

By Fax

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Dear Bernice,

United Nations (Anti-Terrorism Measures)(Amendment) Bill 2003

Thank you for your letter of 8 October 2003 on the United Nations (Anti-Terrorism Measures)(Amendment) Bill 2003 (the Bill). Our replies to the questions raised in your letter are set out below.

Part 1 Preliminary

Clause 4 (section 3A) Authorization of public officers

The new section 3A provides that the Secretary for Security (S for S) may authorize any “relevant public officer” to be an “authorized officer” for the purposes of the United Nations (Anti-Terrorism Measures) Ordinance (the Ordinance) (Cap. 575). “Relevant public officer” means a public officer of the Police, the Immigration Department, the Customs and Excise Department or the Independent Commission Against Corruption, and a legal officer of the Department of Justice.

The definition of “relevant public officer” is intended to include all public officers expected to be most frequently involved in the investigation and prosecution of the offences under the Ordinance. A legal officer of the Department of Justice may have to apply for relevant orders or warrants under the new Parts 4A and 4B, or assist in enforcement operations if the situation so warrants.

Part 2 Specification of terrorists, terrorist associates and terrorist property and freezing of property

Clause 5 (section 6) Freezing of property

We have duly considered the existing mechanisms for issuing restraints orders on property under the Drug Trafficking (Recovery of Proceeds) Ordinance (Cap. 405) and the Organized and Serious Crimes Ordinance (Cap. 455). For freezing of terrorist property, including both funds and non-fund property, our view is that speed is of paramount importance. We therefore propose to apply the existing freezing mechanism for terrorist funds under the existing section 6 of the Ordinance to non-fund terrorist property, based on the following considerations -

- (a) judicial procedures will alert the terrorists or terrorist associates concerned, who may liquidate the property (e.g. by mortgaging the property) and transfer the realized cash out of Hong Kong immediately; and
- (b) appeal channel will be available under section 17 of the Ordinance for the affected persons to revoke the freezing notices.

The provision of property “not to be made available directly or indirectly to any person” follows the wording used in United Nations Security Council Resolution 1373^{Note}, and should be construed literally.

The new section 6(10) provides that S for S may in a freezing notice give a direction that an authorized officer may seize the property concerned. The intention, as stated in section 6(10)(a), is to prevent the terrorist property, which has already been frozen by S for S in the notice based on “reasonable

^{Note} Paragraph 1(d) of United Nations Security Council Resolution 1373 decides that all States shall “prohibit their nationals or any persons and entities within their territories from *making any funds, financial assets or economic resources or financial or other related services available, directly or indirectly, for the benefit of persons* who commit or attempt to commit or facilitate or participate in the commission of terrorist acts, of entities owned or controlled, directly or indirectly, by such persons and of persons and entities acting on behalf of or at the direction of such persons.

grounds to suspect”, from being removed from Hong Kong. This provision is important in urgent situations where there is reason to believe that the terrorist property concerned is being physically transported out of Hong Kong.

The new Part 4B provides that an authorized officer may apply to a magistrate for a warrant for entering premises to seize and detain any suspected terrorist property. The provisions are intended to cater for a wider range of situations in which the law enforcement agencies may seize suspected terrorist property for the purpose of institution of proceedings (whether in Hong Kong or elsewhere) against any person in relation to an offence with which the property is connected, or steps which may result in a freezing notice given by S for S under the new section 6(1).

Part 3A Prohibitions relating to bombings of prescribed objects

We have received instruction from the Central People’s Government that the Hong Kong Special Administrative Region (HKSAR) Government should implement the International Convention for the Suppression of Terrorist Bombings. It is publicized on the United Nations’ website (relevant extract at **Annex A**) that China has acceded to the Convention, and notified the United Nations that the Convention shall apply to the HKSAR in accordance with Article 153 of the Basic Law.

The Convention shall apply in whole (except paragraph 1 of Article 20 on which China has declared itself not bound by the provision) to Hong Kong. Regarding the necessity of making new provisions in the Bill to give effect to the Convention, reference may be made to Annex A to our paper submitted to the Bills Committee in October 2003.

Part 3B Prohibitions relating to ships and fixed platforms

China ratified the Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation and the Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf in August 1991. Before the reunification on 1 July 1997, the Chinese side had agreed to the British proposal that the Convention and the Protocol should apply to Hong Kong. In view of the need to enact local legislation to give effect to the Convention and the Protocol and because there was insufficient time to put in place local legislation before the reunification, it was considered that arrangements should be made to extend the Convention and

the Protocol to Hong Kong after 1 July 1997 when the necessary local legislation had been put in place. We are now seeking to give effect to the Convention and the Protocol through the Bill. We will also make necessary arrangements with the Central People's Government to have the Convention and the Protocol applied to Hong Kong in due course.

Clause 7 (section 11C) Interpretation of Part 3B

The "Rome Convention" means the Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation, a copy of which is attached at **Annex B** please.

Part 4 Disclosure of knowledge or suspicion that property is terrorist property

Clause 8 (section 12) Disclosure of knowledge or suspicion that property is terrorist property

The purpose of the new section 12(6) is to enable the law enforcement agencies to transmit information in relation to terrorist property which they have acquired by virtue of "suspicious transaction" disclosures under section 12(1) to their local and overseas counterparts, for the purpose of promoting cooperation in preventing and suppressing terrorist financing. As handling of suspicious transaction reports involves voluminous work of an operational nature, and the information exchange is conducted as part of the intelligence exchange regime, approval of the Central People's Government for the disclosure to overseas authorities would not be considered necessary.

The purpose of the new section 12D is to enable information obtained by the law enforcement agencies by the use of compulsory powers to be similarly transmitted to their local and overseas counterparts and to permit such information to be transmitted to the United Nations provided that the Ministry of Foreign Affairs of the People's Republic of China (PRC) approves. It should be noted that PRC approval is only required for transmission of information to the United Nations.

The new section 12(7) (and section 12D(3)) are directed towards saving rights to disclose at common law.

Part 4A Powers of investigation

Clause 9 (section 12A) Requirement to furnish information or produce material

The new section 3A provides that an “authorized officer” means a public officer of the Police, the Immigration Department, the Customs and Excise Department or the Independent Commission Against Corruption, and a legal officer of the Department of Justice. The new section 12A(1) enables any “authorized officer” to make an ex parte application to the Court of First Instance for an order requiring persons to furnish information or produce materials. We expect that in actual practice, whether an “authorized officer” of a particular department as listed above should be responsible for making the application to the Court will be appropriately determined on the basis of the circumstances of individual cases.

The new section 12A(1) empowers an “authorized officer” to apply for an order. The new section 12A(13) sets out the restrictions on obtaining a copy of the order made under the new section 12A(1). There is no inconsistency.

The code of practice to be prepared by S for S under the new section 12A(16) is for guidance and is not subsidiary legislation.

Clause 9 (section 12B) Order to make material available

For the question on an “authorized officer” making application to the Court of First Instance for an order under the new section 12B(1), our above reply in respect of the new section 12A(1) is equally applicable.

The new section 12B(2)(b) and (3) takes reference from section 20(2)(b) and (2A) of the Drug Trafficking (Recovery of Proceeds) Ordinance (Cap. 405). The order in question will enable the law enforcement agencies to monitor the activities of relevant persons over a maximum period of three months, and to require the persons to produce materials relevant to investigation in a timely manner. The provision is particularly useful in monitoring suspected offences of terrorist financing.

Clause 9 (section 12C) Authority for search

The new section 12C allows the law enforcement agencies to apply to the Court of First Instance for a warrant for entering and searching premises only when it is suspected that an offence has been committed. The new section 12G caters for a wider application, allowing our law enforcement agencies to apply to any magistrate for a warrant for entering and searching premises when it is suspected that there is terrorist property in the premises, or an offence is about to be committed. The new section 12G will enable search warrants to be obtained outside office hours, such that prompt actions can be taken in cases of urgency.

The existing section 2(5) of the Ordinance provides that “Nothing in this Ordinance shall” override legal professional privilege or restrict the privilege against self-incrimination. The existing section 2(7) stipulates that “the provisions of this Ordinance shall be subject” to the operation of Part XII of the Interpretation and General Clauses Ordinance (Cap. 1). There is no question that the new Parts 4A and 4B, which are part of the Ordinance, are subject to section 2(5) and (7).

Part 4B Seizure and detention of property suspected to be terrorist property

Clause 9 (section 12G) Issue of warrant

For the search of suspected terrorist property under the new section 12G, it is probable that relevant materials required to be produced under the new section 12A, 12B or 12C may be uncovered during the search process. The new section 12G puts it beyond doubt that the law enforcement agencies are empowered to seize, remove and detain those materials if they are suspected to be terrorist property.

Clause 9 (section 12I) Period for which seized property may be detained

The provision of 30 days in the new section 12I(1) is based on operational considerations of the time required to substantiate the origin or derivation of the seized property, or to take forward any proceedings in Hong Kong or elsewhere against any person in relation to the seized property, or to institute the steps for freezing the seized property in accordance with the new section 6(1).

Part 5 Forfeiture and offences

Clause 10 (section 13) Forfeiture of certain terrorist property

We are taking forward the preparation of rules of court pursuant to the existing section 20 of the Ordinance. When these rules have been made, the existing section 13(5) will become superfluous.

Clause 11 (section 14) Offences

Our intention for the new section 14(7H) and (7J) is that the prosecution will have to prove mens rea as an ingredient of the offences in question. Subject to further discussion at the Bills Committee, we are prepared to add the element of “intentionally” to the new section 14(7H).

“Any person in the exercise of his powers” in the new section 14(7J) covers a public officer assisting the “authorized officer”, only if that public officer is “in the exercise of his powers under a warrant issued under section 12G(1)”. That means he must either be named or generally mentioned in the warrant.

Part 6 Miscellaneous

Clause 12 (section 15) Supplementary provisions applicable to licences mentioned in section 6(1) or 8

The purpose of providing for the appointment of a receiver to take possession of any property frozen under the new section 6(1) is to engage the necessary professional services for preserving the value of the property concerned.

Clause 14 (section 18) Compensation

Materials are seized and retained under the new section 12C(5) as they are considered relevant to the investigation into an offence suspected to have been committed under the Ordinance. We do not intend to provide for statutory compensation in respect of law enforcement actions of such a nature. Similar compensation is not available under the Drug Trafficking (Recovery of Proceeds) Ordinance (Cap. 405) and the Organized and Serious Crimes Ordinance (Cap. 455). Nevertheless, this does not affect any affected persons’ rights to claim damages under common law. Subject to further discussion at the

Bills Committee, we are prepared to consider the need for an additional provision to clarify that common law remedies are not excluded by section 18.

Clause 20 (Schedule) Consequential amendments

The new section 25A(9) for the Drug Trafficking (Recovery of Proceeds) Ordinance (Cap. 405) and the new section 25A(9) for the Organized and Serious Crimes Ordinance (Cap. 455) are consequential amendments arising from the new section 12(6). As explained above, the disclosure provisions are intended to facilitate the law enforcement agencies to exchange information on suspicious transaction reports with their local and overseas counterparts, as part of their intelligence exchange regime. The operational nature of the work involved would not warrant approval of the Central People's Government.

Drafting issues

Clause 2 (section 2) Interpretation

The new section 2(1) adds the definition of “material”. The Chinese equivalent of “material”, as in the definition, is “材料”. Therefore, “物料” in the definition of “weapon” is amended as “材料” for the purpose of consistency.

From a practical point of view, “removable structure” and “movable structure” amount to the same meaning, because to be “removable” the structure must be “movable”.

“Structure” is commonly rendered as “構築物” instead of “結構物”. An example is section 81 of the Interpretation and General Clauses Ordinance (Cap. 1). “構築物” is therefore adopted to follow the majority.

Clause 9

(section 12A)

Requirement to furnish information or produce material

(section 12B)

Order to make material available

According to 《現代漢語詞典》, “相干” means “互相關連或牽涉” or “有關連”. According to 《國語活用辭典》, “相干” means “互有牽涉或關係”. “相干” is considered an appropriate equivalent of “relevant” and suits the context of the provisions in which the term appears.

In the context of the provisions concerned, “discharge” and “revocation” have the same meaning and legal effect. “Revocation” is used in the Bill for consistency with sections 5 and 17 of the Ordinance under which the application to the Court of First Instance is for the order concerned to be “revoked”.

We agree that the better Chinese version of “any obligation incurred” should be “所招致的任何責任”. We will put forward the necessary Committee Stage amendment in due course.

Yours sincerely,

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for Secretary for Security

b.c.c.

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w/o Annex B

附件 A
Annex A

Extract downloaded from the United Nations website

NOTES

1. On 13 November 2001, the Government of China notified the Secretary-General of the following:

In accordance with the provisions of Article 153 of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China and Article 138 of the Basic Law of Macao Special Administrative Region of the People's Republic of China, the Government of the People's Republic of China decides that the International Convention for the Suppression of Terrorist Bombings shall apply to the Hong Kong Special Administrative Region and Macao Special Administrative Region of the People's Republic of China.

Annex B

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

The States Parties to this Convention,

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

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

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

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

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

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

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

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

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

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

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

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

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

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

HAVE AGREED as follows:

ARTICLE 1

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

ARTICLE 2

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

ARTICLE 3

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

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

2 Any person also commits an offence if that person:

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

ARTICLE 4

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

2 In cases where the Convention does not apply pursuant to paragraph 1, it nevertheless applies when the offender or the alleged offender is found in the territory of a State Party other than the State referred to in paragraph 1.

ARTICLE 5

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

ARTICLE 6

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

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

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

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

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

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

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

ARTICLE 7

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

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

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

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

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

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

ARTICLE 8

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

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

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

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

5 A receiving State which has accepted the delivery of a person in accordance with paragraph 3 may, in turn, request the flag State to accept delivery of that person. The flag State shall consider any such

request, and if it accedes to the request it shall proceed in accordance with article 7. If the flag State declines a request, it shall furnish the receiving State with a statement of the reasons therefor.

ARTICLE 9

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

ARTICLE 10

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

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

ARTICLE 11

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

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

3 States Parties which do not make extradition conditional on the existence of a treaty shall recognize the offences set forth in article 3 as extraditable offences between themselves, subject to the conditions provided by the law of the requested State.

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

in a place within the jurisdiction of the State Party requesting extradition.

5 A State Party which receives more than one request for extradition from States which have established jurisdiction in accordance with article 6 and which decides not to prosecute shall, in selecting the State to which the offender or alleged offender is to be extradited, pay due regard to the interests and responsibilities of the State Party whose flag the ship was flying at the time of the commission of the offence.

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

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

ARTICLE 12

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

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

ARTICLE 13

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

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

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

ARTICLE 14

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

ARTICLE 15

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

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

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

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

ARTICLE 16

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

2 Each State may at the time of signature or ratification, acceptance or approval of this Convention or accession thereto, declare that it does not consider itself bound by any or all of the provisions of paragraph 1. The other States Parties shall not be bound by those provisions with respect to any State Party which has made such a reservation.

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

ARTICLE 17

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

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

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

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

ARTICLE 18

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

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

ARTICLE 19

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

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

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

ARTICLE 20

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

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

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

ARTICLE 21

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

2 The Secretary-General shall:

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

- (i) each new signature or deposit of an instrument of ratification, acceptance, approval or accession together with the date thereof;
- (ii) the date of the entry into force of this Convention;
- (iii) the deposit of any instrument of denunciation of this Convention together with the date on which it is received and the date on which the denunciation takes effect;
- (iv) the receipt of any declaration or notification made under this Convention;

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

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

ARTICLE 22

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

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

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