph 1 of this Article shall delimit the air spaces above, seabeds and subsoils beneath the territorial seas of the two countries.

3. Any topological changes shall not affect the boundary of the territorial seas of the two countries from point 1 to point 7 stipulated in Paragraph 1 of this Article, unless otherwise agreed by the two Contracting Parties.

### *Article IV*

The line of delimitation from point 9 to point 21 stipulated in Article II of this Agreement shall be the boundary of the exclusive economic zones and the continental shelves of the two countries in Beibu Gulf/Bac Bo Gulf.

### *Article V*

The line of delimitation of the territorial seas of the two countries stipulated in Article II of this Agreement from point 1 to point 7 is illustrated by the black lines in the thematic Map of Bei Lun estuary, 1:10,000 scale, established by the two Contracting Parties in 2000.

The line of delimitation of the territorial seas, exclusive economic zones and continental shelves between the two countries from point 7 to point 21 is illustrated by the black lines on the Overall Map of Beibu Gulf/Bac Bo Gulf, 1:500,000 scale, established by the two Contracting Parties in 2000. All the lines of delimitation are geodetic lines.

The above-mentioned thematic Map of Bei Lun estuary and the Overall Map of Beibu Gulf/Bac Bo Gulf are attached to this Agreement. These two maps were established by using ITRF-96 system. Geographical coordinates of the points stipulated in Article II of this Agreement are specified in the above-mentioned maps. The line of delimitation defined in this Agreement as shown on the maps attached to the Agreement is for illustrative purpose only.

#### *Article VI*

The two Contracting Parties shall respect the sovereignty, sovereign rights and jurisdiction of each other over their respective territorial seas, exclusive economic zones and continental shelves in Beibu Gulf/Bac Bo Gulf as defined in this Agreement.

#### *Article VII*

If any single petroleum or natural gas structure or field, or other mineral deposit of whatever character, extends across the delimitation line defined in Article II of this Agreement, the two Contracting Parties shall, through friendly consultations, reach agreement as to the manner in which the structure, field or deposit will be most effectively exploited as well as on the equitable sharing of the benefits arising from such exploitation.

#### *Article VIII*

The two Contracting Parties shall conduct consultations on the proper use and sustainable development of the living resources in Beibu Gulf/Bac Bo Gulf as well as on cooperative activities relating to the conservation, management and use of the living resources in the exclusive economic zones of the two countries in Beibu Gulf/Bac Bo Gulf.

#### *Article IX*

The delimitation of the territorial seas, exclusive economic zones and continental shelves between the two countries in Beibu Gulf/Bac Bo Gulf under this Agreement shall not affect or prejudice the positions of each Contracting Party on the norms of international law of the sea.

#### *Article X*

Any dispute between the two Contracting Parties relating to the interpretation or implementation of this Agreement shall be settled through friendly consultations and negotiations.

*Article XI*

This Agreement shall be ratified by the two Contracting Parties and shall enter into force on the date of exchange of the instruments of ratification. The instruments of ratification will be exchanged in Ha Noi.

Done in Beijing, this 25th day of December of the year 2000, in duplicate, each in the Chinese and Vietnamese languages, both texts being equally authentic.

Plenipotentiary Representative of the People' s Republic of China:

TANG JIAXUAN  
Minister of Foreign Affairs

Plenipotentiary Representative of the Socialist Republic of Viet Nam:

NGUYEN DY NIEN  
Minister of Foreign Affairs



[TRANSLATION - TRADUCTION]

ACCORD ENTRE LA RÉPUBLIQUE POPULAIRE DE CHINE ET LA  
RÉPUBLIQUE SOCIALISTE DU VET NAM RELATIF À LA DELIMITA-  
TION DES MERS TERRITORIALES, DES ZONES ÉCONOMI-  
QUES EXCLUSIVES ET DES PLATEAUX CONTINENTAUX DES DEUX  
PAYS DANS LE GOLFE BEIBU/GOLFE BAC BO

La République populaire de Chine et la République socialiste du Vietnam (ci-après dénommées "les deux Parties contractantes");

Désireuses de consolider et de renforcer les liens traditionnels d'amitié et de bon voisinage entre les deux pays et les peuples de la Chine et du Vietnam, de maintenir la stabilité et de promouvoir la mise en valeur du Golfe Beibu/Golfe Bae Bo;

Se fondant sur les principes du respect mutuel de l'indépendance, de la souveraineté et de l'intégrité territoriale, de la non agression et de la non interférence réciproques dans les affaires intérieure, de l'égalité et des avantages mutuels ainsi que de la coexistence pacifique;

Animées d'un esprit de compréhension mutuelle et de compromis, qui a permis de mener des négociations amicales pour mettre au point de façon rationnelle et équitable la délimitation des zones respectives du Golfe Beibu Golfe Bac Bo;

Sont convenues de ce qui suit :

*Article premier*

1. Les deux Parties contractantes, sur la base de la Convention des Nations Unies sur le droit de la mer, de 1982, des principes généralement reconnus du droit et des pratiques internationaux, tenant compte de tous les aspects pertinents dans le Golfe Beibu/Golfe Bac Bo, ont, conformément au principe de l'égalité et par le biais de consultations amicales, délimité les mers territoriales, les zones économiques exclusives et les plateaux continentaux des deux pays dans le Golfe en question.

2. Au titre du présent Accord, le Golfe Beibu/Golfe Bac Bo est un golfe a demi-enclave, borde par le littoral de la Chine et du Vietnam au nord, par celui de la péninsule Lei Zhou et l'île de Hainan (Chine) à Test, du Vietnam à l'ouest, et par des lignes droites reliant les points les plus éloignés du point le plus extrême du cap Ying Ge, de l'île Hainan (Chine), les coordonnées géographiques étant les suivantes: 18 30'19" de latitude nord, 108 41'17" de longitude est, traversant l'île de Con Co (Vietnam) jusqu'a un point situé sur la côte du Vietnam, spécifié par 16 57'40" de latitude nord et 107 08'42" de longitude est.

Les deux Parties contractantes ont défini la zone mentionnée ci-dessus comme étant la zone a délimiter dans le cadre du présent Accord.

*Article II*

Les deux Parties contractantes se sont mises d'accord sur la ligne de délimitation des mers territoriales, des zones économiques exclusives et des plateaux continentaux des deux pays, tels que définir par des lignes droites reliant les vingt-et-un points ci-dessous, spécifiés par des coordonnées et dans l'ordre indiqué ci-après :

Point 1 :	Latitude	2° 28' 12.5" nord
	Longitude	108° 06' 04.3" est
Point 2 :	Latitude	21° 28' 01.7" nord
	Longitude	108° 06' 01.6" est
Point 3 :	Latitude	21° 27' 50.1" nord
	Longitude	108° 05' 57.7" est
Point 4 :	Latitude	21° 27' 39.5" nord
	Longitude	108° 05' 51.5" est
Point 5 :	Latitude	21° 27' 28.2" nord
	Longitude	108° 05' 39.9" est
Point 6 :	Latitude	21° 27' 23.1" nord
	Longitude	108° 05' 38.8" est
Point 7 :	Latitude	21° 27' 08.2" nord
	Longitude	108° 05' 43.7" est
Point 8 :	Latitude	21° 16' 32" nord

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	Longitude	108° 08' 05" est
Point 9 :	Latitude	21° 12' 35" nord
	Longitude	108° 12' 31" est
Point 10 :	Latitude	20° 24' 05" nord
	Longitude	108° 12' 31" est
Point 11 :	Latitude	19° 57' 33" nord
	Longitude	107° 55' 47" est
Point 12 :	Latitude	19° 39' 33" nord
	Longitude	107° 31' 40" est
Point 13 :	Latitude	19° 25' 26" nord
	Longitude	107° 21' 00" est
Point 14 :	Latitude	19° 25' 26" nord
	Longitude	107° 12' 43" est
Point 15 :	Latitude	19° 16' 04" nord
	Longitude	107° 11' 23" est
Point 16 :	Latitude	19° 12' 55" nord
	Longitude	107° 09' 34" est
Point 17 :	Latitude	18° 42' 52" nord

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	Longitude	107° 09' 34" est
Point 18 :	Latitude	18° 13' 49" nord
	Longitude	107° 34' 00" est
Point 19 :	Latitude	18° 07' 08" nord
	Longitude	107° 37' 34" est
Point 20 :	Latitude	18° 04' 13" nord
	Longitude	107° 39' 09" est
Point 21 :	Latitude	17° 47' 00" nord
	Longitude	107° 58' 00" est

### *Article III*

1. La ligne de délimitation du point 1 au point 9, stipulée dans l'Article II du présent Accord, constitue la frontière des mers territoriales des deux pays dans le Golf Beibu/Golfe Bac Bo.

2. Le plan vertical contenant la frontière des mers territoriales stipulées au paragraphe 1 du présent article délimite les espaces aériens au-dessus, les fonds marins et les sous-sols sous les mers territoriales des deux pays.

3. Toute modification topologique n'affecte pas la frontière des mers territoriales des deux pays du point 1 au point 7, stipulée dans le paragraphe 1 du présent article, sauf convention contraire de la part des deux Parties contractantes.

### *Article IV*

La ligne de délimitation du point 9 au point 21, stipulée dans l'article 2 du présent Accord constitue la frontière des zones économiques exclusives et des plateaux continentaux des deux pays dans le Golf Beibu/Golfe Bac bo.

*Article V*

La ligne de délimitation des mers territoriales des deux pays, stipulée dans l'article II du présent Accord du point 1 au point 7, est illustrée par les lignes noires de la carte thématique de l'estuaire de Bei Lun à l'échelle de 1 :10 000, établie par les deux Parties contractantes en 2000. La ligne de délimitation des mers territoriales, des zones économiques exclusives et des plateaux continentaux entre les deux pays, du point 7 au point 21 est illustrée par les lignes noires figurant sur la Carte générale du Golfe Beibu/Golfe Bac Bo, à l'échelle de 1 :500 000, établie par les deux Parties contractantes en 2000. Toutes les lignes de délimitation sont des lignes géodétiques.

La Carte thématique de l'estuaire de Bei Lun mentionnée ci-dessus et la Carte générale du Golfe Beibu/Golfe Bac Bo sont jointes au présent Accord. Les deux cartes ont été réalisées à l'aide du système ITRF-96. Les coordonnées géographiques des points stipulés dans l'article II du présent Accord sont spécifiés dans les cartes mentionnées ci-dessus. La ligne de délimitation définie dans le présent Accord, telle que figurant sur les cartes jointes audit Accord, n'est fournie que pour illustration.

*Article VI*

Chaque Partie contractante respecte la souveraineté, les droits et la juridiction de l'autre sur leurs mers territoriales respectives, les zones économiques exclusives et les plateaux continentaux du Golfe Beibu/Golfe Bac Bo, tels que définie dans le présent Accord.

*Article VII*

Si un seul gisement de pétrole ou de gaz naturel ou autre gisement minéral de quelque caractère que ce soit s'étend sur la ligne de délimitation définie à l'article II du présent Accord, les deux Parties contractantes, par le biais de consultations amicales, se mettront d'accord sur la manière selon laquelle les installations, le gisement ou le dépôt seront mis en valeur le plus efficacement possible, ainsi que sur la répartition équitable des avantages découlant de ladite exploitation.

*Article VIII*

Les deux Parties contractantes tiendront des consultations sur l'utilisation correcte et le développement durable des ressources vivantes du Golfe Beibu/Golfe Bac Bo, ainsi que sur les activités entreprises en coopération liées à la conservation, à la gestion et à l'utilisation des ressources vivantes des zones économiques exclusives des deux pays dans le Golfe Beibu/Golfe Bac Bo.

*Article IX*

La délimitation des mers territoriales, des zones économiques exclusives et des plateaux continentaux entre les deux pays dans la région du Golfe Beibu/Golfe Bac Bo, aux

termes du présent Accord, n'auront aucune incidence ou ne portent pas tort aux positions adoptées par chaque Partie contractante sur les normes du droit international de la mer.

*Article X*

Tout différend entre les deux Parties contractantes lié à l'interprétation ou à l'exécution du présent Accord est réglé par le biais de consultations et de négociations amicales.

*Article XI*

Le présent accord est ratifié par les deux Parties contractantes et entre en vigueur à la date de l'échange des instruments de ratification, qui seront échangés à Hanoi.

Fait à Beijing le 25 décembre 2000, en double exemplaire, chacun en langues chinoise et vietnamienne, les deux textes faisant également foi.

Le Représentant plénipotentiaire de la République populaire de Chine,  
Le Ministre des Affaires étrangères,  
TANG JIAXUAN

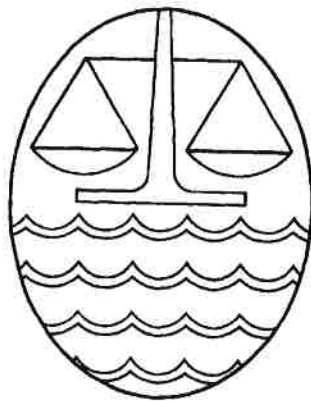
Le Représentant plénipotentiaire de la République socialiste du Vietnam :  
Le Ministre des affaires étrangères,  
NGUYEN DY NIEN

#### **Annex 147**

Treaty between the Government of the Republic of Honduras and the Government of the United Kingdom of Great Britain and Northern Ireland concerning the Delimitation of the Maritime Areas between the Cayman Islands and the Republic of Honduras, 4 December 2001, (2002) 49 Law of the Sea Bulletin 60.

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

# *Law of the Sea*



*Bulletin No. 49*



United Nations  
New York, 2002

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2. Treaty between the Government of the Republic of Honduras and the Government of the United Kingdom of Great Britain and Northern Ireland concerning the Delimitation of the Maritime Areas between the Cayman Islands and the Republic of Honduras<sup>6</sup>

*The Government of the Republic of Honduras and the Government of the United Kingdom of Great Britain and Northern Ireland*, in respect of the Cayman Islands,

Wishing to delimit the maritime areas between the Cayman Islands and the Republic of Honduras,

Wishing also in this context to take account of the traditional interests of the Cayman Islands in certain fisheries in areas appertaining under this Treaty to the Republic of Honduras, and of relevant circumstances of an historical character regarding Honduran oil concessions in the Caribbean Sea,

Have agreed as follows:

Article 1

(1) The maritime boundary between the Cayman Islands and the Republic of Honduras shall be formed by geodesic lines joining, in the order in which they are given, the following points identified by their geographical coordinates:

Point	Latitude N	Longitude W
A	19°27'57"	83°35'50"
B	17°35'03"	82°21'00"
C	17°35'03"	80°49'59"

(2) The geographical coordinates given in this article are expressed in the geodetic reference system WGS 84 (World Geodetic System 1984).

(3) The boundary line has been drawn by way of illustration on the chart at annex A<sup>7</sup> to this Treaty, which forms an integral part thereof, and is to be understood as an all-purpose maritime delimitation, that is to say, covering the water column, seabed and subsoil.

Article 2

It has not been possible, for the time being, to complete the maritime delimitation beyond point C. It is, however, agreed between the Parties that the delimitation from point C shall, at the appropriate time, be continued in an easterly direction until it meets the tripoint between the limits of the maritime areas under the respective jurisdiction of the Parties and another State's jurisdiction.

Article 3

Provisions concerning fishing by vessels of the Cayman Islands in the area of Misteriosa and Rosario Banks are set out in annex B to this Treaty, which forms an integral part thereof.

<sup>6</sup> Text communicated by the Government of Honduras.

<sup>7</sup> Not reproduced for technical reasons.

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Article 4

- (1) Each Party shall notify the other of the completion of the constitutional procedures required for the entry into force of this Treaty. The Treaty shall enter into force on the date of receipt of the last notification.
- (2) Without prejudice to the foregoing, this Treaty shall be provisionally applied from the date on which the Parties inform each other that they have commenced the fulfilment of their internal legal requirements.

IN WITNESS WHEREOF, the undersigned, being duly authorized thereto by their respective Governments, have signed this Treaty.

DONE in duplicate at Tegucigalpa on 4 December 2001 in the Spanish and English languages, both texts being equally authentic.

For the Government of the Republic of Honduras  
Roberto Florez Bermudez  
Secretary of State for Foreign Affairs

For the Government of the United Kingdom  
of Great Britain and Northern Ireland  
David Allan Osborne  
Ambassador Extraordinary and Plenipotentiary

Annex B

to the Treaty between the Government of the Republic of Honduras and the Government of the United Kingdom of Great Britain and Northern Ireland concerning the delimitation of the maritime areas between the Cayman Islands and the Republic of Honduras

Provisions concerning fishing by vessels of the Cayman Islands in the area of Misteriosa and Rosario Banks

1. Commercial fishing for red snapper (family *Lutjanidae*) and grouper (family *Serranidae*) by vessels of the Cayman Islands may continue in the area of Misteriosa and Rosario Banks located in the exclusive economic zone of the Republic of Honduras and defined in paragraph 2 below, in accordance with existing patterns and levels. The Government of the Republic of Honduras extends access, free of charge, to the said area for up to ten vessels of the Cayman Islands, duly notified in advance by the competent authorities of the Cayman Islands, for the purpose of conducting such fishing.
2. The area of Misteriosa and Rosario Banks referred to in this annex is defined by geographical coordinates, expressed in the geodetic reference system WGS 84, joined in sequence by geodesic lines as follows:

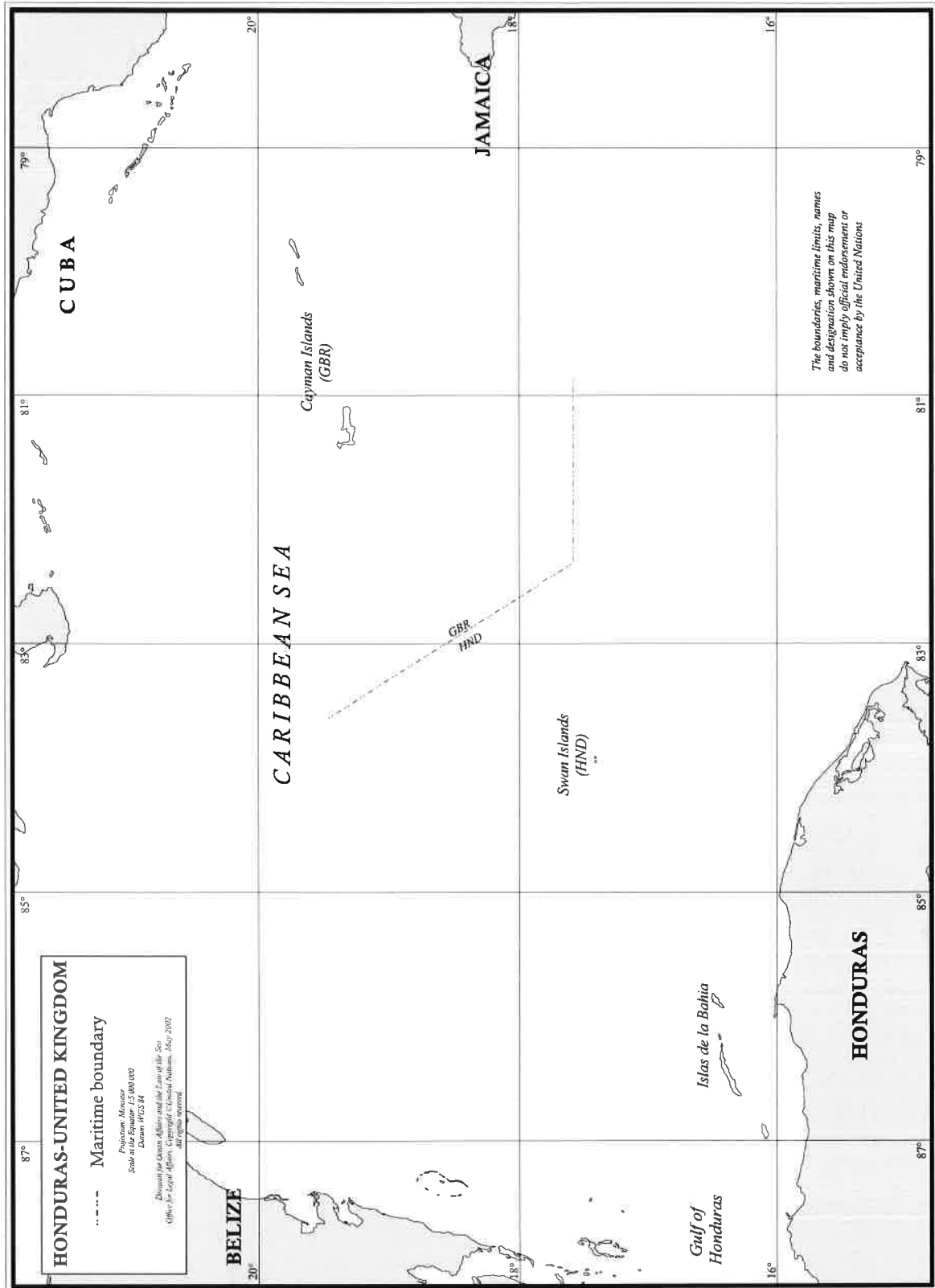
Point	Latitude N	Longitude W
1	18°57'00"	84°02'00"
2	18°57'00"	83°38'00"
3	18°25'00"	83°56'00"
4	18°25'00"	84°12'00"

The area has been drawn by way of illustration on the chart at annex A\* to this Treaty, which forms an integral part thereof.

3. The following conditions shall apply:
- (a) The length of each fishing vessel shall not exceed 100 feet;
  - (b) Taken together, the fishing vessels are authorized to fish a maximum of 25 metric tonnes per annum;
  - (c) The taking of crustaceans (lobster, shrimp, etc.) and molluscs (conch, etc.) is not permitted;

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- (d) The catch is authorized for local consumption in the Cayman Islands, not for export.
4. The Government of the Republic of Honduras shall have exclusive authority to enforce the provisions of this annex and applicable national fishery regulations with respect to fishing by vessels of the Cayman Islands within the said area. Such national regulations as may be applied shall not disturb existing patterns and levels of fishing, except to the extent that such measures are essential for conservation purposes and sustainable exploitation of the species and are applied on a non-discriminatory basis. Nevertheless, the competent authorities of the Cayman Islands shall take appropriate measures to maintain a list of vessels which they have authorized to conduct fishing in accordance with this annex and to ensure that such vessels comply with the provisions of this annex. The competent authorities of the Cayman Islands shall provide the competent authorities of Honduras with annual statistical information regarding fishing activities carried out in accordance with this annex.
5. Vessels fishing in accordance with this annex shall cooperate with scientific investigations in the said area, at the request of the competent authorities of Honduras.
6. Without prejudice to routine meetings between the competent fishing authorities, consultations shall be held at the request of either Party when:
- (a) There is reason to believe that vessels of the Cayman Islands are fishing in excess of or in a manner inconsistent with existing patterns or levels of fishing;
  - (b) The United Kingdom, on behalf of the Cayman Islands, seeks a change in existing patterns or levels of fishing;
  - (c) The Republic of Honduras intends to introduce conservation measures or apply fishery regulations which may affect existing patterns or levels of fishing;
  - d) There is a need to discuss implementation of any provision of this annex.
7. If such consultations result in agreement to amend the terms of this annex, such amendment shall enter into force by a subsequent exchange of diplomatic notes.



### **Annex 148**

Treaty between the Government of the Republic of Angola and the Government of the Republic of Namibia regarding the Delimitation and Demarcation of the Maritime Borders between the Republic of Angola and the Republic of Namibia, 4 June 2002, JI Charney & LM Alexander (eds), *International Maritime Boundaries V* (Nijhoff 2005) p. 3719.

# Angola-Namibia

*Report Number 4-13*

**Treaty between the Government of the Republic of Angola and  
the Government of the Republic of Namibia Regarding the  
Delimitation and Demarcation of the Maritime Borders between  
the Republic of Angola and the Republic of Namibia**

*Signed:* 4 June 2002

*Entered into force:*

*Published at:*<sup>1</sup>

## I SUMMARY

The Treaty defines the maritime boundary between the adjacent states of Angola and Namibia. The boundary is fixed along a parallel of latitude taken from the mouth of the River Cunene which forms the land boundary between the two states. The maritime boundary is stated to extend for 200 nautical miles (n.m.) along the parallel of latitude of 17° 15' South.

## II CONSIDERATIONS

### 1 *Political, Strategic and Historical Considerations*

Before the making of this Treaty, Angola had suffered 27 years of civil war following its independence from Portugal in 1975. The main protagonist was the rebel National Union for the Total Independence of Angola (UNITA) led by Jonas Savimbi, a charismatic guerrilla leader who

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<sup>1</sup> The text of the agreement which accompanies this report is an informal and unofficial translation.



achieved worldwide notoriety. United Nations peacekeepers withdrew in 2000 following an uneasy period of peace established by a 1994 accord signed in Lusaka, Zambia. The UN maintained a small office in the capital Luanda but the country was plunged back into a civil war which was estimated to have claimed hundreds of thousands of casualties and the uprooting of about one-fourth of the population of 12 million. The war spilled over into neighbouring Namibia along the common land boundary with Namibians being killed and maimed by landmines and their property and livestock stolen. The Namibian President, Sam Nujoma, sent troops to help Angola fight UNITA and the two countries established a Joint Commission for Defence and Security which met on a regular basis over a ten year period prior to the ending of the civil war. The ceasefire ending the civil war was signed on 4 April 2002 following Savimbi's death.

Two months later the two countries signed the Treaty establishing a single maritime boundary and setting up a Joint Maritime Boundary Commission, thus continuing the spirit of co-operation established during the civil war years.

## 2 *Legal Regime Considerations*

Both states are parties to the 1982 Law of the Sea Convention. The Treaty is drafted to create a single line dividing the respective exclusive economic zones and continental shelves along the 17° 15' southern parallel of latitude. The Treaty specifically states that the boundary extends for a distance of 200 n.m. from the starting point described as a baseline calculated in accordance with the Convention.

The Treaty is a short eight articles long with three appendices. Article III provides for the delimitation along the referenced parallel of latitude to a distance of 200 n.m. from the baseline. Article IV provides that where the line delimited by Article III crosses an island, that line will be regarded as part of the maritime boundary. The only way this can occur is if a coastal island were to appear that is seaward of the baseline. Article V provides for the potential extension of the boundary beyond 200 n.m. Appendix C of the Treaty is two sketch maps of the area of coast where the River Cunene meets the sea. Appendix B and C are discussed below.

An unusual feature of the Treaty is that it contains specific demarcation provisions which are not usually found in maritime boundary agreements, as opposed to land boundary treaties. The Treaty refers to actual pillars and signposts on the ground to be used to signal and mark the baseline and the

starting point. As article V of the Treaty contemplates the extension of the boundary line beyond 200 n.m., it may be inferred that the parties intend at some point to make an Application under Article 76 of the 1982 Convention for an extension of their continental shelf.

A further unusual feature of the Treaty is that it sets up, under Article II, a “Joint Commission for the Delimitation and Demarcation of the Border”. The tasks to be addressed by the Commission are set out in Appendix B to the Treaty. This requires the Commission to commence its work 40 days after the signing of the Treaty and to complete its work within 12 months thereafter, which therefore should be complete if the time requirement was met.

The Commission is set up to consist of 12 persons with six from each side. It was envisaged that the Commission would be responsible for the appointment of experts to give technical support.

The expenses of the Commission were to be borne equally and each party was to have free access to the territory of the other for the purposes of carrying out the work of the Commission.

Appendix A of the Treaty provides for the setting up of an arbitration tribunal for the purpose of resolving any disputes that might arise between the parties. The decision of the tribunal (consisting of three arbitrators) is stated to be final.

### 3 *Economic and Environmental Considerations*

Offshore Angola is second only to the Gulf of Guinea in the potential richness of hydrocarbon deposits. There can be little doubt that Namibia would be hoping that the seabed to the south of the established Treaty line will prove as prospective. The establishment of this boundary line would therefore mark an important step towards certainty for the two states and prospecting oil companies in drawing up the limits of licence blocks. There is no provision in the Treaty for dealing with any straddling oil fields that might be found.

#### 4 *Geographic Considerations*

The work of the Joint Commission set up under Appendix B is confined to the maritime boundary but appears to be focussed upon the determination of the baseline at the mouth of the boundary river, together with marking the starting point. It includes the collection and publication of topographic information and maps covering the designated area in the vicinity of the river mouth in the respective countries. The designated area of work is defined as being between the meridians  $11^{\circ} 45'$  and  $11^{\circ} 49'$  East and latitude  $17^{\circ}$  and  $17^{\circ} 17'$  South. The Commission's work is stated to commence at a point which is  $11^{\circ} 45'$  East and latitude  $17^{\circ} 15'$  South. The Commission is charged to construct reference pillars and posts and to determine the type to be used. The Commission is further charged to determine the geographic co-ordinates of the pillars and posts.

It is clear that those drafting the Treaty had in mind the need to define the baseline at the river mouth and then to establish visible markers to indicate the parallel of latitude on which the maritime boundary is located. The agreement requires that pillars should be located in such a way as to create a visible line between the westward posts (presumably safely located on land) and the intersection with the baseline. It is stated that the point of intersection of  $17^{\circ} 15'$  South with the position of the baseline should form the starting point of the maritime boundary. There is no reference to the datum to be used by the Commission: presumably this was to be a matter for the technical experts.

From the start point thus obtained, however, it is necessary to connect landward with the land boundary. It is thus stated that the boundary shall extend from the starting point in an eastward direction between the initial pillar and the median point in the mouth of the River Cunene which forms the land boundary between the two states. This is in itself an interesting requirement for the Commission. The mouth of the River Cunene appears from the sketch maps annexed to the Treaty to contain a large island, sovereignty over which is not specified in this Treaty. The southern channel of the river looks to be wider than the northern channel on one of the maps, which appears to be of Angolan origin. On another annexed sketch map which appears to be Namibian, the mouth of the river seems to contain an even wider island but the  $17^{\circ} 15'$  parallel of latitude appears to strike the northern bank of the River Cunene. This would, if correct, give sovereignty over the island in the mouth of the river to Namibia. It is however not known whether sovereignty over this island is a matter yet to be

determined: for the purposes of the maritime boundary, it may not matter very much. From this examination of the sketch maps, it appears that the Parties opted for a sure and unmovable maritime boundary along a parallel of latitude and left it for the Commission to deal with the complexity of connecting it to a river mouth of shifting natural features.

The work of the Commission was thus to concentrate on the establishment of the starting point on the baseline which, presumably, would either be situated in very shallow water or, perhaps, on the river mouth island itself. The precise positioning of the actual pillar might not be the starting point, but it would presumably be on the latitude of the maritime boundary and might in some measure depend on the stability of the ground on which the base of the pillar is constructed. The Treaty further provides that the point of intersection shall be marked in such a way that it is visible at night as well as by day.

Possibly because of the difficulty of determining the precise location of the river mouth and its islands, there is provision for the Commission to produce a topographic map at an appropriate scale derived from aerial photography or satellite images. Existing Admiralty charts are at a scale of 1:1 million, which would not provide sufficient detail for delimiting what may be a complex area with a shifting river mouth configuration.

The Commission's terms of reference also provide that the geodesic points on both sides (presumably of the river mouth) should be "delineated and adjusted simultaneously." This, then, is presumably a requirement to establish the north and south banks accurately and to establish the points on the north and south bank between which the base line closing the river mouth should be established.

It is clear that the parties had in mind the construction of substantial reference pillars and posts as there is a provision for "large scale" photographs to be taken at high, medium and low water. The purpose of such photographs is unclear but it may be that it is to provide a contemporary record of the situation at the time of the Boundary Commission's work in case of later erosion/silting up which might require future adjustments to be made to the position of the start pillar.

As far as the reference pillars and posts themselves are concerned, each party was to be responsible for those placed along the border "within its own territory."

### *5 Island, Rocks, Reefs and Low-Tide Elevations Considerations*

It seems clear that islands, rocks or reefs in the Cunene River mouth could be relevant to the demarcation exercise to be undertaken by the Boundary Commission. There is a provision in the Treaty for the line to pass over islands. What seems to be envisaged is that the parallel of latitude should simply be extended in a straight line across any island encountered in its path if an island lies seaward of the designated baseline. Again, from the sketch maps annexed to the Treaty, it is difficult to see what islands might be involved, although there appears from the Angolan map to be a small island lying just to the west of the large island in the river mouth which seems to fall exclusively south of the 17° 15' South latitude. The Namibian map does not show the same configuration in the river mouth, making it difficult to determine exactly what islands, rocks, reefs or low-tide elevations might be involved.

### *6 Baseline Considerations*

There is no reference in the Treaty to the baseline regime of either state. In the absence of declared baselines it must be assumed that they are formed by the low-water line in accordance with the 1982 Convention.

### *7 Geological and Geomorphological Considerations*

It is apparent that the waters lying immediately to the west of the River Cunene estuary are shallow and that the slope of the shelf is relatively gradual. The presence of the Walvis Ridge offshore in the eastern Atlantic Ocean provides a potentially promising extension of the continental margin which may enable either or both states to make a successful application under Article 76 of the Convention for an extension of their continental shelf margin areas.

### *8 Method of Delimitation Considerations*

The adoption of a parallel of latitude as the boundary line is not unreasonable given the configuration of the coast and the general direction of the land boundary line. Although the boundary formed by the River

Cunene does contain bends for the first 170 miles inland, by the time the line reaches a set of waterfalls at Ruacana the line proceeds in an easterly direction for nearly 300 miles along a parallel of latitude until it hits the upper reaches of the Okavango/Cubango River. The parties appear to have chosen to overlook the possible effect of the Ponta da Marco, a narrow island offshore Angola lying approximately 25 n.m. north of the river mouth: however the slight convex configuration of the Namibian coast south of the Cunene river mouth ensures that the situation of the parallel is not so very different from a line of equidistance as the graphic shows.

### 9 *Technical Considerations*

The technical considerations are, in this case, matters to be addressed by the Boundary Commission. There is no reference to a specific chart being used. The intention is for the Commission itself to produce the chart. It is also envisaged, as mentioned above, that satellite imagery or aerial photography should be used and, no doubt, GPS positioning systems. A full evaluation of the technical considerations involved would have to await sight of any reports prepared by the Boundary Commission.

### 10 *Other Considerations*

It is possible that this boundary was, as indicated above, intended to be a positive assertion of mutual co-operation between the two states immediately following the civil war years. It may also be the precursor of peaceful resolution of land boundary issues between the two states insofar as there continues to be unrest in the frontier regions even after the end of the civil war.

## III CONCLUSIONS

This is a somewhat unusual maritime boundary treaty in the sense that, although it determines a line to be used, there remained a considerable body of work to be done by the Boundary Commission appointed under the Treaty. However, that work was to be detailed in nature relating to the intersection of the maritime boundary with the baseline. Until the outcome of that work is known, it is impossible to be certain about the precise

position of the starting point of the maritime boundary line and its connection to the land boundary.

In view of the potential oil-bearing nature of the seabed offshore, it seems likely that the Parties are contemplating an extension of their respective continental shelves beyond the 200 n.m. exclusive economic zone limit to the maximum distance permissible under the requirements of Article 76.

It remains to be seen whether the use of a parallel of latitude in this Treaty will provide a precedent for the treaty lines yet to be established to the south and to the north. In the south Namibia's neighbour is South Africa. The land boundary is formed by the Orange River. The configuration of the coast at the mouth of the Orange River is such that an equidistance line would proceed in a south-westerly direction, giving Namibia a broad exclusive economic zone.

To the north of Angola lies the Democratic Republic of Congo (DRC). The land boundary between the two states is formed by the mouth of the Congo River. About 30 miles to the north of the mouth of the Congo lies the Angolan enclave of Cabinda, to the north of which lies the Peoples Republic of Congo. Little is known of the configuration of maritime boundaries, if any, in this area although some form of joint hydrocarbon development is taking place in the area. This seems a sensible interim solution given the difficulty of establishing the precise position of the mouth of the Congo River and the relative lengths of the Cabinda and DRC coastlines.

#### IV RELATED LAW IN FORCE

##### A *Law of the Sea Conventions*

Angola: Party to the 1982 Law of the Sea Convention, 5 December 1990.

Namibia: Party to the 1982 Law of the Sea Convention, 18 April 1983.

##### B *Maritime Jurisdiction Claimed at the Time of Signature*

Angola: 12 n.m. territorial sea; 24 n.m. contiguous zone; 200 n.m. exclusive economic zone: Law No. 21/92 of 28 August 1992.

Namibia: 12 n.m. territorial sea; 24 n.m. contiguous zone; 200 n.m. exclusive economic zone; continental shelf consistent with Namibia's international agreements: Act No. 3 of 1990; Amendment Act 1991.

*C Maritime Jurisdiction Claimed Subsequent to Signature*

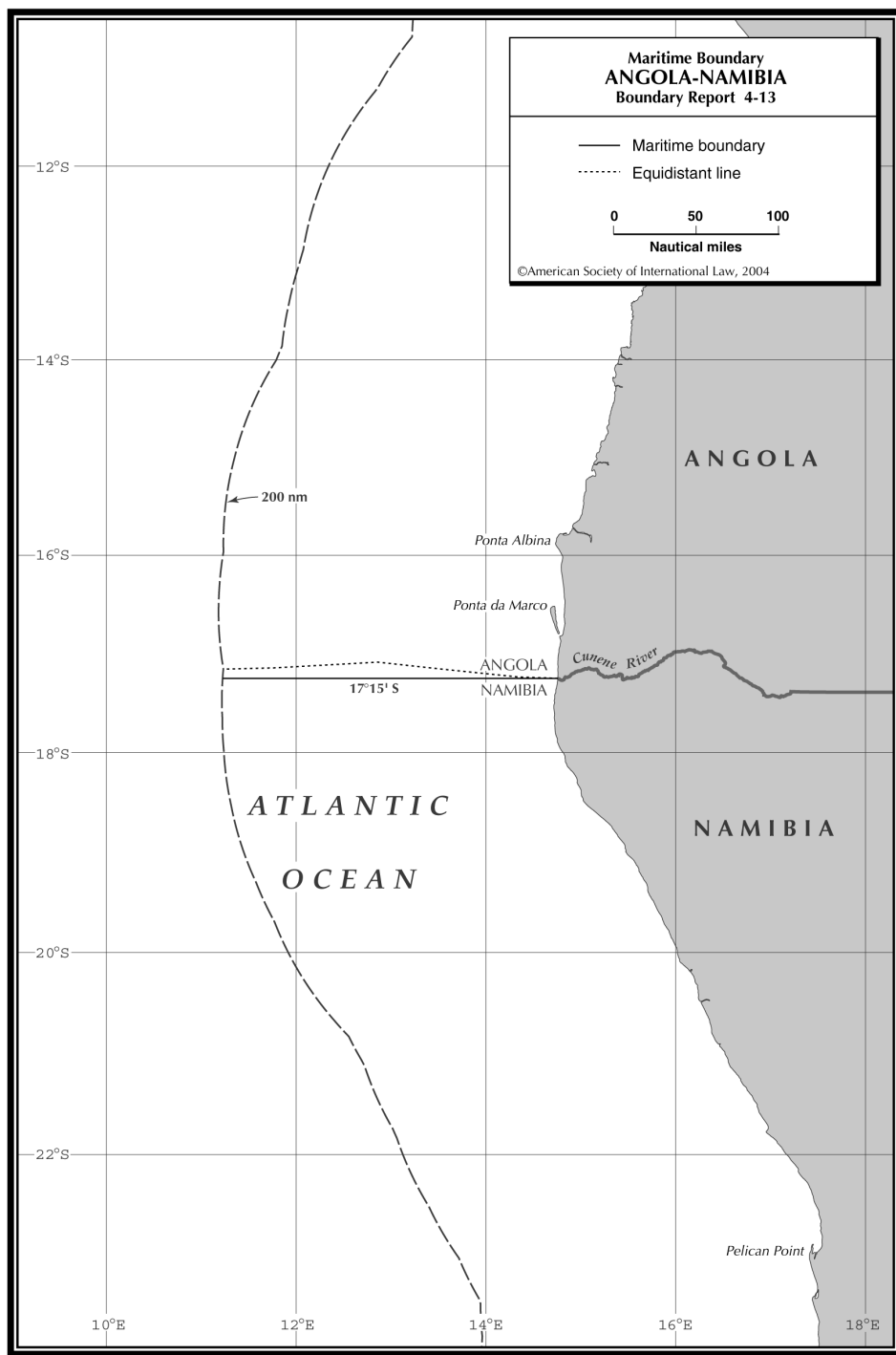
Angola: No change

Namibia: No change

V REFERENCES AND ADDITIONAL READINGS

*Prepared by Tim Daniel*





**Treaty between the Government of the  
Republic of Angola and the Government of the  
Republic of Namibia regarding the Delimitation and  
Demarcation of the Maritime Borders between the  
Republic of Angola and the Republic of Namibia**

**Preamble**

*Whereas* the Declaration signed between the Portuguese government and the German government in Lisbon on December 30th, 1886, describing the border lines between the Republic of Namibia and the Republic of Angola; and

*Whereas* the Republic of South Africa undertook the responsibility of managing Southeast Africa under the auspices of the Treaty of League of Nations, ratified in 1920 and the Accord between the Portuguese government concerning the border between the then territory of Southeast Africa and the Province of Angola, signed in Capetown on June 22, 1926, where it was declared that the border between the two countries was determined by a median line drawn from two margins of the Cunene River.

*Whereas* the Province of Angola became sovereign on November 11, 1975 and became the Republic of Angola;

*Whereas* the territory of Southeast Africa became sovereign on March 21, 1990 and became the Republic of Namibia;

*Whereas* the government of the Republic of Angola and the government of the Republic of Namibia, recognize the principles of equality of sovereignty and territorial integrity of all States;

*Whereas* the two States are involved and wish to maintain good neighbouring relationship between them; and

*Whereas* the delimitation and demarcation of the maritime border was established in good faith for the best interest of both countries;

Consequently, it was therefore agreed as follows:

*Article I*  
*Definitions*

- a) **“Contracting parties”** means the respective governments of the Republic of Angola and the Republic of Namibia;
- b) **“Delimitation”** means the delimitation directed by the Joint Commission for the Delimitation and Demarcation of borders;
- c) **“Demarcation”** means the placement of permanent marks of signalization and posts referred to in paragraphs 23 and 25 of the Appendix B;
- d) **“Treaty”** means this Treaty;
- e) **“Joint Commission”** means the Joint Commission for the Delimitation and Demarcation of the Border, established pursuant to the terms of Article II of this Treaty.

*Article II*  
*Establishment of the Joint Commission for the Delimitation and Demarcation of the Borders*

A *Joint Commission for the Delimitation and Demarcation of the Border* (Hereinafter referred to as: “Commission”), between Angola and Namibia, is hereby established.

*Article III*  
*Delimitation*

1. The starting point for the determination of the maritime territory, Exclusive economic area and continental Platform between the Republic of Angola and the Republic of Namibia, will be the interception of the base line and parallel of 17° 15' latitude south.  
From that starting point, upon the base line, the maritime border will be extended along the border of parallel 17° 15' latitude south going westbound for a distance of about 200 (two hundred) miles.
2. The geodesic coordinates mentioned in the present article, shall be calculated pursuant to a system of reference WGS 84 (World geodesic system).
3. The distance of 200 miles stated in paragraph 1 herein shall be measured from the base line, in accordance with the UN conventions concerning Maritime Law since 1982.

4. The line defined, the initial position referred to in par. 1, the position of posts as well as the marked sign posts on ground defined in this article, will be represented on maps with appropriate scales entitled: "The maritime Border, the Territorial sea, the Exclusive economic area and the Continental Platform between the Republic of Angola and the Republic of Namibia".

*Article IV*  
*Islands Located in the Sea*

Where the defined line, in accordance to Article III of this Treaty, crosses an island located in the sea, that ligne will be considered as a maritime border between the Republic of Angola and the Republic of Namibia.

*Article V*  
*Extention of the Defined Line*

Where it is deemed necessary to extend the defined ligne, in accordance to article III of this Treaty, the same will be done in accordance to the continental platform, next to the territories of the Republic of Namibia, considering that the extension will be previously agreed upon by both signatories, pursuant to international conventions.

*Article VI*  
*Conflict Resolution*

Any controversy that may occur between the signatories, related to the interpretation or the application of this treaty, as well as the provisions noted in the Appendixes which constitute integral part of this Treaty, shall be resolved through diplomatic channels in accordance to applicable international conventions.

*Article VII*  
*Application*

This Treaty shall enter into application after it has been ratified by the signatories, in accordance with the constitutional requirements applicable in the respective country.

After ratification, each signatory shall notify the other about its conclusion through diplomatic channels within a 30-day period. The Treaty would therefore become applicable from the reception of the last instrument ratified.

*Article VIII*

The Present Treaty includes the following Appendixes

- A: Tribunal
- B: Joint Commission on Borders
- C: Maps

In witness thereof, the signatories, duly authorized by their respective governments, signed this Treaty.

Signed in Luanda, this 4th day of the month of June of the year Two Thousand and Two in Portuguese, English both versions being considered as equally authentic.

For the Angolan Government:  
Joao Bernardo De Miranda  
Minister, External Relations

For the Namibian Government:  
Theo Ben Gurirab  
Minister, Foreign Affairs, Information and Radio broadcast

**APPENDIX A**  
**ARBITRATION TRIBUNAL**

Any issue related to the interpretation or to the application of this Treaty that can not be resolved through formal channels shall be referred to arbitration in accordance with the following procedure:

1. The arbitration will be conducted by a Tribunal constituted of three adjudicators
2. Each contracting party shall appoint an adjudicator arbitral. These two adjudicators shall, in turn appoint an adjudicator-arbitral who will not be a citizen of either country. The appointee will preside over the Tribunal.
3. Each signatory shall bear the cost of arbitration of its own adjudicator-arbitral as well as costs related to the proceedings. Costs related to the President or the third adjudicator-arbitral shall be equally shared by both contracting parties.

4. The place for the arbitration shall be determined by the President or the third adjudicator-arbitral.
5. Unless otherwise stated by the contracting parties, the Tribunal shall determine the limits of its jurisdiction in accordance with this Treaty and establish its own proceedings, providing that decisions made by the Tribunal with respect to costs of proceedings as well as decisions and other reasons shall be made in writing;
6. When deciding a controversial issue, the Tribunal is required to make its determination within the parameters of this Treaty as well as the parameters of international laws;
7. A decision by the adjudicator-arbitral of the Tribunal shall be final and conclusive for all parties. Each party is expected to fully comply with any decision of the Tribunal.

## **APPENDIX B**

### **JOINT COMMISSION ON BORDERS**

#### **COMPOSITION**

1. The Commission shall be constituted by no more than twelve (12) experts: Not more than six appointed by each party.
2. Each party shall designate one of the experts as a Co-Chair of the Commission.
3. The members of the Commission, namely for each of the parties, will be responsible for the composition of a group of experts for technical support and a Secretary who will assist them in the performance of their tasks.
4. Each party will submit to the other, the name of its members within a time frame of 30 days after the signature of that treaty.
5. To ensure continuity and efficient conclusion of works undertaken by the Commission, no party has authority to terminate indefinitely or temporarily either member without consulting the other party. The consultation may be informal but must be recorded.

#### **AGENDA AND PLACE OF MEETINGS FOR THE COMMISSION**

6. The Commission's Agenda must indicate the date, time and place of meetings.

7. Meetings of the Commission may be held either in Namibia or in Angola as decided by the Commission.
8. The host country shall undertake to prepare the meeting and thereafter to distribute the minutes of the meeting as well as manage any other issues related to logistics.

### **INITIATION OF THE COMMISSION'S TASKS**

9. The Commission will undertake its tasks forty (40) days after the signing of this Treaty pursuant to the terms of Article VII. Nevertheless, the signatories may adjourn the starting time for a much later date.

### **CONCLUSION OF THE COMMISSION'S TASKS**

10. The Commission shall wrap up its undertakings within a 12-month period which starts from the date the tasks have been initiated in accordance with paragraph 9 above referred.
11. The Commission shall not exceed the deadline noted above unless it is expressly authorized by the contracting parties.

### **REPORT ON THE TASKS OF THE COMMISSION**

12. The Report of the Commission with respect to the delimitation and demarcation of the maritime borders shall be final and involving the contracting parties.
13. Either contracting party shall give due consideration to the Report of the Commission.

### **NOTICE**

14. The Commission shall notify the contracting parties in advance when it is ready to submit at least ten (10) original texts of its own final report for review by the designated members of the contracting parties to facilitate that each party receives the same report at a date and place of their preference.
15. All the notices to the contracting parties, in the case of Namibia, shall be directed to the Permanent Secretary for the Administration of the Territory, Reinsertion and Rehabilitation and in the case of Angola, to the Minister of Justice.

## ACCESS

16. The contracting parties shall allow the Commissioners to have access to its respective territories, along the Border and the operational realm of the Commission.

## COSTS

17. The costs for the delimitation and demarcation of maritime borders shall be equally borne by both parties. Contracting parties shall produce a joint budget for the performance of tasks related to the present Treaty.
18. Each contracting party shall pay expenses related to its designated Representative in the Commission. However, the resulting gains, if any, shall be proportionally shared.
19. Each party shall pay the expenses related to the posts along the borders within its own territory.
20. Contracting parties shall, through their respective Commission, share equitably all expenses related to the logistics and substitutions of posts.

## OPERATIONAL LANGUAGE

21. English and Portuguese are the official languages of the Commission.

## ROLES AND RESPONSIBILITIES OF THE COMMISSION

22. The roles and responsibilities of the Commission are as follows:
  - 22.1 To finalize the delimitation and maritime border between the Republic of Angola and the Republic of Namibia;
  - 22.2 Collect and divulge the topographic information and maps describing the designated area in the respective countries.
  - 22.3 Undertake studies in the designated working area:
    - Meridian 11°45' and 11°49' East
    - Parallel 17° and 17°17' South
    - (delimitation from the maritime border Angola-Namibia: 17°15' Latitude South East and 11°45' Longitude East)
  - 22.4 Determine the nearest position to place the posts



- 22.5 Determine the type of posts to be placed
- 22.6 Determine the geographic boundaries of the posts
23. Demarcate and delimitate the maritime border between the Republic of Namibia and the Republic of Angola, indicating the posts on the ground on the latitude 17°15' south. These posts will be located in such a way that the visible line between the westbound posts will intercept the base line. The point of interception of that line is the base line should have latitude of 17°15' South and a longitude that should coincide with the position of the base line. From this initial mark eastbound, the border shall continue to be the line between the initial and the median point from the river mouth the Cunene River.
24. From the starting point noted above, the maritime border shall continue westbound along the latitude 17°15' south for a distance of 200 nautical miles.
25. Strategically place shining post at night and visible post during the day at the interception of parallel 17°15' of the latitude South with the base line westbound.
26. Produce a topographic map at the appropriate scale from pictures taken from the air or from satellite images.
27. In determining the base line and subsequently the maritime border, the geodesic marks existing between both sea shores shall be delineated and adjusted simultaneously.
28. Indicate the posts so that area pictures can be taken at large scale, during the high water seasons and during the low and medium water seasons.
29. Compile and publish a map at a desired scale, with a view to representing graphically the maritime border between ANGOLA and NAMIBIA.

### **REGULATIONS CONCERNING THE PROCEEDINGS OF THE COMMISSION**

30. The Commission has discretion to elaborate, supplementary provisions prescribing its proceedings, beyond the ones decided in this regulation.

**Annex 149**

Agreement on Technical and Economic Co-Operation between the Government of the Republic of Kenya and the Transitional Federal Government of the Republic of Somalia, 6 September 2005.



AGREEMENT  
ON  
TECHNICAL AND ECONOMIC CO-OPERATION  
BETWEEN THE  
GOVERNMENT OF THE REPUBLIC OF KENYA  
AND THE  
TRANSITIONAL FEDERAL GOVERNMENT OF  
THE REPUBLIC OF SOMALIA

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AGREEMENT ON TECHNICAL AND ECONOMIC CO-OPERATION  
BETWEEN THE GOVERNMENT OF THE REPUBLIC OF KENYA AND  
THE TRANSITIONAL FEDERAL GOVERNMENT OF THE REPUBLIC OF  
SOMALIA

---

Preamble

The Government of the Republic of Kenya and the Transitional Federal Government of the Republic of Somalia (hereinafter jointly referred to as "the Parties");

**Recognizing** that the conflicts that have ravaged Somalia for a decade and a half have spared little of the country's natural and man-made assets, and that there is need to embark on a process of recovery, reconstruction and development,

**Bearing in mind** that the extent of the destruction of Somalia's infrastructure, particularly electricity and water supply, health, education as well as the road network is overwhelming and hence the need to ensure that basic infrastructure services to the people are restored, as a matter of priority,

**Also recognizing** the unique and important contribution that Kenya can make, in partnership with donors and the international community, in facilitating Somalia's path to recovery and long term prosperity,

**Further recognizing** the need to support the people and Government of Somalia to transit from civil war to democratic development through an agreed framework of co-operation in the technical and economic fields,

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## Article 2 Mode of Co-operation

The co-operation envisaged under this Agreement shall include, but not be limited to the following forms:

- i. Identification of priority projects and programmes for implementation, and mobilization of financial resources from external donors and other international organizations for specific projects and programmes.
- ii. Establishment of institutions of governance as well as legal and regulatory frameworks.
- iii. Policy formulation and implementation.
- iv. Reconstruction of infrastructure, including transport, telecommunication, water and power supply networks, as well as schools, hospitals, recreational facilities, and other social amenities.
- v. Exchange of skilled manpower.
- vi. Organization of capacity building programmes.

## Article 3 Establishment of the Joint Commission

1. For purposes of co-ordinating the process of co-operation between the Parties, a Kenya-Somali Joint Commission of Co-operation (hereinafter referred to as "the joint Commission") is hereby established.
2. The Joint Commission shall be responsible for promoting and enhancing co-operation between the Parties, co-ordinating the implementation of this and other bilateral agreements to be concluded between the Parties, and facilitating contact between the public and private sectors of the Parties.

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**Article 4**  
**Functions of the Joint Commission**

The Joint Commission shall oversee:

1. The planning and implementation of bilateral programmes of co-operation.
2. The studying and investigation of ways and means of determining the most appropriate form of co-operation between the Parties.

**Article 5**  
**Composition and Structure of the Joint Commission**

1. The Joint Commission shall be composed of the Ministers for Foreign Affairs of the Parties, and other senior Government representatives as may be designated by the Parties from time to time.
2. The Joint Commission shall be co-ordinated and chaired by the respective Ministers for Foreign Affairs in the two states.
3. The Commission shall draw up its own rules of procedure.

**Article 6**  
**Meetings of the Joint Commission**

1. The Joint Commission shall meet in ordinary sessions at least once annually at a venue to be agreed upon between the Parties, and in extraordinary sessions as and when the Parties may agree.
2. The dates of the meetings of the Joint Commission shall be mutually agreed upon by the Parties.



3. The Party hosting the meeting of the Joint Commission shall pay for local transport for the guest delegation.

#### **Article 7 Agenda for the Meetings**

The Agenda of each meeting shall be agreed upon by the Parties through diplomatic channels at least one month prior to the opening of each session, and shall be subject to adoption by the plenary session at the commencement of the meeting.

#### **Article 8 Decisions of the Commission**

1. The Joint Commission shall take decisions and adopt recommendations by mutual consent.
2. The Joint Commission may propose such agreements to the Parties as it may deem necessary for the effective implementation of this Agreement.
3. The Joint Commission may review any bilateral co-operation agreements and make recommendations to the Parties from time to time in light of new needs arising out of practical experience.

#### **Article 9 Committees**

The Joint Commission may establish such sub-committees or specialized technical committees, as it may deem necessary for the effective implementation of the projects and programmes under this Agreement.

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#### **Article 10 Services**

The Commission may, where necessary, engage the services of institutions, organizations, companies or individuals in the implementation of agreed projects and programmes.

#### **Article 11 Record of Deliberations**

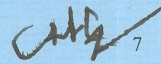
1. The deliberations of each session shall be recorded as Agreed Minutes for adoption by the joint Commission.
2. A joint communiqué of the discussions between the chairpersons of the Joint Commission may be released at each session.

#### **Article 12 Coordination**

1. The Ministries of Foreign Affairs of the Parties shall be responsible for the co-ordination of logistical and administrative arrangements for plenary Sessions of the Joint Commission, and shall constitute the General Secretariat.
2. Each sub-committee or technical committee may establish its own Secretariat responsible for the co-ordination of specific issues within the context of the mandate given to it. Such Secretariats shall report to the General-Secretariat.

#### **Article 13 Financial Obligations**

The expenses for organizing any of the joint Commission meetings or any of its Committee meetings shall be borne by the country hosting the meeting, provided that each country shall bear the travel and living

 7





expenses, including hotel accommodation, for its participants attending any such meeting.

#### **Article 14 Amendments**

Amendments to this Agreement shall be by mutual consent of the Parties, and shall be by exchange of notes through diplomatic channels. Any amendment shall form an integral part of this Agreement.

#### **Article 15 Settlement of Disputes**

The Parties shall strive to settle any disputes arising from the interpretation or implementation of this Agreement through consultation and negotiation.

#### **Article 16 Entry into Force and Duration**

1. This Agreement shall enter into force on the date of signature and shall remain in force for a period of five years.
2. This Agreement shall automatically be renewed for successive periods of five years unless either Party notifies the other in writing of its intention to terminate the Agreement six months prior to the expiry of any such period.

#### **Article 17 Termination**

1. This Agreement may be terminated at any time by either Party notifying the other in writing, through diplomatic channels, of its intention to terminate the Agreement six months in advance.

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2. The termination of this Agreement shall not affect the validity of any separate agreements.
3. Any ongoing activities at the time of termination arising out of the Joint Commission shall be carried out to their conclusion as if the agreement was in force.

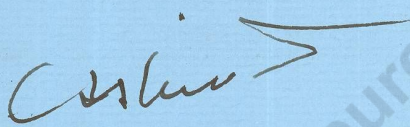
Done at NAIROBI this 06<sup>th</sup> day of September Two Thousand and Five in two originals in the English language, both texts being equally authentic.

FOR THE GOVERNMENT OF THE  
REPUBLIC OF KENYA

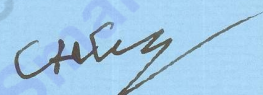


HON. AMB. CHIRAU ALI MWAKWERE  
EGH, MP  
MINISTER FOR FOREIGN AFFAIRS

FOR THE TRANSITIONAL FEDERAL  
GOVERNMENT OF THE REPUBLIC  
OF SOMALIA



HON. ABDULLAHI SHEIKH ISHMAIL  
MINISTER FOR FOREIGN AFFAIRS



**Annex 150**

Agreement on Natural Disasters Prevention, Management and Humanitarian Relief Aid  
Delivery Cooperation between the Government of the Republic of Kenya and the  
Transitional Federal Republic of Somalia, 8 March 2006.



**AGREEMENT**

**ON NATURAL DISASTERS PREVENTION,  
MANAGEMENT AND HUMANITARIAN RELIEF AID  
DELIVERY COOPERATION**

**BETWEEN**

**THE GOVERNMENT OF THE REPUBLIC OF KENYA**

**AND**

**THE TRANSITIONAL GOVERNMENT OF THE  
FEDERAL REPUBLIC OF SOMALIA**

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**AGREEMENT ON NATURAL DISASTERS PREVENTION, MANAGEMENT AND HUMANITARIAN RELIEF AID DELIVERY COOPERATION BETWEEN THE GOVERNMENT OF THE REPUBLIC OF KENYA AND THE TRANSITIONAL GOVERNMENT OF THE FEDERAL REPUBLIC OF SOMALIA**

---

**PREAMBLE**

The Government of the Republic of Kenya and the Transitional Federal Government of the Republic of Somali (hereinafter jointly referred to as "**the Parties**") and in singular as "**party**");

**Affirming** the friendly ties existing between the Republic of Kenya and the Transitional Government of the Federal Republic of Somalia.

**Concerned** about the cyclic drought and recurrent famine that intermittently affects the populations residing on both sides of their borders.

**Bearing** in mind the international and regional conventions governing disaster rescue operations and humanitarian aid delivery.

**Guided** by Article 3 (2) of the Agreement in force between the Parties on Technical and Economic Cooperation signed between the two countries on the 6<sup>th</sup> of September, 2005;



**Recognizing** the unique and important contribution that Kenya can make to facilitate cross border humanitarian relief supplies to Somalia;

**HAVE AGREED as follows:-**

**Article 1  
Establishment of Cooperation**

The parties hereby establish a framework of co-operation to prevent and respond to needs arising from natural disasters, to manage them and to facilitate humanitarian aid delivery to affected populations of the parties across their common borders.

**Article 2  
Scope**

The Parties undertake to cooperate in the field of natural disasters prevention, management and cross border humanitarian aid delivery to mitigate the effects of natural calamities affecting populations of both sides of the international common borders.

**Article 4  
Joint Cooperation**

The parties shall put in place joint cross border cooperation programmes and structures, whenever necessary, following close consultations, to ensure quick and urgent humanitarian aid delivery and to the rescue and help affected populations across their common borders, as the situation may demand.



#### **Article 5 Coordination**

The parties shall coordinate on issues related to supply, transport and delivery of cross border humanitarian aid, security escort arrangements, management and supervision of the distribution operations.

#### **Article 6 Implementing Agency and National Focal Point**

The implementing and National Focal Point for this agreement for the Government of the Republic of Kenya shall be the Office of the President, Department of Special Programmes while for the Transitional Government of the Republic of Somalia shall be the Ministry of Environment and Natural Disasters.

#### **Article 7 Meetings**

1. The parties shall meet in ordinary sessions at least once annually, and in extra ordinary sessions as and when the Parties may agree.
2. The date(s) of the meetings shall be mutually agreed upon by the Parties.
3. The parties will agree by mutual consent on the Agenda of the meeting before the commencement of such meetings.



4. The Party hosting the meeting shall pay for local transport for the guest delegation.
5. The meetings of the Parties shall discuss among other matters issues on natural disasters prevention, management and exchanging early information on impending or looming natural disasters, epidemics and seasonal calamities due to rain fall shortages, involving cross border population and livestock.

#### **Article 8 Cooperation with Third Parties**

The parties shall jointly liaise and coordinate with among others, the international donor community, development partners, UN aid agencies and competent IGAD sub-regional authorities on issues pertaining to cross border natural disaster prevention, management and cooperation on humanitarian aid relief delivery to affected populations.

#### **Article 9 Amendments**

Amendments to this Agreement shall be by mutual consent of the Parties, and shall be by exchange of notes through diplomatic channels. Any amendment shall form an integral part of this Agreement and shall enter into force after consent of both parties.





#### **Article 10 Settlement of Disputes**

The Parties shall strive to settle any disputes arising from the interpretation or implementation of this Agreement through diplomatic channels.

#### **Article 11 Entry into Force, Duration and Termination**

1. This Agreement shall enter into force on the date of signature and shall remain in force for a period of five years.
2. This Agreement shall automatically be renewed for successive periods of five years unless either Party notifies the other in writing of its intention to terminate the Agreement by giving six months notice in advance.
3. The termination of this Agreement shall not affect the validity of any separate agreements.
4. In the event of termination of this Agreement, each party shall take necessary measures to ensure that such termination is not prejudicial to any activities undertaken within the framework of this Agreement. Any ongoing activities at the time of termination arising out of this agreement shall be carried out to their conclusion as if the agreement was in force.



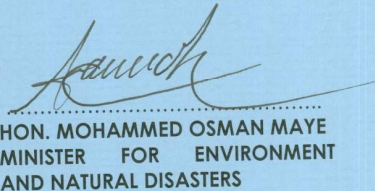
Done at Baidoa, Somalia this .....<sup>8<sup>TH</sup></sup>..... day of March Two Thousand and Six in two originals in the English language, both texts being equally authentic.

FOR THE GOVERNMENT OF THE  
REPUBLIC OF KENYA

FOR THE TRANSITIONAL FEDERAL  
GOVERNMENT OF THE REPUBLIC  
OF SOMALIA



HON. DANSON MUNGATANA, MP  
ASSISTANT MINISTER FOR  
FOREIGN AFFAIRS



HON. MOHAMMED OSMAN MAYE  
MINISTER FOR ENVIRONMENT  
AND NATURAL DISASTERS

**Annex 151**

Memorandum of Understanding between the Government of Kenya and the Transitional Federal Government of the Republic of Somalia on Training of Somali Policemen in Kenya,  
3 May 2006.



**MEMORANDUM OF UNDERSTANDING BETWEEN THE  
GOVERNMENT OF KENYA AND THE TRANSITIONAL FEDERAL  
GOVERNMENT OF THE REPUBLIC OF SOMALIA ON TRAINING OF  
SOMALI POLICEMEN IN KENYA**

**PREAMBLE**

**WHEREAS** the Government of the Republic of Kenya and the Transitional Federal Government of the Republic of Somalia consider the good relations existing between the two countries and

**DESIROUS** to improve bilateral relations between the two countries

**EAGER** to comply with the Charter of the United Nations as regards Regional Arrangements relating to matters of maintaining International peace and security

**IN PURSUANCE** of the objectives and principles of the Constitutive Act of the African Union and

**AIMING** at enhancing security measures in the two countries, have reached a mutual understanding as set in the following terms:

**ARTICLE 1**

- a) The Government of Kenya and the Transitional Federal Government of the Republic of Somalia agree to cooperate in police training and related fields of interest in the mutual benefit of the two countries.
- b) The Government of Kenya shall train two hundred (200) Somali policemen on VIP protection.
- c) Any reference to Somali police recruits shall include the required liaison officers.

Page 1 of 5

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**ARTICLE 2**

- a) The Somali police recruits shall not exceed the age of forty (40) years and should be of mid-level education. The recruits should also be of sound physical and psycho-physiological condition, and should take all the necessary steps to observe security requirements while in Kenya.

**ARTICLE 3**

- a) The Government of Kenya shall provide VIP Protection Instructors to the Somali police recruits to advise on and carry out VIP training in Kenya, as a special arrangement intended to address the immediate training requirements for the Somali VIP protection force.
- b) The training shall be for a duration of three (3) months and may be extended by mutual consent through exchange of diplomatic notes where necessary. The venue of the training shall be the Kenya Wildlife Service (KWS) Field Training Institute at Manyani.
- c) The parties agree that the details of VIP training and syllabi will be determined at the time of offering the training courses taking into consideration identified needs.
- d) The transitional Federal Government of the Republic of Somalia shall provide ten (10) liaison officers who shall be attached to the Somali police recruits for administrative and training purposes.

**ARTICLE 4**

- a) The Somali police recruits to undergo such training shall be subject to the rules and regulations, which guide the Kenya police recruits and shall be subject to the local laws.
- b) The Kenya Government shall be responsible for the provision of basic training facilities to the Somali police recruits for the duration of their training. Such facilities shall include *inter alia* uniforms, fuel, accommodation, ammunitions, meals, basic personal facilities, stationery, transport and training materials.
- c) The Government of Kenya shall also provide free medical and dental care to the Somali police recruits at public health institutions.

**ARTICLE 5**

- a) Involvement of Somali police recruits in any breach of the ordinary criminal laws of Kenya shall render them liable to prosecution in Kenya for those offences under the relevant Kenyan laws. It is also agreed that dismissal of recruits from the training will be considered for more serious breaches of discipline, health reasons, subsequent incompatibility, lack of aptitude and upon request by the recruits or instructors concerned or either Government.
- b) Civil claims against the Somali Police recruits on training in Kenya arising from tortuous acts committed or omissions made by them in the duration of their training shall be investigated by the Kenya Government and appropriate compensation assessed and paid by the transitional Federal Government of the Republic of Somalia.

**ARTICLE 6**

- a) The Somali police recruits to undergo training shall be required to obey all police rules and regulations applicable to the police institutions in Kenya.
- b) Any liability for any contractual obligations entered into by the trainees shall be undertaken by the Transitional Federal Government of the Republic of Somalia. Further, the Transitional Federal Government of the Republic of Somalia shall be liable to compensate any aggrieved party in respect of any loss or damage caused by the trainees to any individuals or property during their presence in Kenyan territory.
- c) The transitional Federal Government of the Republic of Somalia hereby agrees not to seek for compensation from the Government of Kenya for any eventualities such as desertion, sickness or injuries suffered by their personnel during the training, permanent invalidity following any kind of accident connected in any manner whatsoever with the performance of the activities provided by the training programs.

**ARTICLE 7**

- a) The Somali police recruits to be trained shall observe requirements and restrictions of the host country on the movement, use and storage of weapons. In this regard the trainees may use the weapons provided by the Government of Kenya only during training activities in designated training areas and in compliance with the instructions issued for that purpose by the instructors.

**ARTICLE 8**

- a) The Somali police recruits identified for training shall only be allowed to enter and leave Kenya on the production of valid travel documents recognized by the Government of Kenya.
- b) The Somali police recruits shall be required to identify themselves whenever officially required to do so on the basis of their Foreign police component cards to be issued by the Government of Kenya, which shall be valid only for the duration of the training.
- c) The Somali police recruits shall wear the appropriate police uniform of their respective forces with appropriate badges, insignias and other accoutrements while under training. They shall observe restrictions imposed by the Kenya Government on the movements while dressed in uniform.

**ARTICLE 9**

- a) This Memorandum of Understanding shall be subject to review at any time at the initiative of either party hereto and may be terminated by either party giving the other a one month's notice in writing of such intention.
- b) Unless otherwise terminated, this Memorandum of Understanding shall remain in force for the duration of the training with an option for extension.

**ARTICLE 10**

Any dispute arising from the interpretation or application of this memorandum of Understanding shall be resolved through negotiations.

**ARTICLE 11**

This Memorandum of Understanding and all the provisions herein shall become effective upon signature by the duly authorized representatives of both parties hereto.

In witness whereof the undersigned duly authorized representatives of the Government of the Republic of Kenya and the Transitional Federal Government of the Republic of Somalia have signed this Memorandum of Understanding.



Done at Nairobi this 31<sup>st</sup> day of May 2006

**FOR THE GOVERNMENT OF  
THE REPUBLIC OF KENYA**



HON. JOHN N. MICHUKI, EGH, MP  
MINISTER OF STATE FOR  
PROVINCIAL ADMINISTRATION AND  
INTERNAL SECURITY

**FOR THE TRANSITIONAL FEDERAL  
GOVERNMENT OF THE REPUBLIC  
OF SOMALIA**



HON. SALIM ALIO IBROW  
DEPUTY PRIME MINISTER AND  
MINISTER FOR FINANCE



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### **Annex 152**

Joint minutes of on the land and maritime boundaries to the Agreement of 4 December 1965 between the State of Qatar and the Kingdom of Saudi Arabia on the delimitation of the offshore and land boundaries, 5 July 2008, (2009) 70 Law of the Sea Bulletin 45.

*Bulletin No. 70*

# *Law of the Sea*



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



**United Nations**

## B. Bilateral Treaties

### 1. Saudi Arabia and Qatar

*Joint Minutes of on the land and maritime boundaries to the Agreement of 4 December 1965 between the State of Qatar and the Kingdom of Saudi Arabia on the delimitation of the offshore and land boundaries, 5 July 2008<sup>1</sup>*

Prompted by the directives of the Custodian of the Two Holy Mosques King Abdullah bin Abdulaziz Al-Saud, the King of the Kingdom of Saudi Arabia and his brother His Highness Sheikh Hamad bin Khalifa Al-Thani, the Amir of the State of Qatar to strengthen and enhance the brotherly relations, bonding the two countries, in different fields;

Based on the Land and Maritime Border Delimitation Agreement concluded between the Kingdom of Saudi Arabia and the State of Qatar, dated 11/8/1385H, corresponding to 4/12/1965, and the minutes of the meeting held between the foreign ministers of the two countries dated 26/12/1421H, corresponding to 21/3/2001;

In continuation to what had been discussed during the visit of His Royal Highness Prince Sultan bin Abdulaziz Al-Saud, Crown Prince, Deputy Premier, Minister of Defense and Aviation and Inspector General of the Kingdom of Saudi Arabia to the State of Qatar during 2-4 /3/1429H, corresponding to 10-12/3/2008, concerning the desire of the two countries to finalize the delimitation of the maritime borders between them beyond Khawr Al-Udaid and the effects thereof;

A meeting was held in Jeddah on 27/6/1429H, corresponding to 2/7/2008, between His Royal Highness Prince Sultan bin Abdulaziz Al-Saud, Crown Prince, Deputy Premier, Minister of Defense and Aviation and Inspector General of the Kingdom of Saudi Arabia and his brother His Excellency Sheikh Hamad bin Jassim bin Jabr Al-Thani, Prime Minister and Minister of Foreign Affairs of the State of Qatar. His Royal Highness Prince Nayef bin Abdulaziz, Minister of Interior of the Kingdom of Saudi Arabia also held a meeting with His Excellency the Prime Minister of the State of Qatar, who also made another visit to the Kingdom on 2/7/1429H, corresponding to 5/7/2008, during which he held a meeting with His Royal Highness Prince Nayef bin Abdulaziz.

The Two Parties have agreed to the following:

*First:* Completing the delimitation of the maritime borders between the Kingdom of Saudi Arabia and the State of Qatar beyond Khawr Al-Udaid and the effects thereof, so that the maritime borders between the two countries be in accordance with the attached maritime map and the following coordinates:

Serial	North	East
1	24 37 47	51 24 21
2	24 38 17	51 26 08
3	24 43 08	51 35 00
4	24 52 05	52 15 54
5	24 53 30	52 18 20
6	25 02 05	52 18 52

<sup>1</sup> Registered with the Secretariat of the United Nations on 19 March 2009. Registration number: A-30249. Entry into force: 16 December 2008.

7	25 02 00	52 28 05
8	25 08 17	52 34 56
9	25 34 27	53 00 45

A technical team from both countries shall ascertain that the above-mentioned maritime geographical coordinates shown in serial numbers (3-9) are three nautical miles away from the coordinates specified in Paragraph (Second) of these Minutes.

*Second.* As for natural resources under the seabed in the sea area whose southern limits are identified by the following geographical coordinates:

Serial	North	East
1	25 31 50	53 02 05
2	25 05 54,79	52 36 50,98
3	24 48 40	52 16 20
4	24 38 20	51 28 05

It has been agreed that the ownership of these resources shall belong to the State of Qatar, and the competent Qatari authorities shall be enabled to protect their oil wells and facilities in such area.

*Third:* If ships are not able to sail through the sea area specified in Paragraph (First), the Qatari authorities - through the Joint Technical Committee- shall enable said ships to depart and arrive to the Saudi port and then to the open sea, provided that the Technical Committee designate the necessary sea lanes.

*Fourth:* In addition to what has been demarcated in accordance with the Land and Maritime Border Delimitation Agreement between the two countries, the State of Qatar shall have a coast line starting from Border Point (H) and extending parallel to the coast south of Khawr Al-Udaid in accordance with the attached land map and the following coordinates:

Serial	Northern	Eastern
1	Point H 2706390,269	509992,989
2	2708000	531800
3	2712000	537000
4	2720400	541900
5	2723525	540670

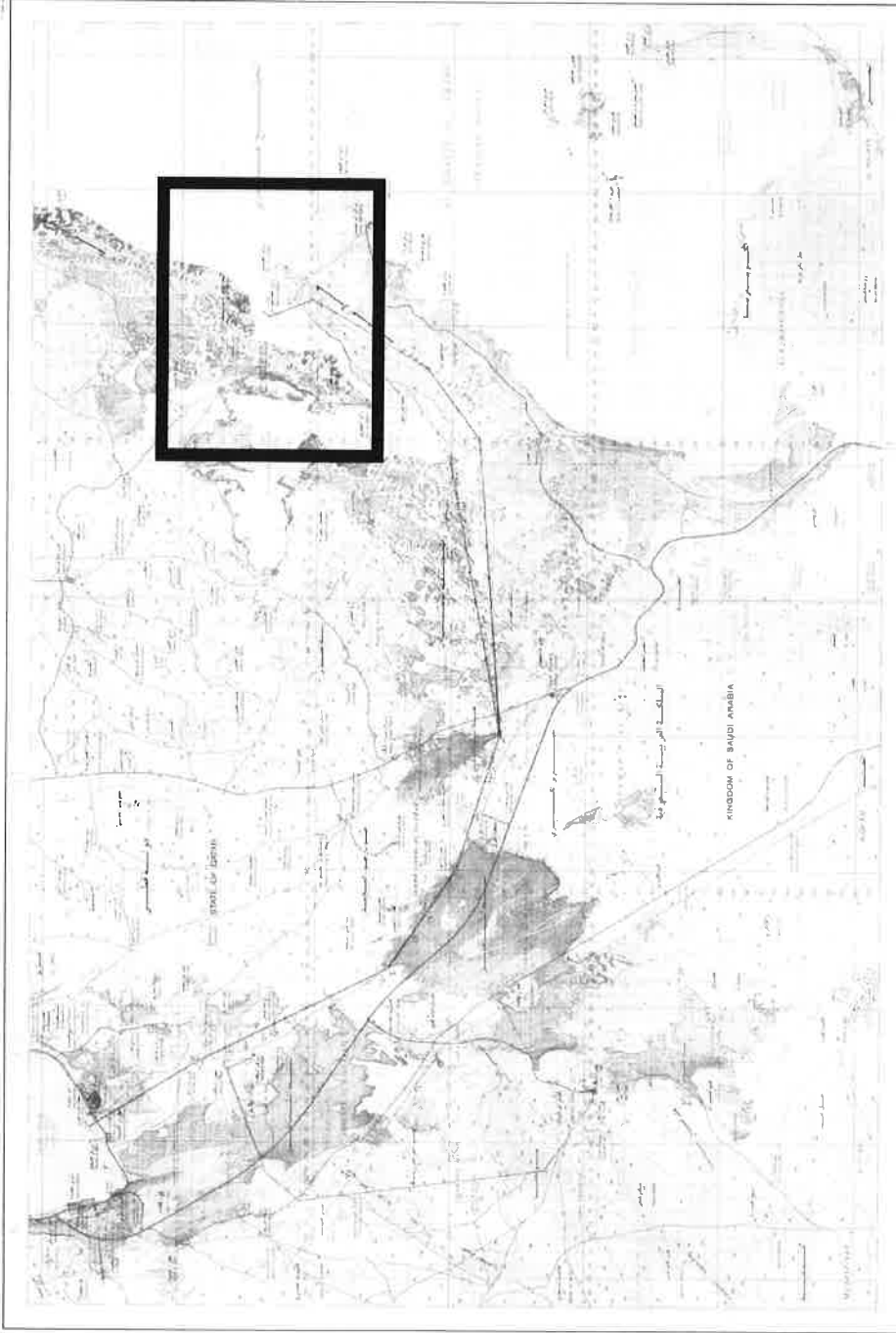
*Fifth:* The Saudi-Qatari Joint Committee formed pursuant to Article (5) of the Land and Maritime Border Delimitation Agreement between the two countries shall be assigned to place border markers in accordance with the attached land map and the coordinates outlined in Paragraph (Fourth) above as soon as possible.

*Sixth:* What has been agreed upon in these Minutes and the two attached maps shall constitute a final agreement on land and Maritime borders between the two countries.

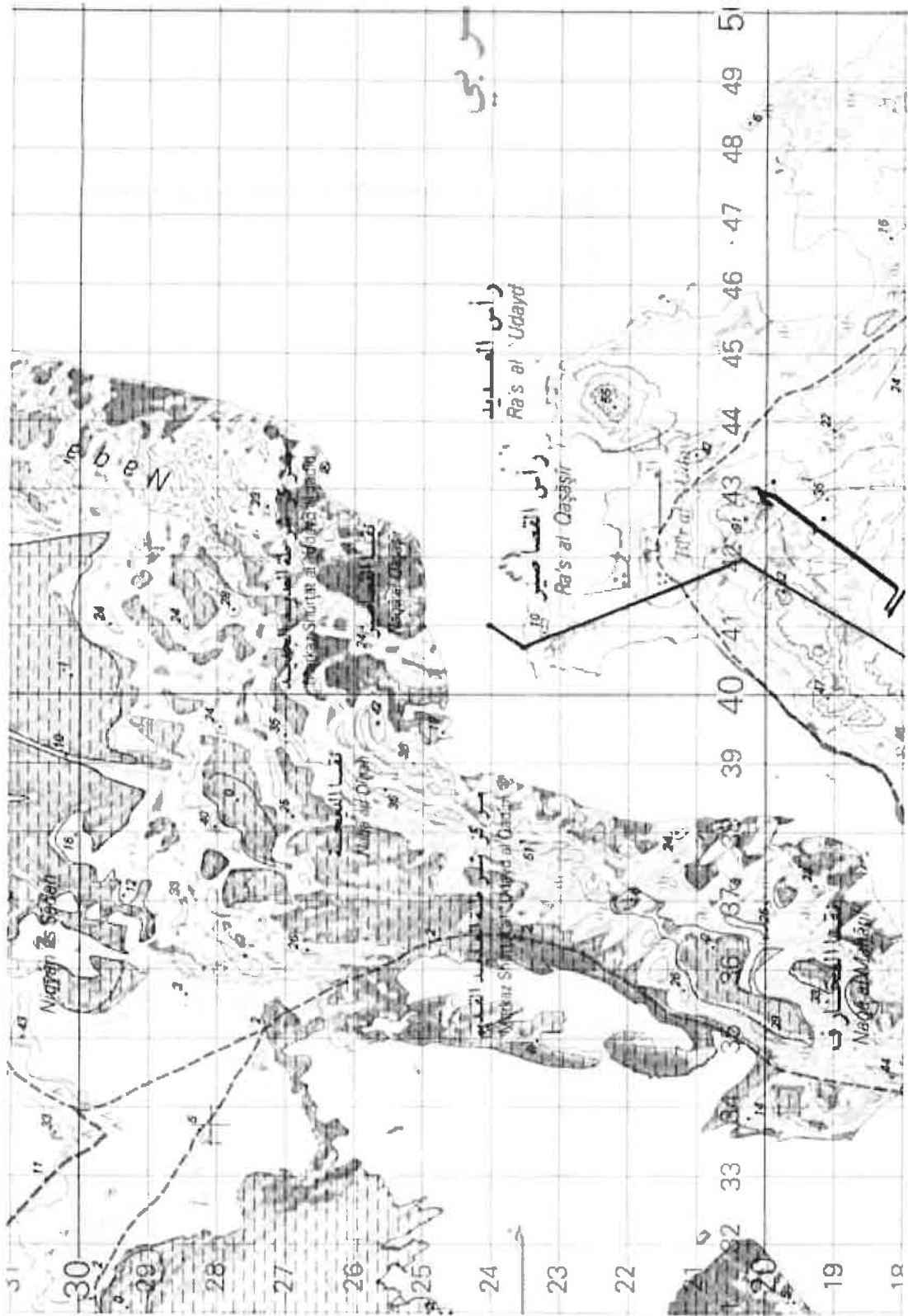
*Seventh:* These Minutes and the two maps signed by the Two Parties along with these Minutes shall complement the Land and Maritime Border Delimitation Agreement between the Kingdom of Saudi Arabia and the State of Qatar, signed on 11/8/1385H, corresponding to 4/12/1965, and shall be deemed an integral part thereof.

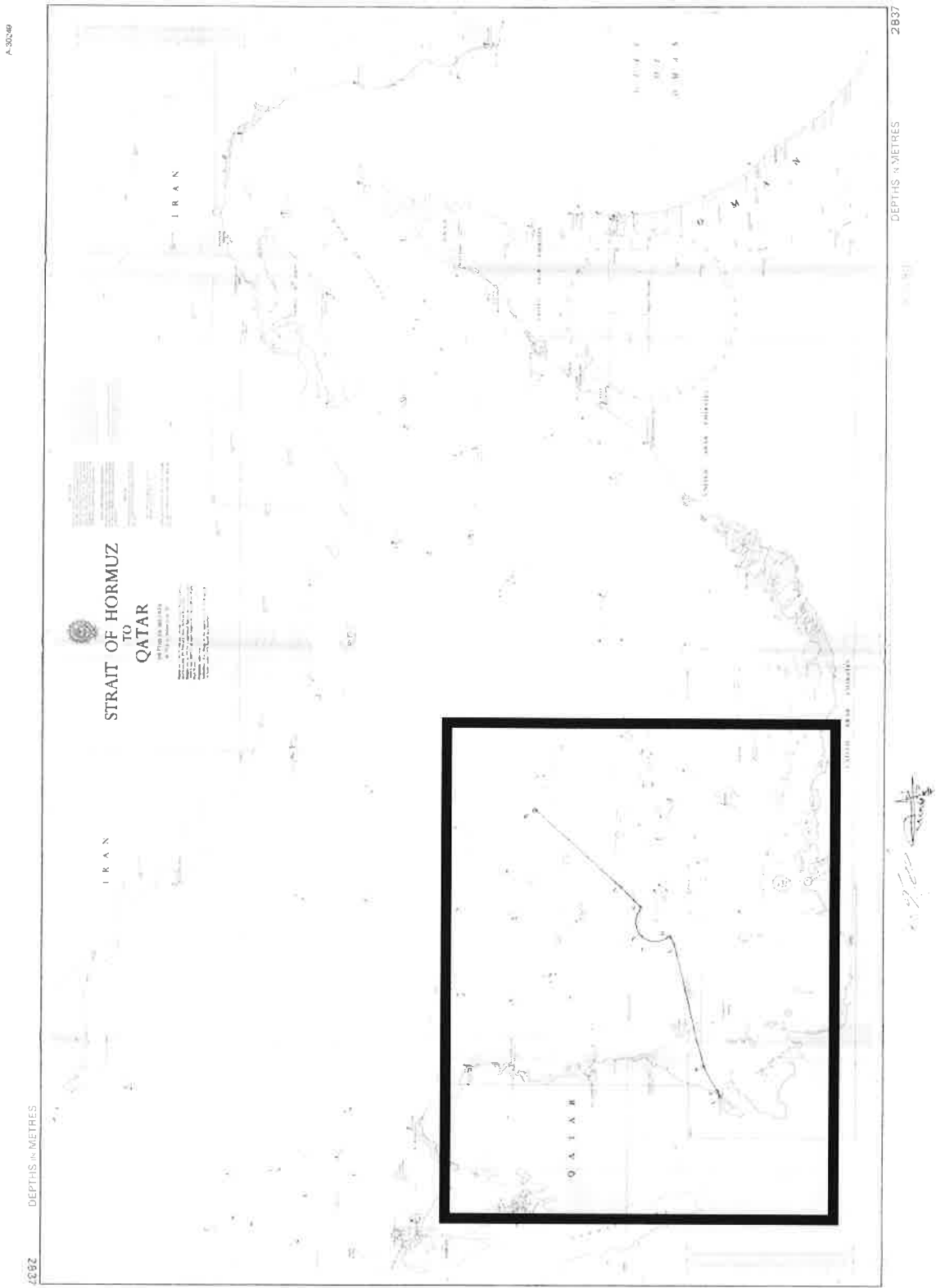


خط الحدود البرية بين المملكة العربية السعودية و دولة قطر  
LAND BORDER MAP BETWEEN THE KINGDOM OF SAUDI ARABIA AND THE STATE OF QATAR  
رأس أبو قبيس أبو مسرة ١:٥٠,٠٠٠ م. ١٤٦٥

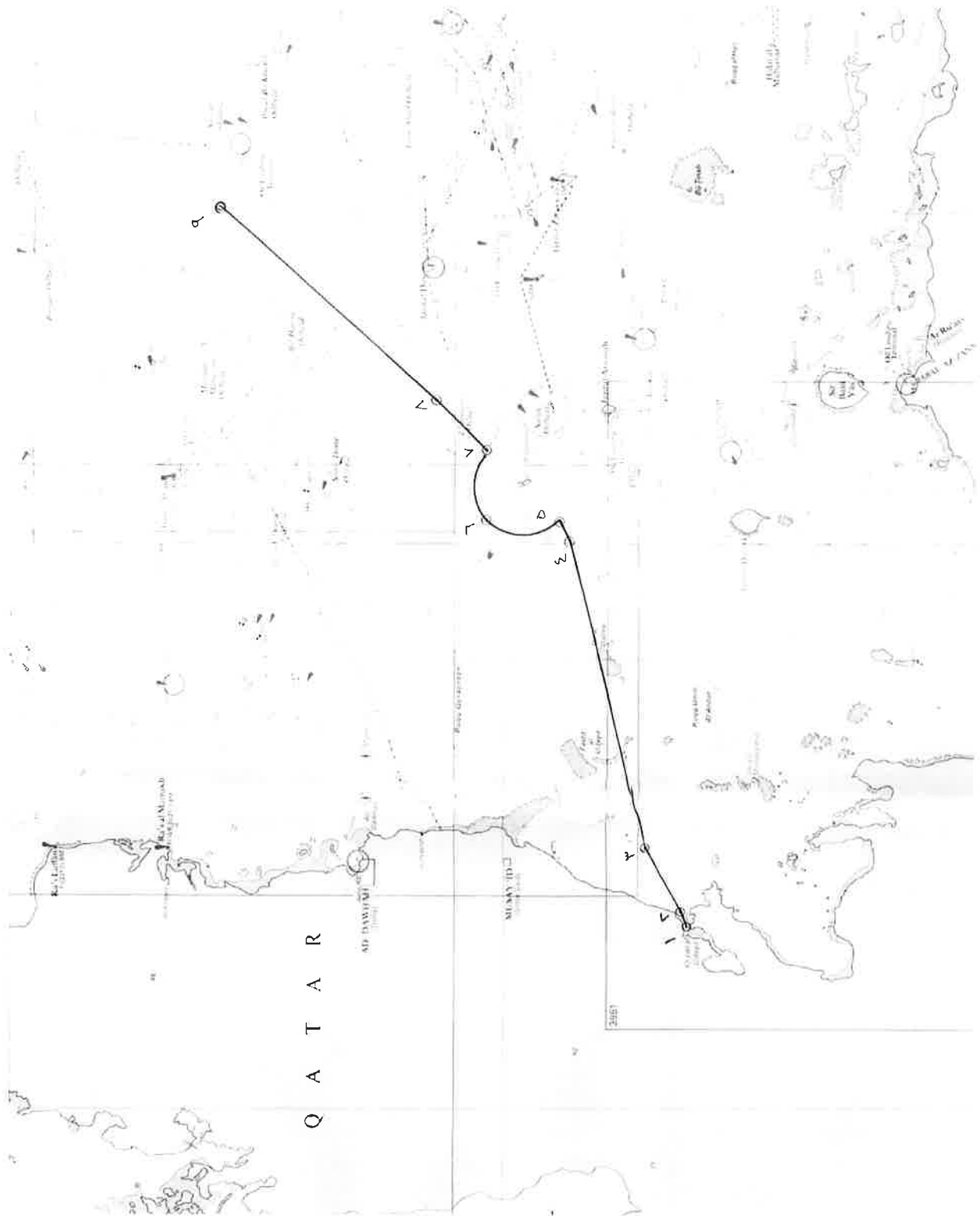


Handwritten notes and signatures on the right side of the map, including a signature and the number '950'.









**Annex 153**

Memorandum of Understanding between the Government of the Republic of Kenya and the Transitional Federal Government of the Republic of Somalia on Technical Assistance and Capacity Building, 18 March 2009.



**MEMORANDUM OF UNDERSTANDING**

**BETWEEN**

**THE GOVERNMENT OF THE REPUBLIC OF KENYA**

**AND**

**THE TRANSITIONAL FEDERAL GOVERNMENT OF THE  
REPUBLIC OF SOMALIA**

**ON**

**TECHNICAL ASSISTANCE AND CAPACITY BUILDING**

A handwritten signature in black ink, appearing to be 'YcD'.

Handwritten initials in black ink, possibly 'Mw'.

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**MEMORANDUM OF UNDERSTANDING BETWEEN THE  
GOVERNMENT OF THE REPUBLIC OF KENYA AND THE  
TRANSITIONAL FEDERAL GOVERNMENT OF THE  
REPUBLIC OF SOMALIA ON TECHNICAL ASSISTANCE  
AND CAPACITY BUILDING**

---

Preamble

The Government of the Republic of Kenya and the Transitional Federal Government of the Republic of Somalia, herein after referred to jointly as **"the parties;"** or individually as **"the Party";**

**Recalling** the Terms of the Agreement on Technical and Economic Co-operation between the Government of the Republic of Kenya and the Transitional Federal Government of the Republic of Somalia, signed on 6<sup>th</sup> September, 2005, in which both parties pledged to cooperate on various areas of mutual interest;

**Further Recalling** the deliberations between the President of the Republic of Kenya H.E. Mwai Kibaki, and the President of the Transitional Federal Republic of Somalia H.E. Sheikh Sharif Sheikh Ahmed, held on 9<sup>th</sup> March, 2009, in Nairobi, during which the latter requested for urgent technical and humanitarian assistance to help ameliorate the dire situation facing Somalia;

**Affirming** the commitment of the people and government of Kenya to help in the recovery and development of Somalia after years of civil strife;



**Recognizing** in this regard the need to extend technical and other forms of assistance to the Transitional Federal Government of the Republic of Somalia for sustainable peace, stability and economic recovery;

**Further Recognizing** the important contribution that the people and Government of the Republic of Kenya can make to facilitate human resource development, institution and capacity building in the Transitional Federal Government of the Republic of Somalia; and

**Being Mindful** of the request of the Transitional Federal Government of the Republic of Somalia for assistance;

**HAVE AGREED** as follows:

#### **Article 1**

##### **Technical and Humanitarian Assistance**

The Government of the Republic of Kenya will provide technical and humanitarian assistance to the Transitional Federal Government of the Republic of Somalia, with the aim of facilitating the establishment of government structures as well as institution and capacity building.

#### **Article 2**

##### **Training Assistance**

The Parties agree to co-operate in training and capacity building of personnel in finance, revenue collection, security and related fields. In this respect, the Government of the Republic of Kenya will provide training to the revenue, finance and security personnel of the Transitional Federal Government of the Republic of Somalia.

A handwritten signature in black ink, appearing to be a stylized 'R' or similar character.



**Article 3**  
**Revenue Collection**

The Government of the Republic of Kenya will further provide technical assistance to the Transitional Federal Government of the Republic of Somalia with regard to Revenue Collection of duties and taxes at the export points, in respect of goods destined for Somalia.

The competent authorities of both parties will meet and agree on the modalities of carrying out the arrangement.

**Article 4**  
**Establishment of a Joint Technical Advisory Team**

In order to address the immediate needs and ensure implementation of the Provisions of Articles 1, 2 and 3 above, and to fast track the implementation of the Joint Technical Co-operation Agreement between the Republic of Kenya and the Transitional Federal Government of the Republic of Somalia, both parties agree to establish a Joint Technical Advisory Team.

**Article 5**  
**Amendment**

This Memorandum of Understanding may be reviewed at the request of either party and the said review shall form an integral part of this Memorandum of Understanding.

A handwritten signature in black ink, consisting of a stylized, cursive 'S' shape followed by a small number '4' at the bottom right.





**Article 6**

**Entry into Force and Termination**

This Memorandum of Understanding will enter into force on the date of signature and shall remain in force until either Party terminates it by giving one month's notice in writing.

Signed in Nairobi, Kenya this 18<sup>th</sup> day of March Two Thousand and Nine in two originals in the English language, both texts being equally authentic.

**FOR THE GOVERNMENT OF THE  
REPUBLIC OF KENYA**

**FOR THE TRANSITIONAL FEDERAL  
GOVERNMENT OF THE REPUBLIC OF  
SOMALIA**

*Wetang'ula*  
.....  
**HON. MOSES WETANG'ULA  
MINISTER FOR FOREIGN AFFAIRS**

*Sharif*  
.....  
**HON. SHARIF HASAN SHEIKH ADAN  
DEPUTY PRIME MINISTER AND  
MINISTER FOR FINANCE**

**Annex 154**

Treaty between the Kingdom of Norway and the Russian Federation concerning Maritime Delimitation and Cooperation in the Barents Sea and the Arctic Ocean, 15 September 2010, 2791 UNTS 3.



**No. 49095**  
—**Russian Federation  
and  
Norway**

**Treaty between the Russian Federation and the Kingdom of Norway concerning maritime delimitation and cooperation in the Barents Sea and the Arctic Ocean (with annexes, map and exchange of notes). Murmansk, 15 September 2010**

**Entry into force:** *7 July 2011, in accordance with article 8*

**Authentic texts:** *Norwegian and Russian*

**Registration with the Secretariat of the United Nations:** *Russian Federation, 1 November 2011*

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**Fédération de Russie  
et  
Norvège**

**Traité entre la Fédération de Russie et le Royaume de Norvège relatif à la coopération et la délimitation maritime dans la mer de Barents et l'océan Arctique (avec annexes, carte et échange de notes). Mourmansk, 15 Septembre 2010**

**Entrée en vigueur :** *7 juillet 2011, conformément à l'article 8*

**Textes authentiques :** *norvégien et russe*

**Enregistrement auprès du Secrétariat des Nations Unies :** *Fédération de Russie, 1<sup>er</sup> novembre 2011*

[ NORWEGIAN TEXT – TEXTE NORVÉGIEN ]

**Overenskomst  
mellom Den Russiske Føderasjon og Kongeriket Norge  
om maritim avgrensning og samarbeid  
i Barentshavet og Polhavet**

Den Russiske Føderasjon og Kongeriket Norge (heretter kalt «partene»),  
*som ønsker* å fastholde og styrke det gode naboforholdet,  
*som tar i betraktning* utviklingen i Polhavet og partenes rolle i dette området,

*som ønsker* å bidra til å sikre stabilitet og styrke samarbeidet i Barentshavet og Polhavet,

*som viser til* bestemmelsene i De forente nasjoners havrettskonvensjon av 10. desember 1982 (heretter kalt «Konvensjonen»),

*som viser til* overenskomsten av 11. juli 2007 mellom Den Russiske Føderasjon og Kongeriket Norge om den maritime avgrensning i Varangerfjordområdet (heretter kalt «Overenskomsten av 2007»), og som ønsker å fullføre den maritime avgrensningen mellom partene,

*som er klar over* den særlige økonomiske betydning de levende ressurser i Barentshavet har for Den Russiske Føderasjon og Norge og for deres kystfiskesamfunn, og som også er klar over nødvendigheten av å unngå økonomiske forstyrrelser for kystdistrikter hvis innbyggere vanligvis har fisket i området,

*som er klar over* det tradisjonelle russiske og norske fisket i Barentshavet,  
*som minner om* at de som kyststater har grunnleggende interesse av og et hovedansvar for bevaring og rasjonell forvaltning av de levende ressurser i Barentshavet og Polhavet, i samsvar med folkeretten,

*som understreker* betydningen av en effektiv og ansvarlig forvaltning av sine petroleumsressurser,

er blitt enige om følgende:

## Artikkel 1

1. Den maritime avgrensningslinjen mellom partene i Barentshavet og Polhavet angis ved geodetiske linjer som forbinder punktene definert av følgende koordinater:<sup>1</sup>

1. 70° 16' 28.95" N	32° 04' 23.00" Ø
---------------------	------------------

(Dette punktet samsvarer med punkt 6 på avgrensningslinjen fastlagt i Overenskomsten av 2007.)

2. 73° 41' 10.85" N	37° 00' 00.00" Ø
---------------------	------------------

3. 75° 11' 41.00" N	37° 00' 00.00" Ø
---------------------	------------------

4. 75° 48' 00.74" N	38° 00' 00.00" Ø
---------------------	------------------

5. 78° 37' 29.50" N	38° 00' 00.00" Ø
---------------------	------------------

6. 79° 17' 04.77" N	34° 59' 56.00" Ø
---------------------	------------------

7. 83° 21' 07.00" N	35° 00' 00.29" Ø
---------------------	------------------

8. 84° 41' 40.67" N	32° 03' 51.36" Ø
---------------------	------------------

Avgrensningslinjens slutt punkt defineres som skjæringspunktet mellom en geodetisk linje trukket gjennom punktene 7 og 8 og den geodetiske linjen som forbinder det østligste punktet på yttergrensen av Norges kontinentalsokkel og det vestligste punktet på yttergrensen av Den Russiske Føderasjons kontinentalsokkel, som fastlagt i samsvar med Konvensjonens artikkel 76 og dens vedlegg II.

2. De geografiske koordinatene for punktene opplistet i paragraf 1 i denne artikkel er definert i World Geodetic System 1984 (WGS84(G1150, ved epoke 2001.0)).

3. For illustrasjonsformål er avgrensningslinjen og punktene opplistet i paragraf 1 i denne artikkel inntegnet på kartskissen som er vedlagt denne overenskomst. I tilfelle av uoverensstemmelse mellom beskrivelsen av linjen som er gitt i denne artikkel og linjen som er tegnet på kartskissen, skal beskrivelsen av linjen i denne artikkel gjelde.

<sup>1</sup> See insert in a pocket at the end of this volume. --  
Voir hors-texte dans une pochette à la fin du présent volume.

## Artikkel 2

Hver part skal rette seg etter den maritime avgrensningslinjen angitt i artikkel 1 og skal ikke gjøre krav på eller utøve suverene rettigheter eller kyststatsjurisdiksjon i havområdene utenfor denne linjen.

## Artikkel 3

1. I området som ligger øst for den maritime avgrensningslinjen og innenfor 200 nautiske mil fra grunnlinjene som bredden av Fastlands-Norges sjøterritorium måles fra, men utenfor 200 nautiske mil fra grunnlinjene som bredden av Den Russiske Føderasjons sjøterritorium måles fra (heretter kalt «det særskilte området»), skal Den Russiske Føderasjon fra det tidspunkt denne overenskomst trer i kraft ha rett til å utøve slike suverene rettigheter og slik sonejurisdiksjon som Norge ellers ville hatt rett til å utøve etter folkeretten.

2. I den grad Den Russiske Føderasjon utøver suverene rettigheter eller jurisdiksjon i det særskilte området i henhold til denne artikkel, utledes slik rettighets- eller jurisdiksjonsutøvelse av enighet mellom partene og utgjør ingen utvidelse av den eksklusive økonomiske sone. For dette formål skal Den Russiske Føderasjon iverksette de nødvendige tiltak for å sikre at enhver russisk utøvelse av slike suverene rettigheter eller jurisdiksjon i det særskilte området angis i tråd med dette i relevant lovgivning, i forskrifter og på sjøkart.

## Artikkel 4

1. Inngåelse av denne overenskomst skal ikke skade partenes respektive fiskemuligheter.

2. For dette formål skal partene videreføre et nært samarbeid i fiskerispørsmål, med sikte på å opprettholde sine gjeldende respektive andeler av

total tillatt fangst og å sikre relativ stabilitet i sitt fiske etter de enkelte berørte bestander.

3. Partene skal i vid utstrekning anvende en føre-var-tilnærming ved bevaring, forvaltning og utnyttelse av felles fiskebestander, herunder vandrede bestander, med sikte på å verne de levende ressurser i havet og bevare det marine miljø.

4. Med unntak av det som følger av denne artikkel og vedlegg I, skal ingen bestemmelse i denne overenskomst berøre anvendelsen av avtaler om fiskerisamarbeid mellom partene.

#### Artikkel 5

1. Dersom en petroleumsforekomst strekker seg over avgrensningslinjen, skal partene anvende bestemmelsene i vedlegg II.

2. Dersom det påvises en petroleumsforekomst på den ene parts kontinentalsokkel og den annen part er av den oppfatning at forekomsten strekker seg inn på dennes kontinentalsokkel, kan den sistnevnte part ved fremleggelse av den dokumentasjon som oppfatningen støttes på, gjøre dette gjeldende overfor førstnevnte part.

Dersom en slik oppfatning gjøres gjeldende, skal partene innlede drøftelser om petroleumsforekomstens utstrekning og muligheten for å utnytte forekomsten som en enhet. Under disse drøftelser skal den part som har tatt initiativet til drøftelsene, underbygge sin oppfatning ved fremleggelse av geofysiske og/eller geologiske data, herunder alle eksisterende boredata og begge parter skal gjøre sitt ytterste for å sikre at all relevant informasjon stilles til rådighet for disse drøftelsene. Dersom petroleumsforekomsten strekker seg inn på begge parters kontinentalsokkel og forekomsten på den ene parts kontinentalsokkel helt eller delvis vil kunne utnyttes fra den annen parts kontinentalsokkel, eller utnyttelsen av petroleumsforekomsten på den ene parts kontinentalsokkel kan påvirke muligheten

for utnyttelse av petroleumsforekomsten på den annen parts kontinentalsokkel, skal det, i samsvar med vedlegg II, på begjæring av en av partene inngås avtale om utnyttelse av petroleumsforekomsten som en enhet, herunder om fordeling av denne forekomsten mellom partene (heretter kalt «unitiseringsavtalen»).

3. Utnyttelse av en petroleumsforekomst som strekker seg inn på den annen parts kontinentalsokkel, kan bare igangsettes i henhold til bestemmelsene i unitiseringsavtalen.

4. Enhver uenighet mellom partene vedrørende slike forekomster skal løses i samsvar med artikkel 2–4 i vedlegg II.

#### Artikkel 6

Denne overenskomst berører ikke partenes rettigheter og plikter etter andre internasjonale avtaler som Den Russiske Føderasjon og Kongeriket Norge begge er part i, og som er i kraft på det tidspunkt denne overenskomst trer i kraft.

#### Artikkel 7

1. Vedleggene til denne overenskomst utgjør en integrert del av overenskomsten. Med mindre noe annet er uttrykkelig fastsatt, omfatter en henvisning til denne overenskomst også en henvisning til dens vedlegg.

2. Eventuelle endringer i vedleggene skal tre i kraft i den rekkefølge og på den dato som er fastsatt i endringsavtalene.

**Artikkel 8**

Denne overenskomst er gjenstand for ratifikasjon og trer i kraft den 30. dag etter at ratifikasjonsdokumentene er utvekslet.

Utferdiget i Murmansk den 15. september 2010 i to eksemplarer på russisk og norsk, med samme gyldighet for begge tekster.

**For Den Russiske Føderasjon****For Kongeriket Norge**

Vedlegg I til  
Overenskomst mellom  
Den Russiske Føderasjon og Kongeriket Norge  
om maritim avgrensning  
og samarbeid i Barentshavet og Polhavet

## **Fiskerispørsmål**

### Artikkel 1

Avtalen av 11. april 1975 mellom Regjeringen i Unionen av Sovjetiske Sosialistiske Republikker og Regjeringen i Kongeriket Norge om samarbeid innen fiskerinæringen og avtalen av 15. oktober 1976 mellom Regjeringen i Unionen av Sovjetiske Sosialistiske Republikker og Regjeringen i Kongeriket Norge om gjensidige fiskeriforbindelser skal forbli i kraft i femten år etter at denne overenskomst er trådt i kraft. Etter utløpet av denne perioden skal hver av avtalene forbli i kraft i ytterligere seks år av gangen, med mindre en part minst seks måneder før inneværende seksårsperiode utløper, underretter den annen part om at avtalen sies opp.

### Artikkel 2

I det tidligere omstridte området innenfor 200 nautiske mil fra Russlands eller Norges fastland skal de tekniske forskriftene, særlig om maskevidde og minstemål på fisk, som hver av partene har fastsatt for sine fiskefartøyer, gjelde i en overgangsperiode på to år regnet fra den dag denne overenskomst trer i kraft.



### Artikkel 3

Total tillatt fangst, gjensidige fangstkvoter og andre tiltak for regulering av fiske skal fortsatt være gjenstand for forhandling i Den blandete russisk-norske fiskerikommisjon, i henhold til avtalene nevnt i artikkel 1 i dette vedlegg.

### Artikkel 4

Den blandete russisk-norske fiskerikommisjon skal fortsette å vurdere bedre overvåkings- og kontrolltiltak for fiskebestander som forvaltes i fellesskap, i henhold til avtalene nevnt i artikkel 1 i dette vedlegg.

Vedlegg II til  
Overenskomst mellom  
Den Russiske Føderasjon og Kongeriket Norge  
om maritim avgrensing  
og samarbeid i Barentshavet og Polhavet

## Grenseoverskridende petroleumsforekomster

### Artikkel 1

Unitiseringsavtalen mellom partene om utnyttelse av en grenseoverskridende petroleumsforekomst som nevnt i artikkel 5 i denne overenskomst, skal inneholde bestemmelser om følgende:

1. Angivelse av den grenseoverskridende petroleumsforekomsten som skal utnyttes som en enhet (geografiske koordinater, vanligvis inntatt i et vedlegg til avtalen).

2. Den grenseoverskridende petroleumsforekomstens geografiske, geofysiske og geologiske egenskaper samt den metode som er benyttet ved klassifisering av data. De geologiske data som ligger til grunn for slike geologiske karakteristikker, skal eies i fellesskap av de juridiske personer som innehar rettighetene i henhold til samarbeidsavtalen nevnt i nr. 6 bokstav a i denne artikkel.

3. De samlede petroleumsreserver i den grenseoverskridende petroleumsforekomsten, likeledes den metode som er benyttet for beregningen, samt fordelingen av reservene mellom partene.

4. Hver parts rett til kopi av alle geologiske data samt alle øvrige data som er av betydning for og er innhentet i forbindelse med utnyttelsen av den unitiserte forekomsten.

5. Partenes plikt til hver for seg å gi alle nødvendige tillatelser i henhold til deres nasjonale lovgivning til utbygging og drift av den grenseoverskridende petroleumsforekomsten som en enhet i samsvar med unitiseringsavtalen.

6. Hver parts plikt til

a. å pålegge vedkommende juridiske personer som innehar rettighetene til undersøkelse etter og utvinning av petroleum på sin side av avgrensningslinjen å inngå en samarbeidsavtale for å regulere utnyttelsen av den grenseoverskridende petroleumsforekomsten som en enhet i samsvar med unitiseringsavtalen,

b. å kreve at samarbeidsavtalen forelegges begge parter til godkjenning samt å utstede godkjenning uten ugrunnet opphold og ikke holde den tilbake uten skjellig grunn,

c. å sikre at bestemmelsene i unitiseringsavtalen går foran bestemmelsene i samarbeidsavtalen ved eventuelle uoverensstemmelser mellom dem,

d. å pålegge de juridiske personer som innehar rettighetene til å utnytte en grenseoverskridende petroleumsforekomst som en enhet, å oppnevne én operatør som skal fungere som felles representant for dem, i samsvar med bestemmelsene fastsatt i unitiseringsavtalen; oppnevning og eventuelt bytte av operatør skal være godkjent av de to partene på forhånd.

7. Hver parts plikt til ikke å holde tilbake en tillatelse til boring av en brønn til, eller på vegne av, de juridiske personer som innehar rettighetene til undersøkelse etter og utvinning av petroleum på sin side av avgrensningslinjen med

henblikk på å fastsette og fordele den grenseoverskridende petroleumsforekomsten, under forutsetning av at kravene i nasjonal lovgivning er overholdt.

8. Med mindre partene blir enige om noe annet, hver parts plikt til ikke å tillate produksjonsstart fra en grenseoverskridende petroleumsforekomst før partene, i samsvar med unitiseringsavtalen, har godkjent produksjonsstarten i fellesskap.

9. Partenes plikt til ved felles overenskomst å fastsette en tidsplan for produksjonsavslutning fra den grenseoverskridende petroleumsforekomsten i god tid før produksjonen avsluttes.

10. Partenes plikt til å konsultere hverandre med hensyn til anvendelige helse-, miljø- og sikkerhetstiltak som kreves i henhold til hver parts nasjonale lover og forskrifter.

11. Hver parts plikt til å inspisere petroleumsinstallasjoner som befinner seg på sin kontinentalsokkel og petroleumsvirksomheten som utføres der i forbindelse med utnyttelsen av en grenseoverskridende forekomst; hver parts plikt til å sikre at den annen parts inspektører på anmodning får adgang til disse installasjonene og har tilgang til relevante målesystemer på begge parters kontinentalsokkel eller territorium; samt hver parts plikt til å sikre at den annen part regelmessig mottar relevant informasjon slik at parten kan ivareta sine grunnleggende interesser, herunder blant annet i forbindelse med helse, miljø, sikkerhet, petroleumsproduksjon og -måling.

12. Hver parts plikt til ikke å endre rettigheter til undersøkelse etter og utvinning av petroleum som tildeles av en part, og som gjelder et felt som er gjenstand for unitisering i henhold til unitiseringsavtalen, eller overdra disse

rettighetene til andre juridiske personer, uten at den annen part på forhånd er konsultert.

13. Partenes plikt til å nedsette en felles kommisjon for å avholde konsultasjoner dem imellom i spørsmål som angår planlagte eller eksisterende unitiserte petroleumsforekomster, som et middel til å sikre løpende konsultasjon og utveksling av informasjon mellom de to partene i slike spørsmål og til å avklare spørsmål gjennom konsultasjon.

### Artikkel 2

Partene skal gjøre sitt ytterste for å løse enhver uenighet så raskt som mulig. Hvis partene likevel ikke blir enige, skal de i fellesskap vurdere alle muligheter for å bringe den fastlåste situasjonen til opphør.

### Artikkel 3

1. Dersom partene ikke blir enige om en unitiseringsavtale som nevnt i dette vedleggs artikkel 1, skal uenigheten løses så raskt som mulig ved forhandlinger eller på en annen måte som partene måtte bli enige om. Dersom uenigheten ikke er løst i løpet av seks måneder regnet fra den dag en part opprinnelig anmodet om slike forhandlinger med den annen part, kan hver av partene forelegge tvisten for en voldgiftsdomstol, sammensatt på ad hoc-grunnlag og bestående av tre medlemmer.

2. Hver part skal utpeke en voldgiftsdommer, og de to voldgiftsdommerne som er utpekt på denne måten, skal velge en tredje dommer, som skal være leder. Lederen kan ikke være borger av eller ha sin faste bopel i Den Russiske Føderasjon eller Norge. Dersom en av partene ikke har oppnevnt en voldgiftsdommer innen tre måneder etter at den er blitt anmodet om det, kan hver av partene be presidenten for Den internasjonale domstol om å utpeke voldgiftsdommeren. Den samme

fremgangsmåte kommer til anvendelse dersom den tredje voldgiftsdommeren ikke er valgt senest én måned etter at den andre voldgiftsdommeren er utpekt.

3. Voldgiftsdomstolen treffer alle sine avgjørelser ved stemmeflertall dersom det ikke oppnås enstemmighet. I alle øvrige spørsmål fastsetter voldgiftsdomstolen selv sine saksbehandlingsregler. Voldgiftsdomstolens avgjørelser skal være bindende for partene, og partene skal inngå unitiseringsavtalen nevnt i dette vedleggs artikkel 1 i samsvar med disse avgjørelsene.

#### Artikkel 4

1. Dersom det ikke oppnås enighet om fordelingen av petroleumsforekomsten partene imellom, skal de oppnevne en uavhengig ekspert for å avgjøre fordelingen. Den uavhengige ekspertens avgjørelse skal være bindende for partene.

2. Uavhengig av bestemmelsene i nr. 1 i denne artikkel kan partene bli enige om at det skal foretas en ny fordeling av petroleumsforekomsten dem imellom.

[ RUSSIAN TEXT – TEXTE RUSSE ]

**Договор  
между Российской Федерацией и Королевством Норвегия  
о разграничении морских пространств и сотрудничестве  
в Баренцевом море и Северном Ледовитом океане**

Российская Федерация и Королевство Норвегия (далее именуемые Сторонами),

*желая* поддерживать и укреплять добрососедские отношения,

*учитывая* развитие ситуации в Северном Ледовитом океане и роль Сторон в этом регионе,

*желая* внести вклад в обеспечение стабильности и укрепить сотрудничество в Баренцевом море и Северном Ледовитом океане,

*ссылаясь* на положения Конвенции Организации Объединенных Наций по морскому праву от 10 декабря 1982 года (далее именуемой Конвенцией),

*ссылаясь* на Соглашение между Российской Федерацией и Королевством Норвегия о разграничении морских пространств в районе Варангер-фьорда от 11 июля 2007 года (далее именуемое Соглашением 2007 г.) и желая завершить разграничение морских пространств между Сторонами,

*сознавая* особое экономическое значение живых ресурсов Баренцева моря для Российской Федерации и Норвегии и их прибрежных рыбопромысловых сообществ, а также необходимость избежать нарушений в экономике прибрежных регионов, население которых обычно вело рыбный промысел в этом районе,

*сознавая* традиционный характер российского и норвежского рыболовства в Баренцевом море,

*напоминая* о своих первостепенных интересах и ответственности в качестве прибрежных государств в отношении сохранения и рационального управления живыми ресурсами Баренцева моря и в Северном Ледовитом океане в соответствии с международным правом,

*подчеркивая* важность эффективного и ответственного управления их углеводородными ресурсами,  
*договорились* о нижеследующем:

### Статья 1

1. Линия разграничения морских пространств между Сторонами в Баренцевом море и Северном Ледовитом океане определяется как геодезические линии, соединяющие точки, которые определены следующими координатами:<sup>1</sup>

1. 70°16'28.95"с.ш.                      32°04'23.00"в.д.

(Эта точка соответствует точке 6 линии разграничения, как она определена в Соглашении 2007 г.)

2. 73°41'10.85"с.ш.                      37°00'00.00"в.д.

3. 75°11'41.00"с.ш.                      37°00'00.00"в.д.

4. 75°48'00.74"с.ш.                      38°00'00.00"в.д.

5. 78°37'29.50"с.ш.                      38°00'00.00"в.д.

6. 79°17'04.77"с.ш.                      34°59'56.00"в.д.

7. 83°21'07.00"с.ш.                      35°00'00.29"в.д.

8. 84°41'40.67"с.ш.                      32°03'51.36"в.д.

Конечная точка линии разграничения определяется как точка пересечения геодезической линии, проведенной через точки 7 и 8, и геодезической линии, соединяющей самую восточную точку внешней границы континентального шельфа Норвегии и самую западную точку внешней границы континентального шельфа Российской Федерации, как они установлены в соответствии со Статьей 76 и Приложением II Конвенции.

2. Географические координаты точек, перечисленных в пункте 1 настоящей Статьи, определены во Всемирной геодезической системе координат 1984 года (WGS 84 (G1150, в версии 2001.0)).

<sup>1</sup> See insert in a pocket at the end of this volume. --  
Voir hors-texte dans une pochette à la fin du présent volume.



3. Иллюстративно линия разграничения и точки, перечисленные в пункте 1 настоящей Статьи, изображены на карте-схеме, прилагаемой к настоящему Договору. В случае расхождения между описанием линии, приведенным в настоящей Статье, и изображением линии на карте-схеме преимущественную силу имеет описание линии, приведенное в настоящей Статье.

## Статья 2

Каждая Сторона соблюдает линию разграничения морских пространств, установленную в Статье 1, и не претендует на, и не осуществляет какие-либо суверенные права или юрисдикцию прибрежного государства в морских пространствах за пределами этой линии.

## Статья 3

1. В районе к востоку от линии разграничения морских пространств, находящемся в пределах 200 морских миль от исходных линий, от которых отмеряется ширина территориального моря материковой части Норвегии, но за пределами 200 морских миль от исходных линий, от которых отмеряется ширина территориального моря Российской Федерации (далее именуемом Специальным районом), Российская Федерация с даты вступления в силу настоящего Договора вправе осуществлять суверенные права и юрисдикцию, вытекающие из той юрисдикции в исключительной экономической зоне, которую Норвегия иначе была бы вправе осуществлять по международному праву.

2. В той мере, в какой Российская Федерация осуществляет суверенные права или юрисдикцию в Специальном районе, как это предусмотрено настоящей Статьей, такое осуществление суверенных прав или юрисдикции вытекает из соглашения между Сторонами и не

представляет собой расширения ее исключительной экономической зоны. С этой целью Российская Федерация принимает необходимые меры для обеспечения того, чтобы любое осуществление ею таких суверенных прав или юрисдикции в Специальном районе было таким образом отражено в ее соответствующих законах, правилах и на картах.

#### Статья 4

1. Заключение настоящего Договора не должно негативно влиять на возможности каждой из Сторон в области рыболовства.

2. С этой целью Стороны продолжают осуществлять тесное сотрудничество в сфере рыбного промысла с тем, чтобы сохранить их существующие доли в объемах общего допустимого улова и обеспечить относительную стабильность их рыболовной деятельности по каждому соответствующему виду рыбных запасов.

3. Стороны широко применяют предосторожный подход к сохранению, управлению и использованию совместных рыбных запасов, включая трансграничные рыбные запасы, в целях защиты морских живых ресурсов и сохранения морской среды.

4. За исключением того, как это предусмотрено в настоящей Статье и Приложении I, ничто в настоящем Договоре не затрагивает применение соглашений о сотрудничестве в области рыболовства между Сторонами.

#### Статья 5

1. Если месторождение углеводородов простирается за линию разграничения, Стороны применяют положения, содержащиеся в Приложении II.

2. Если установлено существование месторождения углеводородов на континентальном шельфе одной из Сторон, а другая Сторона полагает,

что это месторождение простирается на ее континентальный шельф, то последняя Сторона может уведомить об этом первую Сторону и должна представить данные, на которых она основывает свое мнение.

Если такое мнение представлено, то Стороны начинают обсуждение вопроса о контурах месторождения углеводородов и о возможности эксплуатации такого месторождения как единого целого. В ходе такого обсуждения Сторона, инициировавшая его, должна представить обоснование своего мнения с подтверждением его геофизическими и/или геологическими данными, включая любые существующие данные бурения, и обе Стороны должны приложить все усилия для того, чтобы вся относящаяся к вопросу информация была предоставлена для ведения такого обсуждения. Если месторождение углеводородов простирается на континентальный шельф каждой из Сторон, и месторождение на континентальном шельфе одной Стороны может полностью или частично эксплуатироваться с континентального шельфа другой Стороны, либо эксплуатация месторождения углеводородов на континентальном шельфе одной Стороны может затронуть возможность эксплуатации месторождения углеводородов на континентальном шельфе другой Стороны, то по требованию одной из Сторон в соответствии с Приложением II заключается соглашение об эксплуатации этого месторождения углеводородов как единого целого, включая его распределение между Сторонами (далее именуемое Соглашением об объединении).

3. Эксплуатация какого-либо месторождения углеводородов, которое простирается на континентальный шельф другой Стороны, может быть начата только в соответствии с положениями Соглашения об объединении.

4. Любые разногласия между Сторонами в отношении таких месторождений разрешаются в соответствии со Статьями 2 - 4 Приложения II.

**Статья 6**

Настоящий Договор не наносит ущерба правам и обязательствам по другим международным договорам, участниками которых являются и Российская Федерация, и Королевство Норвегия, и которые являются действующими на момент вступления в силу настоящего Договора.

**Статья 7**

1. Приложения к настоящему Договору являются его неотъемлемой частью. Если явным образом не предусмотрено иное, то ссылка на настоящий Договор включает в себя и ссылку на Приложения к нему.

2. Поправки в Приложения к настоящему Договору вступают в силу в порядке и с даты, которые предусмотрены в соглашениях о внесении таких поправок.

**Статья 8**

Настоящий Договор подлежит ратификации и вступает в силу на 30-й день с даты обмена ратификационными грамотами.

СОВЕРШЕНО в Мурманске 15 сентября 2010 года в двух экземплярах, каждый на русском и норвежском языках, причем оба текста имеют одинаковую силу.

**За Российскую Федерацию**



**За Королевство Норвегия**



## Приложение I

к Договору между Российской Федерацией  
и Королевством Норвегия о разграничении  
морских пространств и сотрудничестве  
в Баренцевом море и Северном Ледовитом океане

**Вопросы рыболовства**

## Статья 1

Соглашение между Правительством Союза Советских Социалистических Республик и Правительством Королевства Норвегии о сотрудничестве в области рыболовства от 11 апреля 1975 года и Соглашение между Правительством Союза Советских Социалистических Республик и Правительством Королевства Норвегии о взаимных отношениях в области рыболовства от 15 октября 1976 года остаются в силе в течение пятнадцати лет после вступления в силу настоящего Договора. По истечении указанного срока каждое из этих Соглашений остается в силе в течение последующих шестилетних периодов, если ни одна из Сторон не уведомит другую Сторону о прекращении его действия не позднее, чем за 6 месяцев до истечения шестилетнего периода.

## Статья 2

В бывшем спорном районе в пределах 200 морских миль от материковых частей России или Норвегии технические правила в отношении, в частности, размера ячеи сетей и минимального промыслового размера, установленные каждой из Сторон для своих рыболовных судов, применяются в течение переходного периода сроком в два года с даты вступления в силу настоящего Договора.

### Статья 3

Общие допустимые уловы, взаимные квоты вылова и другие меры регулирования рыболовства по-прежнему согласовываются в рамках Смешанной Российско-Норвежской комиссии по рыболовству в соответствии с Соглашениями, упомянутыми в Статье 1 настоящего Приложения.

### Статья 4

Смешанная Российско-Норвежская комиссия по рыболовству продолжает рассматривать меры по совершенствованию мониторинга и контроля в отношении совместно управляемых запасов рыб в соответствии с Соглашениями, упомянутыми в Статье 1 настоящего Приложения.

## Приложение II

к Договору между Российской Федерацией  
и Королевством Норвегия о разграничении  
морских пространств и сотрудничестве  
в Баренцевом море и Северном Ледовитом океане

**Трансграничные месторождения углеводородов**

## Статья 1

Соглашение об объединении между Сторонами по вопросам эксплуатации трансграничного месторождения углеводородов, упомянутое в Статье 5 настоящего Договора, должно включать в себя следующее:

1. Определение трансграничного месторождения углеводородов, которое подлежит эксплуатации как единое целое (географические координаты, которые обычно указываются в приложении к Соглашению).

2. Географические, геофизические и геологические характеристики трансграничного месторождения углеводородов и методологию, использованную для классификации данных. Любые геологические данные, использованные для обоснования указанных геологических характеристик, являются совместной собственностью юридических лиц, обладающих правами на основании Соглашения о совместной эксплуатации, упомянутого в пункте 6 а) настоящей Статьи.

3. Сведения об общем объеме углеводородных запасов в трансграничном месторождении углеводородов и методологию, использованную для таких расчетов, а также параметры распределения углеводородных запасов между Сторонами.

4. Право каждой Стороны на копии всех геологических данных, а также других данных, имеющих отношение к совместно эксплуатируемому месторождению, которые были собраны в связи с его эксплуатацией.

5. Обязательство Сторон предоставлять самостоятельно все необходимые разрешения, требуемые в соответствии с их национальным законодательством для разработки и эксплуатации трансграничного месторождения углеводородов как единого целого в соответствии с Соглашением об объединении.

6. Обязательство каждой Стороны

a) требовать от соответствующих юридических лиц, обладающих правами на разведку и разработку углеводородов по соответствующую сторону линии разграничения, заключения Соглашения о совместной эксплуатации для регулирования вопросов эксплуатации трансграничного месторождения углеводородов как единого целого в соответствии с Соглашением об объединении;

b) требовать представления на утверждение обеим Сторонам Соглашения о совместной эксплуатации, а также провести такое утверждение без необоснованных задержек и не отказывать в нем без должных на то оснований;

c) обеспечить, чтобы положения Соглашения об объединении имели преимущественную силу по отношению к положениям Соглашения о совместной эксплуатации в случае любых расхождений между ними;

d) требовать от юридических лиц, обладающих правами на разработку трансграничного месторождения углеводородов как единого целого, назначения оператора месторождения в качестве их совместного агента в соответствии с положениями Соглашения об объединении; при



этом, такое назначение или любая замена оператора месторождения подлежат предварительному утверждению обеими Сторонами.

7. Обязательство каждой Стороны не отказывать, при условии соблюдения требований национального законодательства, в выдаче юридическим лицам, обладающим правами на разведку и добычу углеводородов по ее сторону от линии разграничения, или лицам, действующим от их имени, разрешения на бурение скважин в целях определения и распределения запасов трансграничного месторождения углеводородов.

8. Если Стороны не договорятся об ином, обязательство каждой Стороны разрешать начало добычи из трансграничного месторождения углеводородов только после совместного одобрения Сторонами такого начала добычи, выраженного в соответствии с Соглашением об объединении.

9. Обязательство Сторон заблаговременно, до момента завершения добычи углеводородов из трансграничного месторождения, определить по взаимному согласию сроки прекращения добычи.

10. Обязательство Сторон консультироваться друг с другом в отношении применимых мер по охране здоровья, технике безопасности и охране окружающей среды, предписанных национальным законодательством каждой из Сторон.

11. Обязательство каждой Стороны обеспечить инспектирование расположенных на ее континентальном шельфе установок по добыче углеводородов, а также деятельности по добыче углеводородов, осуществляемой на нем в связи с эксплуатацией трансграничного

месторождения; обязательство каждой Стороны обеспечить по требованию доступ инспекторам другой Стороны к таким установкам, к соответствующим измерительным системам, расположенным на континентальном шельфе или на территории любой из Сторон; а также обязательство каждой Стороны обеспечить на регулярной основе предоставление другой Стороне соответствующей информации с тем, чтобы она имела возможность обеспечивать свои основополагающие интересы, включая *inter alia* те, которые относятся к охране здоровья, технике безопасности, охране окружающей среды, добыче углеводородов и проведению измерений.

12. Обязательство каждой Стороны не изменять содержание права на разведку и добычу углеводородов, предоставленного одной Стороной и относящегося к месторождению, подлежащему совместному использованию в соответствии с Соглашением об объединении, а также не передавать его другим юридическим лицам без проведения предварительных консультаций с другой Стороной.

13. Обязательство Сторон создать Совместную комиссию для консультаций между Сторонами по вопросам, относящимся к любым планируемым или существующим объединяемым месторождениям углеводородов. Совместная комиссия является средством обеспечения постоянных консультаций и обмена информацией между двумя Сторонами по таким вопросам, а также средством для разрешения вопросов путем консультаций.

## Статья 2

Стороны прилагают все усилия для урегулирования любого разногласия в возможно короткие сроки. Если, однако, Стороны не могут

прийти к согласию, то они совместно рассматривают все варианты разрешения сложившейся ситуации.

### Статья 3

1. Если Стороны не могут заключить Соглашение об объединении, упомянутое в Статье 1 настоящего Приложения, то такое разногласие следует урегулировать в возможно короткие сроки путем переговоров или посредством любой другой процедуры, согласованной между Сторонами. Если разногласие не урегулировано в течение шести месяцев с даты, когда одна из Сторон запросила проведение переговоров с другой Стороной, то любая из Сторон вправе передать спор в арбитражный суд *ad hoc*, состоящий из трех членов.

2. Каждая Сторона назначает одного арбитра, а два таким образом назначенных арбитра избирают третьего арбитра, который является Председателем. Председатель не может быть гражданином Российской Федерации или Норвегии либо проживать на постоянной основе в этих государствах. Если какая-либо из Сторон не может назначить арбитра в течение трех месяцев с момента, когда была выражена просьба о таком назначении, то любая из Сторон может обратиться с просьбой, чтобы такое назначение произвел Председатель Международного суда. Та же процедура применяется, если в течение месяца после назначения второго арбитра не избирается третий арбитр.

3. Все решения Арбитражного суда в случае отсутствия единогласия принимаются большинством голосов его членов. По всем другим вопросам Арбитражный суд самостоятельно устанавливает свои правила процедуры. Решения Арбитражного суда являются обязательными для Сторон, а Соглашение об объединении, упомянутое в Статье 1 настоящего Приложения, заключается Сторонами в соответствии с такими решениями.

## Статья 4

1. В случае если между Сторонами не была достигнута договоренность, касающаяся распределения месторождения углеводородов, то они назначают независимого эксперта для принятия решения по такому распределению. Решение независимого эксперта является обязательным для Сторон.

2. Несмотря на положения, содержащиеся в пункте 1 настоящей Статьи, Стороны могут договориться об ином распределении месторождения углеводородов между собой.

[ NORWEGIAN TEXT – TEXTE NORVÉGIEN ]

## EXCHANGE OF NOTES -- ÉCHANGE DE NOTES

I

**DET KONGELIGE  
UTENRIKSDEPARTEMENT**

Kongeriket Norges utenriksdepartement hilser Den Russiske Føderasjons utenriksdepartement og har, under henvisning til overenskomsten mellom Kongeriket Norge og Den Russiske Føderasjon om maritim avgrensning og samarbeid i Barentshavet og Polhavet, undertegnet i Murmansk 15. september 2010, æren av å foreslå følgende med hensyn til oppnevning av dommere til en voldgiftsdomstol, sammensatt på ad hoc-grunnlag, i henhold til artikkel 5 i nevnte overenskomst og artikkel 3 nr. 2 i overenskomstens vedlegg II om grenseoverskridende petroleumsforekomster:

Dersom en av partene har bedt presidenten for Den internasjonale domstol om å oppnevne en voldgiftsdommer, og dersom presidenten er borger av eller har fast opphold i en av partene i tvisten eller av andre årsaker ikke er i stand til å utøve sine oppgaver som anmodet, skal Domstolens visepresident eller dommeren med lengst ansiennitet, som ikke er borger av eller har fast opphold i en av partene i tvisten, foreta oppnevningen.

Hvis et medlem som er oppnevnt i henhold til artikkel 3 i vedlegg II til nevnte overenskomst, trekker seg eller blir ute av stand til å utøve sine oppgaver, skal det senest én måned etter at partene i tvisten har mottatt skriftlig varsel om behovet for en etterfølger, oppnevnes en etterfølger i henhold til de regler som ble benyttet ved oppnevningen av det opprinnelige medlemmet. Etterfølgeren skal ha samme myndighet og samme plikter som det opprinnelige medlemmet. Voldgiftsdomstolens arbeid skal stilles i bero i påvente av at etterfølgeren oppnevnes.

Den Russiske Føderasjons utenriksdepartement  
M o s k v a

Artikkel 5 nr. 4 i nevnte overenskomst skal tolkes slik at den også viser til ordningene nevnt ovenfor.

Dersom innholdet i denne note kan godtas av Den Russiske Føderasjons utenriksdepartement, skal denne note og departementets svar utgjøre en forståelse om oppnevning av voldgiftsdommere i henhold til artikkel 5 nr. 4 i nevnte overenskomst og artikkel 3 nr. 2 i overenskomstens vedlegg II; forståelsen gjelder fra og med datoen for departementets svarnote.

Kongeriket Norges utenriksdepartement benytter anledningen til på nytt å forsikre Den Russiske Føderasjons utenriksdepartement om sin høyeste aktelse.

Oslo, 7. juli 2011



[ RUSSIAN TEXT – TEXTE RUSSE ]

II

№ 9276/к/гн

Министерство иностранных дел Российской Федерации имеет честь подтвердить получение вербальной ноты Министерства иностранных дел Королевства Норвегия от сегодняшнего числа, которая в переводе на русский язык имеет следующее содержание:

«Министерство иностранных дел Королевства Норвегия свидетельствует свое уважение Министерству иностранных дел Российской Федерации и, ссылаясь на Договор между Королевством Норвегия и Российской Федерацией о разграничении морских пространств и сотрудничестве в Баренцевом море и Северном Ледовитом океане, подписанный в Мурманске 15 сентября 2010 года, имеет честь предложить следующее по порядку назначения арбитров в любой арбитражный суд ad hoc, создаваемый в соответствии со статьей 5 указанного Договора и пунктом 2 статьи 3 Приложения II к Договору, относящегося к трансграничным месторождениям углеводородов.

МИНИСТЕРСТВУ  
ИНОСТРАННЫХ ДЕЛ  
КОРОЛЕВСТВА НОРВЕГИЯ

г. Осло

В случае если любая из Сторон обратится с просьбой к Председателю Международного суда о назначении арбитра, а Председатель является гражданином государства одной из Сторон спора, либо лицом, проживающим на постоянной основе на территории государства одной из Сторон, либо по иной причине не способен исполнять свои обязанности, то такое назначение должно быть совершено заместителем Председателя Международного суда или следующим по старшинству членом суда, не являющимся ни гражданином государства одной из Сторон спора, ни лицом, проживающим на постоянной основе на территории государства одной из Сторон.

Если член арбитражного суда, назначенный в соответствии со статьей 3 Приложения II указанного Договора, уходит в отставку или оказывается неспособным исполнять свои обязанности, то в течение месяца с даты получения Сторонами спора письменной ноты о необходимости назначения преемника он должен быть назначен в том же порядке, который предусмотрен для назначения первоначального члена арбитражного суда. Преемник обладает всеми полномочиями и несет все обязанности, закрепленные за первоначальным членом арбитражного суда. Работа арбитражного суда приостанавливается до назначения преемника.

Пункт 4 статьи 5 указанного Договора следует толковать как содержащий отсылку к вышеуказанной процедуре.

В случае если содержание данной ноты приемлемо для Министерства иностранных дел Российской



Федерации, то с даты ответа Министерства данная нота и ответная нота Министерства составят понимание в отношении назначения арбитров в соответствии с пунктом 4 статьи 5 указанного Договора и пунктом 2 статьи 3 Приложения II к этому Договору.

Министерство иностранных дел Королевства Норвегия пользуется случаем, чтобы возобновить Министерству иностранных дел Российской Федерации уверения в своем высочайшем уважении.».

Министерство иностранных дел Российской Федерации настоящим подтверждает, что Российская Сторона согласна с предложением о том, чтобы вышеизложенная норвежская нота и российский ответ на нее составили общее понимание между Сторонами.

Министерство иностранных дел Российской Федерации пользуется случаем, чтобы возобновить Министерству иностранных дел Королевства Норвегия уверения в своем весьма высоком уважении.



» июля 2011 года

[TRANSLATION – TRADUCTION]

## TREATY BETWEEN THE RUSSIAN FEDERATION AND THE KINGDOM OF NORWAY CONCERNING MARITIME DELIMITATION AND COOPERATION IN THE BARENTS SEA AND THE ARCTIC OCEAN

The Russian Federation and the Kingdom of Norway (hereinafter referred to as “the Parties”),  
Wishing to maintain and strengthen good-neighbourly relations,

Bearing in mind the development of the situation in the Arctic Ocean and the role of the Parties in the region,

Endeavouring to contribute to stability and strengthen cooperation in the Barents Sea and the Arctic Ocean,

Guided by the provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 (hereinafter referred to as “the Convention”),

Recalling the Agreement between the Russian Federation and the Kingdom of Norway on the maritime delimitation in the Varangerfjord area of 11 July 2007 (hereinafter referred to as “the 2007 Agreement”) and wishing to complete the delimitation of the maritime areas between the Parties,

Conscious of the particular economic importance of the living resources of the Barents Sea to the Russian Federation and Norway and to their coastal fishing communities, as well as the need to avoid disturbances in the economy of the coastal regions, whose population have customarily engaged in fishing in the area,

Conscious of the traditional character of the Russian and Norwegian fisheries in the Barents Sea,

Recalling their primary interest and responsibility as coastal States for the conservation and rational management of the living resources of the Barents Sea and the Arctic Ocean under international law,

Stressing the importance of effective and responsible management of their hydrocarbon resources,

Have agreed as follows:

*Article I*

1. The maritime delimitation line between the Parties in the Barents Sea and the Arctic Ocean shall consist of geodetic lines connecting the points defined by the following coordinates<sup>1</sup>:

1. 70° 16' 28.95" N 32° 04' 23.00" E

(This point corresponds to point 6 of the delimitation line, as defined in the 2007 Agreement)

2. 73° 41' 10.85" N 37° 00' 00.00" E

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<sup>1</sup> See insert in a pocket at the end of this volume.

3. 75° 11' 41.00" N 37° 00' 00.00" E
4. 75° 48' 00.74" N 38° 00' 00.00" E
5. 78° 37' 29.50" N 38° 00' 00.00" E
6. 79° 17' 04.77" N 34° 59' 56.00" E
7. 83° 21' 07.00" N 35° 00' 00.29" E
8. 84° 41' 40.67" N 32° 03' 51.36" E

The end point of the delimitation line shall be defined as the point of intersection of the geodesic line drawn through points 7 and 8 and the geodesic line joining the easternmost point of the outer limit of the continental shelf of Norway and the westernmost point of the outer limit of the continental shelf of the Russian Federation, as established in accordance with article 76 and Annex II of the Convention.

2. The geographical coordinates of the points listed in paragraph 1 of this article are defined in the World Geodetic System 1984 (WGS 84 (G1150, version 2001.0)).

3. By way of illustration, the delimitation line and the points listed in paragraph 1 of this article have been drawn on the schematic chart attached hereto. In the event of a discrepancy between the description of the line provided in this article and the drawing of the line on the schematic chart, the description in this article shall prevail.

#### *Article 2*

Each Party shall comply with the maritime delimitation line defined in article 1 and shall not harbour any claim to, nor seek to exercise, any sovereign rights or jurisdiction as a coastal State in the maritime areas outside the line.

#### *Article 3*

1. In the area that is to the east of the maritime delimitation line and lies within 200 nautical miles of the baselines from which the extent of the territorial sea of mainland Norway is measured but more than 200 nautical miles from the baselines from which the extent of the territorial sea of the Russian Federation is measured (hereinafter referred to as the "Special Area"), the Russian Federation shall have the right, as of the date of entry into force of this Treaty, to exercise the sovereign rights and jurisdiction arising out of the jurisdiction in the exclusive economic zone that Norway would otherwise be entitled to exercise under international law.

2. The extent to which the Russian Federation exercises sovereign rights or jurisdiction in the Special Area, as provided for in this article, such exercise of sovereign rights or jurisdiction shall be based on an agreement between the Parties and shall not constitute an extension of its exclusive economic zone. The Russian Federation shall therefore take the necessary steps to ensure that any exercise by it of such sovereign rights or jurisdiction in the Special Area is duly reflected in its relevant laws, regulations and maps.

*Article 4*

1. The conclusion of this Treaty shall not adversely affect the ability of either Party to engage in fishing.

2. To that end, the Parties shall continue to cooperate closely in the field of fisheries, in order to retain their existing shares in the amount of the total allowable catch and preserve the relative stability of their fishing activities with regard to each relevant type of fish stocks.

3. The Parties shall broadly apply a precautionary approach to the conservation, management and exploitation of their common fish stocks, including straddling fish stocks, in order to safeguard the marine living resources and protect the marine environment.

4. Except as provided in this article and Annex I, nothing in this Treaty shall affect the implementation of the Agreements between the Parties on cooperation in the field of fisheries.

*Article 5*

1. If a hydrocarbon deposit extends beyond the delimitation line, the Parties shall apply the provisions contained in Annex II.

2. If the existence of a hydrocarbon deposit on the continental shelf of a Party is established and the other Party is of the opinion that the deposit extends into its continental shelf, the latter Party may notify the first Party accordingly and shall provide the data on which it bases its opinion.

If such an opinion is presented, the Parties shall begin to discuss the extent of the hydrocarbon deposit and the possibility of exploiting the deposit as a single unit. During the discussions, the Party that initiated them shall provide the basis for its opinion along with supporting geophysical and/or geological data, including any existing drilling data, and both Parties shall make every effort to ensure that all relevant information has been provided for the conduct of such a discussion. If a hydrocarbon deposit extends into the continental shelf of each of the Parties and the deposit on the continental shelf of one Party could be wholly or partly exploited from the continental shelf of the other Party, or the exploitation of the hydrocarbon deposit on the continental shelf of one Party could affect the possibility of exploiting the hydrocarbon deposit on the continental shelf of the other Party, then at the request of either Party in accordance with Annex II an agreement shall be concluded on the exploitation of the hydrocarbon deposit as a unit, including its apportionment between the Parties (hereinafter referred to as the Pooling Agreement).

3. The exploitation of a hydrocarbon deposit that extends into the continental shelf of the other Party may be initiated only subject to the provisions of the Pooling Agreement.

4. Any disagreement between the Parties with respect to such hydrocarbon deposits shall be resolved in accordance with articles 2 - 4 of Annex II.

*Article 6*

This Treaty shall be without prejudice to the rights and obligations under other international agreements to which both the Russian Federation and the Kingdom of Norway are parties and which are in force at the time of entry into force of this Treaty.

*Article 7*

1. The annexes to this Treaty shall form an integral part of it. If not explicitly provided otherwise, any reference to this Treaty shall be considered as including its Annexes.

2. Amendments to Annexes to this Treaty shall enter into force in accordance with the procedures and on the date stipulated in the agreements regarding such amendments.

*Article 8*

This Treaty shall be subject to ratification and shall enter into force on the 30<sup>th</sup> day following the date of the exchange of instruments of ratification.

DONE at Murmansk on 15 September 2010, in duplicate in the Russian and Norwegian languages, both texts being equally authentic.

For the Russian Federation:  
S.V. LAVROV

For the Kingdom of Norway:  
J. G. STØRE

ANNEX I TO THE TREATY BETWEEN THE RUSSIAN FEDERATION AND THE KINGDOM OF NORWAY CONCERNING MARITIME DELIMITATION AND COOPERATION IN THE BARENTS SEA AND THE ARCTIC OCEAN

FISHERIES ISSUES

*Article 1*

The Agreement between the Government of the Union of Soviet Socialist Republics and the Government of the Kingdom of Norway on cooperation in the fishing industry of 11 April 1975 and the Agreement between the Government of the Union of Soviet Socialist Republics and the Government of the Kingdom of Norway concerning mutual relations in the field of fisheries of 15 October 1976 shall remain in force for a period of fifteen years after the entry into force of this Treaty. After that period, each of those Agreements shall remain in force for successive six-year periods, unless either Party notifies the other Party of its termination no later than six months before the expiration of the six-year period.

*Article 2*

In the formerly disputed area within 200 nautical miles of the mainlands of Russia or Norway technical rules concerning, in particular, the mesh size of fishing nets and the minimum fish size established by each Party for its fishing vessels shall be in force during a two-year transitional period from the date of entry into force of this Treaty.

*Article 3*

Total allowable catches, mutual catch quotas and other measures regulating fisheries shall be agreed as before within the framework of the Mixed Russian-Norwegian Fisheries Commission in accordance with the Agreements referred to in article 1 of this Annex.

*Article 4*

The Mixed Russian-Norwegian Fisheries Commission shall continue to consider measures to improve monitoring and control of the jointly managed fish stocks in accordance with the Agreements referred to in article 1 of this Annex.

## ANNEX II TO THE TREATY BETWEEN THE RUSSIAN FEDERATION AND THE KINGDOM OF NORWAY CONCERNING MARITIME DELIMITATION AND COOPERATION IN THE BARENTS SEA AND THE ARCTIC OCEAN

## TRANSBOUNDARY HYDROCARBON DEPOSITS

*Article 1*

The Pooling Agreement between the Parties on exploitation of transboundary hydrocarbon deposits, referred to in article 5 of this Treaty, shall include the following:

1. The identification of the transboundary hydrocarbon deposit that is to be exploited as a single unit (geographical coordinates, which are usually listed in an annex to the Agreement);

2. The geographical, geophysical and geological characteristics of the transboundary hydrocarbon deposit, and the methodology used to classify the data. Any geological data used as the basis for the geological characteristics listed shall become the joint property of the legal entities that have been authorized under the Joint Exploitation Agreement referred to in paragraph 6 (a) of this article;

3. Information on the total amount of hydrocarbon reserves in the transboundary hydrocarbon deposit and the methodology used in making those calculations, as well as the parameters used in apportioning the hydrocarbon reserves between the Parties;

4. The right of each Party to obtain copies of all geological data, as well as other data pertaining to the deposit to be jointly exploited that have been gathered with regard to its exploitation;

5. The obligation of the Parties to provide, on their own, all the necessary permits required under their national legislation for the development and exploitation of the transboundary hydrocarbon deposit as a unit in accordance with the Pooling Agreement;

6. The obligation of each Party

(a) to request from the relevant legal entities that are authorized to prospect and develop hydrocarbons on their side of the delimitation line the conclusion of a Joint Exploitation Agreement to regulate the exploitation of the transboundary hydrocarbon deposit as a unit in accordance with the Pooling Agreement;

(b) to require the submission of the Joint Exploitation Agreement for approval by both Parties, as well to obtain such approval without undue delay and not to reject it without proper justification;

(c) to ensure that the provisions of the Pooling Agreement shall prevail over the provisions of the Joint Exploitation Agreement in the event of any inconsistency between them;

(d) to require that the legal entities authorized to develop the transboundary hydrocarbon deposit as a unit designate an operator of the deposit as their joint agent in accordance with the provisions of the Pooling Agreement, with the proviso that the appointment or replacement of the operator of the deposit shall be subject to prior approval by both Parties;

7. The obligation of each Party, subject to the requirements of its national legislation, not to refuse to grant to the legal entities authorized to prospect and produce hydrocarbons on its side of the delimitation line, or to persons acting on their behalf, the authorization to drill wells aimed at determining the size and apportionment of the transboundary hydrocarbon deposit;

8. The obligation of each Party, unless the Parties agree otherwise, to authorize the beginning of production from the transboundary hydrocarbon deposit only after joint approval by the Parties of the start of production, expressed in accordance with the Pooling Agreement;

9. The obligation of the Parties to determine, in advance of closing out production of the transboundary hydrocarbon deposit and by mutual agreement, the termination date of production;

10. The obligation of the Parties to consult each other with respect to measures to be taken in order to protect health and ensure the safety measures and environmental protection prescribed by national legislation of each Party;

11. The obligation of each Party to ensure inspections of the installations on its continental shelf for the production of hydrocarbons, as well as of activities relating to such hydrocarbon production carried out on its shelf in connection with the exploitation of the transboundary deposit; the obligation of each Party to allow on-demand access to inspectors of the other Party to such installations and to the relevant measurement systems situated on the continental shelf or in the territory of either Party; and the obligation of each Party to provide relevant information to the other Party, on a regular basis, so that it can protect its fundamental interests, including inter alia those relating to health, safety measures, environmental protection, hydrocarbon production and measurement;

12. The obligation of each Party not to modify the substance of the right to prospect for and produce hydrocarbons granted by one Party in connection with the deposit to be exploited jointly under the Pooling Agreement and not to transfer that right to other legal entities without prior consultation with the other Party;

13. The obligation of the Parties to establish a Mixed Commission for consultations between the Parties to deal with matters relating to any planned or existing joint hydrocarbon deposits. The Mixed Commission shall be a means of ensuring continuous consultation and exchange of information between the two Parties on such matters, as well as a means of resolving issues through consultations.

#### *Article 2*

The Parties shall make every effort to resolve any differences as quickly as possible. If, however, the Parties cannot agree, they shall jointly consider all options for resolving the situation.

#### *Article 3*

1. If the Parties are unable to conclude the Pooling Agreement referred to in article 1 of this Annex, then that dispute shall be resolved as quickly as possible through negotiations or by means of any other procedure agreed between the Parties. If the dispute is not settled within six months after the date on which either Party requested negotiations with the other Party, either Party shall have the right to refer the dispute to an ad hoc arbitral tribunal consisting of three members.



2. Each Party shall appoint one arbitrator, and the two arbitrators so appointed shall choose the third arbitrator, who shall be the Chairman. The Chairman shall not be a national of the Russian Federation or of Norway, nor a permanent resident of one of those countries. If one of the Parties proves unable to appoint an arbitrator within three months from the time when it was requested to make such an appointment, then either Party may request that that appointment be made by the President of the International Court of Justice. The same procedure shall apply if, within one month after the appointment of the second arbitrator, the third arbitrator has not been elected.

3. All decisions of the Arbitration Tribunal shall, in the absence of unanimity, be taken by a majority vote of its members. On all other matters, the Arbitration Tribunal shall establish its own rules of procedure. The decisions of the Arbitration Tribunal shall be binding on the Parties, and the Pooling Agreement referred to in article 1 of this Annex shall be concluded by the Parties in accordance with those decisions.

#### *Article 4*

1. In the event that the Parties prove unable to reach agreement regarding the apportionment of the hydrocarbon deposit, they shall appoint an independent expert to render a decision on the apportionment. The decision of the independent expert is binding on the Parties.

2. Notwithstanding the provisions contained in paragraph 1 of this article, the Parties may agree to a different apportionment of the hydrocarbon deposit between them.

## I

*Ministry of Foreign Affairs of the Kingdom of Norway*

Oslo, 7 July 2011

The Ministry of Foreign Affairs of the Kingdom of Norway presents its compliments to the Ministry of Foreign Affairs of the Russian Federation and, with reference to the Treaty between the Kingdom of Norway and the Russian Federation concerning maritime delimitation and cooperation in the Barents Sea and the Arctic Ocean, signed at Murmansk on 15 September 2010, has the honour to propose the following procedure for the appointment of arbitrators to any ad hoc arbitral tribunal established pursuant to article 5 of the Treaty and article 3, paragraph 2, of Annex II to the Treaty, concerning transboundary hydrocarbon deposits:

In the event that either Party requests the President of the International Court of Justice to appoint an arbitrator and the President is a national or a permanent resident of either Party to the dispute or is unable to perform his or her duties for any other reason, then the Vice-President or the next most senior member of the Court who is neither a national nor a permanent resident of either Party to the dispute shall make the appointment.

Should a member of the arbitral tribunal appointed pursuant to article 3 of Annex II of the said Treaty resign or become unable to perform his or her duties, a successor shall be appointed, in the same manner as prescribed for the appointment of the original member, within one month of the date on which the Parties to the dispute receive written notice of the need for appointment of a successor. The successor shall have all the powers and duties of the original member of the arbitral tribunal. The work of the arbitral tribunal shall be suspended pending appointment of the successor.

Article 5, paragraph 4, of the said Treaty shall be interpreted as referring to the above-mentioned procedure.

If the contents of the present note are acceptable to the Ministry of Foreign Affairs of the Russian Federation, then from the date of the Ministry's reply, this note and the Ministry's note in reply shall constitute an agreement as regards the appointment of arbitrators pursuant to article 5, paragraph 4, of the said Treaty and article 3, paragraph 2, of Annex II to the Treaty.

The Ministry of Foreign Affairs of the Kingdom of Norway takes this opportunity to convey to the Ministry of Foreign Affairs of the Russian Federation the renewed assurances of its highest consideration.

To the Ministry of Foreign Affairs  
of the Russian Federation  
Moscow

## II

Moscow, 7 July 2011

No. 9276/n/dp

The Ministry of Foreign Affairs of the Russian Federation has the honour to acknowledge receipt of the note verbale of today's date from the Ministry of Foreign Affairs of the Kingdom of Norway, which reads as follows:

*[See note I]*

The Ministry of Foreign Affairs of the Russian Federation hereby confirms that the Russian Federation agrees with the proposal that the Norwegian note set out above and the Russian reply thereto shall constitute a common understanding between the Parties.

The Ministry of Foreign Affairs of the Russian Federation takes this opportunity to convey to the Ministry of Foreign Affairs of the Kingdom of Norway the renewed assurances of its highest consideration.

To the Ministry of Foreign Affairs  
of the Kingdom of Norway  
Oslo

[TRANSLATION – TRADUCTION]

TRAITÉ ENTRE LA FÉDÉRATION DE RUSSIE ET LE ROYAUME DE NORVÈGE  
RELATIF À LA COOPÉRATION ET LA DÉLIMITATION MARITIME DANS LA  
MER DE BARENTS ET L'OCÉAN ARCTIQUE

La Fédération de Russie et le Royaume de Norvège (ci-après dénommés « les Parties »),

Soucieux de maintenir et de renforcer leurs relations de bon voisinage,

Prenant en considération le développement de la situation dans l'océan Arctique et le rôle des Parties dans cette région,

Désireux de contribuer au maintien de la stabilité et de renforcer la collaboration dans la mer de Barents et l'océan Arctique,

Se référant aux dispositions de la Convention des Nations Unies sur le droit de la mer signée le 10 décembre 1982 (ci-après dénommée « la Convention »),

Se référant à l'Accord du 11 juillet 2007 entre la Fédération de Russie et le Royaume de Norvège sur la délimitation maritime dans la zone de Varangerfjord (ci-après dénommé « l'Accord de 2007 ») et désireux de définir les délimitations maritimes entre les Parties,

Conscients de l'importance économique particulière que revêtent les ressources biologiques de la mer de Barents pour la Fédération de Russie et la Norvège et leurs communautés de pêche riveraines, ainsi que de l'importance d'éviter des effets non désirables dans l'économie des régions côtières dont les populations pêchent habituellement dans cette région,

Conscients du caractère traditionnel que revêt la pêche dans la mer de Barents pour la Fédération de Russie et la Norvège,

Rappelant leur intérêt et leur responsabilité en tant qu'États côtiers dans les domaines de la conservation et de la gestion rationnelle des ressources biologiques de la mer de Barents et de l'océan Arctique en conformité avec le droit international,

Soulignant l'importance d'une gestion effective et responsable de leurs ressources en hydrocarbures,

Sont convenus de ce qui suit :

*Article premier*

1. La ligne de délimitation maritime entre les Parties dans la mer de Barents et l'océan Arctique est composée des lignes géodésiques reliant les points dont les coordonnées sont les suivantes<sup>1</sup> :

1. 70°16'28,95''N 32°04'23,00'' E

(Ce point correspond au point 6 de la ligne de délimitation définie dans l'Accord de 2007)

2. 73°41'10,85''N 37°00'00,00''E

<sup>1</sup> Voir hors-texte dans une pochette à la fin du présent volume.

3. 75°11'41,00''N 37°00'00,00''E
4. 75°48'00,74''N 38°00'00,00''E
5. 78°37'29,50''N 38°00'00,00''E
6. 79°17'04,77''N 34°59'56,00''E
7. 83°21'07,00''N 35°00'00,29''E
8. 84°41'40,67''N 32°03'51,36''E

Le point final de la ligne de délimitation est le point d'intersection entre la ligne géodésique formée entre les points 7 et 8 et la ligne géodésique reliant le point le plus oriental de la limite extérieure du plateau continental de la Norvège et le point le plus occidental de la limite extérieure du plateau continental de la Fédération de Russie, tels que définis conformément à l'article 76 et à l'Annexe II de la Convention.

2. Les coordonnées géographiques des points mentionnés au paragraphe 1 du présent article sont établies sur la base du Système géodésique mondial de 1984 (WGS 84 (G1150, version 2001.0)).

3. Aux fins d'illustration, la ligne de délimitation et les points mentionnés au paragraphe 1 du présent article sont tracés sur la carte schématique annexée au présent Traité. En cas de différence entre la description de la ligne mentionnée dans le présent article et la ligne représentée sur la carte schématique, la description de la ligne mentionnée dans le présent article prévaut.

### *Article 2*

Chacune des Parties respecte la ligne de délimitation maritime établie à l'article premier et n'exerce ni ne revendique des droits souverains ou une juridiction en tant qu'État côtier dans les zones maritimes au-delà de cette ligne.

### *Article 3*

1. Dans la région à l'est de la ligne de délimitation maritime, se trouvant à 200 milles marins des lignes de base à partir desquelles se mesure la largeur de la mer territoriale de la partie continentale de la Norvège, mais à au moins 200 milles marins des lignes de base à partir desquelles est mesurée la largeur de la mer territoriale de la Fédération de Russie (ci-après dénommée la « zone spéciale »), la Fédération de Russie a le droit d'exercer, à partir de la date d'entrée en vigueur du présent Traité, les droits souverains et la juridiction, découlant de la juridiction sur la zone économique exclusive, qui reviendraient autrement à la Norvège conformément au droit international.

2. Dans la mesure où la Fédération de Russie exerce sa juridiction et des droits souverains sur la zone spéciale, tel que stipulé dans le présent article, ledit exercice de droits souverains ou de juridiction découle d'un accord entre les Parties et ne constitue pas en soi un élargissement de sa zone économique exclusive. À cette fin, la Fédération de Russie prend toutes les mesures nécessaires afin de s'assurer que ces droits souverains ou cette juridiction ainsi exercés dans la zone spéciale sont dûment reflétés dans ses lois, règles et cartes correspondantes.

*Article 4*

1. La conclusion du présent Traité ne doit pas avoir d'incidences négatives sur la capacité de chacune des Parties de mener des activités de pêche.

2. À cette fin, les Parties continuent d'entretenir une collaboration étroite dans ce domaine, afin de conserver leur quota respectif existant dans les volumes de pêche autorisés et de garantir la stabilité relative de leur activité de pêche pour chacune des espèces halieutiques.

3. Les Parties appliquent l'approche de précaution à grande échelle à la conservation, la gestion et l'utilisation de leurs ressources halieutiques communes, y compris les ressources halieutiques transfrontalières, aux fins de préservation des ressources biologiques marines et de protection de l'environnement marin.

4. Sauf dans les cas prévus par le présent article et l'Annexe I, aucune disposition du présent Traité n'affecte l'application d'accords de coopération conclus entre les Parties dans le domaine de la pêche.

*Article 5*

1. Si un gisement d'hydrocarbures se prolonge de l'autre côté de la ligne de délimitation, les Parties appliquent les dispositions de l'Annexe II.

2. Si l'existence d'un gisement d'hydrocarbures sur le plateau continental d'une des Parties est établie et que l'autre Partie estime que ledit gisement se prolonge sur son plateau continental, cette dernière peut en notifier la première et doit présenter les données sur la base desquelles elle fonde son opinion.

Dans ce cas, les Parties entament alors des discussions concernant l'étendue du gisement d'hydrocarbures et la possibilité d'exploitation dudit gisement comme une unité. Lors de ces discussions, la Partie ayant initié ce processus devra présenter les motifs sur la base desquels elle fonde son opinion, en mentionnant les données géophysiques et/ou géologiques, en ce compris toute information existante relative au forage, et les deux Parties doivent s'attacher à ce que toute information relative à la question soit présentée lors de ces discussions. Si le gisement d'hydrocarbures se prolonge sur le plateau continental de chacune des Parties et qu'il peut être exploité en tout ou en partie sur le plateau continental de l'une des Parties à partir du plateau continental de l'autre Partie, ou si l'exploitation du gisement d'hydrocarbures sur le plateau continental de l'une des Parties peut affecter l'exploitation du gisement d'hydrocarbures sur le plateau continental de l'autre Partie, un accord d'exploitation dudit gisement comme une unité, qui inclut également la répartition entre les Parties, sera alors conclu à la demande de l'une des Parties (ci-après dénommé l'Accord d'association) et conformément à l'Annexe II.

3. L'exploitation de tout gisement d'hydrocarbures qui s'étend sur le plateau continental de l'autre Partie ne peut être entamée qu'en conformité avec les dispositions de l'Accord d'association.

4. Tout différend entre les Parties relatif auxdits gisements sera résolu conformément aux articles 2 à 4 de l'Annexe II.

*Article 6*

Le présent Traité est sans préjudice des droits et obligations découlant d'autres accords internationaux auxquels la Fédération de Russie et le Royaume de Norvège sont parties et qui sont d'application lors de l'entrée en vigueur du présent Traité.

*Article 7*

1. Les Annexes au présent Traité en font partie intégrante. À moins qu'il n'en soit expressément convenu autrement, toute référence au présent Traité est considérée comme incluant ses Annexes.

2. Les amendements aux Annexes du présent Traité entrent en vigueur suivant les dispositions et aux dates prévues dans les accords portant lesdits amendements.

*Article 8*

Le présent Traité est soumis à ratification et entre en vigueur 30 jours après la date d'échange des instruments de ratification.

FAIT à Mourmansk le 15 septembre 2010, en deux exemplaires en langues russe et norvégienne, les deux textes faisant également foi.

Pour la Fédération de Russie :  
S.V. LAVROV

Pour le Royaume de Norvège :  
J.G. STØRE

ANNEXE I AU TRAITÉ ENTRE LA FÉDÉRATION DE RUSSIE ET LE ROYAUME DE NORVÈGE RELATIF À LA COOPÉRATION ET LA DÉLIMITATION MARITIME DANS LA MER DE BARENTS ET L'OCÉAN ARCTIQUE

QUESTIONS RELATIVES À LA PÊCHE

*Article premier*

L'Accord entre le Gouvernement du Royaume de Norvège et le Gouvernement de l'Union des Républiques socialistes soviétiques relatif à la coopération en matière d'industrie de pêche du 11 avril 1975 et l'Accord entre le Gouvernement de l'Union des Républiques socialistes soviétiques et le Gouvernement du Royaume de Norvège relatif aux relations mutuelles dans le domaine de la pêche du 15 octobre 1976 restent en vigueur pour une durée de quinze ans après l'entrée en vigueur du présent Traité. Une fois ce délai écoulé, chacun de ces accords restera en vigueur pour des périodes successives de six ans, à moins que l'une des Parties ne communique à l'autre son intention de le dénoncer au moins six mois avant l'expiration de toute période de six ans.

*Article 2*

Dans la zone auparavant contestée, d'une largeur de 200 milles marins mesurés à partir de la partie continentale de la Russie ou de la Norvège, les règles techniques relatives, entre autres, à la taille des mailles des filets de pêche et à la taille minimale des captures, établies par chacune des Parties pour ses bateaux de pêche, sont appliquées durant une période transitoire de deux ans à compter de l'entrée en vigueur du présent Traité.

*Article 3*

Les volumes globaux de capture autorisés, les quotas de pêche et autres mesures visant à réglementer la pêche seront déterminés comme par le passé par la Commission mixte russo-norvégienne pour la pêche, en conformité avec les accords mentionnés à l'article premier de la présente Annexe.

*Article 4*

La Commission mixte russo-norvégienne pour la pêche continuera d'examiner les mesures prises pour améliorer le suivi et le contrôle des ressources halieutiques gérées en commun, conformément aux accords mentionnés à l'article premier de la présente Annexe.



ANNEXE II AU TRAITÉ ENTRE LA FÉDÉRATION DE RUSSIE ET LE ROYAUME DE NORVÈGE RELATIF À LA COOPÉRATION ET LA DÉLIMITATION MARITIME DANS LA MER DE BARENTS ET L'OCÉAN ARCTIQUE

GISEMENTS D'HYDROCARBURES TRANSFRONTALIERS

*Article premier*

L'Accord d'association entre les Parties relatif aux questions d'exploitation des gisements d'hydrocarbures transfrontaliers visés à l'article 5 du présent Traité doit comprendre les points suivants :

1. La définition du gisement d'hydrocarbures transfrontalier dont l'exploitation se fait comme une unité (coordonnées géographiques généralement mentionnées dans une annexe à l'Accord);

2. Les caractéristiques géographiques, géophysiques et géologiques du gisement d'hydrocarbures transfrontalier ainsi que la méthodologie utilisée pour la classification des données. Toute information géologique utilisée pour justifier lesdites caractéristiques géologiques constitue la propriété commune des personnes morales jouissant de droits, conformément à l'Accord d'exploitation commune visé à l'alinéa 6 a) du présent article;

3. Les informations quant au volume global de ressources en hydrocarbures dans le gisement d'hydrocarbures transfrontalier et la méthodologie utilisée pour ces calculs ainsi que les paramètres de répartition des ressources en hydrocarbures entre les Parties;

4. Le droit de chacune des Parties de copier toutes les données géologiques ainsi que d'autres données relatives au gisement exploité conjointement qui ont été réunies en ce qui concerne son exploitation;

5. L'obligation des Parties de présenter spontanément toutes les autorisations nécessaires en vertu de leur législation nationale pour l'exploration et l'exploitation des gisements d'hydrocarbures transfrontaliers comme une unité, conformément à l'Accord d'association;

6. Obligations de chacune des Parties

a) Exiger des personnes morales correspondantes exerçant des droits sur l'exploration et l'exploitation des hydrocarbures de leur côté respectif de la ligne de délimitation, la conclusion d'un accord d'exploitation commune pour régler les questions relatives à l'exploitation d'un gisement d'hydrocarbures transfrontalier comme une unité, conformément à l'Accord d'association;

b) Exiger que l'Accord d'exploitation commune soit soumis aux deux Parties pour approbation, que cette approbation soit donnée sans retard injustifié et qu'il n'y ait pas de refus sans raison valable;

c) Faire en sorte que les dispositions de l'Accord d'association prévalent sur les dispositions de l'Accord d'exploitation commune en cas de divergence entre les deux;

d) Exiger des personnes morales exerçant des droits sur l'exploitation du gisement d'hydrocarbures transfrontalier comme une unité qu'elles désignent un opérateur commun du gisement, conformément aux dispositions de l'Accord d'association; ladite nomination ou tout changement d'opérateur du gisement se fait sur accord préalable entre les deux Parties;

7. L'obligation de chacune des Parties de ne pas entraver, dans le respect de sa législation nationale, l'octroi d'une autorisation de forage d'un puits par des personnes morales exerçant des droits sur l'exploration et l'exploitation des hydrocarbures, ou par des personnes agissant en leurs noms, de leur côté respectif de la ligne de délimitation, afin de définir et répartir les ressources du gisement d'hydrocarbures transfrontalier;

8. À moins qu'elles n'en conviennent autrement, les Parties ne sont tenues d'autoriser le début de l'exploitation du gisement d'hydrocarbures transfrontalier qu'après en être convenues conformément à l'Accord d'association;

9. L'obligation des Parties de définir d'un commun accord et au moment opportun avant la fin de l'exploitation du gisement d'hydrocarbures transfrontalier, la date de cessation de l'exploitation;

10. L'obligation des Parties de se consulter en ce qui concerne les mesures à appliquer en matière de protection de la santé, de sécurité et de protection de l'environnement en vertu de leur législation nationale;

11. L'obligation de chacune des Parties d'assurer l'inspection des installations se trouvant sur son plateau continental et servant à l'exploitation des hydrocarbures ainsi que des activités d'exploitation d'hydrocarbures se déroulant sur son territoire et étant liées à l'exploitation du gisement transfrontalier; l'obligation de chacune des Parties d'autoriser sur demande l'accès des inspecteurs de l'autre Partie auxdites installations ainsi qu'aux systèmes de mesure correspondants se trouvant sur le plateau continental ou sur le territoire des Parties; l'obligation de chacune des Parties de s'assurer que les informations nécessaires sont présentées de façon régulière à l'autre Partie afin que celle-ci puisse protéger ses intérêts fondamentaux, et notamment ceux liés à la santé, la sécurité, la protection de l'environnement, l'exploitation des hydrocarbures et la réalisation des mesures;

12. L'obligation de chacune des Parties de ne pas modifier le droit d'exploration et d'exploitation des hydrocarbures octroyé par l'une des Parties et lié au gisement faisant l'objet d'une exploitation commune conformément à l'Accord d'association. Les Parties ne peuvent pas non plus céder ce droit à une autre personne morale sans avoir consulté au préalable l'autre Partie;

13. L'obligation des Parties de créer une commission mixte pour les consultations entre les Parties sur les questions relatives à tout gisement d'hydrocarbures commun existant ou envisagé. La Commission mixte permettra des consultations et des échanges d'informations constants entre les deux Parties sur ces questions et constituera également un cadre pour la résolution des différends au moyen de consultations.

## *Article 2*

Les Parties s'efforceront de résoudre tout différend dans les meilleurs délais. Si, toutefois, elles ne parviennent pas à un accord, elles examineront ensemble toutes les possibilités dont elles disposent pour résoudre la situation.

*Article 3*

1. Si les Parties ne parviennent pas à conclure l'Accord d'association mentionné à l'article premier de la présente Annexe, cette situation devra être résolue dans les meilleurs délais par la voie de négociations ou par toute autre procédure dont les Parties conviendront entre elles. Si le différend n'est pas résolu dans un délai de six mois à partir de la date à laquelle une des Parties a demandé la tenue de négociations avec l'autre Partie, elles auront le droit de soumettre le différend à un tribunal d'arbitrage ad hoc, composé de trois membres.

2. Chacune des Parties nomme un arbitre, et les deux arbitres ainsi désignés nommeront eux-mêmes un troisième arbitre, qui aura la fonction de président. Le président ne peut être citoyen ni de la Fédération de Russie ni de la Norvège ni être un résident permanent d'un de ces pays. Si l'une des Parties ne peut nommer d'arbitre dans un délai de trois mois à partir du moment où la demande de nomination a été émise, l'une ou l'autre des Parties peut demander à ce que ladite nomination soit faite par le Président de la Cour internationale de Justice. Cette même procédure sera adoptée si le troisième arbitre n'est pas nommé dans un délai d'un mois suivant la nomination du deuxième arbitre.

3. Toutes les décisions du tribunal d'arbitrage n'obtenant pas l'unanimité sont prises à la majorité des voix. Pour toutes les autres questions, le tribunal d'arbitrage établira ses propres règles de fonctionnement. Les décisions du tribunal d'arbitrage seront contraignantes pour les Parties, et l'Accord d'association mentionné à l'article premier de la présente Annexe sera conclu entre les Parties conformément à ses décisions.

*Article 4*

1. Si les Parties ne parviennent pas à un accord concernant la répartition du gisement d'hydrocarbures, elles nommeront un expert indépendant pour qu'une décision soit prise à ce sujet. La décision de l'expert indépendant sera contraignante pour les Parties.

2. Nonobstant les dispositions visées au paragraphe 1 du présent article, les Parties peuvent s'entendre sur une autre répartition du gisement d'hydrocarbures.

## I

*Ministère des affaires étrangères du Royaume de Norvège*

Oslo, le 7 juillet 2011

Le Ministère des affaires étrangères du Royaume de Norvège présente ses compliments au Ministère des affaires étrangères de la Fédération de Russie et, se référant au Traité entre le Royaume de Norvège et la Fédération de Russie relatif à la coopération et la délimitation maritime dans la mer de Barents et l'océan Arctique, signé à Mourmansk le 15 septembre 2010, a l'honneur de présenter ce qui suit au sujet de la désignation des arbitres du tribunal d'arbitrage ad hoc, conformément aux dispositions de l'article 5 du Traité et du paragraphe 2 de l'article 3 de son annexe, concernant les gisements d'hydrocarbures transfrontaliers:

Si l'une des Parties demande au Président de la Cour internationale de Justice de désigner un arbitre et si le Président n'est ressortissant ou un résident permanent de l'une des Parties au différend ou, pour une autre raison, est dans l'impossibilité de s'acquitter de ses fonctions, le Vice-Président ou le juge le plus ancien de la cour qui n'est ni un ressortissant ni un résident permanent de l'une des Parties procède à la désignation.

Si un membre du tribunal d'arbitrage désigné conformément aux dispositions de l'article 3 de l'Annexe II du Traité démissionne ou est dans l'impossibilité de remplir ses fonctions, son successeur est désigné dans le mois qui suit la date à laquelle les Parties au différend ont reçu notification écrite de la nécessité de désigner ce successeur, selon les règles appliquées à la désignation de l'arbitre initial. Le successeur a les mêmes pouvoirs et obligations que l'arbitre initial. Les travaux du tribunal sont suspendus en attendant la désignation du successeur.

Les dispositions du paragraphe 4 de l'article 5 du Traité sont interprétées à la lumière des arrangements décrits dans la présente note.

Si le contenu de la présente note rencontre l'agrément du Ministère des affaires étrangères de la Fédération de Russie, cette note et la réponse du Ministère constitueront un accord relatif à la désignation des arbitres conformément aux dispositions du paragraphe 4 de l'article 5 du Traité et du paragraphe 2 de l'article 3 de l'annexe II au Traité et cet accord prendra effet à compter de la date de réponse du Ministère.

Le Ministère des affaires étrangères du Royaume de Norvège saisit cette occasion pour renouveler au Ministère des affaires étrangères de la Fédération de Russie les assurances de sa très haute considération.

Au Ministère des affaires étrangères  
de la Fédération de Russie  
Moscou

## II

Moscou, le 7 juillet 2011

N° 9276/n/dp

Le Ministère des affaires étrangères de la Fédération de Russie a l'honneur d'accuser réception de la note du Ministère des affaires étrangères du Royaume de Norvège, datée de ce jour et libellée comme suit :

*[Voir note I]*

Le Ministère des affaires étrangères de la Fédération de Russie confirme que la Fédération de Russie approuve la proposition que la note de la Norvège et la réponse de la Russie constituent un accord entre les deux pays.

Le Ministère des affaires étrangères de la Fédération de Russie saisit cette occasion pour renouveler au Ministère des affaires étrangères du Royaume de Norvège les assurances de sa très haute considération.

Au Ministère des affaires étrangères  
du Royaume de Norvège  
Oslo

### **Annex 155**

Agreement on the Delimitation of the Maritime Boundary between the Republic of Mozambique and the United Republic of Tanzania, 5 December 2011 (not yet in force), CG Lathorp (ed), *International Maritime Boundaries VII* (Brill Nijhoff 2016) p. 4800.

## Mozambique-Tanzania

*Report Number 4-7 (2)*

### **Agreement on the Delimitation of the Maritime Boundary between the Republic of Mozambique and the United Republic of Tanzania**

*Signed:* 5 December 2011  
*Entry into force:* Not yet in force  
*Published at:* Unpublished

#### I SUMMARY

This agreement replaces the maritime delimitation provisions of the 1988 Agreement that defined the land, territorial sea, and exclusive economic zone (EEZ) boundary between Mozambique and Tanzania.<sup>1</sup> The 2011 Agreement is a full-fledged internal waters and maritime boundary agreement which includes articles concerning cross-border cooperation, amendments, and the settlement of disputes. However, the agreement does not actually modify the alignment of the boundary; it merely revises the coordinates defining the boundary to the World Geodetic System 1984 (WGS 84) and defines the seaward terminus of the boundary at the Comoros-Mozambique-Tanzania tripoint, which was agreed at the same time during parallel negotiations that also led to agreements concerning the Comoros-Mozambique maritime boundary<sup>2</sup> and the Comoros-Tanzania maritime boundary.<sup>3</sup> A separate agreement concerning the tripoint was also concluded.<sup>4</sup>

1 See Report Number 4-7, I IMB 893.

2 See Report Number 6-26, in this volume.

3 See Report Number 6-30, in this volume.

4 See Report Number 6-27, in this volume.

## II CONSIDERATIONS

### 1 *Political, Strategic, and Historical Considerations*

Impetus for maritime boundary negotiations between Comoros, Mozambique, Seychelles, and Tanzania was provided by the African Union Border Programme (AUBP), the strategic objectives of which include facilitating and supporting the delimitation and demarcation of African boundaries on land and at sea. In this context, the preamble to the agreement acknowledges the aims and principles of the Constitutive Act of the African Union regarding the need for promoting and strengthening security, stability, and peace among African States in order to enhance solidarity and cross-border cooperation for sustainable development of Africa. Although the negotiations were not directly sponsored by the AUBP, financial and technical support for the negotiations was provided by the German development agency, Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ), which also sponsors the AUBP as a whole. The spirit of cooperation engendered by the AUBP enabled Comoros, Mozambique, and Tanzania to hold joint meetings in which parallel bilateral negotiations were coordinated to ensure that the three maritime boundaries meet at an agreed tripoint.

### 2 *Legal Regime Considerations*

Mozambique and Tanzania are both States Parties to the United Nations Convention on the Law of the Sea (UNCLOS), and the preamble to the agreement states that the parties were guided by the relevant provisions of UNCLOS. The agreement contains separate articles relating to the delimitation of internal waters, the territorial sea, and the EEZ. Although the preamble to the agreement also notes the need for a precise and equitable delimitation of the continental shelf, the agreement, like its 1988 predecessor, does not explicitly provide for a continental shelf boundary.

### 3 *Economic and Environmental Considerations*

Economic and environmental considerations were not a major factor in the boundary negotiations, although Article 7 of the agreement provides a general commitment to cooperate over environmental conservation and the



exploration and exploitation of resources which straddle the boundary. No such Article had been included in the 1988 agreement.

#### 4 *Geographic Considerations*

Since the agreement does not modify the alignment of the 1988 boundary, no new geographic considerations were involved in the 2011 negotiations.

#### 5 *Islands, Rocks, Reefs, and Low-tide Elevations Considerations*

Since the agreement does not modify the alignment of the 1988 boundary, islands and other insular formations were not considered in the 2011 negotiations.

#### 6 *Baseline Considerations*

Article 1 (concerning principles of delimitation) includes a mutual recognition of each State's straight baselines. However, since the agreement does not modify the alignment of the 1988 boundary, those baselines did not play a role in the 2011 negotiations.

#### 7 *Geological and Geomorphological Considerations*

None.

#### 8 *Method of Delimitation Considerations*

As discussed in Report 4-7, the boundary uses three different delimitation methods. For the internal waters section, the boundary is a geodesic line through Ruvuma Bay, connecting the midpoint of a line across the mouth of the Ruvuma River (Point A) and the midpoint of a line across the mouth of the bay (Point B). From Point B, the boundary follows a geodesic line (described in Article 3 as "a median straight line") to the outer limit of the territorial sea (Point C) and then seaward to a Point D at 10° 05' 34" S, 41° 01' 59" E. The boundary then follows, "by application of the principle of

equity,” the parallel of latitude on which Point D lies eastwards to Point No. 1, the Comoros-Mozambique-Tanzania tripoint, which also lies on the median line between Comoros and Tanzania. Aside from defining the terminal point of the section of the boundary running east from Point D and using coordinates referred to WGS 84, the delimitation provisions of the 2011 Agreement are virtually identical to those in the 1988 Agreement.

### 9 *Technical Considerations*

The 1988 Agreement did not specify the geodetic datum to which the coordinates defining the boundary should be referred, but it is understood that they were based on the Tete datum, which references the Clarke 1866 ellipsoid and is intended mainly for onshore mapping. Whatever datum was used in the 1988 Agreement, all coordinates in the 2011 Agreement (including the coordinates of the points between which the closing lines used to define the internal waters boundary are drawn, as well as the coordinates defining the boundary itself) are referred to the WGS 84 datum, and the shift from the 1988 coordinates to WGS 84 is +6" of latitude and -3" of longitude. The coordinates of points A to D are rounded to the nearest second of arc; the coordinates of Point No. 1 are rounded to the nearest thousandth of a second of arc to match the precision used in the Comoros-Mozambique and Comoros-Tanzania boundary agreements.

### 10 *Other Considerations*

None.

## III CONCLUSIONS

Although the 2011 Agreement is a new and freestanding agreement, it is essentially an update of the 1988 Agreement rather than a revision. The alignment of the boundary remains unchanged, but thanks to the definition of the Comoros-Mozambique-Tanzania tripoint and clarification of the datum to which coordinates are referred, the boundary is now fully delimited with appropriate geodetic precision.

## IV RELATED LAW IN FORCE

A *Law of the Sea Conventions*

Mozambique: Party to UNCLOS (ratified 13 March 1997).

Tanzania: Party to UNCLOS (ratified 30 September 1985).

B *Maritime Jurisdiction Claimed at the Time of Signature*

Mozambique: 12 M territorial sea; 24 M contiguous zone; 200 M EEZ; submission concerning the outer limit of the continental shelf beyond 200 M (7 July 2010).

Tanzania: 12 M territorial sea; 200 M EEZ.

C *Maritime Jurisdiction Claimed Subsequent to Signature*

Mozambique: None.

Tanzania: Partial submission concerning the outer limit of the continental shelf beyond 200 M (18 January 2012).

## V REFERENCES AND ADDITIONAL READINGS

African Union Border Programme (AUBP), *Uniting and Integrating Africa Through Peaceful, Open and Prosperous Borders*, available at <http://www.peaceau.org/en/page/27-au-border-programme-aubp> (last visited 31 July 2013).

Ferreira, *Developing an Integrated Ocean Policy for Mozambique*, The Nippon Foundation of Japan Fellowship Programme Thesis (2009), United Nations Division for Ocean Affairs and the Law of the Sea, available at [http://www.un.org/depts/los/nippon/unff\\_programme\\_home/fellows\\_pages/fellows\\_papers/ferreira\\_0809\\_mozambique.pdf](http://www.un.org/depts/los/nippon/unff_programme_home/fellows_pages/fellows_papers/ferreira_0809_mozambique.pdf) (last visited 31 July 2013).

Forbes, *THE MARITIME BOUNDARIES OF THE INDIAN OCEAN REGION* (1995).

Jamine, *Maritime Boundaries Delimitation, Management and Dispute Resolution: The Delimitation of the Mozambique Maritime Boundaries with Neighboring States (including the extended Continental Shelf) and the Management of Ocean Issues*, The Nippon Foundation of Japan Fellowship Programme Thesis (2007), United Nations Division for Ocean Affairs and the Law of the Sea, available at [http://www.un.org/depts/los/nippon/unff\\_programme\\_home/fellows\\_pages/fellows\\_papers/jamine\\_0607\\_mozambique.pdf](http://www.un.org/depts/los/nippon/unff_programme_home/fellows_pages/fellows_papers/jamine_0607_mozambique.pdf) (last visited 31 July 2013).

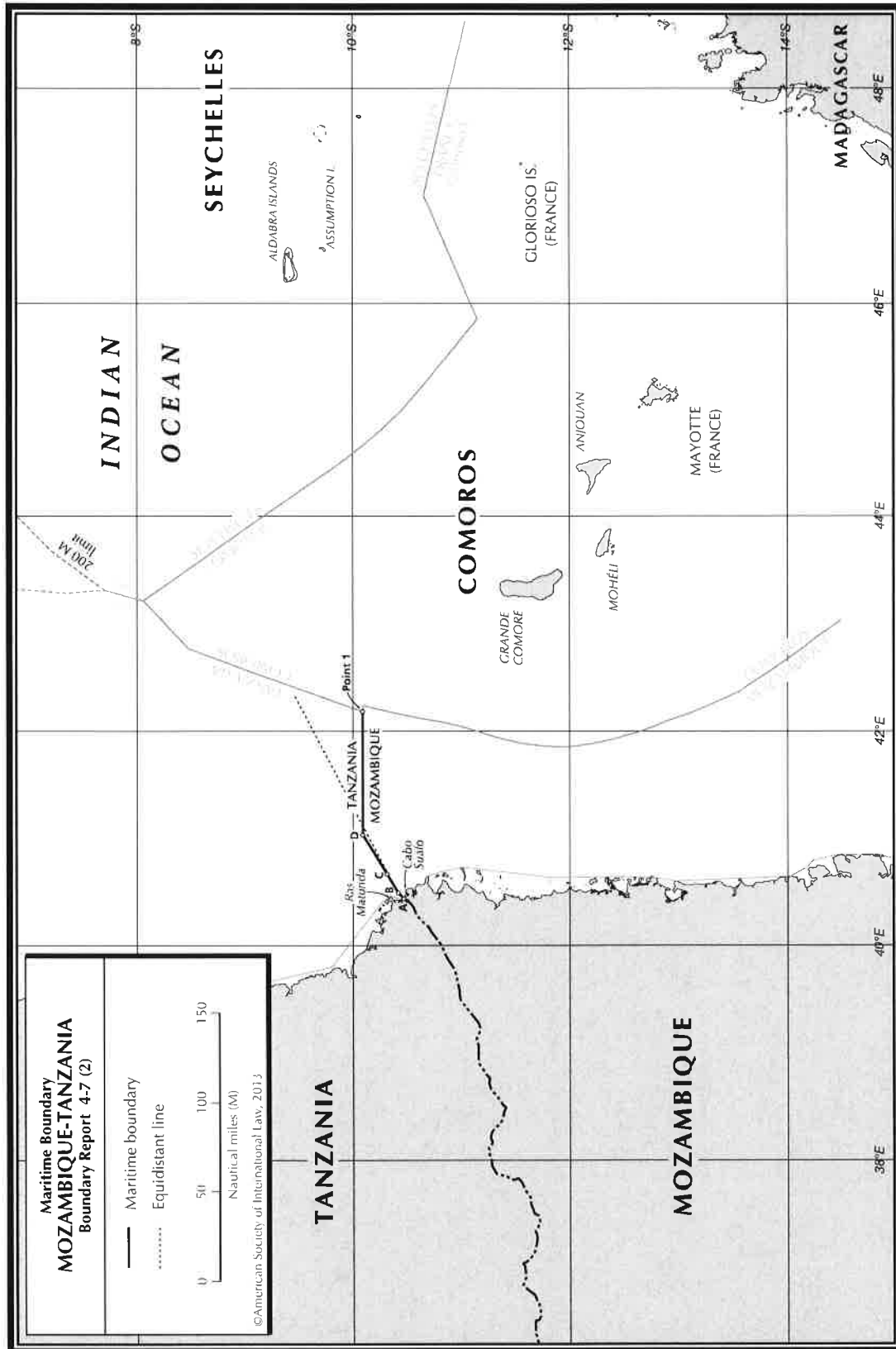
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Prescott & Schofield, *THE MARITIME POLITICAL BOUNDARIES OF THE WORLD* (2004).

Schofield, *Competing Claims to Maritime Jurisdiction in the Indian Ocean: Implications for Regional Marine Biodiversity and Fisheries*, in *FISHERIES EXPLOITATION IN THE INDIAN OCEAN: THREATS AND OPPORTUNITIES* (Rumley et al., eds. 2009).

*Prepared by Martin Pratt*



4800 *Report 4-7 (2)*

**Agreement on the Delimitation of the Maritime Boundary between the Republic of Mozambique and the United Republic of Tanzania**

The Government of the Republic of Mozambique and the Government of the United Republic of Tanzania, representing respectively the two coastal States, hereinafter collectively referred to as the “Parties” and singularly as a “Party”;

MINDFUL of the principles of international law and in particular that of sovereign equality of States;

MINDFUL FURTHER of the aims and principles of the Constitutive Act of the African Union regarding the need for promoting and strengthening peace, security and stability among African States in order to enhance solidarity and cross border cooperation for sustainable development of Africa;

RECOGNIZING the need to effect a precise and equitable delimitation of the common maritime boundary between their respective, internal waters, territorial waters, exclusive economic zones and continental shelves;

GUIDED by the provisions of the 1982 United Nations Convention on the Law of the Sea (“UNCLOS” 82), to which both Parties are States Parties;

DESIRING to conclude an agreement for the purpose of delimiting the maritime boundary between the two States, the Parties hereto;

HAVE THEREFORE AGREED as follows:

**Article 1**  
**Principles of Delimitation**

1. **Baselines for jurisdiction**

The Parties recognize and respect the principles of determination of each other’s baselines from which the breadth of the territorial sea and related maritime zones are measured. For both Parties it is the straight baselines principle in accordance with the provisions of Article 7 of the UNCLOS 82.

## 2. Method for the delimitation of the maritime boundary

The Parties have mutually accepted and adopted the use of equidistance and equity methods, for determining the common boundary line in their maritime zones.

## 3. Geodetic datum

The Parties have mutually accepted and adopted the use of geographical coordinates based on the World Geodetic System 1984 (WGS 84) for the purpose of the delimitation of the common maritime boundary.

### **Article 2**

#### **Delimitation of Internal Waters**

1. The outer limit of the internal waters of the two States is delimited by means of a straight line drawn across the mouth of the Ruvuma Bay from Ras Matunda located at latitude 10° 21' 38" S and longitude 40° 27' 32" E to Cabo Suafo, located at latitude 10° 28' 20" S and longitude 40° 31' 30" E. All waters on the landward side of this line constitute the internal waters of the two States.

2. The internal waters are apportioned by means of a straight line drawn across the Ruvuma Bay from a point hereinafter referred to as Point B, located at latitude 10° 24' 59" S and longitude 40° 29' 31" E which is the midpoint of the line demarcating the outer limit of such waters, that is to say between Ras Matunda and Cabo Suafo to Point A with latitude 10° 28' 10" S and longitude 40° 26' 16" E, the mid-point of the line drawn across the mouth of the Ruvuma River between Ras Mwamba and Ras Ruvuma. The location of Ras Mwamba is at latitude 10° 27' 54" S and longitude 40° 25' 47" E and Ras Ruvuma at latitude 10° 28' 27" S and longitude 40° 26' 45" E.

3. The waters bounded by Points A and B and Ras Matunda belong to the United Republic of Tanzania and the waters bounded by Points A, B and Cabo Suafo belong to the Republic of Mozambique.

### **Article 3**

#### **Delimitation of the Territorial Sea**

The Territorial Sea boundary line between the two States is delimited by application of the equidistance method by drawing a median straight line from Point "B" to a point 12 nautical miles, located at latitude 10° 18' 52" S and longitude 40° 40' 04" E, hereinafter referred to as Point C.

#### **Article 4**

##### **Delimitation of the Exclusive Economic Zone**

The delimitation of the Exclusive Economic Zone (EEZ) between the two States is delimited in conformity with the equidistance method by prolonging the median straight line used for the delimitation of the Territorial Sea from Point C to a point 25.5 nautical miles, located at latitude 10° 05' 34" S and longitude 41° 01' 59" E, hereinafter referred to as Point D. From this point, the EEZ is delimited by application of the principle of equity, by a line running due east along the parallel of Point D to Point No. 1, which is the tripoint of the Comoros-Mozambique, Comoros-Tanzania and Mozambique-Tanzania maritime boundaries, located at latitude 10° 05' 34.000" S and longitude 42° 09' 24.981" E.

#### **Article 5**

##### **Description of the Maritime Boundary Line**

The boundary commences at Point A, which is the mid-point of the line drawn across the mouth of the Ruvuma River between Ras Mwamba and Ras Ruvuma, located at latitude 10° 28' 10" S and longitude 40° 26' 16" E, thence across Ruvuma Bay along a geodesic to Point B, which is the mid-point between Ras Matunda and Cabo Suafo, located at latitude 10° 24' 59" S and longitude 40° 29' 31" E. From Point B the boundary runs along a geodesic for a distance of 12 nautical miles to Point C, located at latitude 10° 18' 52" S and longitude 40° 40' 04" E, thence along the same geodesic to Point D located at latitude 10° 05' 34" S and longitude 41° 01' 59" E. From Point D the boundary runs due east along the parallel of Point D to the point of its termination Point No. 1, which is the tripoint of the Comoros-Mozambique, Comoros-Tanzania and Mozambique-Tanzania maritime boundaries, located at latitude 10° 05' 34.000" S and longitude 42° 09' 24.981" E.

#### **Article 6**

##### **Schedule of Geographical Coordinates**

1. The list of points mentioned in Article 5 with their geographical coordinates is attached as Annex "A".
2. For illustrative purposes, the boundary is depicted on a diagram attached as Annex "B".
3. All Annexes shall form an integral part of this Agreement.



**Article 7**  
**Cross Border Cooperation**

The Parties undertake to cooperate fairly and equitably with respect to all boundary related issues, including environmental conservation and the management, exploration and exploitation of resources found along and which straddle across the common boundary.

**Article 8**  
**Amendments**

1. Either Party may propose amendments to this agreement in writing to the other Party through diplomatic channels.
2. Any amendment shall be adopted by mutual agreement and shall enter into force after an exchange of diplomatic notes between the Parties.
3. Any amendment which may affect the location of the tripoint No. 1, shall be effected by mutual Agreement among the three States whose boundary lines meet at that point, Tanzania, Mozambique and Comoros.

**Article 9**  
**Settlement of Disputes**

Any dispute arising between the Parties with respect to the interpretation or application of this Agreement shall be settled by peaceful means, in accordance with international law.

**Article 10**  
**Entry into Force**

This Agreement shall enter into force thirty days after the last notification to the other Party that the respective constitutional requirements have been fulfilled.

**Article 11**  
**Deposit of the Agreement**

This Agreement shall be deposited with the Secretary General of the United Nations after its entry into force.

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## **Article 12**

### **Miscellaneous Provisions**

This Agreement shall, upon coming into force cause amendments to the 1988 agreement between the Government of the United Republic of Tanzania and the Government of the People's Republic of Mozambique relating to the land boundary and delimitation of the maritime boundary as follows:

1. On Article I – Land boundary:

Point "A", located at latitude 10° 28' 04" S and longitude 40° 26' 19" E to read "Point "A" located at latitude 10° 28' 10" S and longitude 40° 26' 16" E";

Ras Mwamba located at latitude 10° 27' 48" S and longitude 40° 25' 50" E to read "Ras Mwamba located at latitude 10° 27' 54" S and longitude 40° 25' 47" E";

Ras Ruvuma located at latitude 10° 28' 21" S and longitude 40° 26' 48" E to read "Ras Ruvuma located at latitude 10° 28' 27" S and longitude 40° 26' 45" E".

2. All Articles in the 1988 Agreement referred above, which refer to the delimitation of maritime boundary including schedule of coordinates attached as Annex A are herewith repealed, remaining valid the rest of articles relating to the land boundary.

DONE in Maputo, Republic of Mozambique on 5th December, 2011, in two originals, in English and Portuguese languages, both texts being equally authentic. In case of differences in the interpretation and/or application of this Agreement, the English text shall prevail.

For and on behalf of the Government of the Republic of Mozambique

Oldemiro Júlio Marques Baloi  
Minister of Foreign Affairs and Co-operation

For and on behalf of the Government of the United Republic of Tanzania

Anna K. Tibaijuka  
Minister for Lands, Housing and Human Settlements Development

## ANNEX A

**Updated Mozambique-Tanzania boundary***All coordinates in WGS84**Seconds of points A-D rounded to the nearest second. Seconds of point 1 rounded to the nearest 1/1000 of a second*

	Latitude S			Longitude E		
	Deg	Min	Sec	Deg	Min	Sec
<b>A</b>	10	28	10	40	26	16
<b>B</b>	10	24	59	40	29	31
<b>C</b>	10	18	52	40	40	4
<b>D</b>	10	5	34	41	1	59
<b>1</b>	10	5	34.000	42	9	24.981

### **Annex 156**

Joint Declaration by the Ministers of Foreign Relations of the Republics of Ecuador and Colombia, 13 June 2012, CG Lathorp (ed), *International Maritime Boundaries VII* (Brill Nijhoff 2016) p. 4765.

## Colombia-Ecuador

*Report Number 3-7 (Add. 1)*

### Joint Declaration by the Ministers of Foreign Relations of the Republics of Ecuador and Colombia

*Signed:* 13 June 2012  
*Entry into force:* 13 June 2012  
*Published at:* Ecuadorian Ministry of Foreign Affairs, Trade, and Integration, [http://www.mmree.gob.ec/2012/ecu\\_col\\_0612.pdf](http://www.mmree.gob.ec/2012/ecu_col_0612.pdf) (in Spanish, last visited 16 July 2013)

In this supplemental agreement, Ecuador and Colombia identified the geodetic coordinates of their land boundary terminus at latitude 1° 28' 10.49" N and longitude 78° 52' 7.27" W (WGS 84).<sup>1</sup> The parties had agreed in 1975 that their maritime boundary should follow a parallel of latitude running seaward from "that point at which the international land frontier between Ecuador and Colombia reaches the sea."<sup>2</sup> However, neither the parties' 1975 Agreement Concerning Delimitation of Marine and Submarine Areas and Maritime Co-operation nor the 1916 Muñoz Vernaza-Suárez Treaty, which defines the parties' land boundary, had described this land boundary terminus with coordinates.<sup>3</sup> It was therefore uncertain which parallel of latitude formed the basis for the 1975 maritime boundary. Accordingly, the parties' Joint Declaration of 13 June 2012 is the first instrument from which the location of the 1975 maritime boundary may be precisely identified: the parallel of 1° 28' 10.49" N.<sup>4</sup>

The Joint Declaration was based upon a technical study commissioned the previous year, when the presidents of Ecuador and Colombia attended a bilateral summit in Quito to discuss a range of issues including security, transportation, energy, and the environment. The presidents concluded the

1 Joint Declaration, Article 1.

2 Agreement concerning Delimitation of Marine and Submarine Areas and Maritime Co-operation, Article 1, 23 August 1975, 996 UNTS 240; *see also* Report Number 3-7, I IMB 809.

3 *See id.*; Treaty on Boundaries between Colombia and Ecuador, Article 1, 15 July 1916, available at [http://www.sogeocol.edu.co/Ova/fronteras\\_colombia/documentos/tratados/tratado\\_colombia\\_ecuador.pdf](http://www.sogeocol.edu.co/Ova/fronteras_colombia/documentos/tratados/tratado_colombia_ecuador.pdf) (last visited 16 July 2013).

4 *See* Joint Declaration, Article 1.

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summit with a comprehensive Joint Presidential Declaration on 19 December 2011.<sup>5</sup> One provision of this declaration directed the Permanent Mixed Commission on Boundaries for Ecuador and Colombia to determine the geographic point at which the Mataje River meets the Pacific Ocean,<sup>6</sup> where the parties' previous agreements provided that their land boundary terminates and their maritime boundary begins.<sup>7</sup> With the assistance of the Bilateral Technical Commission for the Mouth of the Mataje River, the Permanent Mixed Commission on Boundaries completed and submitted its technical report on 24 February 2012. The parties' foreign ministers approved and adopted this report in the Joint Declaration on 13 June 2012.<sup>8</sup>

In addition to identifying the land boundary terminus, the Joint Declaration reaffirmed the parties' commitments to the freedom of navigation for both parties' vessels along the Mataje River, as originally set forth in Article 6 the Muñoz Vernaza-Suárez Treaty of 1916.<sup>9</sup> The Joint Declaration also memorialized the parties' commitments to promoting (1) the development of artisanal fishing, (2) the culture, education, healthcare, and employment of the border communities' inhabitants, (3) the security of the region, and (4) the sustainable development of both renewable and nonrenewable natural resources in the coastal area.<sup>10</sup>

*Prepared by David P. Riesenberg*

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5 *See generally* Joint Presidential Declaration, 19 December 2011, *available at* [www.cancilleria.gov.co/sites/default/files/news/field\\_attached\\_news/DECLARACION%20CONJUNTA%20PRESIDENCIAL%20ECUADOR%20-%20COLOMBIA%20-%20DICIEMBRE%2019%20DE%202011.pdf](http://www.cancilleria.gov.co/sites/default/files/news/field_attached_news/DECLARACION%20CONJUNTA%20PRESIDENCIAL%20ECUADOR%20-%20COLOMBIA%20-%20DICIEMBRE%2019%20DE%202011.pdf) (last visited 16 July 2013).

6 *Id.* at para. 9.

7 *See* Agreement concerning Delimitation, *supra* note 2, at Article 1; Treaty on Boundaries, *supra* note 3, at Article 1.

8 Joint Declaration, Article 1.

9 *Id.* at Article 2.

10 *Id.* at Articles 3-6.

**Joint Declaration of the Foreign Ministers of the Republics of  
Ecuador and of Colombia**

*Inspired* by the historical links that have governed the fraternity between the two peoples;

*Convinced* of the need to promote the development of the border region between the two States for the benefit of its inhabitants;

*Desiring* to promote and facilitate the rational exploitation of natural resources located on either side of the common border;

*Determined* to promote the boundary between the two States as a zone of cooperation and mutual development for the benefit of its inhabitants;

*Taking into account* that the starting point of the land border between the two countries was established by the Muñoz Vernaza-Suárez Treaty of 1916 in the mouth of the Mataje River at the Pacific Ocean;

*Taking into account* that the Convention on the Delimitation of Marine and Submarine Areas and Maritime Cooperation between the Republics of Ecuador and Colombia of 1975 established that the maritime boundary between the two countries is constituted by the line of the geographical parallel intersecting the point at which the Ecuador-Colombia international land boundary reaches the sea;

*Considering* that the Ecuador-Colombia Permanent Joint Boundary Commission and the Bi-national Technical Commission on the Mouth of the Mataje River have conducted studies in the boundary area at the mouth of the Mataje River which have determined the coordinates of the point at which the Ecuador-Colombia international land boundary reaches the sea, in accordance with Treaty of 1916, the Convention of 1975 and the works, maps and minutes of the Joint Demarcation Commission;

*Fulfilling* the mandate given by the Presidents of Ecuador and Colombia at the meeting held in the city of Quito on the 19th day of December 2011;

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DECLARE that:

1. They approve the studies conducted by the Ecuador-Colombia Permanent Joint Boundary Commission and by the Bi-national Technical Commission on the Mouth of the Mataje River which have determined, in the mouth of the Mataje River at the Pacific Ocean, the coordinates Lat. 01° 28' 10.49" N; Long. 078° 52' 07.27" W (WGS-84) as the point at which the Ecuador-Colombia international land boundary reaches the sea, in accordance with the Convention on the Delimitation of Marine and Submarine Areas of 1975 and the Boundary Treaty of 1916; all of which has been confirmed in the Technical Report of 24 February 2012, signed in the city of Cali, Colombia.
2. They confirm the provisions of Article 6 of the Muñoz Vernaza-Suárez Treaty of 1916, in respect of the perpetual right of free navigation for vessels of either State along the entire length of said river.
3. They undertake to adopt suitable measures to promote the sustainable development of artisanal fishing by frontier riverside populations in the area, and for that purpose they will request the competent authorities of the two States to act in close cooperation to achieve this goal.
4. They agree to establish the broadest cooperation for the promotion of the culture, health, education and employment of the area's inhabitants.
5. They agree to take appropriate measures for the purpose of maintaining security in the area.
6. They undertake to promote the sustainable development of renewable and non-renewable natural resources, as well as programs to address scientific research, the protection and preservation of the environment and of the coastal zones in the region.

Signed in San Lorenzo, Esmeraldas Province, on the 13th day of June 2012.

*(Signed)*

Ricardo Patiño Aroca

Minister of Foreign Relations, Commerce  
and Integration of Ecuador

*(Signed)*

María Ángela Holguín Cuéllar

Minister of Foreign Relations  
of Colombia



### **Annex 157**

Agreed Minutes on the Delimitation of the Continental Shelf beyond 200 Nautical Miles between Greenland and Iceland in the Irminger Sea, 16 January 2013, CG Lathorp (ed), *International Maritime Boundaries VII* (Brill Nijhoff 2016) p. 5269.

## Denmark (Greenland)-Iceland

*Report Number 9-22 (2)*

### Agreed Minutes on the Delimitation of the Continental Shelf beyond 200 Nautical Miles between Greenland and Iceland in the Irminger Sea

*Signed:* 16 January 2013  
*Entry into force:* 16 January 2013  
*Published at:* Icelandic Ministry of Foreign Affairs, *available at* <http://www.utanrikisraduneyti.is/media/thjodrettarmal/Agreed-Minutes-og-vidaukar.pdf> (last visited 10 September 2015);  
 Danish Ministry of Foreign Affairs, *available at* [http://um.dk/da/~/\\_media/UM/Danish-site/Documents/Udenrigs-politik/Nyheder\\_udenrigspolitik/2012/Officielt%20forhandlingsreferat.pdf](http://um.dk/da/~/_media/UM/Danish-site/Documents/Udenrigs-politik/Nyheder_udenrigspolitik/2012/Officielt%20forhandlingsreferat.pdf) (last visited 10 September 2015)

#### I SUMMARY

The Agreed Minutes on the Delimitation of the Continental Shelf beyond 200 Nautical Miles between Greenland and Iceland in the Irminger Sea (“2013 Agreed Minutes”) constitute the third maritime boundary arrangement that exclusively focuses on the continental shelf beyond 200 nautical miles (M).<sup>1</sup> They address the settlement of issues pertaining to the future delimitation of the continental shelf beyond 200 M in the Irminger Sea between Denmark (Greenland) and Iceland. The 2013 Agreed Minutes are

<sup>1</sup> The other two include the Treaty between the United States of America and the United Mexican States on the Delimitation of the Continental Shelf in the Western Gulf of Mexico beyond 200 Nautical Miles, 9 June 2000, 2143 UNTS 417, and the Agreed Minutes on the Delimitation of the Continental Shelf beyond 200 Nautical Miles between the Faroe Islands, Iceland and Norway in the Southern Part of the Banana Hole of the Northeast Atlantic, 20 September 2006, *available at* <http://www.regjeringen.no/nn/dep/ud/dokument/Lover-og-reglar/Retningslinjer-og-juridiske-rettlegninger/2006/Agreed-Minutes.html?id=446839> (last visited 1 September 2014). *See* Report Number 1-5(2), IV IMB 2621; Report Number 9-26, VI IMB 4532.

to a large extent based on the 2006 Agreed Minutes on the Delimitation of the Continental Shelf beyond 200 Nautical Miles between the Faroe Islands, Iceland and Norway in the Southern Part of the Banana Hole of the Northeast Atlantic (“2006 Agreed Minutes”).<sup>2</sup> As in the 2006 Agreed Minutes, the 2013 Agreed Minutes contain an interesting solution to the interplay between the delineation of the outer limits of the continental shelf beyond 200 M and boundary delimitations between opposite States. Indeed, the 2013 Agreed Minutes state that the parties “wish to effect the delimitation...subject to rights and obligations under the United Nations Convention on the Law of the Sea” (“UNCLOS”)<sup>3</sup> and that “[t]his will be done taking into account, *inter alia*, the functions of the Commission on the Limits of the Continental Shelf established in accordance with Annex II” to UNCLOS.<sup>4</sup>

Although the two sets of Agreed Minutes include similar features, a few differences exist. First, the 2006 Agreed Minutes are trilateral and involve four territories (Iceland, Faroe Islands, mainland Norway, and Jan Mayen), while the 2013 Agreed Minutes are bilateral and only concern two territories. Second, contrary to the situation in 2006, both Iceland and Denmark had made their relevant submissions to the Commission on the Limits of the Continental Shelf (“CLCS” or “the Commission”) before the 2013 Agreed Minutes were concluded.<sup>5</sup> Third, and most interestingly, the area of application of the 2013 Agreed Minutes is susceptible to deviations contingent on the recommendations of the CLCS,<sup>6</sup> while the area of application of the 2006 Agreed Minutes is not.<sup>7</sup>

On 29 April 2009, Iceland, in accordance with Article 76(8) of the UNCLOS, submitted to the CLCS information on the limits of the continental shelf beyond 200 M from the baselines from which the breadth of the territorial sea is measured in the Ægir Basin area, in the western and southern part of the Banana Hole, and the southern parts of Reykjanes Ridge.<sup>8</sup> The submission is a partial one, in line with the Rules of Procedure

2 See Report Number 9-26, VI IMB 4532.

3 UNCLOS, 10 December 1982, 1833 UNTS 396.

4 Paragraph 1.

5 Paragraph 5 (“Iceland submitted its relevant documentation concerning the outer limits of its continental shelf in the area to the Commission in 2009. Denmark/Greenland submitted its relevant documentation concerning the outer limits of its continental shelf in the area to the Commission in 2012.”).

6 Paragraph 8.

7 2006 Agreed Minutes, Paragraph 8.

8 Republic of Iceland, The Icelandic Continental Shelf – Partial Submission to the Commission on the Limits of the Continental Shelf pursuant to article 76, paragraph 8 of the United Nations Convention on the Law of the Sea in respect of the Ægir Basin area and Reykjanes Ridge, 29 April 2009, available at <http://www.un.org/depts/los/>

of the Commission,<sup>9</sup> which does “not cover the continental shelf of Iceland in the Hatton-Rockall area, which is subject to overlapping claims by other States, or in the eastern part of Reykjanes Ridge which potentially overlaps the Hatton-Rockall area.”<sup>10</sup> On 14 June 2012, Denmark made a partial submission only in respect of the southern continental shelf of Greenland.<sup>11</sup> At the thirtieth session of the CLCS a sub-commission was established to consider the partial submission of Iceland.<sup>12</sup> The CLCS has not established a sub-commission to consider the Danish submission, and, due to the Commission’s workload, Denmark could have to wait for several years before it is established.

After the Danish submission was made, a 22,000 km<sup>2</sup> area to the west of the Reykjanes Ridge in the Irminger Sea became subject to overlapping claims by Iceland and Denmark (Greenland).<sup>13</sup> In the fall of 2012, negotiations were initiated for the purpose of reaching a solution concerning the provisional delimitation of the area which was subject to overlapping claims. Three formal negotiation rounds were held, on 25 September and 13 December 2012 in Copenhagen, and on 15 January 2013 in Reykjavik, in addition to a number of informal communications.

On 16 January 2013, the agreement was signed in duplicate in Reykjavik and Copenhagen in the form of Agreed Minutes. The Agreed Minutes are not a treaty but a politically binding statement by the Foreign Ministers of Iceland and Denmark, the latter together with the Premier of the Government of Greenland, “on the provisional delimitation of the continental shelf in the area of interest, subject to fulfilment of their internal requirements.”<sup>14</sup>

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clcs\_new/submissions\_files/isl27\_09/isl2009executivesummary.pdf (last visited 1 September 2014).

- 9 See Rules of Procedure of the Commission on the Limits of the Continental Shelf, 17 April 2008, CLCS/40/Rev.1, Annex I, Paragraph 3.
- 10 Receipt of the submission made by the Republic of Iceland to the Commission on the Limits of the Continental Shelf, 30 April 2009, CLCS.27.2009.LOS, available at [http://www.un.org/depts/los/clcs\\_new/submissions\\_files/isl27\\_09/isl\\_clcs27\\_2009e.pdf](http://www.un.org/depts/los/clcs_new/submissions_files/isl27_09/isl_clcs27_2009e.pdf) (last visited 1 September 2014).
- 11 Kingdom of Denmark, The Southern Continental Shelf of Greenland – Partial Submission of the Government of the Kingdom of Denmark together with the Government of Greenland to the Commission on the Limits of the Continental Shelf, 14 June 2012, available at [http://www.un.org/depts/los/clcs\\_new/submissions\\_files/dnk61\\_12/DNK2012\\_EX\\_SUM\\_S\\_GREENLAND.pdf](http://www.un.org/depts/los/clcs_new/submissions_files/dnk61_12/DNK2012_EX_SUM_S_GREENLAND.pdf) (last visited 1 September 2014).
- 12 Statement by the Chair, Progress of Work in the Commission on the Limits of the Continental Shelf, 5 September 2012, CLCS/76, Paragraph 25.
- 13 The Danish government informed the Icelandic government in the fall of 2011 that it had, when working on the submission, discovered an overlap between the continental shelves of Greenland and Iceland west of the Reykjanes Ridge in the Irminger Sea.
- 14 Paragraph 10.

Denmark (Greenland) receives a 53% share of the area of interest and Iceland 47%.

## II CONSIDERATIONS

### 1 *Political, Strategic, and Historical Considerations*

Relations between Denmark (Greenland) and Iceland are particularly close historically. The Agreed Minutes “reaffirm the extremely close and good neighbourly relations between Denmark/Greenland and Iceland.”<sup>15</sup> In 1997, the two parties established a 596 M maritime boundary concerning their maritime zones within their 200 M limits: the Agreement between the Government of the Kingdom of Denmark along with the Local Government of Greenland on the one hand and the Government of the Republic of Iceland on the other hand on the Delimitation of the Continental Shelf and Fishery Zone in the Area between Greenland and Iceland (1997 Agreement).<sup>16</sup> The boundary line of the 2013 Agreed Minutes is drawn from one of the points of the 1997 Agreement (see *Technical Considerations* below).

### 2 *Legal Regime Considerations*

Similar to the 2006 Agreed Minutes, the 2013 Agreed Minutes contain a detailed procedure to coordinate the CLCS process set out in Article 76(8) of UNCLOS<sup>17</sup> and the delimitation of the maritime boundary between the parties. According to the 2013 Agreed Minutes, “[e]ach State will request that the Commission consider its documentation concerning the outer limits of its continental shelf in the area and make its recommendations on this

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<sup>15</sup> *Id.*

<sup>16</sup> See Report Number 9-22, IV IMB 2941.

<sup>17</sup> See UNCLOS, Article 76(8) (“Information on the limits of the continental shelf beyond 200 nautical miles from the baselines from which the breadth of the territorial sea is measured shall be submitted by the coastal State to the Commission on the Limits of the Continental Shelf set up under Annex II on the basis of equitable geographical representation. The Commission shall make recommendations to coastal States on matters related to the establishment of the outer limits of their continental shelf. The limits of the shelf established by a coastal State on the basis of these recommendations shall be final and binding.”).

basis....”<sup>18</sup> This is “without prejudice to the submission of any further documentation by the other State at a later stage or to delimitation of the continental shelf in the area between the two States.”<sup>19</sup> In addition, “[t]he State concerned will in this connection declare that such a request is provided for in” the Agreed Minutes.<sup>20</sup> Subsequently, the other State “will notify the Secretary-General of the United Nations in accordance with the Rules of Procedure of the Commission, that it does not object to the Commission considering the documentation of the other State and making recommendations on this basis.”<sup>21</sup> Both parties gave such consent on 17 January 2013.<sup>22</sup> The consent is “without prejudice to the submission of any further documentation by the other State at a later stage or to the question of bilateral delimitation of the continental shelf between the two States.”<sup>23</sup>

Paragraph 2 provides that the “Agreed Minutes presuppose that it is documented, after consideration by the Commission, that the area of interest, *i.e.* in which the outer limits of the continental shelves of Greenland and Iceland overlap, is part of the continental shelf of each State.” Paragraph 8, interestingly, notes that “[i]f, after consideration by the Commission, the area of interest is adjusted, it will be divided according to the same apportioning ratio, as defined in paragraph 3 [Denmark (Greenland) 53%; Iceland 47%].” Furthermore, it states that “[a]ny adjustment of the dividing line... will be made in such a way that it causes the smallest possible departure from its general direction and the number of turning points.”<sup>24</sup> Following the conclusion of the CLCS procedure, and no later than three months thereafter, the parties “will meet with a view to concluding an agreement on the final determination of the boundary line in accordance with” the Agreed Minutes.<sup>25</sup> If the “meeting has not been held by the end of 2017, the States will initiate consultations on the further follow-up.”<sup>26</sup> A model agreement is contained in Appendix II of the Agreed Minutes.

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18 Paragraph 6.

19 *Id.*

20 *Id.*

21 Paragraph 7.

22 Permanent Mission of Denmark to the United Nations, 17 January 2013, Ref. No. 119.N.8, available at [www.un.org/depts/los/clcs\\_new/submissions\\_files/isl27\\_09/dnk\\_17jan13.pdf](http://www.un.org/depts/los/clcs_new/submissions_files/isl27_09/dnk_17jan13.pdf) (last visited 1 September 2014); Permanent Mission of Iceland to the United Nations, 17 January 2013, Ref. UTN12090027/15.E.040, available at [www.un.org/depts/los/clcs\\_new/submissions\\_files/dnk61\\_12/ISL\\_NV\\_UN\\_001\\_17\\_01\\_13.pdf](http://www.un.org/depts/los/clcs_new/submissions_files/dnk61_12/ISL_NV_UN_001_17_01_13.pdf) (last visited 1 September 2014).

23 Paragraph 7.

24 Paragraph 8.

25 Paragraph 9.

26 *Id.*

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### *3 Economic and Environmental Considerations*

Economic and environmental considerations did not directly play a role in the course of the boundary or impact the outcome of the boundary delimitation. The area of delimitation has not been viewed as interesting from the point of view of hydrocarbon resources.

### *4 Geographic Considerations*

The disparity in overall coastal lengths was, to some extent, a factor, in the outcome of the negotiations to the benefit of Denmark (Greenland).

### *5 Islands, Rocks, Reefs, and Low-tide Elevations Considerations*

No islands, rocks, reefs, or low-tide elevations influenced the delimitation considered in the Agreed Minutes.

### *6 Baseline Considerations*

Straight baselines have been established by both Iceland and Denmark (Greenland), but they did not affect the definition of the area of interest or the maritime boundary line.

### *7 Geological and Geomorphological Considerations*

Geological and geomorphological considerations did not play any role for the course of the boundary although they are obviously of importance for the parties' submissions to the CLCS and the entitlement to the continental shelf in general.

### *8 Method of Delimitation Considerations*

The delimitation area was divided by a provisional delimitation line, resulting in a sharing out of the area between the parties' claimed outer limits according to a ratio of 53% to Denmark (Greenland) and 47% to Iceland.

The parties agreed not to formulate particular legal reasoning for the outcome. However, it is evident that a provisional equidistance line did not impact the negotiations because it would be located beyond the area of overlapping entitlement and consequently unsuitable as a starting point for the delimitation. The only circumstance that affected the delimitation, to some extent, is the disparity in overall coastal lengths between Greenland and Iceland.

### 9 *Technical Considerations*

Paragraph 3 of the Agreed Minutes provides that the bilateral delimitation is based on straight geodetic lines connecting eight points, defined in the International Terrestrial Reference Frame 2000 (Epoch 2000.0). Point 1 of the boundary line is an updated version of the intersection point of the EEZs of the Parties (point Q of the 1997 Agreement between Iceland and Denmark (Greenland)).<sup>27</sup> Point 8 is identical to point SGM-FP-071 of the 2012 Partial Submission of the Kingdom of Denmark (Greenland).<sup>28</sup>

A model agreement is attached to the Agreed Minutes as Appendix II. The agreement is to be signed and brought into force by the Parties after the CLCS has issued its final recommendations in regard to the Parties' submissions on the outer limits of the continental shelf in this area, and on the basis of any adjustments that would be necessary in accordance with the recommendations and the Agreed Minutes. The model agreement is simpler than the one agreed to by Iceland, Norway, and Denmark (Faroe Islands) in 2006 and does not contain any substantive provisions on transboundary hydrocarbon deposits.<sup>29</sup>

### 10 *Other Considerations*

None

<sup>27</sup> See Report Number 9-22, IV IMB 2941.

<sup>28</sup> See Kingdom of Denmark, The Southern Continental Shelf of Greenland – Partial Submission of the Government of the Kingdom of Denmark together with the Government of Greenland to the Commission on the Limits of the Continental Shelf, 14 June 2012, available at [http://www.un.org/depts/los/clcs\\_new/submissions\\_files/dnk61\\_12/DNK2012\\_EX\\_SUM\\_S\\_GREENLAND.pdf](http://www.un.org/depts/los/clcs_new/submissions_files/dnk61_12/DNK2012_EX_SUM_S_GREENLAND.pdf) (last visited 1 September 2014).

<sup>29</sup> See Report Number 9-26, VI IMB 4532.



### III CONCLUSIONS

As in the 2006 Agreed Minutes, the 2013 Agreed Minutes constitute an innovative and pragmatic way of reconciling important considerations concerning the interplay between the CLCS procedure and maritime boundary delimitations beyond 200 M. No provisional equidistance line was drawn in the negotiations between the parties. The main goal in the negotiations was to find an equitable solution that would not delay the CLCS procedure with regard to the partial submissions of the parties to the 2013 Agreed Minutes.

### IV RELATED LAW IN FORCE

#### A *Law of the Sea Conventions*

Denmark (Greenland): Party to UNCLOS (ratified 16 November 2004).

Iceland: Party to UNCLOS (ratified 21 June 1985).

#### B *Maritime Jurisdiction Claimed at the Time of Signature*

Denmark (Greenland): Straight baselines in the southern and northern part; territorial sea (3 M); EEZ (200 M); designated continental shelf areas beyond 200 M.

Iceland: Straight baselines; territorial sea (12 M); EEZ (200 M); designated continental shelf areas beyond 200 M.

#### C *Maritime Jurisdiction Claimed Subsequent to Signature*

Denmark (Greenland): None.

Iceland: None.

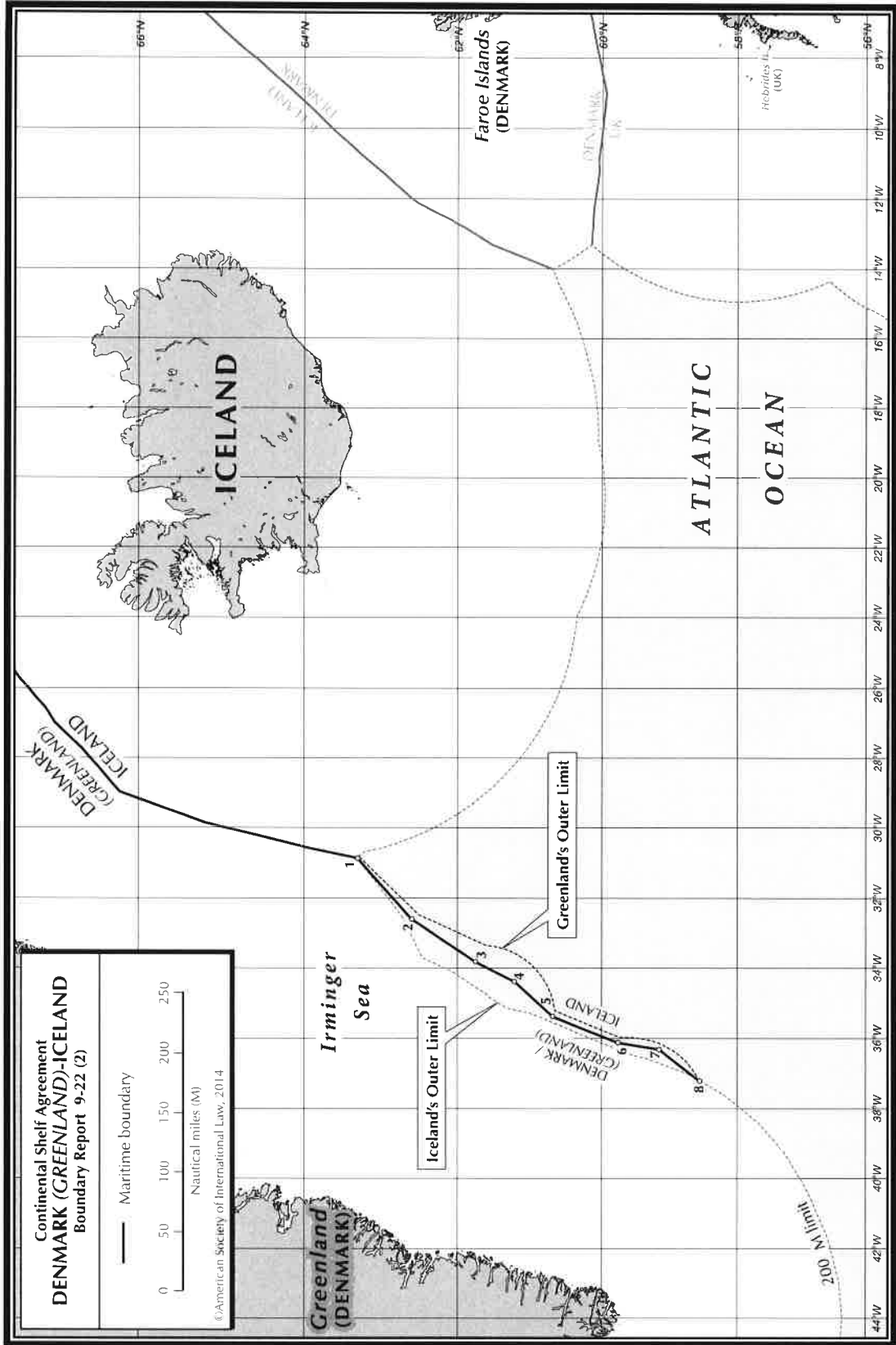
### V REFERENCES AND ADDITIONAL READINGS

Heidar, *Delimitation of the Continental Shelf and Determination of the Outer Limits of the Continental Shelf beyond 200 Nautical Miles in Areas of Overlapping Claims: The Nordic Model*, in Lodge & Nordquist, *PEACEFUL ORDER IN THE WORLD'S OCEANS, ESSAYS IN HONOR OF SATYA N. NANDAN* 146 (2014).

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*Kunoy, Agreed Minutes on the Delimitation of the Continental Shelf beyond 200 Nautical Miles between Greenland and Iceland in the Irminger Sea,*  
12 CHINESE J. INT'L L. 125 (2013).

*Prepared by Bjarni Már Magnússon*



**Agreed Minutes on the Delimitation of the Continental Shelf  
beyond 200 Nautical Miles between Greenland and Iceland in the  
Irminger Sea**

1. The Minister for Foreign Affairs of the Kingdom of Denmark, together with the Premier of the Government of Greenland, and the Minister for Foreign Affairs of Iceland wish to effect the delimitation of the continental shelf beyond 200 nautical miles from the baselines, between Greenland and Iceland, subject to rights and obligations under the United Nations Convention on the Law of the Sea, hereinafter referred to as “the Convention”. This will be done taking into account, *inter alia*, the functions of the Commission on the Limits of the Continental Shelf established in accordance with Annex II to the Convention, hereinafter referred to as “the Commission”.

2. These *Agreed Minutes* presuppose that it is documented, after consideration by the Commission, that the area of interest, *i.e.* in which the outer limits of the continental shelves of Greenland and Iceland overlap, is part of the continental shelf of each State.

3. The Ministers are in agreement that the bilateral delimitation of the continental shelf will be effected by a dividing line based on straight geodetic lines connecting the following points, defined in the International Terrestrial Reference Frame 2000 (Epoch 2000.0):

1	63° 19'.207 N	30° 52'.076 W
2	62° 36'.512 N	32° 35'.852 W
3	61° 45'.338 N	33° 48'.398 W
4	61° 13'.451 N	34° 22'.110 W
5	60° 41'.565 N	35° 21'.926 W
6	59° 45'.756 N	36° 06'.398 W
7	59° 09'.860 N	36° 18'.013 W
8	58° 33'.964 N	37° 11'.779 W

Point 1 is an updated version of the intersection point of the EEZs of the Parties (point Q of the 1997 Agreement between Iceland and Denmark/Greenland on the Delimitation of the Continental Shelf and the Fishery Zones in the Area between Iceland and Greenland). Point 8 is identical to point SGM-FP-071 of the 2012 Partial Submission of the Kingdom of Denmark on the Southern Continental Shelf of Greenland.

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The dividing line is based on the following apportioning ratio of the area of interest:

Denmark/Greenland 53%; and  
Iceland 47%.

By way of illustration, the dividing line and the points, based on the outer limits set forth in both States' partial submissions, have been drawn on the two sketch maps appended to these *Agreed Minutes* (Appendix I).

4. The dividing line set forth in paragraph 3 does not restrict the use of relevant information by the States if submitting further documentation concerning the outer limits of the continental shelf to the Commission.
5. Iceland submitted its relevant documentation concerning the outer limits of its continental shelf in the area to the Commission in 2009. Denmark/Greenland submitted its relevant documentation concerning the outer limits of its continental shelf in the area to the Commission in 2012.
6. Each State will request that the Commission consider its documentation concerning the outer limits of its continental shelf in the area and make its recommendations on this basis, without prejudice to the submission of any further documentation by the other State at a later stage or to delimitation of the continental shelf in the area between the two States. The State concerned will in this connection declare that such a request is provided for in these *Agreed Minutes*.
7. When submitting the aforementioned request, each State will notify the Secretary-General of the United Nations in accordance with the Rules of Procedure of the Commission, that it does not object to the Commission considering the documentation of the other State and making recommendations on this basis, without prejudice to the submission of any further documentation by the other State at a later stage or to the question of bilateral delimitation of the continental shelf between the two States.
8. If, after consideration by the Commission, the area of interest is adjusted, it will be divided according to the same apportioning ratio, as defined in paragraph 3.

Any adjustment of the dividing line set forth in paragraph 3 will be made in such a way that it causes the smallest possible departure from its general direction and the number of turning points.

9. As soon as possible, and no later than three months after the States have concluded the procedure set out in Article 76 (8) of the Convention, the States will meet with a view to concluding an agreement on the final determination of the boundary line in accordance with these *Agreed Minutes* and their appendices, including the Model Agreement contained in Appendix II. If such a meeting has not been held by the end of 2017, the States will initiate consultations on the further follow-up.

10. These *Agreed Minutes* constitute a joint statement of the Ministers' agreement on the provisional delimitation of the continental shelf in the area of interest, subject to fulfilment of their internal requirements.

These *Agreed Minutes* are based on the historic concept of the Agreed Minutes of 2006 between Denmark/the Faroe Islands, Iceland and Norway regarding the delimitation of the continental shelf beyond 200 nautical miles in the southern part of the Banana Hole in the North-East Atlantic. They reaffirm the extremely close and good neighbourly relations between Denmark/Greenland and Iceland, their common commitment to promoting the international law of the sea and the importance they attach to the United Nations Convention on the Law of the Sea as the legal framework for the peaceful uses of the oceans and seas.

Signed in duplicate at Reykjavik and Copenhagen on 16 January 2013 in the English language.

The Minister for Foreign Affairs of the Kingdom of Denmark

(*Signed*)  
Villy Søvndal

The Premier of the Government of Greenland

(*Signed*)  
Kuupik Kleist

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The Minister for Foreign Affairs of Iceland

*(Signed)*

Össur Skarphéðinsson

APPENDIX II  
MODEL AGREEMENT:

**Agreement between the Government of the Kingdom of Denmark  
Together with the Government of Greenland, of the One Part,  
and the Government of Iceland, of the Other Part, Concerning  
the Delimitation of the Continental Shelf Beyond 200 Nautical Miles  
in the Area Between Greenland and Iceland in the Irminger Sea**

The Government of the Kingdom of Denmark together with the Government of Greenland, of the one part, and the Government of Iceland, of the other part,

*Desiring* to maintain and strengthen the good neighbourly relations between Denmark/Greenland and Iceland, and

*Referring* to the *Agreed Minutes* of 16 January 2013 between Denmark/Greenland and Iceland,

Have agreed as follows:

*Article 1*

Beyond 200 nautical miles from the baselines from which the breadth of the territorial sea of each Party is measured, the boundary line delimiting the continental shelf in the area between Greenland and Iceland in the Irminger Sea has been determined as straight geodetic lines connecting the following points, defined in the International Terrestrial Reference Frame 2000 (Epoch 2000.0), in the order specified below:

Point 1:

Point 2:

...

...

By way of illustration, the boundary line and the points listed above have been drawn on the map annexed to this Agreement.

*Article 2*

*[provision on transboundary mineral deposits – to be negotiated between the competent authorities of the Parties before conclusion of the Agreement.]*

*Article 3*

This Agreement is without prejudice to the respective Parties' views on questions that are not governed by this Agreement, including questions relating to their exercise of sovereign rights or jurisdiction over the seabed and its subsoil.

*Article 4*

This Agreement enters into force when the Parties have notified each other in writing that the necessary internal procedures have been completed.

Done at . . . on the . . . day of . . . . . in duplicate in the Danish, Greenlandic and Icelandic languages, all three texts being equally authentic.

For the Government of the Kingdom of Denmark

For the Government of Greenland

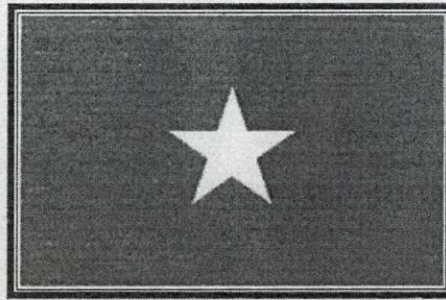
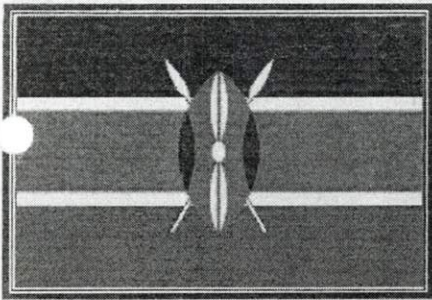
For the Government of Iceland



### **Annex 158**

Tripartite Agreement between the Government of the Republic of Kenya, the Government of the Federal Republic of Somalia and the United Nations High Commissioner for Refugees governing the voluntary repatriation of Somali refugees living in Kenya, 10 November 2013.

B122



**TRIPARTITE AGREEMENT**

**BETWEEN**

**THE GOVERNMENT OF THE REPUBLIC OF  
KENYA,**

**THE GOVERNMENT OF THE FEDERAL  
REPUBLIC OF SOMALIA**

**AND**

**THE UNITED NATIONS HIGH  
COMMISSIONER FOR REFUGEES**

**GOVERNING THE VOLUNTARY  
REPATRIATION OF SOMALI REFUGEES  
LIVING IN KENYA, 2013**

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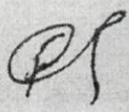

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**TRIPARTITE AGREEMENT BETWEEN THE GOVERNMENT OF THE  
REPUBLIC OF KENYA, THE GOVERNMENT OF THE FEDERAL  
REPUBLIC OF SOMALIA AND THE UNITED NATIONS HIGH  
COMMISSIONER FOR REFUGEES GOVERNING THE VOLUNTARY  
REPATRIATION OF SOMALI REFUGEES LIVING IN KENYA, 2013**

**Preamble**

The Government of the Republic of Kenya, the Federal Government of Somali (herein referred to as "**the Governments**") and the United Nations High Commissioner for Refugees (herein referred to as "**UNHCR**"), all together hereinafter referred to as "**The Parties.**"

- a) **Recalling** the Geneva Convention Relating to the Status of Refugees of July 28, 1951 (the 1951 Refugee Convention) and its Additional Protocol of January 31, 1967 (the 1967 Protocol) and the OAU Convention of September 10, 1969 Governing the Specific Aspects of Refugee Problems in Africa (the 1969 OAU Convention) and the obligations on the Parties to adhere to and respect the provisions of this Agreement;
- b) **Noting** the general principles of international law on the right of all persons to leave and return to their country of origin as enshrined in Article 13 (2) of the 1948 Universal Declaration of Human Rights (UDHR) and Article 12 of the 1966 International Covenant on Civil and Political Rights (ICCPR);
- c) **Recalling** that the United Nations General Assembly Resolution 428(V) of 14 December 1950, adopted the Statute of the United Nations High Commissioner for Refugees, and mandated it to seek permanent solutions for the problem of refugees inter alia, facilitating the voluntary repatriation and reintegration of refugees in their countries of origin;
- d) **Considering** that voluntary repatriation constitutes a durable solution for the problems of refugees, and that the attainment of this solution requires that refugees will voluntarily return to their country of origin in conditions of safety and dignity;
- e) **Noting** that Conclusion 18 (Session XXXI)-1980, Conclusion 40 (Session XXXVI)- 1985 and Conclusion 74 (XLV)-1994 and 101 (LV)-2004 of the Executive Committee of the High Commissioner's Program set out internationally accepted principles and standards governing voluntary repatriation of refugees;

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- f) **Underscoring** the obligation of the Government of the Federal Republic of Somalia, while respecting the right of all persons to return to their country, to create conditions for voluntary, safe and organized return of refugees to Somalia;
- g) **Recognizing** the hospitality of Kenya to one of the highest number of Somali refugees in the world;
- h) **Acknowledging** that regional security is a concern for all parties, and that Kenya has borne a huge economic, environmental and social burden, arising from hosting large numbers of refugees and asylum seekers from Somalia;
- i) **Commending AMISOM** and the International community as a whole for their support to the Somali Federal Government in stabilizing the country;
- j) **Welcoming** the commitment of the two Governments to facilitate the voluntary repatriation and reintegration of Somali returnees as contained in the Joint Statement of Understanding of 27<sup>th</sup> April 2013;
- k) **Further welcoming** the endorsement of this commitment by the 21<sup>st</sup> and 22<sup>nd</sup> Extra-Ordinary Summits of IGAD Heads of State and Government and by the London International Conference on Somalia;
- l) **Recognizing** that the Parties have agreed that issues relating to unregistered and or undocumented Somali refugees in Kenya shall be addressed in the spirit of this agreement;
- m) **Recognizing** the desire of the two Governments and UNHCR to cooperate and establish this legal framework in order to facilitate the voluntary repatriation in safety and dignity of refugees as well as their sustainable reintegration in Somalia;
- n) **Stressing** the role and the need of the Parties to mobilize international resources for the voluntary repatriation and reintegration of Somali refugees;

Hereby agree as follows:

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**I. GENERAL PROVISIONS****ARTICLE 1**  
**Definitions**

For the purpose of this Agreement,

1. The term "Commission" shall mean the Tripartite Commission established under Article 3 of the present Agreement;
2. The term "Committees" shall mean the Technical Committees formed under Article 4 paragraph 7 for the present Agreement;
3. The term "refugee" shall have the meaning as provided for in the 1951 Refugee Convention, its 1967 Protocol, the 1969 OAU Convention and the Kenya Refugees Act 2006;
4. The term "returnee" shall mean any refugee who has voluntarily returned to Somalia and is now within the territory of Somalia;
5. The term "voluntary repatriation" refers to the voluntary return of a refugee to the country of origin with the specific intention to re-avail him or herself of the national protection of the country of origin;
6. The term "vulnerable group" refers to refugees with specific needs including women, children, disabled, sick and elderly persons.

**ARTICLE 2**  
**Objective of the Agreement**

The objective of this Agreement is to provide for a legal framework for the safe and dignified voluntary repatriation of Somali refugees from the Republic of Kenya and their reintegration in the Federal Republic of Somalia.

**ARTICLE 3**  
**Establishment of the Tripartite Commission**

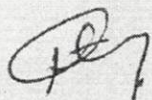
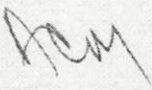
A Tripartite Commission is hereby established.

**ARTICLE 4**  
**Composition of the Commission**

1. Each Party shall designate not more than four representatives to the membership of the Commission. Two representatives from the Governments shall be at ministerial level.
2. The chairperson and co-chair will alternate between the two Governments upon mutual agreement.
3. UNHCR will act as Secretary being assisted by representatives of both Governments designated by members of the Commission at its meetings.
4. Any of the Parties to the Commission may, when attending meetings or other business of the Commission, be accompanied by not more than two advisors who shall be funded by the Commission.
5. The Commission may, whenever deemed appropriate, and subject to agreement by all its members, invite relevant persons including refugee representatives or partners to participate in its deliberations in an observer or advisory capacity.
6. Where a member is unable to attend to any business of the Commission, that member shall designate an alternate.
7. The Commission may form Technical Committees for the implementation of the policies, decisions and activities of the Commission.
8. The composition and structure of any Technical Committee shall be determined by the Commission.

**ARTICLE 5**  
**Role and Function of the Commission**

1. The principal objective of the Commission shall be to advance the voluntary and organized repatriation of refugees to, and the reintegration of returnees in Somalia.



2. The Commission shall determine the overall policies and may establish the modalities and provide guidance and recommendations to the Parties regarding the voluntary and organized repatriation in safety and dignity of Somali refugees.

**ARTICLE 6**  
**Meetings of the Commission**

1. The Commission shall convene regularly, at least five times in a year, at the request of any of the Parties, and at such venue as may be agreed upon.
2. A meeting can be called to order if at least two members of each party are present.
3. The dates of the meetings shall be decided on by the members of the Commission.
4. The Commission shall make its decisions on the basis of mutual agreement by members.
5. The Commission shall adopt its own Rules of Procedure as necessary.

**ARTICLE 7**  
**Liaison Officers**

In support of and to complement the work of the Commission, the Governments shall designate Liaison Officers at their respective diplomatic representations or offices in both Nairobi and Mogadishu with powers to deal with operational issues as may be required.

**ARTICLE 8**  
**Resource Mobilization**

The Parties shall bear the primary responsibility of mobilizing international resources and shall endeavor to obtain these resources for:

- I. The activities of the Commission and its technical working committees.
- II. The voluntary and organized repatriation of Somali refugees and the reintegration of Somali returnees.

**ARTICLE 9**  
**Right of Return**

All Somali refugees, irrespective of their registration status, living in the Republic of Kenya have the right to voluntarily return to the Federal Republic of Somalia in accordance with international law.

**ARTICLE 10**  
**Voluntary Character of Repatriation**

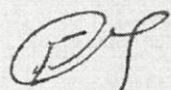
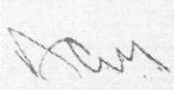
1. The Parties hereby reaffirm that the repatriation provided for in this Agreement of Somali refugees who have sought refuge in the Republic of Kenya shall take place in conformity with international law pertaining to voluntary repatriation.
2. The Parties hereby agree that the decision of the refugees to repatriate shall be based on their freely expressed wish and their relevant knowledge of the conditions within the country of origin and the areas of return.

**ARTICLE 11**  
**Freedom of Choice of Destination**

The Parties hereby support that the Somali refugees shall be free to return to, and settle in, their former places of residence or any other place within Somalia.

**ARTICLE 12**  
**Return in Safety and Dignity**

1. The Parties agree to assist Somali refugees under this Agreement to return to their final destination in safety and dignity.
2. The Government of the Republic of Kenya shall be responsible for the safety and security of repatriating refugees while within Kenyan territory according to national and international law.
3. The Government of the Federal Republic of Somalia shall be responsible for the safety and security of the returnees once within the territory of Somalia in accordance with National and International Law.





4. With a view to ensuring that voluntary repatriation is sustainable, the Parties may advocate for the strengthening and expansion of the Federal Republic of Somalia's national development, security and humanitarian assistance programs, focusing wherever possible on local community development in key areas of return to facilitate reintegration of the returnees.

**ARTICLE 13**  
**Preservation of Family Unity**

In accordance with the principle of family unity, the Parties shall make every effort to ensure that families return as units and that involuntary separation shall be prevented. If, for any reason, a returnee's family breaks up or becomes separated in the process of repatriation, steps shall be taken on a priority basis to facilitate the reunification of the family members.

**ARTICLE 14**  
**Legal Status and Equivalency**

1. The Government of the Republic of Kenya shall validate or issue documentation to Somali refugees in respect of births, deaths, adoptions, marriages and divorces that occurred while residing as refugees in Kenya, prior to their voluntary repatriation in accordance with international and national legislations and as a measure to prevent statelessness.
2. The Government of Kenya shall issue or validate, whenever applicable, certificates, diplomas and degrees in accordance with national law reflecting academic or vocational skills obtained by the refugees in Kenya.
3. The Government of Somalia shall recognize as appropriate and in accordance with applicable national laws the legal and civil status, including changes thereto during their displacement in Kenya, of returnees including births, deaths, adoptions, marriage, divorces and custody decisions.
4. The Government of Somalia shall accord recognition, as appropriate and in accordance with applicable national laws, to the equivalency of academic and vocational skills, certificates, diplomas and degrees obtained by the returnees during displacement. Replacement or equivalency of documents certifying legal status or equivalency of academic and vocational skills, diplomas and certificates of returnees shall be provided at no or reduced cost.

**ARTICLE 15**  
**Information and Sensitization**

1. The Parties to this Agreement shall provide Somali refugees with objective, accurate and timely information on current conditions in Somalia which shall inform their decision to voluntarily repatriate to Somalia.
2. The Parties to this Agreement shall facilitate "go and see" visits by refugees and "come and tell" visits by returnees, local authorities from Somalia and other relevant partners.

**ARTICLE 16**  
**Spontaneous Return**

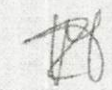
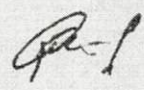
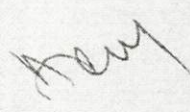
The Parties hereby recognize that all assurances, and guarantees benefits and other provisions set out in this Agreement that govern the voluntary repatriation and the reintegration of refugees shall also apply to those returnees who return to Somalia using their own means.

**ARTICLE 17**  
**Registration and Documentation**

The commission shall agree on a voluntary repatriation form recognized as a valid identification and travel document to Somalia for the purpose of return and access to reintegration services.

**ARTICLE 18**  
**Special Measures for Vulnerable Groups**

1. The Parties shall take special measures, to ensure that children, women, the elderly and other vulnerable groups receive adequate protection, assistance and care throughout the repatriation and reintegration process.
2. Parties shall take necessary measures to ensure that unaccompanied minors and or separated children are returned after a successful tracing of family members or others who by law or custom are responsible for the child. For those cases where tracing was not successful adequate reception and care arrangements shall be put in place in by the Federal Government of Somalia.



**ARTICLE 19****Designated Border Crossing Points and Transit Arrangements**

The Parties shall agree on border crossing points and related transit arrangements for organized repatriation movements. Such arrangements may be modified as mutually agreed on to better suit operational requirements.

**ARTICLE 20****Immigration, Customs and Health Formalities**

1. The Governments shall simplify and streamline their respective immigration, customs, health and other formalities usually carried out at border crossing points.
2. All goods of the returnees, their personal effects or communal property, including household and electronic items, food and livestock, shall be exempted by the respective Government from all customs duties, charges and tariffs, provided that such property is not prohibited for export and import by the respective Government. The Parties shall also expedite the clearance and handling of such items.
3. The Governments shall waive all fees as well as road or other taxes for vehicles, including those, which are part of the personal property of returnees, entering or transiting their respective territories under the repatriation programme.

**ARTICLE 21****Movement and Security of Staff and Resources**

1. The Governments shall facilitate the free movement of staff and personnel of the Parties herein and of their partners as well as vehicles, relief goods and equipment used in the operation in, within and out of Kenya and Somalia in the repatriation subject to relevant clearances.
2. The Governments shall take all appropriate steps to ensure the security and safety of the staff and all other personnel engaged in the repatriation operation provided for under this Agreement.

**ARTICLE 22****Relief Goods, Materials, Equipment and Communication**

1. The Governments shall in conformity with the national taxation laws, exempt from all taxes, duties and levies of all relief goods, materials, equipment, vehicles of UN agencies meant for official use in the repatriation and reintegration operation and expedite its clearance and handling.
2. The Governments shall authorize UNHCR to use UN communications equipment, including satellite communication, networks, designated frequencies and networks for cross-border and internal communication between offices, vehicles and staff and may, whenever operational requirements necessitate, facilitate the allocation of other frequencies.
3. The relevant written authorizations for equipment, frequencies and cross-border networks shall be issued to UNHCR in accordance with national laws and regulations.

**ARTICLE 23****Establishment of Field Offices**

UNHCR may, whenever required, for the purpose of a more effective discharge of its responsibilities under this Agreement, establish Field Offices at locations to be agreed upon with the Government concerned, and in compliance with Government policies, regulations and procedures.

**II DUTIES AND RESPONSIBILITIES OF THE PARTIES****ARTICLE 24****Responsibilities of the Government of the Republic of Kenya**

The Government of the Republic of Kenya shall cooperate with the Parties to ensure voluntary repatriation in safety and dignity. The following are the duties of the Government of the Republic of Kenya:

- i. Facilitate sensitization of refugees on voluntary repatriation;

- ii. Facilitate access by UNHCR to Somali refugees wherever they may be in Kenya so as to implement the voluntary repatriation programme provided for in this Agreement ;
- iii. Issue and or validate documentation in respect of births, marriages, divorces, adoptions, deaths or other legal status as well as educational credentials in acknowledgement of academic or vocational skills obtained by refugees in Kenya;
- iv. Simplify immigration formalities and procedures to facilitate exit from Kenya in accordance with applicable national law;
- v. Facilitate "go and see" visits of refugees to areas of intended return, and "come and tell" visits by Somali Federal or local authorities as provided for under Article 15 of this Agreement;
- vi. Exempt all goods of the returnees, their personal effects or communal property, including household and electronic items, food and livestock from customs and duties or taxes which would otherwise apply;
- vii. Simplify and expedite health formalities and requirements to the extent feasible in accordance with the law in the interest of facilitating easy exit from Kenya of the repatriating refugees;
- viii. Provide security escorts for the repatriation convoys, the staff of the Parties and the implementing partners engaged in the operation in Kenya ;
- ix. Facilitate the joint registration with UNHCR of Somali refugees wishing to voluntarily repatriate and;
- x. The Government of Kenya shall continue to provide protection and assistance to all refugees until durable solutions are attained in accordance with national and international law.

#### **ARTICLE 25**

#### **Responsibilities of the Government of the Federal Republic of Somalia**

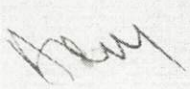
The Government of the Federal Republic of Somalia shall put in place administrative, judicial and security measures to ensure that the return and reintegration of refugees takes place in safety and dignity. In order to discharge the aforesaid obligations, the following shall be the duties of the Federal Government of Somalia:-

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- i. Facilitate the safe, dignified and sustainable return;
- ii. Ensure return and reintegration without fear of harassment, intimidation, persecution, discrimination, prosecution or any punitive measures whatsoever on account of having left, or remained outside Somalia;
- iii. Create conditions conducive to sustainable return and reintegration of returnees;
- iv. Guarantee that all Somali refugees living in Kenya wishing to return to Somalia, shall be able to do so without any legal or other hindrances, and that any of their family members who are non-Somali citizens should be able to join them for the purposes of maintaining family unity, and have their residence status expedited subject to national law;
- v. Simplify formalities for the return of refugees and facilitate the entry of all their goods, including of commercial nature or quantity, personal and household effects free from any customs and excise duties or taxes. Controls and inspections at the entry point will be carried out expeditiously, with due respect to the dignity and basic human rights of the returnees;
- vi. Take all necessary measures to allow returnees to settle in their areas of origin or any other part of the country of their choice. In addition, ensure freedom of movement of the returnees as provided for in the country's national legislation and in accordance with international human rights standards;
- vii. Commit to promote durable peace and national reconciliation;
- viii. Establish fair and accessible procedures to settle any claims that the returnees may make for restitution of lands or other property left behind when they were forced to flee;
- ix. Ensure that the returnees shall enjoy property ownership and protection acquired upon return, in accordance with the national laws;
- x. Recognize the legality of births, adoptions, deaths, marriages or divorces which may have taken place during asylum as read together with Article 24 (III);
- xi. Recognize as appropriate and in accordance with applicable national law, certifications, qualifications and skills obtained from recognized institutions while residing in Kenya;
- xii. Issue to the returnees all documents necessary for the exercise and enjoyment of their respective legal rights such as passports, personal



- identification documents, birth, death, marriage certificates and land title deeds;
- xiii. Facilitate the issuance of new documents or the replacement of those lost in the course of displacement without imposing unduly restrictive or prohibitive conditions, costs or delays;
  - xiv. Facilitate all the activities of UNHCR relating to the repatriation operation provided for in this Agreement including granting free and unhindered access to UNHCR officials to the returnees, accompanying the returnees to Somalia, conducting effective monitoring of their legal, physical and material situation and to make appropriate interventions ;
  - xv. Facilitate the reintegration of the returnees and their enjoyment of all the social, economic, civil, cultural and political rights provided for in the laws of the country, including fair and equal access to public services;
  - xvi. Facilitate the movement into and within its territory of the staff of UNHCR and its partners and ensure that vehicles, relief goods and equipment required for use in implementing the voluntary repatriation and reintegration of the returnees can be brought into and used in the country free of duty, customs or other charges;
  - xvii. Ensure the safety and security of the returnees, including when in transit in Somalia while proceeding to their final destinations;
  - xviii. Guarantee the safety and security of the staff of UNHCR and partners engaged in the repatriation and reintegration operation and;
  - xix. Facilitate "go and see" visits by refugees to areas of intended return, and "come and tell" visits by Somali Federal or local authorities as provided for under Article 15 of this Agreement.

**ARTICLE 26**  
**Responsibilities of the United Nations High Commissioner for Refugees**

In keeping with its mandate, the UNHCR shall facilitate and coordinate the voluntary repatriation of Somali refugees and verify that the voluntary repatriation is carried out in conditions of safety and dignity. UNHCR shall:-

- i. Verify and assure the free and voluntary nature of the decisions made by the refugees to repatriate, in keeping with its mandate and shall have

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access to the refugees so as to discharge these and other responsibilities as per this Agreement;

- ii. Facilitate the safe and dignified character of the repatriation by ensuring that it is carried out in accordance with national and International law;
- iii. Organize and facilitate in collaboration with the Parties, awareness raising activities, dissemination of relevant information with regard to the voluntary repatriation to Somalia and on family reunification procedures in and outside Somalia;
- iv. Establish offices, deploy staff and carry out activities along the main return routes in Kenya and areas of return in Somalia to implement the repatriation in safety and dignity of the refugees and promote their reintegration;
- v. Ensure that the vulnerable group of refugees and returnees are protected and their fundamental rights are respected in accordance with applicable international, and national legal standards;
- vi. Monitor the situation of all refugees in Kenya in cooperation with the Government of Kenya, supervise their continued enjoyment of asylum as provided for by national and international law;
- vii. Mobilize and allocate resources for the purpose of the implementation of this Agreement;
- viii. Assist and coordinate in collaboration with partners the ongoing protection and assistance programs, the voluntary repatriation and reintegration activities in Kenya and Somalia;
- ix. Verify and assure the progress of the reintegration process of returnees to Somalia in cooperation with the Government of the Federal Republic of Somalia and
- x. Have access to the returnees during the reintegration process in accordance with this Agreement.



**III. FINAL PROVISIONS****ARTICLE 27****Continued Validity of other Agreements**

This Agreement shall not affect the validity of or derogate from any existing Agreements, arrangements or mechanisms of cooperation between the Parties.

To the extent necessary or applicable, such Agreements, arrangements or mechanisms may be relied upon and applied as if they form part of this Agreement to assist in the pursuit of the objectives of this Agreement.

**ARTICLE 28****Resolution of Disputes**

Any disputes arising out of the interpretation and application of this Agreement, shall be resolved amicably through negotiations and consultation between the Parties.

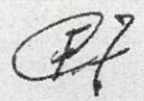
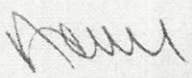
**ARTICLE 29****Entry into Force, Duration and Termination**

1. This Agreement shall become effective on the date of its signature by all Parties, and shall remain in force for a period of 3 years and it may be renewed for a further period as agreed upon by the Parties.
2. This Agreement may be terminated by either Party giving six months' notice. The termination of this Agreement shall not prejudice activities and programmes in progress.

**ARTICLE 30****Amendments**

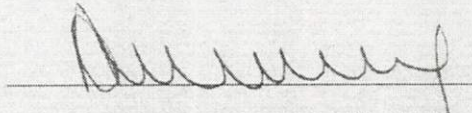
The Articles of this Agreement may be amended at anytime by a written consent of all Parties through exchange of Diplomatic Notes. Any such amendments shall constitute part of this Agreement.

IN WITNESS WHEREOF, the authorized representatives of the Parties have hereby signed this Agreement.



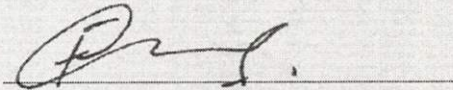
Dated this 10<sup>th</sup> day of November 2013, in three originals in the English language, each being equally authentic.

FOR THE GOVERNMENT OF THE  
REPUBLIC OF KENYA



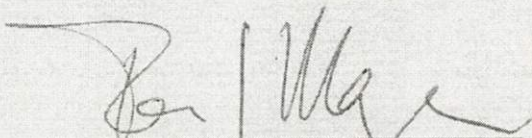
AMB. AMINA C. MOHAMED, CBS CAV  
**CABINET SECRETARY FOR FOREIGN AFFAIRS  
AND INTERNATIONAL TRADE**

FOR THE GOVERNMENT OF THE  
FEDERAL REPUBLIC OF SOMALIA



H.E. FAWZIA YUSUF H. ADAM  
**DEPUTY PRIME MINISTER AND  
MINISTER FOR FOREIGN AFFAIRS**

FOR THE UNITED NATIONS  
HIGH COMMISSIONER FOR REFUGEES



MR. RAOUF MAZOU  
**REPRESENTATIVE, UNHCR REPRESENTATION IN KENYA**