



Crimes (Ships and Fixed Platforms) Act 1992

No. 173 of 1992

**An Act to make provision in relation to certain crimes
against the safety of ships and of fixed platforms**

[Assented to 11 December 1992]

The Parliament of Australia enacts:

PART 1—PRELIMINARY

Short title

5 1. This Act may be cited as the *Crimes (Ships and Fixed Platforms) Act 1992*.

Commencement

2.(1) Parts 1 and 4 commence on the day on which this Act receives the Royal Assent.

10 (2) Part 2 commences on a day to be fixed by Proclamation, being a day not earlier than the day on which the Convention enters into force for Australia.

(3) Part 3 commences on a day to be fixed by Proclamation, being a day not earlier than the day on which the Protocol enters into force for Australia.

Interpretation

3.(1) In this Act, unless the contrary intention appears: 5

“**Australian ship**” has the same meaning as in the *Shipping Registration Act 1981*;

“**Convention**” means the Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation, done at Rome on 10 March 1988, a copy of the English text of which is set out in Schedule 1; 10

“**Convention State**” means a State Party to the Convention, but does not include Australia;

“**fixed platform**” means an artificial island, installation or structure permanently attached to the sea-bed for the purpose of exploration for, or exploitation of, resources or for other economic purposes; 15

“**foreign country**” means a place outside Australia that is:

(a) an independent sovereign state; or

(b) an area of land (whether or not it is self-governing) that is not part of an independent sovereign state; 20

“**international voyage**” means a voyage that passes, or is scheduled to pass:

(a) through seas beyond the territorial sea of any state; or

(b) through the territorial seas of more than one state;

“**private ship**” means a ship that is not a warship or other ship operated for naval, military, customs or law enforcement purposes by Australia or by a foreign state; 25

“**Protocol**” means the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf, done at Rome on 10 March 1988, a copy of the English text of which is set out in Schedule 2; 30

“**Protocol State**” means a State Party to the Protocol, but does not include Australia;

“**ship**” means a vessel of any type not permanently attached to the sea-bed, and includes any dynamically supported craft, submersible, or any other floating craft, other than a vessel that has been withdrawn from navigation or is laid up. 35

(2) Unless the contrary intention appears, an expression used in this Act has the same meaning as in the Convention or Protocol, whether or not an express meaning is given to it by the Convention or Protocol and whether or not the Convention or the Protocol has entered into force. 40

Act extends to external Territories

4. This Act extends to all external Territories.

Extraterritorial application

5. This Act extends, unless the contrary intention appears:

- 5 (a) to acts, matters and things outside Australia; and
(b) to all persons, whatever their nationality or citizenship.

Effect of this Act on other laws

10 6.(1) Subject to subsection (2), this Act does not exclude or limit the operation of any other law of the Commonwealth or any law of a State or Territory.

(2) Sections 5 and 7 of the *Crimes Act 1914* do not apply in relation to offences against sections 17 and 28.

Convictions under foreign laws

15 7. If a person has been convicted in a foreign country of an offence against the law of that country in respect of any conduct, the person is not liable to be convicted of an offence against this Act in respect of that conduct.

PART 2—PROVISIONS RELATING TO THE CONVENTION

Division 1—Offences in relation to ships

20 **Seizing a ship**

8. A person must not, without lawful excuse, take possession of, or take or exercise control over, a private ship by the threat or use of force or by any other kind of intimidation.

Penalty: Life imprisonment.

25 **Acts of violence**

9. A person must not perform an act of violence against a person on board a private ship knowing that the act is likely to endanger the safe navigation of the ship.

Penalty: 15 years imprisonment.

30 **Destroying or damaging a ship**

10.(1) A person must not, without lawful excuse, destroy a private ship.

Penalty: Life imprisonment.

35 (2) A person must not cause damage to a private ship or its cargo knowing that it is likely to endanger the safe navigation of the ship.

Penalty: Life imprisonment.

Placing destructive devices on a ship

11.(1) A person must not, without lawful excuse, place or cause to be placed on a private ship, by any means, a device or substance that is likely to destroy the ship.

(2) A person must not place or cause to be placed on a private ship, by any means, a device or substance that is likely to cause damage to the ship or its cargo knowing that it is likely to endanger the safe navigation of the ship. 5

Penalty: 15 years imprisonment.

Destroying or damaging navigational facilities 10

12. A person must not destroy or seriously damage maritime navigational facilities or seriously interfere with their operation if that act is likely to endanger the safe navigation of a private ship.

Penalty: 15 years imprisonment.

Giving false information 15

13. A person must not knowingly endanger the safe navigation of a private ship by communicating false information.

Penalty: 15 years imprisonment.

Causing death

14. A person who kills a person in connection with the commission or attempted commission of an offence against any of sections 8 to 13 is guilty of an offence. 20

Penalty: Life imprisonment.

Causing grievous bodily harm

15. A person who causes grievous bodily harm to a person in connection with the commission or attempted commission of an offence against any of sections 8 to 13 is guilty of an offence. 25

Penalty: 15 years imprisonment.

Causing injury to a person

16. A person who injures a person in connection with the commission or attempted commission of an offence against any of sections 8 to 13 is guilty of an offence. 30

Penalty: 10 years imprisonment.

Threatening to endanger a ship

17.(1) A person must not threaten to do an act that would constitute an offence against section 9, 10 or 12 with intent to compel an individual, a body corporate or a body politic to do or refrain from doing an act, if that threat is likely to endanger the safe navigation of the ship concerned. 35

Penalty: 2 years imprisonment. 40

(2) For the purposes of this section, a person is taken to threaten to do an act if the person makes any statement or does anything else indicating, or from which it could reasonably be inferred, that it is his or her intention to do that act.

5 **Commencement of proceedings**

18.(1) Proceedings must not be commenced against a person for an offence against this Division unless, when the alleged offence was committed:

(a) the ship concerned was:

- 10 (i) on, or scheduled to engage in, an international voyage;
or
(ii) in the territorial sea or internal waters of a foreign country; and

15 (b) the alleged offence had an Australian element or a Convention State element.

(2) Paragraph (1)(a) does not apply if the person is in Australia only because he or she was extradited to Australia in relation to the acts that constituted the offence.

20 (3) For the purposes of this section, an offence against this Division **had an Australian element** if:

- (a) the ship concerned was an Australian ship; or
(b) the alleged offender was a national of Australia.

25 (4) For the purposes of this section, an offence against this Division **had a Convention State element** if one of the following circumstances applied:

- (a) the ship concerned was a ship flying the flag of a Convention State;
(b) the ship concerned was in the territorial sea or internal waters of a Convention State;
30 (c) the alleged offender was a national of a Convention State;
(d) the alleged offender was stateless and was habitually resident in a Convention State that had extended its jurisdiction under Article 6(2)(a) of the Convention;
35 (e) during the commission of the alleged offence, a national of a Convention State was seized, threatened, injured or killed and the Convention State had extended its jurisdiction under Article 6(2)(b) of the Convention;
40 (f) the alleged offence was committed in an attempt to compel a Convention State to do or abstain from doing any act and the Convention State had extended its jurisdiction under Article 6(2)(c) of the Convention.

(5) In this section:

“offence against this Division” includes an offence arising under section 5 of the *Crimes Act 1914* (aiders and abettors) or section 7 of that Act (attempts) in relation to an offence against any of sections 8 to 16.

Division 2—Powers of ship’s master

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Arrest of offenders etc.

19.(1) A ship’s master may arrest and hold in custody any person whom he or she has reasonable grounds to believe has committed an offence against Division 1.

(2) A ship’s master may hold an alleged offender in custody only until he or she can deliver the alleged offender to: 10

- (a)** the appropriate authorities of any Convention State; or
- (b)** another appropriate authority.

Ship’s master may deliver alleged offenders to Convention State

20.(1) A ship’s master may deliver to the appropriate authorities of any Convention State any person whom he or she has reasonable grounds to believe has committed an offence against Division 1. 15

(2) A ship’s master who intends to deliver a person under subsection (1) must notify the appropriate authorities of the Convention State:

- (a)** of his or her intention to deliver the person to the authorities; and 20
- (b)** of his or her reasons for intending to do so.

(3) A notification under subsection (2) must be given:

- (a)** if it is reasonably practicable to do so—before the ship concerned has entered the territorial sea of the Convention State; or 25
- (b)** in any other case—as soon as is reasonably practicable.

(4) If a ship’s master delivers a person under subsection (1), he or she must:

- (a)** make to the authorities of the Convention State such oral or written statements relating to the alleged offence as those authorities may reasonably require; and 30
- (b)** deliver to the authorities of the State such other evidence relating to the alleged offence as is in the master’s possession.

(5) A ship’s master who fails, without reasonable excuse, to comply with subsection (3) or (4) is guilty of an offence. 35

Penalty: \$2,000.

(6) In this section:

“offence against Division 1” includes an offence arising under section 5 of the *Crimes Act 1914* (aiders and abettors) or section 7 of that Act (attempts) in relation to an offence against any of sections 8 to 16.

“ship’s master” means the master of an Australian ship.

5 **PART 3—PROVISIONS RELATING TO THE PROTOCOL**

Seizing control of a fixed platform

21. A person must not, without lawful excuse, take possession of, or take or exercise control over, a fixed platform by the threat or use of force or by any other kind of intimidation.

10 Penalty: Life imprisonment.

Acts of violence

22. A person must not perform an act of violence against a person on board a fixed platform knowing that the act is likely to endanger the safety of the platform.

15 Penalty: 15 years imprisonment.

Destroying or damaging a fixed platform

23. A person must not, without lawful excuse, destroy a fixed platform or cause damage to a fixed platform knowing that it is likely to endanger its safety.

20 Penalty: Life imprisonment.

Placing destructive devices on a fixed platform

24. A person must not, without lawful excuse, place or cause to be placed on a fixed platform, by any means, a device or substance knowing that it is likely to destroy the fixed platform or endanger its safety.

25 Penalty: 15 years imprisonment.

Causing death

25. A person who kills a person in connection with the commission or attempted commission of an offence against any of sections 21 to 24 is guilty of an offence.

30 Penalty: Life imprisonment.

Causing grievous bodily harm

26. A person who causes grievous bodily harm in connection with the commission or attempted commission of an offence against any of sections 21 to 24 is guilty of an offence.

35 Penalty: 15 years imprisonment.

Causing injury to a person

27. A person who injures a person in connection with the commission or attempted commission of an offence against any of sections 21 to 24 is guilty of an offence.

Penalty: 10 years imprisonment.

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Threatening to endanger a fixed platform

28.(1) A person must not threaten to do an act that would constitute an offence against section 22 or 23 with intent to compel an individual, a body corporate or a body politic to do or refrain from doing an act, if that threat is likely to endanger the safety of a fixed platform.

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Penalty: 2 years imprisonment.

(2) For the purposes of this section, a person is taken to threaten to do an act if the person makes any statement or does anything else indicating, or from which it could reasonably be inferred, that it is his or her intention to do that act.

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Commencement of proceedings

29.(1) Proceedings must not be commenced against a person for an offence against this Part unless, when the alleged offence was committed:

- (a) the platform concerned was beyond the Australian territorial sea; and
- (b) the alleged offence had an Australian element or a Protocol State element.

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(2) Paragraph (1)(a) does not apply if the person is in Australia only because he or she was extradited to Australia in relation to the acts that constituted the offence.

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(3) For the purposes of this section, an offence against this Part had an Australian element if:

- (a) the fixed platform concerned was on the Australian continental shelf; or
- (b) the alleged offender was a national of Australia.

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(4) For the purposes of this section, an offence against this Part had a Protocol State element if one of the following circumstances applied:

- (a) the fixed platform concerned was on the continental shelf of a Protocol State;
- (b) the fixed platform concerned was in the territorial sea or internal waters of a Protocol State;
- (c) the alleged offender was a national of a Protocol State;
- (d) the alleged offender was stateless and was habitually resident in a Protocol State that had extended its jurisdiction under Article 3(2)(a) of the Protocol;

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- (e) during the commission of the alleged offence, a national of a

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Protocol State was seized, threatened, injured or killed and the Protocol State had extended its jurisdiction under Article 3(2)(b) of the Protocol;

- 5 (f) the alleged offence was committed in an attempt to compel a Protocol State to do or abstain from doing any act and the Protocol State had extended its jurisdiction under Article 3(2)(c) of the Protocol.

(5) In this section:

- 10 “offence against this Part” includes an offence arising under section 5 of the *Crimes Act 1914* (aiders and abettors) or section 7 of that Act (attempts) in relation to an offence against any of sections 21 to 27.

PART 4—MISCELLANEOUS

Written consent of Attorney-General required

30.(1) A prosecution for an offence:

- 15 (a) against Division 1 of Part 2 or Part 3; or
(b) arising under section 5 or 7 of the *Crimes Act 1914* in relation to an offence against any of sections 8 to 16 and sections 21 to 27;

20 may not be begun except with the consent of the Attorney-General or of a person authorised by the Attorney-General to give consent.

(2) Despite subsection (1):

- (a) a person may be arrested for such an offence, and a warrant for such an arrest may be issued and executed; and
(b) a person may be charged with an offence against this Act; and
25 (c) a person so charged may be remanded in custody or on bail;
but no further step in the proceedings referred to in subsection (1) is to be taken until the Attorney-General’s consent has been given.

(3) Nothing in subsection (2) prevents the discharge of the accused if proceedings are not continued within a reasonable time.

30 No prosecution except on indictment

31. Despite section 4J of the *Crimes Act 1914*, an offence:

- (a) against Division 1 of Part 2 or Part 3; or
(b) arising under section 5 or 7 of the *Crimes Act 1914* in relation to an offence against any of sections 8 to 16 and sections 21 to
35 27;

may not be tried except on indictment.

Evidence of certain matters

- 40 32. A certificate by the Attorney-General, or a person authorised by the Attorney-General to give such a certificate, stating any of the following:

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- (a) that a specified State was, at specified times, a Convention or Protocol State;
- (b) the extent to which a specified Convention or Protocol State had, at specified times, extended its jurisdiction under Article 6(2) of the Convention or Article 3(2) of the Protocol; 5
- (c) that specified waters were, at a specified time:
 - (i) within the internal waters or territorial sea, or above the continental shelf, of Australia or of a specified foreign country; or
 - (ii) beyond the territorial sea of Australia and of any foreign country; 10

is, for the purposes of any proceedings under this Act, evidence of the facts stated in the certificate.

Section 38 of the Judiciary Act

33. A matter arising under this Act, including a question of interpretation of the Convention or Protocol for the purposes of this Act, is, for the purposes of section 38 of the *Judiciary Act 1903*, taken not to be a matter arising directly under a treaty. 15

SCHEDULE 1

Section 3

**CONVENTION FOR THE SUPPRESSION OF UNLAWFUL ACTS
AGAINST THE SAFETY OF MARITIME NAVIGATION**

The States Parties to this Convention,

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

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

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

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

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

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

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

RECALLING FURTHER that resolution 40/61 “unequivocally condemns, as criminal, all acts, methods and practices of terrorism wherever and by whomever committed, including those which jeopardize friendly relations among States and their security”,

SCHEDULE 1—continued

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

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

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

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

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

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

HAVE AGREED as follows:

ARTICLE 1

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

ARTICLE 2

- 1 This Convention does not apply to:
 - (a) a warship; or
 - (b) a ship owned or operated by a State when being used as a naval auxiliary or for customs or police purposes; or
 - (c) a ship which has been withdrawn from navigation or laid up.
- 2 Nothing in this Convention affects the immunities of warships and other government ships operated for non-commercial purposes.

SCHEDULE 1—continued

ARTICLE 3

1 Any person commits an offence if that person unlawfully and intentionally:

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

2 Any person also commits an offence if that person:

- (a) attempts to commit any of the offences set forth in paragraph 1; or
- (b) abets the commission of any of the offences set forth in paragraph 1 perpetrated by any person or is otherwise an accomplice of a person who commits such an offence; or
- (c) threatens, with or without a condition, as is provided for under national law, aimed at compelling a physical or juridical person to do or refrain from doing any act, to commit any of the offences set forth in paragraph 1, subparagraphs (b), (c) and (e), if that threat is likely to endanger the safe navigation of the ship in question.

ARTICLE 4

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

2 In cases where the Convention does not apply pursuant to paragraph 1, it nevertheless applies when the offender or the alleged offender is

SCHEDULE 1—continued

found in the territory of a State Party other than the State referred to in paragraph 1.

ARTICLE 5

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

ARTICLE 6

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

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

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

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

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

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

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

ARTICLE 7

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

SCHEDULE 1—continued

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

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

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

(b) be visited by a representative of that State.

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

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

ARTICLE 8

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

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

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

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

SCHEDULE 1—continued

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

ARTICLE 9

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

ARTICLE 10

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

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

ARTICLE 11

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

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

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

SCHEDULE 1—continued

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

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

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

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

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

ARTICLE 12

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

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

ARTICLE 13

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

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

SCHEDULE 1—continued

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

ARTICLE 14

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

ARTICLE 15

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

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

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

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

ARTICLE 16

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

2 Each State may at the time of signature or ratification, acceptance or approval of this Convention or accession thereto, declare that it does not consider itself bound by any or all of the provisions of

SCHEDULE 1—continued

paragraph 1. The other States Parties shall not be bound by those provisions with respect to any State Party which has made such a reservation.

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

ARTICLE 17

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

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

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

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

ARTICLE 18

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

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

ARTICLE 19

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

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

SCHEDULE 1—continued

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

ARTICLE 20

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

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

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

ARTICLE 21

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

2 The Secretary-General shall:

(a) inform all States which have signed this Convention or acceded thereto, and all Members of the Organization, of:

(i) each new signature or deposit of an instrument of ratification, acceptance, approval or accession together with the date thereof;

(ii) the date of the entry into force of this Convention;

(iii) the deposit of any instrument of denunciation of this Convention together with the date on which it is received and the date on which the denunciation takes effect;

(iv) the receipt of any declaration or notification made under this Convention;

(b) transmit certified true copies of this Convention to all States which have signed this Convention or acceded thereto.

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

ARTICLE 22

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

SCHEDULE 1—continued

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

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

SCHEDULE 2

Section 3

**PROTOCOL FOR THE SUPPRESSION OF UNLAWFUL ACTS
AGAINST THE SAFETY OF FIXED PLATFORMS LOCATED
ON THE CONTINENTAL SHELF**

The States Parties to this Protocol,

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

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

TAKING ACCOUNT of the provisions of that Convention,

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

HAVE AGREED as follows:

ARTICLE 1

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

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

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

ARTICLE 2

1 Any person commits an offence if that person unlawfully and intentionally:

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

SCHEDULE 2—continued

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

ARTICLE 3

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

SCHEDULE 2—continued

where the alleged offender is present in its territory and it does not extradite him to any of the States Parties which have established their jurisdiction in accordance with paragraphs 1 and 2 of this article.

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

ARTICLE 4

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

ARTICLE 5

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

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

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

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

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

ARTICLE 6

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

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

SCHEDULE 2—continued

ARTICLE 7

- 1 This Protocol may be denounced by any State Party at any time after the expiry of one year from the date on which this Protocol enters into force for that State.
- 2 Denunciation shall be effected by the deposit of an instrument of denunciation with the Secretary-General.
- 3 A denunciation shall take effect one year, or such longer period as may be specified in the instrument of denunciation, after the receipt of the instrument of denunciation by the Secretary-General.
- 4 A denunciation of the Convention by a State Party shall be deemed to be a denunciation of this Protocol by that Party.

ARTICLE 8

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

ARTICLE 9

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

SCHEDULE 2—continued

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

ARTICLE 10

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

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

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

*[Minister's second reading speech made in—
Senate on 25 June 1992
House of Representatives on 19 August 1992]*