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The Saeima has adopted and the  
President promulgates the following law:

On the 2005 Protocol of the Convention on the Suppression of Unlawful Activities Against the Safety of Shipping and the 2005 Protocol on the Prevention of Unlawful Activities Against the Safety of Stationary Platforms on the Continental Shelf

**Article 1.** The Protocol of October 14, 2005 to the Convention of March 10, 1988 on the Suppression of Unlawful Activities Against the Safety of Navigation (hereinafter - the Protocol of 2005 of the Convention) and the Protocol of March 10, 1988 on the Prevention of Unlawful Activities Against the Continental Shelf the safety of stationary platforms, the Protocol of October 14, 2005 (hereinafter - the 2005 Protocol of the Protocol) are adopted and approved by this law.

**Article 2.** In accordance with Article 8bis, Clause 15 of the 2005 Protocol of the Convention, the Ministry of Foreign Affairs notifies the Secretary General of the International Maritime Organization that the responsible institutions that confirm the ship's state ownership and provide the authority to take relevant measures are the Security Police and the General Prosecutor's Office within their competence.

**Article 3.** According to Article 8bis, Clause 15 of the 2005 Protocol of the Convention, the Ministry of Foreign Affairs notifies the Secretary General of the International Maritime Organization that the responsible institution that receives requests for assistance and responds to them is the Coast Guard of the Naval Forces of the Republic of Latvia service.

**Article 4.** The fulfillment of obligations provided for in the 2005 Protocol of the Convention and the 2005 Protocol of the Protocol is coordinated Ministry of Transport.

**Article 5.** The 2005 Protocol of the Convention shall enter into force at the time and in the manner specified in its Article 18, the 2005 Protocol of the Convention shall enter into force at the time and in the manner specified in Article 9 thereof, and the Ministry of Foreign Affairs will announce this in the newspaper "Latvijas Vēstnesis".

**Article 6.** The law enters into force on the day following its promulgation. Along with the law, the 2005 Protocol of the Convention and the 2005 Protocol of the Protocol in English and their translation into Latvian shall be promulgated.

The law was adopted by the Saeima on October 8, 2009.

State President V. Zatlers

Riga on October 28, 2009

PROTOCOL OF 2005 TO THE CONVENTION FOR THE SUPPRESSION OF UNLAWFUL ACTS AGAINST THE SAFETY OF MARITIME NAVIGATION

**Preamble**

THE STATES PARTIES to this Protocol,

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

ACKNOWLEDGING that terrorist acts threaten international peace and security,

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

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

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

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

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

RECALLING FURTHER the Convention on Offenses and Certain Other Acts Committed on Board Aircraft, done at Tokyo on 14 September 1963; the Convention for the Suppression of Unlawful Seizure of Aircraft, done at The Hague on 16 December 1970; the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, done at Montreal on 23 September 1971; the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, adopted by the General Assembly of the United Nations on 14 December 1973; the

International Convention against the Taking of Hostages, adopted by the General Assembly of the United Nations on 17 December 1979; the Convention on the Physical Protection of Nuclear Material, done at Vienna on 26 October 1979 and amendments thereto adopted on 8 July 2005; the Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, done at Montreal on 24 February 1988; the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf, done at Rome on 10 March 1988; the Convention on the Marking of Plastic Explosives for the Purpose of Detection, done at Montreal on March 1, 1991; the International Convention for the Suppression of Terrorists Bombings, adopted by the General Assembly of the United Nations on 15 December 1997; the International Convention for the Suppression of the Financing of Terrorism, adopted by the General Assembly of the United Nations on 9 December 1999, and the International Convention for the Suppression of Acts of Nuclear Terrorism adopted by the General Assembly of the United Nations on 13 April 2005,

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

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

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

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

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

HAVE AGREE as follows:

## ARTICLE 1

For the purposes of this Protocol:

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

## ARTICLE 2

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

### Article 1

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

(B) protective purposes, namely those purposes directly related to protection against toxic chemicals and to protection against chemical weapons; or

(C) military purposes not connected with the use of chemical weapons and not dependent on the use of the toxic properties of chemicals as a method of warfare; or

(D) law enforcement including domestic riot control purposes; as long as the types and quantities are consistent with such purposes;

(2) munitions and devices, specifically designed to cause death or other harm through the toxic properties of those toxic chemicals specified in subparagraph (ii)(1), which would be released as a result of the employment of such munitions and devices;

(3) any equipment specifically designed for use directly in connection with the employment of munitions and devices specified in subparagraph (ii)(2).

(iii) nuclear weapons and other nuclear explosive devices.

(e) "toxic chemical" means any chemical which through its chemical action on life processes can cause death, temporary incapacitation or permanent harm to humans or animals. This includes all such chemicals, regardless of their origin or of their method of production, and regardless of whether they are produced in facilities, in munitions or elsewhere.

(f) "precursor" means any chemical reactant which takes part at any stage in the production by whatever method of a toxic chemical. This includes any key component of a binary or multicomponent chemical system.

(g) "Organization" means the International Maritime Organization (IMO).

(h) "Secretary-General" means the Secretary-General of the Organization.

2. For the purposes of this Convention,

(a) the terms "place of public use", "State or government facility", "infrastructure facility", and public "transportation system" have the same meaning as given to those terms in the International Convention for the Suppression of Terrorist Bombings, done at New York on 15 December 1997, and

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

### ARTICLE 3

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

#### **Article 2 bis**

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

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

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

#### ARTICLE 4

**1. The *chapeau* of Article 3, paragraph 1 of the Convention is replaced by the following text:**

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

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

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

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

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

2. Any person also commits an offense if that person threatens, with or without a condition, as is provided for under national law, aimed at compelling a physical or juridical person to do or refrain from doing any act, to commit any of the offenses 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.

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

#### Article 3 bis

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

(a) when the purpose of the act, by its nature or context, is to intimidate a population, or to compel a Government or an international organization to do or to abstain from doing any act:

(i) uses against or on a ship or discharges from a ship any explosive, radioactive material or BCN weapon in a manner that causes or is likely to cause death or serious injury or damage; or

(ii) discharges, from a ship, oil, liquefied natural gas, or other hazardous or noxious substance, which is not

covered by subparagraph (i), in such quantity or concentration that causes or is likely to cause death or serious injury or damage; or

(iii) uses a ship in a manner that causes death or serious injury or damage; or

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

(b) transport on board a ship:

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

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

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

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

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

(a) the resulting transfer or receipt, including internal to a State, of the item or material is not contrary to such State Party's obligations under the Treaty on the Non-Proliferation of Nuclear Weapons and,

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

## **6. The following text is added as Article 3<sup>ter</sup> of the Convention:**

### **Article 3<sup>ter</sup>**

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

## **7. The following text is added as Article 3<sup>quater</sup> of the Convention:**

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

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

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

## **ARTICLE 5**

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

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

**2. The following text is added as Article 5<sup>bis</sup> of the Convention:**

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

1. Each State Party, in accordance with its domestic legal principles, shall take the necessary measures to enable a legal entity located in its territory or organized under its laws to be held liable when a person responsible for management or control of that legal entity has, in that capacity, committed an offense set forth herein Convention. Such liability may be criminal, civil or administrative.
2. Such liability is incurred without prejudice to the criminal liability of individuals having committed the offences.
3. Each State Party shall ensure, in particular, that legal entities liable in accordance with paragraph 1 are



subject to effective, proportionate and dissuasive criminal, civil or administrative sanctions. Such sanctions may include monetary sanctions.

## ARTICLE 6

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

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

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

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

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

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

## ARTICLE 7

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

### ANNEX

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

United Nations on 15 December 1997.

9. International Convention for the Suppression of the Financing of Terrorism, adopted by the General Assembly of the United Nations on 9 December 1999.

## ARTICLE 8

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

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

### 2. The following text is added as Article *8bis* of the Convention:

#### Article *8 bis*

1. States Parties shall co-operate to the fullest extent possible to prevent and suppress unlawful acts covered by this Convention, in conformity with international law, and shall respond to requests pursuant to this article as expeditiously as possible.
2. Each request pursuant to this article should, if possible, contain the name of the suspect ship, the IMO ship identification number, the port of registry, the ports of origin and destination, and any other relevant information. If a request is conveyed orally, the requesting Party shall confirm the request in writing as soon as possible possible. The requested Party shall acknowledge its receipt of any written or oral request immediately.
3. States Parties shall take into account the dangers and difficulties involved in boarding a ship at sea and searching its cargo, and give consideration to whether other appropriate measures agreed between the States concerned could be more safely taken in the next port of call or elsewhere.
4. A State Party that has reasonable grounds to suspect that an offense set forth in article 3, *3bis*, *3ter* or *3quater* has been, is being or is about to be committed involving a ship flying its flag, may request the assistance of other States Parties in preventing or suppressing that offense. The States Parties so requested shall use their best endeavors to render such assistance within the means available to them.
5. Whenever law enforcement or other authorized officials of a State Party ("the requesting Party") encounter a ship flying the flag or displaying marks of registry of another State Party ("the first Party"), located seaward of any State's territorial sea, and the requesting Party has reasonable grounds to suspect that the ship or a person on board the ship has been, is or is about to be involved in the commission of an offense set forth in article 3, *3bis*, *3ter* or *3quater*, and the requesting Party desires to board,
  - (a) it shall request, in accordance with paragraphs 1 and 2 that the first Party confirms the claim of nationality, and
  - (b) if nationality is confirmed, the requesting Party shall ask the first Party (hereinafter referred to as, "the flag State") for authorization to board and to take appropriate measures with regard to that ship which may include

stopping, boarding and searching the ship, its cargo and persons on board, and questioning the persons on board in order to determine if an offense set forth in article 3, *3bis*, *3ter* or *3quater* has been, is being or is about to be committed, and

(c) the flag State shall either:

(i) authorize the requesting Party to board and to take appropriate measures set out in subparagraph 5(b), subject to any conditions it may impose in accordance with paragraph 7; or

(ii) conduct the boarding and search with its own law enforcement or other officials; or

(iii) conduct the boarding and search together with the requesting Party, subject to any conditions it may impose in accordance with paragraph 7; or

(iv) decline to authorize a boarding and search.

The requesting Party shall not board the ship or take measures set out in subparagraph 5(b) without the express authorization of the flag State.

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

(e) Upon or after depositing its instrument of ratification, acceptance, approval or accession, a State Party may notify the Secretary-General that, with respect to ships flying its flag or displaying its mark of registry, the requesting Party is authorized to board and search a ship, its cargo and persons on board, and to question the persons on board in order to determine if an offense under article 3, *3bis*, *3ter* or *3quater* has been, is being or is about to be committed.

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

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

7. The flag State, consistent with the other provisions of this Convention, may subject its authorization under paragraph 5 or 6 to conditions, including obtaining additional information from the requesting Party, and conditions relating to responsibility for and the extent of measures to be taken. No additional measures may be

taken without the express authorization of the flag State, except when necessary to relieve imminent danger to the lives of persons or where those measures derive from relevant bilateral or multilateral agreements.

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

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

10. Safeguards:

(a) Where a State Party takes measures against a ship in accordance with this article, it shall:

(i) take due account of the need not to endanger the safety of life at sea;

(ii) ensure that all persons on board are treated in a manner which preserves their basic human dignity, and in compliance with the applicable provisions of international law, including international law of human rights;

(iii) ensure that a boarding and search pursuant to this article shall be conducted in accordance with applicable law international law;

(iv) take due account of the safety and security of the ship and its cargo;

(v) take due account of the need not to prejudice the commercial or legal interests of the flag State;

(vi) ensure, within available means, that any measure taken with regard to the ship or its cargo is environmentally sound under the circumstances;

(vii) ensure that persons on board against whom proceedings may be commenced in connection with any of the offenses set forth in article 3, *3bis*, *3ter* or *3quater* are afforded the protections of paragraph 2 of article 10, regardless of location;

(viii) ensure that the master of a ship is advised of its intention to board, and is, or has been, afforded the opportunity to contact the ship's owner and the flag State at the earliest opportunity; and

(ix) take reasonable efforts to avoid a ship being unduly detained or delayed.

(b) Provided that authorization to board by a flag State shall not *per se* give rise to its liability, States Parties shall be liable for any damage, harm or loss attributable to them arising from measures taken pursuant to this article when:

(i) the grounds for such measures prove to be unfounded, provided that the ship has not committed any act justifying the measures taken; or

(ii) such measures are unlawful or exceed what is reasonably required in light of available information to implement the provisions of this article.

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

(c) Where a State Party takes measures against a ship in accordance with this Convention, it shall take due account of the need not to interfere with or to affect:

(i) the rights and obligations and the exercise of jurisdiction of coastal States in accordance with the international law of the sea; or

(ii) the authority of the flag State to exercise jurisdiction and control in administrative, technical and social matters involving the ship.

(d) Any measure taken pursuant to this article shall be carried out by law enforcement or other authorized officials from warships or military aircraft, or from other ships or aircraft clearly marked and identifiable as being on government service and authorized to that effect and, notwithstanding articles 2 and *2bis*, the provisions of this article shall apply.

(e) For the purposes of this article "law enforcement or other authorized officials" means uniformed or otherwise clearly identifiable members of law enforcement or other government authorities duly authorized by their government. For the specific purpose of law enforcement under this Convention, law enforcement or other authorized officials shall provide appropriate government-issued identification documents for examination by the master of the ship upon boarding.

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

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

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

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

15. Upon or after depositing its instrument of ratification, acceptance, approval or accession, each State Party shall designate the authority, or, where necessary, authorities to receive and respond to requests for assistance, for confirmation of nationality, and for authorization to take appropriate measures. Such designation, including contact information, shall be notified to the Secretary-General within one month of becoming a Party, who shall

inform all other States Parties within one month of the designation. Each State Party is responsible for providing prompt notice through the Secretary-General of any changes in the designation or contact information.

## ARTICLE 9

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

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

## ARTICLE 10

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

1. The offenses set forth in articles 3, *3bis*, *3ter* and *3quater* shall be deemed to be included as extraditable offenses in any extradition treaty existing between any of the States Parties. States Parties undertake to include such offenses as extraditable offenses 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 offenses set forth in articles 3, *3bis*, *3ter* and *3quater*. Extradition shall be subject to the other conditions provided by the law of the requested State Party.

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

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

**2. The following text is added as Article 11bis of the Convention:**

### Article 11 bis

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

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

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

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

### **ARTICLE 11**

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

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

#### **2. The following text is added as Article 12*bis* of the Convention:**

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

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

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

2. For the purposes of this article:

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

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

## ARTICLE 12

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

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

(a) taking all practicable measures to prevent preparation in their respective territories for the commission of those offenses 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 offenses set forth in articles 3, *3bis*, *3ter* and *3quater*.

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

## ARTICLE 13

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

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

## ARTICLE 14

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

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

## ARTICLE 15

### Interpretation and application

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



together as one single instrument.

2. Articles 1 to 16 of the Convention, as revised by this Protocol, together with articles 17 to 24 of this Protocol and the annex thereto, shall constitute and be called the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, 2005 (2005 SUA Convention).

## **ARTICLE 16**

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

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

The final clauses of the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, 2005 shall be articles 17 to 24 of the Protocol of 2005 to the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, 1988. References in this Convention to States Parties shall be taken to mean references to States Parties to that Protocol.

## **FINAL CLAUSES**

### **ARTICLE 17**

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

1. This Protocol shall be open for signature at the Headquarters of the Organization from 14 February 2006 to 13 February 2007 and shall thereafter remain open for accession.
2. States may express their consent to be bound by this Protocol by:
  - (a) signature without reservation as to ratification, acceptance or approval; or
  - (b) signature subject to ratification, acceptance or approval, followed by ratification, acceptance or approval; or
  - (c) accession.
3. Ratification, acceptance, approval or accession shall be effected by the deposit of an instrument to that effect with the Secretary-General.
4. Only a State which has signed the Convention without reservation as to ratification, acceptance or approval, or has ratified, accepted, approved or acceded to the Convention may become a Party to this Protocol.

### **ARTICLE 18**

#### **Entry into force**

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

Protocol after the conditions in paragraph 1 for entry into force thereof have been met, the ratification, acceptance, approval or accession shall take effect ninety days after the date of such deposit.

## **ARTICLE 19**

### **Denunciation**

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

## **ARTICLE 20**

### **Revision and amendment**

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

## **ARTICLE 21**

### **Declarations**

1. Upon depositing its instrument of ratification, acceptance, approval or accession, a State Party which is not a party to a treaty listed in the Annex may declare that, in the application of this Protocol to the State Party, the treaty shall be deemed not to be included in article 3*ter*. The declaration shall cease to have effect as soon as the treaty enters into force for the State Party, which shall notify the Secretary-General of this fact.
2. When a State Party ceases to be a party to a treaty listed in the Annex, it may make a declaration as provided for in this article, with respect to that treaty.
3. Upon depositing its instrument of ratification, acceptance, approval or accession, a State Party may declare that it will apply the provisions of article 3*ter* in accordance with the principles of its criminal law concerning family exemptions from liability.

## **ARTICLE 22**

### **Amendments to the Annex**

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

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

## **ARTICLE 23**

### **Depository**

1. This Protocol and any amendments adopted under articles 20 and 22 shall be deposited with the Secretary-General.
2. The Secretary-General shall:
  - (a) inform all States which have signed this Protocol or acceded to this Protocol of:
    - (i) each new signature or deposit of an instrument of ratification, acceptance, approval or accession together with the date thereof;
    - (ii) the date of the entry into force of this Protocol;
    - (iii) the deposit of any instrument of denunciation of this Protocol together with the date on which it is received and the date on which the denunciation takes effect;
    - (iv) any communication called for by any article of this Protocol;
    - (v) any proposal to amend the Annex which has been made in accordance with article 22, paragraph 2;
    - (vi) any amendment deemed to have been adopted in accordance with article 22, paragraph 3;
    - (vii) any amendment ratified, accepted or approved in accordance with article 22, paragraph 4, together with the

date on which that amendment shall enter into force; and

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

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

## **ARTICLE 24**

### **Languages**

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

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

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

## **PROTOCOL OF 2005 TO THE PROTOCOL FOR THE SUPPRESSION OF UNLAWFUL ACTS AGAINST THE SAFETY OF FIXED PLATFORMS LOCATED ON THE CONTINENTAL SHELF**

THE STATES PARTIES to this Protocol,

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

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

TAKING account of the provisions of those Protocols,

HAVE AGREE as follows:

## **ARTICLE 1**

For the purposes of this Protocol:

1. "1988 Protocol" means the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf, done at Rome on 10 March 1988;
2. "Organization" means the International Maritime Organization; and

3. "Secretary-General" means the Secretary-General of the Organization.

## ARTICLE 2

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

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

## ARTICLE 3

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

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

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

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

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

## ARTICLE 4

**1. The following text is inserted as article 2bis:**

### Article 2 bis

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

(a) uses against or on a fixed platform or discharges from a fixed platform any explosive, radioactive material or BCN weapon in a manner that causes or is likely to cause death or serious injury or damage; or

(b) discharges, from a fixed platform, oil, liquefied natural gas, or other hazardous or noxious substance, which is not covered by subparagraph (a), in such quantity or concentration that causes or is likely to cause death or serious injury or damage or

(c) threatens, with or without a condition, as is provided for under national law, to commit an offense set forth in subparagraph (a) or (b).

**2. The following text is inserted as Article 2<sup>ter</sup>:**

**Article 2<sup>ter</sup>**

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

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

**ARTICLE 5**

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

1 Each State Party shall take such measures as may be necessary to establish its jurisdiction over the offenses set forth in articles 2, 2<sup>bis</sup> and 2<sup>ter</sup> when the offense is committed:

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

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

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

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

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

**ARTICLE 6**

## **Interpretation and application**

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

### **ARTICLE 7**

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

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

The final clauses of the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf, 2005, shall be articles 8 to 13 of the Protocol of 2005 to the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf, 1988. References in this Protocol to States Parties shall be taken to mean references to States Parties to the 2005 Protocol.

### **FINAL CLAUSES**

#### **ARTICLE 8**

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

1. This Protocol shall be open for signature at the Headquarters of the Organization from 14 February 2006 to 13 February 2007 and shall thereafter remain open for accession.
2. States may express their consent to be bound by this Protocol by:
  - (a) signature without reservation as to ratification, acceptance or approval; or
  - (b) signature subject to ratification, acceptance or approval, followed by ratification, acceptance or approval; or
  - (c) accession.
3. Ratification, acceptance, approval or accession shall be effected by the deposit of an instrument to that effect with the Secretary-General.
4. Only a State which has signed the 1988 Protocol without reservation as to ratification, acceptance or approval, or has ratified, accepted, approved or acceded to the 1988 Protocol may become a Party to this Protocol.

#### **ARTICLE 9**

##### **Entry into force**

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

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

## **ARTICLE 10**

### **Denunciation**

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

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

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

## **ARTICLE 11**

### **Revision and amendment**

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

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

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

## **ARTICLE 12**

### **Depository**

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

2. The Secretary-General shall:

(a) inform all States which have signed this Protocol or acceded to this Protocol of:

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



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

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

## ARTICLE 13

### Languages

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

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

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

2005 Protocol to the Convention on Suppression of Unlawful Activities Against Maritime Security

### Preamble

Members of this Protocol,

being parties to the Convention for the Suppression of Unlawful Activities Against the Safety of Shipping, adopted in Rome on March 10, 1988,

Recognizing that acts of terrorism threaten international peace and security,

having regard to International Maritime Organization Assembly resolution A.924(22) requesting a review of existing international legal and technical measures and consideration of new measures to prevent and combat terrorism against ships and to improve security on board ships and ashore, and thereby reduce threats to passengers, crew and port employees who are on board and in the port territory, as well as vessels and their cargo,

having regard to the Declaration on Measures for the Elimination of International Terrorism, annexed to United Nations General Assembly Resolution 49/60 of 9 December 1994, in which, *inter alia*, the Member States of the United Nations solemnly affirm their unequivocal condemnation of any terrorist acts, methods and practices, regardless of where and by whom they are carried out, including those that threaten friendly relations between countries and peoples, as well as the territorial integrity and security of countries,

Noting United Nations General Assembly Resolution 51/210 of 17 December 1996 and the accompanying Declaration supplementing the 1994 Declaration on Measures to Eliminate International Terrorism,

recalling United Nations Security Council resolutions 1368 (2001) and 1373 (2001), in which

reflecting the international will to prevent all forms and manifestations of terrorism and the tasks and responsibilities assigned to countries, as well as taking into account the long-term threat of terrorist acts,

recalling also United Nations Security Council Resolution 1540 (2004), which recognizes the need for States to urgently take additional effective measures to prevent the spread of nuclear, chemical or biological weapons and their means of delivery,

further recalling the Convention on Crimes and Certain Other Unlawful Acts Committed in Aircraft adopted in Tokyo on September 14, 1963, the Convention for the Suppression of Unlawful Seizure of Aircraft adopted in The Hague on December 16, 1970, the Convention adopted in Montreal on September 23, 1971 on the fight against illegal activities endangering the security of civil aviation, the Convention on the Prevention of Crimes against Persons Enjoying International Protection, including Diplomatic Agents, and the Punishment of Such Crimes, adopted by the UN General Assembly on December 14, 1973, on December 17, 1979 the International Convention against the Taking of Hostages adopted by the UN General Assembly in December, the Convention on the Physical Protection of Nuclear Materials adopted in Vienna on October 26, 1979 and amended on July 8, 2005, the Protocol on Combating Unlawful Violence at Airports adopted in Montreal on February 24, 1988, which serves international civil aviation, which is attached to the Convention for the Suppression of Unlawful Activities Endangering the Safety of Civil Aviation, the Protocol for the Suppression of Unlawful Activities Against the Security of Fortified Platforms on the Continental Shelf, adopted in Rome on March 10, 1988, the Convention for the Suppression of Unlawful Activities Against the Security of Fortified Platforms on the Continental Shelf, marking of plastic explosives to facilitate their detection, the International Convention for the Suppression of Terrorist Bombings, adopted by the UN General Assembly on December 15, 1997, the International Convention for the Suppression of the Financing of Terrorism, adopted by the UN General Assembly on December 9, 1999, and December 13, 2005 the International Convention on Combating Nuclear Terrorism adopted by the UN General Assembly in April,

taking into account the importance of the UN Convention on the Law of the Sea adopted in Montego Bay on 10 December 1982 and the importance of the customary norms of international law of the sea,

bearing in mind UN General Assembly Resolution 59/46, which reaffirms that international cooperation, as well as national actions in the fight against terrorism, must comply with the principles of the Charter of the United Nations, international law and relevant international conventions, and the UN General

Assembly Resolution 59/24 urging States to become parties to the Convention for the Suppression of Unlawful Activities Against the Safety of Shipping and its Protocol invites States to participate in the review of these instruments by the Juridical Committee of the International Maritime Organization to strengthen ways of combating such unlawful acts, including terrorism Acts, and States are encouraged to take appropriate measures to ensure the effective implementation of these Acts, namely, in particular, where appropriate, by adopting legislation aimed at providing adequate basic rules for responding to incidents of armed robbery and terrorist acts at sea,

also considering the importance of the amendments adopted by the Conference of the Contracting Governments to this Convention in 2002 to the 1974 International Convention for the Safety of Life at Sea and the International Code for the Protection of Ships and Port Facilities (*IPSP*) in order to develop appropriate international basic technical regulations, which include cooperation between governments, government agencies, national and local authorities, and between the shipping and port industries to identify security threats and take preventive measures against security-related incidents affecting ships or port facilities used in international trade;

furthermore, taking into account UN General Assembly Resolution 58/187, which reaffirms that states must ensure that all measures taken to combat terrorism comply with their obligations under international law, in particular international human rights, refugee and humanitarian law,

Considering that it is necessary to adopt provisions supplementing the provisions of the relevant Convention in order to reduce acts of terrorism against the security of international shipping and to improve the efficiency of shipping,

agreed.

#### **Article 1**

The following notations are used in this protocol:

1. "Convention" means the Convention for the Suppression of Unlawful Activities Against the Safety of Shipping adopted in Rome on March 10, 1988,
2. "Organization" means the International Maritime Organization (IMO) and
3. "Secretary-General" means the Secretary-General of the Organization.

#### **Article 2**

**Article 1 of the Convention is amended as follows.**

#### **Article 1**

1. In this Convention:

- (a) "vessel" means any type of vessel not permanently anchored to the seabed, including a buoyancy vessel, submarine or any other vessel,
- b) "to transport" means to initiate, organize or exercise effective control, including decision-making authority control, over the transportation of persons or objects,
- (c) "substantial damage or damage" means:
  - i) grievous bodily harm or
  - ii) extensive destruction of a public place, state or government facility, infrastructure facility, or public transportation system causing substantial property damage, or

(iii) significant damage to the environment, including the atmosphere, soil, water, fauna or flora,

(d) "biological, chemical and nuclear weapon" means:

(i) "biological weapons":

1) microbiological or other biological warfare agents or toxins, regardless of their origin or production method, type and quantity, which are not intended for use for preventive, protective or other non-military purposes, or

2) weapons, equipment or means of delivery of weapons in which such combat substances or toxins are used for hostile purposes or in armed conflicts,

(ii) "Chemical weapons", together or individually:

1) toxic chemicals and their precursors, except when they are used:

A) for industrial, agricultural, research, medical, pharmaceutical or other non-military purposes, or

B) for a defense purpose, namely for a purpose directly related to protection against toxic chemicals and chemical weapons, or

C) for military purposes not related to the use of chemical weapons and not dependent on the use of toxic properties of chemical substances in warfare, or

D) in law enforcement, including the prevention of domestic mass disturbances, if their type and quantity correspond to such purpose,

2) ammunition and devices specifically designed to cause death or cause other harm using ii) the toxic properties of the toxic chemicals specified in sub-paragraph 1) that would be released as a result of the use of such ammunition and devices,

3) any equipment specifically designed for use in conjunction with ammunition or devices specified in subparagraph ii) 2),

(iii) nuclear weapons and other nuclear explosive devices,

(e) "toxic chemical" means any chemical whose chemical action on life processes may cause death, temporary incapacitation or permanent damage to human or animal health. Toxic chemicals include all such chemicals, regardless of their origin or production method and regardless of whether they are generated in equipment, munitions or elsewhere,

(f) "precursor" means any chemically reactive substance used in any of the manufacturing steps, regardless of the type of toxic chemical.

Precursors also include binary or multicomponent chemical systems of any main component,

(g) "organisation" means the International Maritime Organization (IMO);

(h) "Secretary-General" means the Secretary-General of the Organization.

2. In this Convention:

(a) the terms "public place", "government or governmental facility", "infrastructure" and "public transportation system" shall have the same meaning as assigned to such terms in the New York Act of 15 December 1997;

In the International Convention on Combating Terrorist Bombings, and

(b) the terms "source material" and "special fissile material" shall have the same meaning as in the Statute of the International Atomic Energy Agency (IAEA) adopted at New York on 26 October 1956.

### Article 3

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

#### Article 2 *bis*

1. This Convention does not affect other rights, obligations and duties of states and individuals established in accordance with international law, in particular the goals and principles of the United Nations Charter and international human rights, refugee and humanitarian law.

2. This Convention does not apply to those acts of armed forces during armed conflicts governed by international humanitarian law, as those terms are understood in that law, as well as to national

for the activities of the armed forces, performed in the performance of official duties, to the extent that they are regulated by other norms of international law.

3. This Convention does not affect the rights, obligations and duties established for the parties to the relevant treaties in accordance with the Treaty on the Non-Proliferation of Nuclear Weapons, concluded in Washington, London and Moscow on July 1, 1968, the Convention on Bacteriological the prohibition of the development, production and stockpiling of (biological) and toxic weapons and their destruction and the Convention on the Prohibition of the Use, Development, Production and Stockpiling of Chemical Weapons and their Destruction, adopted in Paris on January 13, 1993.

### Article 4

**1. The main part of Article 3, Paragraph 1 of the Convention is replaced by the following text.**

Any person commits an offense within the meaning of this Convention if that person unlawfully and with intent:

**2. Article 3, paragraph 1, subparagraph f) of the Convention shall be replaced by the following text:**

f) provides information that the person believes to be false, thereby endangering the safe navigation of the ship.

**3. Article 3, paragraph 1, subparagraph g) of the Convention shall be deleted.**

**4. Paragraph 2 of Article 3 of the Convention shall be replaced by the following text:**

2. Any person commits an offense if that person threatens - in accordance with the law - with or without condition

provided that the purpose of this threat is to force a natural or legal person to perform or not to perform any action in order to commit any of the offenses referred to in subparagraphs b), c) and e) of paragraph 1, if this possibly threatens the safe navigation of the vessel in question.

**5. This text is added as Article 3 bis of the Convention .**

### **Article 3 bis**

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

a) if the purpose of this action, by nature or circumstances, is to intimidate the population or to compel a government or an international organization to perform or refrain from performing any action:

(i) uses or discharges any explosive, radioactive substance or biological, chemical or nuclear weapons against or on the ship in a manner that causes or is likely to cause death or cause substantial harm or damage,

or

ii) discharges from the ship oil, liquefied natural gas or other dangerous or noxious substances, not mentioned in subparagraph i), in such a quantity or concentration that causes or is likely to cause death or serious harm

or damage, or

(iii) uses the vessel in a manner which causes death or causes substantial harm or damage, or

iv) threatens to commit an offense referred to in subparagraphs i), ii) or iii) in accordance with the law, with or without condition, or

b) transported on board:

(i) any explosive or radioactive material, with the knowledge that it will be used to cause or threaten to cause death or serious injury, in accordance with national law, with or without condition, in order to intimidate the public or to compel a government or international organization to do or not to do any action, or

(ii) any biological, chemical or nuclear weapons, knowing them to be biological, chemical or nuclear weapons as defined in Article 1, or

(iii) any raw material, special fissile material, equipment or material specially designed or prepared for the processing, use or production of special fissile material, knowing that it is intended to be used for a nuclear explosion or nuclear activity that does not comply with safety controls in accordance with

IAEA General Safeguards Agreement, or

(iv) any equipment, materials or software, or technology related thereto, that significantly contributes to the development, production or delivery of biological, chemical and nuclear weapons, with the intention that they will be used for such purpose.

2. For the purposes of this Convention, it shall not be an offense to transport items or materials listed in paragraph 1(b)(iii) or, insofar as it is related to nuclear weapons or other nuclear explosive devices, referred to in paragraph 1(b)(iv) if such items or materials transported from or to the Agreement

on the territory of a member state on the non-proliferation of nuclear weapons, or if the transportation is controlled by a member state of the Treaty on the Non-Proliferation of Nuclear Weapons, if:

(a) the sending or receiving of the item or material, including within the country, does not conflict with the obligations of that Member State under the Treaty on the Non-Proliferation of Nuclear Weapons and,

b) if the object or material is intended for the delivery system of a nuclear weapon or nuclear explosive device of a member of the Treaty on the Non-Proliferation of Nuclear Weapons, for the storage of such weapons, or if the device does not conflict with the obligations of that member state under this treaty.

**6. This text is added as Article 3<sup>ter</sup> of the Convention .**

#### **Article 3<sup>ter</sup>**

Any person commits an offense within the meaning of this Convention if that person unlawfully and intentionally transports another person on board a ship, knowing that that person has committed an act constituting an offense referred to in Article 3, 3<sup>bis</sup> or 3<sup>quater</sup> , or an offense referred to in one of the agreements listed in the Annex and does so for the purpose of helping that person avoid criminal prosecution.

**7. This text is added as Article 3<sup>quater</sup> of the Convention .**

#### **Article 3. quater**

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

a) unlawfully and intentionally injures or kills any person in order to commit any of the offenses referred to in Article 3, paragraph 1, Article 3<sup>bis</sup> , or Article 3<sup>ter</sup> , or

b) attempts to commit the offense referred to in Article 3(1), Article 3<sup>bis</sup> (1)(a)(i), (ii) or (iii) or in subparagraph (a) of this Article, or

c) is an accomplice in the offense referred to in Article 3, Article 3<sup>bis</sup> , Article 3<sup>ter</sup> or subparagraph a) or b) of this Article,  
or

d) organizes or directs other persons to commit the offense referred to in Article 3, Article 3<sup>bis</sup> , Article 3<sup>ter</sup> or subparagraphs a) or b) of this Article, or

e) contributes to the fact that a group of persons acting with a common goal intentionally commits one or more offenses referred to in Article 3, Article 3<sup>bis</sup> , Article 3<sup>ter</sup> or subparagraph a) or b) of this Article:

i) with the intention of continuing a criminal activity or the fulfillment of the group's criminal goal, if the performance of this activity or the fulfillment of the goal requires the commission of an offense referred to in Article 3, Article 3<sup>bis</sup> or Article 3<sup>ter</sup> , or

ii) being aware of the group's intention to commit an offense referred to in Article 3, Article 3<sup>bis</sup> or Article 3<sup>ter</sup> .

#### **Article 5**

**1. Article 5 of the Convention shall be replaced by the following text.**

Each Member State shall recognize the offenses referred to in Articles 3, *3bis*, *3ter* and *3quater* as punishable, providing relevant penalties according to the severity of these offences.

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

#### **Article 5 bis**

1. Each Member State shall, in accordance with the principles of its law, take the necessary measures so that a legal entity existing in its territory or established in accordance with its legislation can be prosecuted if the person responsible for the management and control of this legal entity, in the performance of official duties, has committed an offense referred to in this Convention. This person may be held criminally, civilly or administratively liable.

2. This responsibility does not depend on the criminal responsibility of the individuals who committed these crimes.

3. Each Member State shall ensure that legal entities prosecuted under Article 1 are subject to effective, proportionate and dissuasive criminal, civil or administrative sanctions. Such sanctions may also include fines.

#### **Article 6**

**1. The main part of Article 6, Paragraph 1 of the Convention shall be replaced by the following text.**

1. Each Member State shall take the necessary measures to establish its jurisdiction over the offenses referred to in Articles 3, *3bis*, *3ter* and *3quater* if the offense is committed by:

**2. Clause 3 of Article 6 of the Convention shall be replaced by the following text.**

3. Any Member State which has introduced the jurisdiction referred to in paragraph 2 shall report this to the Secretary-General. If that Member State later withdraws this jurisdiction, it must notify the Secretary-General.

**3. Clause 4 of Article 6 of the Convention shall be replaced by the following text:**

4. Each Member State shall take the necessary measures to establish its jurisdiction over offenses which referred to in Articles 3, *3bis*, *3ter* and *3quater* , in those cases when the alleged offender is located in its territory, and does not extradite the alleged offender to any of the member states that have established their jurisdiction in accordance with paragraphs 1 and 2 of this Article.

#### **Article 7**

**This text is attached as an annex to the Convention.**

#### **APPENDIX**

1. Convention for the Suppression of Unlawful Seizure of Aircraft, adopted at The Hague on 16 December 1970.

2. The Convention for the Suppression of Unlawful Activities Endangering the Safety of Civil Aviation, adopted in Montreal September 23, 1971.

3. Convention on the prevention of crimes against persons enjoying international protection, also against



diplomatic agents, and punishment for such crimes, adopted by the UN General Assembly on December 14, 1973.

4. In the International Convention against the Taking of Hostages, adopted by the UN General Assembly in 1979 on December 17.

5. Convention on the Physical Protection of Nuclear Materials, adopted in Vienna on October 26, 1979.

6. Protocol on Combating Unlawful Violence at Airports Serving International Civil Aviation, annexed to the Convention on Combating Unlawful Acts Endangering the Security of Civil Aviation, adopted at Montreal on February 24, 1988.

7. Protocol on Combating Unlawful Activities Against the Safety of Fixed Platforms on the Continental Shelf, adopted in Rome on March 10, 1988.

8. International Convention on Combating Terrorist Bombings, adopted by the UN General Assembly on December 15, 1997.

9. International Convention on Combating the Financing of Terrorism, adopted by the UN General Assembly in 1999 on December 9.

#### **Article 8**

**1. Clause 1 of Article 8 of the Convention is replaced by the following text.**

1. The master of a ship of a Member State ("ship's flag state") may hand over any person to the authorities of any other Member State ("recipient state") if the master reasonably believes that he has committed an offense referred to in 3, *3 bis*, in article *3.ter* or *3.quater* .

**2. This text is added as Article *8 bis* of the Convention .**

#### **Article 8 bis**

1. States Parties shall cooperate to the fullest extent possible in accordance with international law to prevent and combat unlawful acts covered by this Convention and to respond as soon as possible to requests under this Article.

2. Every request under this Article shall, if possible, include the name of the suspect vessel, the IMO identification number of the vessel, the port of call, the port of origin and the port of destination, as well as any other relevant information. If the request is made orally, the requesting Member State shall confirm the request in writing as soon as possible. The requesting party immediately confirms that it has received a written or verbal request.

3. Member States shall take into account the dangers and difficulties associated with boarding a ship at sea and searching its cargo and shall consider whether other appropriate measures agreed by the participating States are safer and can be taken at the next port of call or elsewhere.

4. A Member State that has reasonable suspicion that an offense referred to in Article 3, *3bis*, *3ter* or *3quater* has been committed, is being committed or will be committed in connection with a ship flying under its flag may request assistance to another member state in preventing or combating this offence. Requested Member States shall make every effort to provide such assistance within the means available to them.

5. If a law enforcement officer or other authorized official of a member state (the "requesting party") determines that the vessel is sailing under the flag of another member state or may be registered in the state of another member state ("the first party"), is at sea in the territorial waters of any state, and the request the requesting party has a reasonable suspicion that the ship or any person on this ship was, is or will be involved in an offense referred to in Article 3, *3bis*, *3ter* or *3quater*, and the requesting party wishes to board this ship:

(a) it requests, in accordance with paragraphs 1 and 2, that the first party approves the nationality requirement and,

b) if the nationality is confirmed, the requesting party requests permission from the first party (hereinafter referred to as the flag State of the vessel) to board the vessel and take appropriate measures related to the vessel, including stopping the vessel, boarding and searching the vessel, cargo and persons, as also questioning the persons on board to determine whether the offense referred to in 3., *3bis*, *3ter* or

in article 3. *quater*, and

c) the ship's flag state:

(i) permit the requesting Party to board the ship and take the appropriate measures referred to in paragraph 5(b) subject to any conditions which it may impose under paragraph 7, or

ii) order that the ship be boarded and searched by the officers of its law enforcement agency or other officials, or

(iii) the ship is boarded and searched with the requesting party subject to any conditions it may impose under paragraph 7, or

iv) prevent boarding and searching the ship.

The requesting party may not board the vessel and take the measures referred to in paragraph 5(b) unless it has received permission from the flag state of the vessel.

d) after the deposit of the instrument of ratification, acceptance, approval or accession, the Member State shall notify the Secretary-General that, in respect of ships flying its flag or bearing its registration mark, the requesting party has been given permission to board the ship and search the ship, its cargo and persons, as well as to interrogate persons on board in order to find and check their nationality documents and to determine whether an offense referred to in Article 3, *3bis*, *3ter* or *3quater* has been committed, is being committed or will be committed, if within four hours the first party has not confirmed that it has received the request to confirm the nationality,

(e) after the deposit of the instrument of ratification, acceptance, approval or accession, the Member State shall notify the Secretary-General that, in respect of ships flying its flag or bearing its registration mark, the requesting party shall be permitted to board the ship and search the ship, its cargo and persons as well as

to question persons on board the ship to determine whether an offense has been committed, is being committed or is about to be committed mentioned in Article 3, *3bis*, *3ter* or *3quater*.

Notices given under this clause may be withdrawn at any time.

6. If, after boarding a ship carried out in accordance with this article, the conduct described in article 3, *3bis*, *3ter* or *3quater* is proven, the flag state of the ship may give permission to the requesting party to detain the ship, cargo and persons on board until receiving deployment instructions from the ship's flag state. The requesting party shall immediately provide information to the flag state of the vessel on the results of the boarding, search and detention carried out in accordance with this Article. The requesting party shall immediately provide the flag state of the vessel with information on evidence of such illegal conduct, which is not mentioned in this Convention.

7. In accordance with other provisions of this Convention, the flag State of the vessel may apply certain conditions, including obtaining additional information from the requesting party, as well as conditions related to responsibility for the measures to be taken and this measure, when granting permission in accordance with Article 5 or 6 extent. No additional measures shall be taken without the permission of the ship's flag State, except when necessary to prevent threats to human life or when such measures result from appropriate bilateral or multilateral agreements.

8. In connection with the boarding of a ship carried out in accordance with this article, the flag State of the ship has the right to exercise jurisdiction over the detained ship, cargo or other objects and persons on board, including detention, confiscation, arrest and prosecution. However, the flag State of the ship may, in accordance with its constitution and laws, consent to the exercise of jurisdiction by another State which has jurisdiction under Article 6.

9. The use of force shall be avoided when carrying out the authorized activities in accordance with this article, except when it is necessary to guarantee the safety of the officials and persons on board the ship, or when the officials are prevented from carrying out the authorized activities. The use of force under this Article shall not exceed the minimum degree necessary and acceptable under the circumstances.

10. Safety measures.

(a) If a Member State takes measures against a ship in accordance with this Article, it shall:

(i) have due regard to the need not to endanger the safety of human life at sea,

ii) ensures that all persons on board are treated with respect for human dignity and in accordance with applicable international law, including international human rights,

(iii) ensure that boarding and searches under this Article are conducted in accordance with applicable international law;

(iv) have due regard to the safety and security of the ship and its cargo,

v) duly takes into account the need to respect the economic or legal interests of the ship's flag state,

(vi) ensure, within the means at its disposal, that any measure taken in relation to the ship or its

cargo, is environmentally safe under the relevant conditions,

(vii) ensure that the protection referred to in Article 10(2) is provided to persons on board ships who may be prosecuted for any offense referred to in Article 3, *3bis*, *3ter* or *3quater*, regardless of locations,

(viii) ensure that the master of the ship is informed of its intention to board the ship and has or will be given the opportunity to contact the ship's owner and the ship's flag State as soon as possible, and

(ix) take reasonable steps to ensure that the vessel is not unreasonably detained or delayed.

(b) If permission to board a ship given by the flag State of the ship does not *per se* increase its liability, Member States shall assume liability for damage, injury or loss caused by measures taken in accordance with this Article if:

(i) the justification for these measures proves to be insufficient, provided that the vessel has not committed any act justifying the measures taken, or

ii) these measures are unlawful or exceed what is reasonably necessary, taking into account the available information, to implement the provisions of this Article.

Member States shall provide legal protection for such damage, injury or loss.

(c) If a Member State takes measures against a ship in accordance with this Convention, it shall give due consideration to the need for non-intervention or not affect:

i) the rights and obligations of coastal states and jurisdiction under international maritime law or

(ii) the authority of the ship's flag State to exercise jurisdiction and control administrative, technical and social matters relating to the ship.

(d) Any action taken pursuant to this section shall be conducted by law enforcement officers or other authorized officers from warships or military aviation aircraft, or from other ships or aircraft that are clearly marked and identified as being in the service of the State and authorized operate, and the provisions of this Article are valid regardless of Articles 2 and *2 bis*.

(e) For the purpose of this Article, "law enforcement officers or other authorized officials" means law enforcement or other government officials who are in uniform or otherwise clearly identifiable. In order to achieve the purpose of law enforcement under this Convention, law enforcement officials or other authorized officials shall present government-issued identification documents to the master of a vessel upon boarding.

11. This article does not apply to the boarding of a ship carried out by any member state in accordance with international law, if the ship is in its territorial waters, nor does it limit the boarding of the ship, including the boarding of the ship on the basis of the right of visit, as well as to provide assistance to persons, to a ship or property in danger or threatened, or to carry out law enforcement or other activities based on the authority of the ship's flag State.

12. Member States are encouraged to establish standardized operating procedures for joint activities carried out pursuant to this Article and to consult, where appropriate, with other Member States parties to harmonize such standardized operating procedures.

13. In order to facilitate law enforcement operations carried out in accordance with this Article, Member States may enter into agreements or agreement.

14. Each Member State shall take appropriate measures to ensure that law enforcement officials or other authorized officials, as well as law enforcement officials or other authorized officials of other Member States acting on their behalf, are authorized to act in accordance with this Article.

15. After the deposit of the instrument of ratification, acceptance, approval or accession, each Member State shall determine the institution or, if necessary, institutions that will receive and respond to requests for assistance, confirm nationality, and also provide the authority to take relevant measures. Information on this determination, including contact information, shall be sent by the Party to the Secretary-General within one month of becoming a Member State, who shall forward this information to all other Member States within one month of such determination. Each Member State shall immediately inform the Secretary-General if a different authority is designated or the contact information of that authority changes.

#### **Article 9**

**Paragraph 2 of Article 10 is replaced by the following text.**

2. Any person who is detained or subjected to any other measures or against whom legal proceedings are instituted in accordance with this Convention shall be accorded fair treatment, including all rights and guarantees in accordance with the laws of the State in whose territory the person is present and the norms of international law, including international ones human rights.

#### **Article 10**

**1. Paragraphs 1, 2, 3 and 4 of Article 11 are replaced by the following text.**

1. Offenses referred to in Articles 3, *3bis*, *3ter* and *3quater* shall be considered included in all extradition treaties concluded between the parties to the Member States as extradition offences. States Parties undertake to include such offenses in any extradition treaty concluded between them as offenses which may issuance.

2. If a member state that carries out extradition under the condition that an extradition agreement has been concluded receives a request for extradition from another member state with which it has not concluded an extradition agreement, the party receiving the request in connection with the offenses referred to in 3, *3 bis*, in Article *3.ter* and *3.quater*, this convention can be considered as a legal basis for extradition. Extradition shall be subject to other conditions provided for in the legislation of the requested Member State.

3. Member States, where extradition does not depend on a concluded extradition treaty, mutually recognize the offenses referred to in Articles 3, *3bis*, *3ter* and *3quater* as extraditable offenses and apply conditions for extradition, provided for in the legislation of the requested Member State.

4. For the purpose of extradition between the member states parties, if necessary, the offenses mentioned in 3, 3 *bis*, 3 *ter* and in Article 3. *quater* , can be considered committed not only in the place where they were committed, but also in a place under the jurisdiction of the member state that requests extradition.

**2. This text is added as Article 11 *bis* of the Convention .**

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

For the purposes of extradition or mutual legal assistance, none of the offenses referred to in 3, 3 *bis*, 3 *ter* or in Article 3. *quater* , is not considered a political crime or an offense related to a political crime or an offense committed due to political motives. Thus, a request for extradition or mutual legal assistance based on such an offense cannot be refused solely on the grounds that it is a political crime or an offense related to a political crime or an offense committed with political motives

because of.

**3. This text is added as Article 11*ter* of the Convention .**

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

This Convention shall not be interpreted in the sense that extradition or the provision of mutual legal assistance would be imposed if the requested member state has reason to believe that the extradition request for the offenses referred to in Article 3, 3*bis*, 3*ter* or 3*quater* , or for mutual legal assistance in connection with such a crime is made to prosecute or punish a person on account of that person's race, religion, nationality, ethnic origin, political opinion or sex, or if granting such a request would be prejudicial to that person's position for any of those reasons.

#### **Article 11**

**1. Clause 1 of Article 12 of the Convention shall be replaced by the following text.**

1. Member States shall provide each other with the greatest possible assistance in relation to criminal proceedings initiated in connection with the offenses referred to in Articles 3, 3*bis*, 3*ter* and 3*quater* , including assistance in obtaining evidence in the possession of these States, necessary for judicial proceedings.

**2. This text is added as Article 12 *bis* of the Convention .**

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

1. A person who has been detained or is serving a sentence in the territory of one Member State and whose presence is required in another Member State in order to perform identification, give testimony or otherwise contribute to obtaining evidence in an investigation or criminal prosecution for the offenses referred to in 3, 3-*bis*, 3-*ter* and in article 3. *quater* , can be moved if the following conditions are met:

a) the person concerned gives informed consent and

(b) the competent authorities of the two countries have agreed, taking into account the conditions considered by those countries

appropriate.

2. In this article:

(a) the country to which the person is transferred has the power and duty to keep the transferred person in custody if only the country from which the person was transferred does not request or require to do otherwise,

b) the country to which the person is transferred must immediately fulfill its obligation to return the person to the custody of the country from which the person was transferred, in accordance with the previously concluded agreement or other agreement concluded by the competent authorities of both countries,

c) the country to which the person is transferred may not request the country from which the person was transferred to initiate an extradition procedure for the return of this person,

d) the sentence served by the displaced person in the country from which he was transferred shall be reduced by the length of time the person spent in custody in the country to which he was transferred.

3. Unless the Member State from which the person is to be removed in accordance with this Article objects, that person, regardless of his nationality, shall not be charged or detained in the territory of the country to which he is to be removed, or shall not have his liberty restricted in connection with acts and convictions which occurred before the departure of this person from the territory of the country from which he was relocated.

#### Article 12

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

1. Member States shall cooperate to prevent the offenses referred to in Articles 3, *3bis*, *3ter* and *3quater*, in particular:

a) by taking practical measures to prevent preparations for the commission of the mentioned offenses in the territories of the respective countries or outside them,

b) exchanging information in accordance with their legislation and coordinating administrative and other measures, which are taken accordingly, to prevent the commission of the offenses referred to in Articles 3, *3bis*, *3ter* and *3quater*.

2. If the movement of a ship is delayed or interrupted due to the commission of an offense referred to in Article 3, *3bis*, *3ter* or *3quater*, any Member State in whose territory the ship, passengers or crew are located shall do everything possible to prevent unreasonable detention or delay of the ship, its passengers, crew or cargo.

#### Article 13

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

Any Member State which has reason to believe that an offense referred to in Article 3, *3bis*, *3ter* or *3quater* will be committed shall, in accordance with national law, as soon as possible provide the relevant information at its disposal to those States, which in its discretion may have jurisdiction under Article 6.

#### Article 14

**Paragraph 3 of Article 15 of the Convention is replaced by the following text.**

3. In accordance with paragraphs 1 and 2, the Secretary-General shall send the information to all member states parties, members of the organization and other participating countries, as well as relevant international intergovernmental organizations.

## **Article 15**

### **Interpretation and application**

1. The Convention and this protocol shall be considered and interpreted as a single document in the relations between the parties to this protocol.
2. Articles 1-16 of the Convention. Articles amended by this protocol, together with Articles 17-24 of this protocol. Article and the attached Annex shall be deemed and referred to as the 2005 Convention on the Suppression of Unlawful Activities Against the Safety of Shipping (2005 *SUA* Convention).

## **Article 16**

**This text is added as Article *16bis* of the Convention .**

### **of the 2005 Convention on the Suppression of Unlawful Activities Against the Safety of Shipping Regulations**

The final provisions of the 2005 Convention on the Suppression of Unlawful Activities against the Safety of Navigation are the 2005 Protocol 17-24 of the 1988 Convention on the Suppression of Unlawful Activities against the Safety of Navigation. article  
References to Member States Parties in this Convention shall be construed as references to Member States Parties to the 2005 Protocol.

## **FINAL TERMS**

### **Article 17**

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

1. This Protocol may be signed at the headquarters of the Organization from 14 February 2006 to 13 February 2007 and may be acceded to thereafter.
2. States may express their consent by undertaking under this Protocol:
  - (a) by signing it without reservation as to ratification, acceptance or approval or
  - (b) by signature to be ratified, accepted or approved and followed by its ratification, acceptance or approval, or
  - (c) by accession.
3. Ratification, acceptance, approval or accession takes place by depositing the relevant document with the Secretary General.
4. Only a country that has signed the convention without reservations regarding ratification can become a party to this protocol,



acceptance or approval, or has ratified, accepted, approved or acceded to the Convention.

## Article 18

### Entry into force

1. This Protocol shall enter into force on the day ninety days have passed from the date on which twelve States have signed it without reservation of ratification, acceptance or approval, or have deposited with the Secretary-General an instrument of ratification, acceptance, approval or accession.
2. For a State which deposits an instrument of ratification, acceptance, approval or accession with respect to this Protocol after the conditions for entry into force of paragraph 1 have been fulfilled, the ratification, acceptance, approval or accession shall enter into force on the day ninety days have elapsed since such of the date of deposit.

## Article 19

### Denunciation

1. Any Party to the Protocol may denounce this Protocol at any time after this Protocol enters into force therein  
in the country.
2. Denunciation takes place by depositing the denunciation document with the Secretary General.
3. Denunciation shall take effect after one year from the date on which the instrument of denunciation is received by the Secretary-General, or after such longer period as may be specified in the instrument of denunciation.

## Article 20

### Revision and amendment

1. The Organization may convene a conference to review or amend this Protocol.
2. The Secretary-General shall convene a Conference of the Parties to this Protocol to review or amend this Protocol at the request of one-third of the Parties or ten Parties to the Protocol, whichever is greater.
3. Any instrument of ratification, acceptance, approval or accession deposited after the date on which amendments to this Protocol enter into force shall apply to the Protocol as amended.

## Article 21

### Declarations

1. When depositing an instrument of ratification, acceptance, approval or accession, a Member State that has not acceded to any of the agreements listed in the Annex may declare that, when applying this Protocol to that Member State, this agreement is not considered to be included in Article 3 *ter*. This declaration shall cease to be in force as soon as this Agreement enters into force for that Member State which shall so notify the Secretary-General.
2. If one of the agreements listed in the Annex is no longer binding on a member state, it may, in connection with this agreement

make a declaration as specified in this article.

3. After depositing an instrument of ratification, acceptance, approval or accession, a Member State may declare that it will apply the provisions of Article 3ter in accordance with its criminal law principles regarding family exemptions from responsibility.

## **Article 22**

### **Amendment of the Annex**

1. The Annex may be amended by adding relevant agreements if:

a) all countries can participate in them,

(b) they have entered into force and

(c) have been ratified, accepted, approved or acceded to by at least twelve States Parties to this Protocol.

2. After the entry into force of this Protocol, any Member State may propose amendments to the Annex. Any proposed amendment shall be sent in writing to the Secretary General. The Secretary-General shall circulate any proposed amendment to all members of the Organization if it meets the requirements of paragraph 1 and shall await the consent of the parties to this Protocol to accept the proposed amendment.

3. The proposed amendment to the Annex shall be considered adopted after twelve member states of this Protocol have sent written statements to the Secretary General that they agree to it.

4. The adopted amendment of the Annex shall enter into force thirty days after the date on which the document of ratification, acceptance or approval of this amendment has been deposited with the Secretary-General, and it shall apply to those member parties to this Protocol that have deposited the said document. For each State Party to this Protocol that ratifies, accepts or approves an amendment after depositing its twelfth instrument with the Secretary-General, this amendment shall enter into force thirty days after the date on which that State Party deposits its instrument of ratification, acceptance or approval.

## **Article 23**

### **Depositary**

1. This Protocol and any amendment adopted in accordance with Articles 20 and 22 shall be deposited with the Secretary-General.

2. Secretary General:

(a) inform all States that have signed or acceded to this Protocol of:

(i) each new signature or deposit of an instrument of ratification, acceptance, approval or accession and the relevant date,

ii) the date of entry into force of this protocol,

- iii) on the deposit of any document of denunciation of this protocol, as well as the date on which it was received and the date on which the denunciation takes effect,
- (iv) any notification made pursuant to any Article of this Protocol,
- (v) any proposal to amend the Annex made in accordance with Article 22(2),
- (vi) any amendment deemed to have been adopted in accordance with Article 22(3),
- (vii) any amendment ratified, accepted or approved in accordance with Article 22(4) and the date on which that amendment will come into force, and

(b) send certified copies of this Protocol to all countries that have signed or acceded to this Protocol.

3. Immediately after the entry into force of this Protocol, the Secretary-General shall transmit a certified copy of this text to the Secretary-General of the United Nations for registration and publication in accordance with the United Nations Article 102 of the Statute.

#### **Article 24**

##### **Languages**

This Protocol is drawn up in a single copy in the English, Arabic, French, Russian, Chinese and Spanish languages, all texts being equally authentic.

London, this fourteenth day of October in the year two thousand and five.

In witness whereof, the duly authorized persons have signed this protocol.

## **2005 Protocol on the Prevention of Illegal Activities Against the Safety of Fixed Platforms on the Continental Shelf**

Members of this Protocol,

being parties to the Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms on the Continental Shelf, adopted at Rome on 10 March 1988,

Recognizing that the rationale behind the 2005 Protocol to the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation also applies to fixed platforms located on the continental shelf,

taking into account the provisions of these protocols,

have agreed on the future.

## ARTICLE 1

In this protocol:

1. "1988 Protocol" means the Protocol for the Prevention of Unlawful Acts Against the Safety of Fixed Platforms on the Continental Shelf, adopted at Rome on 10 March 1988,
2. "Organization" means the International Maritime Organization and
3. "General Secretary" means the Secretary General of the Organization.

## ARTICLE 2

**Paragraph 1 of Article 1 of the 1988 Protocol is replaced by the following text.**

1. Convention for the Prevention of Unlawful Acts Against the Safety of Maritime Navigation, as amended by the 2005 Protocol to the Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation, Article 1, paragraph 1 c), d), e), f), g), h) sub-paragraph and sub-paragraph a) of paragraph 2, 2 *bis*, 5, 5 *bis*, and Article 7, as well as 10-16 the provisions of Article, including *Article 11 bis*, *11 ter* and *12 bis*, *mutatis mutandis* also apply to offenses referred to in Articles 2, 2 *bis* and 2 *ter* of this protocol, if these offenses were committed on a ship located on the continental shelf or against stationary platforms within it.

## ARTICLE 3

**1. Article 2(1)(d) of the 1988 Protocol shall be replaced by the following text:**

d) by any means places or facilitates the placing of a device or substance on a stationary platform that can destroy this stationary platform or endanger its safety.

**2. In the 1988 protocol, Article 2, paragraph 1, subparagraph e) is deleted.**

**3. Paragraph 2 of Article 2 of the 1988 Protocol shall be replaced by the following text.**

2. Any person commits an offense if that person makes a threat under national law, with or without the condition that the purpose of the threat is to compel a natural or legal person to do or not to do any act in order to commit any of paragraph 1(b) and (c) for the offenses mentioned in subsection, if they threaten the safety of the stationary platform.

## SECTION 4

**1. This text is included as Article 2 bis.**

### Article 2 bis

Any person commits an offense within the meaning of this Protocol if that person unlawfully and intentionally – if the purpose of the act, by nature or context, is to intimidate the population or to compel a government or an international organization to do or not to do any act:

a) uses against a stationary platform or discharges from it any explosive, radioactive substances or

biological, chemical or nuclear weapons in a manner that causes or is likely to cause death or serious bodily injury or harm, or

b) discharges oil, liquefied natural gas or other dangerous or harmful substances not mentioned in sub-paragraph a) from a fixed platform in such a quantity or concentration that causes or may cause death or serious injury

damage, or harm, or

c) threatens - in accordance with national legislation, with or without a condition - to commit any of the offenses referred to in subparagraphs a) or b).

**2. This text is included as Article 2 *ter* .**

#### **Article 2 *ter***

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

a) unlawfully and intentionally injures or kills any person in order to commit any of the offenses referred to in Article 2(1) or Article 2*bis* , or

b) attempts to commit an offense referred to in Article 2, Clause 1, Article 2*bis*, Clauses 1 or 2, or Clause a) of this Article, or

c) is an accomplice in the offense referred to in Article 2, Article 2*bis* or subparagraph a) or b) of this Article, or

d) organizes or directs other persons to commit the offense referred to in Article 2, Article 2 *bis* or subparagraphs a) or b) of this Article, or

e) contributes to the fact that a group of persons acting with a common intention intentionally commits one or more offenses referred to in Article 2, Article 2*bis* or subparagraph a) or b) of this Article:

i) with the intention of facilitating the criminal activity of this group or the criminal intentions of the group, if this activity or intention is related to the commission of the offense referred to in Article 2 or 2*bis*, or

ii) being aware of the group's intention to commit the offense referred to in Article 2 or 2 *bis* .

#### **ARTICLE 5**

**1. Paragraph 1 of Article 3 of the 1988 Protocol is replaced by the following text.**

1. Each Member State shall take the necessary measures to establish its jurisdiction over the offenses referred to in Articles 2, 2*bis* and 2*ter* , if the offense is committed by:

(a) against or on a fixed platform while it is on the continental shelf of that country, or

(b) a national of that country.

**2. Paragraph 3 of Article 3 of the 1988 Protocol shall be replaced by the following text.**

3. Any Member State which has introduced the jurisdiction referred to in paragraph 2 shall report this to the Secretary-General. If that Member State subsequently withdraws that jurisdiction, that Member State shall notify the Secretary-General thereof.

**3. Paragraph 4 of Article 3 of the 1988 Protocol shall be replaced by the following text.**

4. Each Member State shall take the necessary measures to establish its jurisdiction over the offenses referred to in Articles 2, *2bis* and *2ter* in cases where the alleged offender is present in its territory and that Member State shall not extradite the alleged offender to any of the Member States, which has introduced its own jurisdiction

in accordance with paragraphs 1 and 2.

## **SECTION 6**

### **Interpretation and application**

1. The Protocol of 1988 and this Protocol shall be considered and interpreted in the relations between the member states of this Protocol as single document.

2. 1-4 of the 1988 protocol. Articles amended by this protocol, together with Articles 8-13 of this protocol. shall be considered and referred to as the 2005 Protocol for the Prevention of Unlawful Activities Against the Safety of Fixed Platforms on the Continental Shelf (2005 *SUA* Stationary Platforms Protocol).

## **SECTION 7**

**This text is added as Article 4 *bis* of the protocol .**

### **Final provisions of the 2005 Protocol for the Suppression of Unlawful Activities Against the Safety of Fixed Platforms on the Continental Shelf**

The final provisions of the 2005 Protocol for the Prevention of Unlawful Activities Against the Safety of Fixed Platforms on the Continental Shelf are Articles 8-13. Article in the 2005 Protocol, developed under the 1988 Protocol for the Prevention of Unlawful Activities Against the Safety of Stationary Platforms on the Continental Shelf. References to Member States in this Protocol shall be construed as references to Member States of the 2005 Protocol.

## **FINAL TERMS**

### **SECTION 8**

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

1. This Protocol may be signed at the headquarters of the Organization from 14 February 2006 to 13 February 2007 and may still be acceded to after that date.

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

(a) by signing the ratification, acceptance or approval of the protocol without reservation or

(b) by signature subject to ratification, acceptance or approval and followed by ratification, acceptance or approval, or

(c) by accession.

3. Ratification, acceptance, approval or accession takes place by depositing the relevant document with the Secretary General.

4. Only a country that has either signed the 1988 Protocol without reservation on ratification, acceptance or approval, or has ratified, accepted, approved or acceded to the 1988 Protocol can become a member state of this Protocol.

## SECTION 9

### Entry into force

1. This Protocol shall enter into force on the day ninety days have passed from the date on which three States have signed it without reservation of ratification, acceptance or approval or have deposited with the Secretary-General an instrument of ratification, acceptance, approval or accession. However, this protocol does not enter into force until the 2005 protocol to the Convention on the Suppression of Unlawful Activities Against the Safety of Maritime Navigation enters into force.

2. For a State which deposits an instrument of ratification, acceptance, approval or accession with respect to this Protocol after the conditions for entry into force of paragraph 1 have been fulfilled, the ratification, acceptance, approval or accession shall enter into force on the day ninety days have elapsed since such of the date of deposit.

## SECTION 10

### Denunciation

1. Any Party to the Protocol may denounce this Protocol at any time after the date on which it enters into force hereunder  
in the country.

2. Denunciation takes place by depositing the denunciation document with the Secretary General.

3. Denunciation shall take effect one year after the date on which the Secretary-General receives the instrument of denunciation, or after such longer period as may be specified in the instrument of denunciation.

## SECTION 11

### Revision and amendment

1. The Organization may convene a conference to revise or amend this Protocol.

2. The Secretary-General shall convene a conference of the States Parties to this Protocol to review or amend this Protocol at the request of one-third of the States Parties or five States Parties to the Protocol, whichever is greater.

3. The amended protocol shall be subject to any instrument of ratification, acceptance, approval or accession deposited after the date on which the amendments to this protocol enter into force.

## SECTION 12

### Depository

1. This Protocol and any amendment adopted in accordance with Article 11 shall be deposited with the Secretary-General.
2. Secretary General:
  - (a) inform all States that have signed or acceded to this Protocol of:
    - i) each signature or deposit of a new instrument of ratification, acceptance, approval or accession and its date,
    - ii) the date of entry into force of this protocol,
    - iii) the deposit of any document of denunciation of this Protocol, as well as the date on which it was received and the date on which the denunciation takes effect,
    - (iv) any notification required under any Article of this Protocol, and
  - (b) send certified copies of this Protocol to all States that have signed or acceded to this Protocol.
3. As soon as this Protocol enters into force, the Secretary-General shall transmit a certified copy of this text to the Secretary-General of the United Nations for registration and publication in accordance with the United Nations Article 102 of the Statute.

### SECTION 13

#### Languages

This Protocol is drawn up in a single original in the Arabic, Chinese, English, French, Russian and Spanish languages, all texts being equally authentic.

London, this fourteenth day of October in the year two thousand and five.

In witness whereof, the duly authorized persons have signed this protocol.

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The official publication is available in the print version of the newspaper "Latvijas Vēstnesis".