

INTERNATIONAL
OIL POLLUTION
COMPENSATION
FUND 1992

92FUND/Circ.37
23 December 2002

**Application of the 1992 Fund Convention
to the exclusive economic zone or an area determined under
Article 3(a)(ii) of the 1992 Fund Convention**

Twenty-seven States have so far submitted information on the establishment of an exclusive economic zone or the determination of an area under Article 3(a)(ii) of the 1992 Fund Convention, as listed below:

Algeria	Fiji	Jamaica	Norway
Australia	Finland	Latvia	Spain
Bahamas	France	Marshall Islands	Sweden
Belgium	Germany	Mauritius	Tunisia
Canada	Grenada	Mexico	United Kingdom
Croatia	Ireland	Netherlands	Uruguay
Denmark	Italy	New Zealand	

As instructed by the Assembly at its 5th session, held in October 2000 (document 92FUND/A.5/28, paragraph 22.11), the Director will from time to time issue circulars containing information submitted by Member States.

Since circular 92FUND/Circ.33 was issued in April 2002 declarations have been received from Algeria, Croatia and the Netherlands. That information is attached to the present circular.

* * *

ALGERIA

Embassy of Algeria
London

سفارة الجزائر
لندن

FILE: EEZ	COPY:
DCN#: 11380	
RECEIVED: 09 OCT 2002	
SEEN BY: M	
COMMENTS	

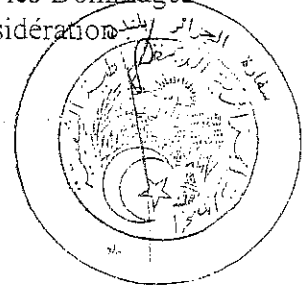
N/V 127/02

L'ambassade de la République Algérienne Démocratique et Populaire présente ses compliments au FIPOL et, en se référant à la note verbale CTR/02-179/02jc EEZ du 30 /09/2002, a l'honneur d'attirer l'attention du Fonds sur le fait que nos notes verbales no 131/02 et 134/2 datées du 25 Septembre 2002 ne mentionnent aucune loi mais uniquement les articles 2 a) ii et 3 a) ii des conventions de 1992 sur la responsabilité civile et celle portant création du Fonds International d'Indemnisation pour les Dommages dus à la pollution par les hydrocarbures ainsi que les articles 123 et 74 de la convention de 1982 sur le droit de la mer sur la base desquels l'Algérie a formulé une déclaration relative au champs d'application des dispositions de l'article 2 a) ii de la convention de l'OMI de 1992 sur la responsabilité civile et de l'article 3 a)ii de la convention de 1992 portant création du FIPOL et proposé un projet de résolution pour l'amendement de ces deux derniers articles.

L'ambassade de la République Algérienne Démocratique et Populaire saisit cette occasion pour renouveler au Fonds International d'Indemnisation pour les Dommages dus à la Pollution par les Hydrocarbures les assurances de sa haute considération.

4 Octobre 2002.

Monsieur l'Administrateur du FIPOL Portland House
Stag Place
London SW1 E 5PN



Embassy of Algeria
London

سفارة الجزائر
لندن

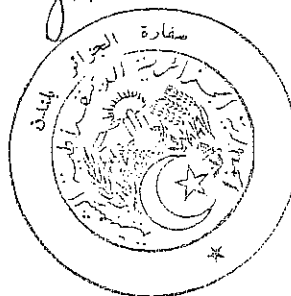
NV/ 133 /02

FILE: CTR /02 COPY: EE2	
DCN#: 10.913	
RECEIVED: 26 SEP 2002	
SEEN BY:	عن Auj
COMMENTS	

L'Ambassade de la République Algérienne Démocratique et Populaire présente ses compliments à Monsieur l'Administrateur du FIPOL et à l'honneur de lui faire parvenir ci-joint, sur ordre du Gouvernement algérien, la déclaration de l'Algérie relative au champ d'application des dispositions de l'article 2a ii de la convention de l'Organisation Maritime Internationale de 1992 sur la responsabilité civile et de l'Article 3 a ii de la convention 1992 portant création du Fonds d'indemnisation des dommages dûs à la pollution par les hydrocarbures .

L'Ambassade saurai gré à Monsieur l'Administrateur du FIPOL de bien vouloir porter à la connaissance des Etats membres le contenu de cette déclaration.

L'Ambassade de la République Algérienne Démocratique et Populaire saisit cette occasion pour renouveler à Monsieur l'Administrateur du FIPOL les assurances de sa haute considération. yjm



25 Septembre 2002

Monsieur l'Administrateur du FIPOL
Portland House
Stag Place
London SW1E 5PN

Déclaration de l'Algérie

Aux fins de sauvegarder ses droits en cas de sinistre maritime généré par la pollution des hydrocarbures l'Algérie considère que les dispositions de l'article 2a)ii de la Convention de l'Organisation Maritime Internationale de 1992 portant sur la responsabilité civile et de l'article 3a)ii de la Convention de 1992 portant création du Fonds d'indemnisation des dommages dus à la pollution par les hydrocarbures (FIPOL) s'appliquent:

- sur le territoire national y compris la mer territoriale;
- dans la zone située au -delà de la mer territoriale équivalente à la Zone Economique Exclusive de 200 milles à partir des lignes de base de la mer territoriale.

CROATIA



*Embassy of the Republic of Croatia
London*

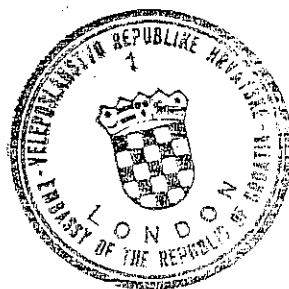
FILE: CTR/S1 COPY: EEZ	
DCN#: 10.633	
RECEIVED: 19 SEP 2002	
SEEN BY	J. H. G.
COMMENTS	

Note No 47/02

The Embassy of the Republic of Croatia presents its compliments to the International Oil Pollution Compensation Fund 1992 and in reference to its Note CTR/51-1798/02cj EEZ of 5 June 2002 has the honour to enclose an English translation of the 1996 Agreement of Delimitation of the Continental Shelf between The Italian Republic and the former Socialist Federal Republic of Yugoslavia, party to which is the Republic of Croatia by virtue of succession on 8 October 1991.

The Embassy of the Republic of Croatia avails itself of this opportunity to renew to the International Oil Pollution Compensation Fund 1992 the assurances of its highest consideration. HK

London, 17 September 2002



International Oil Pollution
Compensation Fund 1992
Portland House
Stag Place
London SW1E 5PN



*Republic of Croatia
Ministry of Foreign Affairs
Minister*

Zagreb, 6 May 2002

Your Excellency,

Pursuant to the Decision of the Government of the Republic of Croatia of 11 April 2002, I have the honour to inform you that the Republic of Croatia as a party to 1992 Protocol to Amend the International Convention on Civil Liability for Oil Pollution Damage, 1969, and 1992 Protocol to Amend the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1971, is giving the following Declaration on the application of aforementioned Protocols:

"Pursuant to Article 3 (a) (ii) of the 1992 Protocol to Amend the International Convention on Civil Liability for Oil Pollution Damage, 1969, and Article 4 (a) (ii) of the 1992 Protocol to Amend the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1971, the area beyond and adjacent to the territorial sea of the Republic of Croatia is the area up to the delimitation line fixed by the 1969 Agreement of Delimitation of the Continental Shelf between Italian Republic and the former Socialistic Federal Republic of Yugoslavia, party to which is Republic of Croatia on the basis of succession from 8 October 1991"

Please accept, Your Excellency, the assurances of my highest consideration.

Tonino Picula

A handwritten signature in black ink, appearing to read 'Tonino Picula'.

H. E.
William A. O'Neil
Secretary General
International Maritime Organization
London

ITALY-YUGOSLAVIA: AGREEMENT ON DELIMITATION OF THE CONTINENTAL SHELF*
 [Done at Rome, January 8, 1968]

AGREEMENT

BETWEEN ITALY AND YUGOSLAVIA CONCERNING THE DELIMITATION
 OF THE CONTINENTAL SHELF BETWEEN THE TWO COUNTRIES

The Government of the Italian Republic and the Government of the Socialist Federal Republic of Yugoslavia,

Desiring to establish the line of delimitation between their respective parts of the continental shelf,

Have agreed as follows:

Article 1

The line of delimitation of the continental shelf between the Contracting Parties is established by circular arcs between certain points, defined by latitude and longitude, which are listed in the final paragraph of this Article.

These coordinates have been plotted on Italian nautical chart number I.I.170, scale 1:750,000 (issued February 1964), updated through issue No. 20 (1966) of the "Avviso ai Naviganti," [Notice to Mariners] and on Yugoslav nautical charts, issued by the Hydrographic Institute of the Yugoslav Ratna Mornarica, scale 1:750,000, number 101 (issued February 1963) and number 102 (issued December 1952), both updated through June 1966.

The points and the line of delimitation have been drawn on maps identical to those cited above, copies of which are attached to the present Agreement.

The Contracting Parties agree that, for the present, the delimitation will not extend beyond point 43.

The coordinates referred to in paragraph 1 of this Article are as follows:

<u>Points</u>	<u>Italian coordinates</u> <u>on chart number 170</u>	<u>Yugoslav coordinates</u> <u>on chart number 101</u>
01	45° 27'.2 N 13° 12'.7 E	45° 27'.2 N 13° 12'.9 E
02	45° 25'.9 13° 11'.4	45° 25'.5 13° 11'.1
03	45° 20'.1 13° 06'.1	45° 20'.1 13° 06'.0
04	45° 16'.8 13° 03'.8	45° 16'.8 13° 03'.8

*[Translated by the Editors of International Legal Materials from the Italian text provided by the Italian Embassy in Washington, D.C.

[As of April 30, 1968, the agreement had not yet entered into force.]

<u>Points</u>	<u>Italian coordinates</u> <u>on chart number 170</u>	<u>Yugoslav coordinates</u> <u>on chart number 101</u>
05	45° 12'.3 13° 01'.2	45° 12'.3 13° 01'.1
06	45° 11'.1 13° 00'.5	45° 11'.0 13° 00'.1
07	44° 58'.5 13° 04'.7	44° 58'.4 13° 04'.3
08	44° 46'.1 13° 06'.4	44° 46'.3 13° 06'.1
09	44° 44'.3 13° 06'.8	44° 44'.1 13° 06'.6
10	44° 30'.0 13° 08'.1	44° 30'.3 13° 07'.7
11	44° 28'.6 13° 11'.0	44° 28'.5 13° 10'.7
12	44° 27'.9 13° 11'.7	44° 28'.1 13° 11'.7
13	44° 17'.8 13° 28'.3	44° 17'.7 13° 27'.8
14	44° 12'.5 13° 37'.9	44° 12'.7 13° 38'.1
15	44° 10'.8 13° 40'.0	44° 10'.7 13° 40'.3
16	44° 00'.5 14° 00'.9	44° 00'.7 14° 01'.2
17	43° 57'.5 14° 05'.0	43° 57'.7 14° 04'.9
18	43° 54'.0 14° 10'.3	43° 54'.3 14° 10'.2
19	43° 43'.0 14° 21'.4	43° 43'.0 14° 21'.4
20	43° 40'.3 14° 23'.5	43° 40'.2 14° 23'.8
21	43° 38'.4 14° 24'.5	43° 38'.6 14° 24'.9
22	43° 36'.0 14° 26'.4	43° 35'.9 14° 26'.4
23	43° 31'.6 14° 30'.4	43° 32'.2 14° 30'.1
24	43° 29'.7 14° 32'.0	43° 30'.1 14° 31'.9

<u>points</u>	<u>Italian coordinates</u> <u>on chart number 170</u>	<u>Yugoslav coordinates</u> <u>on chart number 101</u>
25	43° 25'.2 14° 34'.9	43° 25'.4 14° 35'.6
26	43° 13'.0 14° 46'.0	43° 12'.7 14° 46'.3
27	43° 10'.6 14° 47'.9	43° 10'.3 14° 48'.1
28	43° 03'.8 14° 54'.5	43° 03'.7 14° 55'.1
29	43° 00'.8 14° 57'.9	43° 00'.9 14° 58'.0
30	42° 59'.2 15° 00'.7	42° 59'.3 15° 00'.8
31	42° 47'.9 15° 09'.5	42° 47'.7 15° 09'.7
32	42° 36'.8 15° 21'.8	42° 36'.7 15° 22'.0
33	42° 29'.5 15° 44'.8	42° 29'.6 15° 45'.0
34	<p>It is located 12 miles from the lighthouse on the Island of Pelagosa on a 103° bearing of said lighthouse (true bearing taken at sea).</p> <p>The line of delimitation from point 34 to point 35 follows the circle of a 12-mile radius from the lighthouse on the Island of Pelagosa.</p>	
35	<p>It is located 12 miles from the lighthouse on the Island of Pelagosa on a straight line running from the lighthouse on the Island of Pelagosa to the lighthouse of Vieste.</p> <p>The line of delimitation from point 35 to point 36 follows the circle of a 12-mile radius from the Island of Caiola.</p>	
36	<p>It is located 12 miles from the Island of Caiola on a straight line running from the Island of Pelagosa to point 37.</p>	
37	42° 16'.0 16° 37'.1	42° 15'.9 16° 37'.3
38	42° 07'.0 16° 56'.8	42° 07'.0 16° 56'.7
39	41° 59'.5 17° 13'.0	41° 59'.4 17° 13'.1
40	41° 54'.8 17° 18'.7	41° 54'.5 17° 19'.0

N.B. These coordinates also appear on chart number 102.

<u>Points</u>	<u>Italian coordinates on chart number 170</u>	<u>Yugoslav coordinates on chart number 102</u>
41	41° 50'.2 17° 37'.0	41° 49'.9 17° 37'.4
42	41° 38'.5 18° 00'.0	41° 38'.1 18° 00'.0
43	41° 30'.0 18° 13'.0	41° 30'.0 18° 12'.9

Article 2

In the event that natural resources of the seabed or beneath the seabed extend from the line of delimitation to both sides of the continental shelf, so that the resources on the continental shelf of one of the Contracting Parties can, in all or in part, be exploited from the continental shelf belonging to the other Contracting Party, the competent Authorities of the Contracting Parties will meet with the intent of reaching an agreement to determine the manner in which said resources will be exploited, after having first consulted with the holders of any concessions in that area.

Article 3

If a dispute arises over the position of any installation or equipment in reference to the line of delimitation defined in Article 1 of this Agreement, the competent Authorities of the Contracting Parties shall determine, by mutual consent, in which part of the continental shelf such installations or equipment are located.

Article 4

The present Agreement does not affect the juridical status of the seas and air space above the continental shelf.

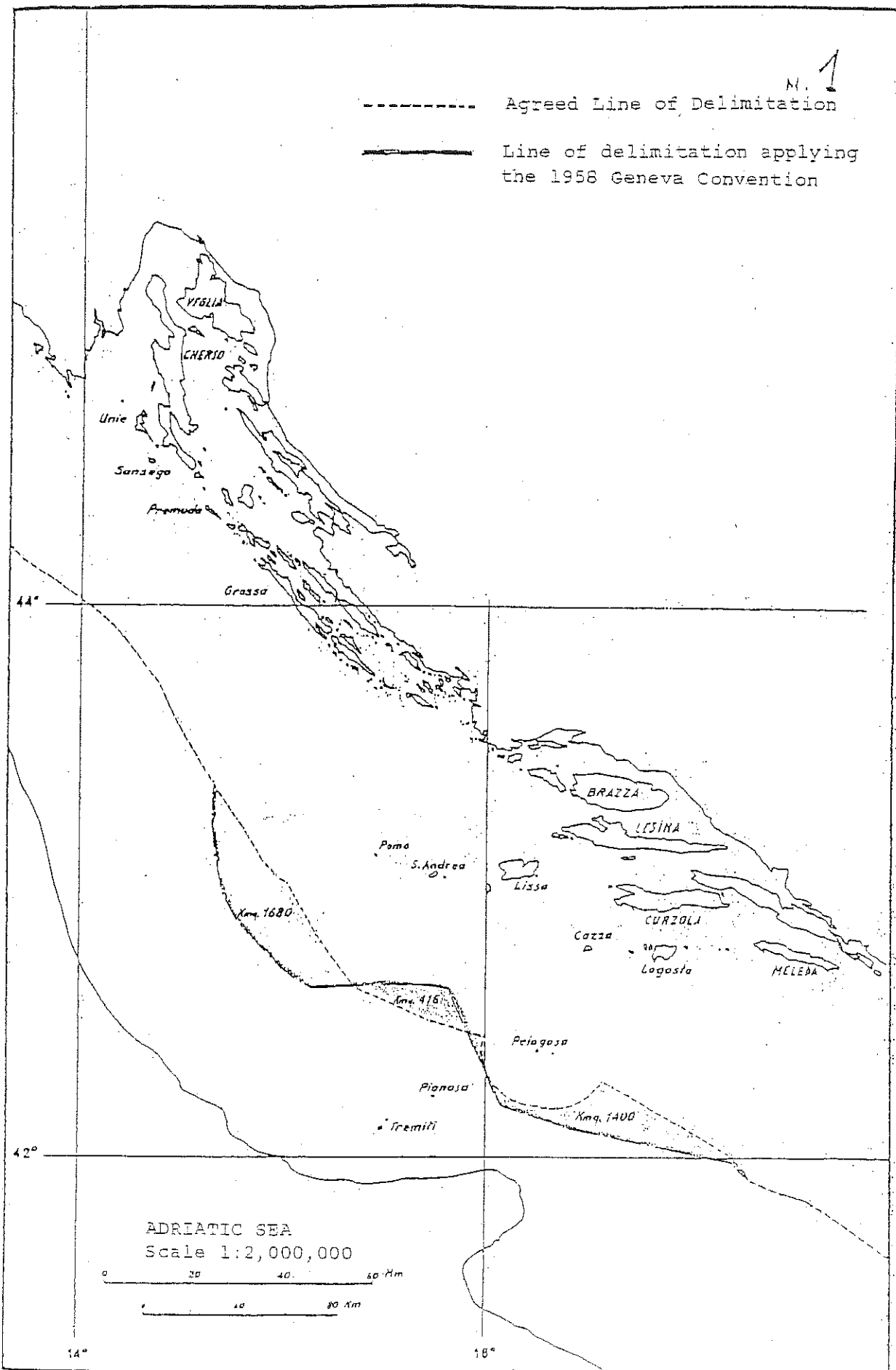
Article 5

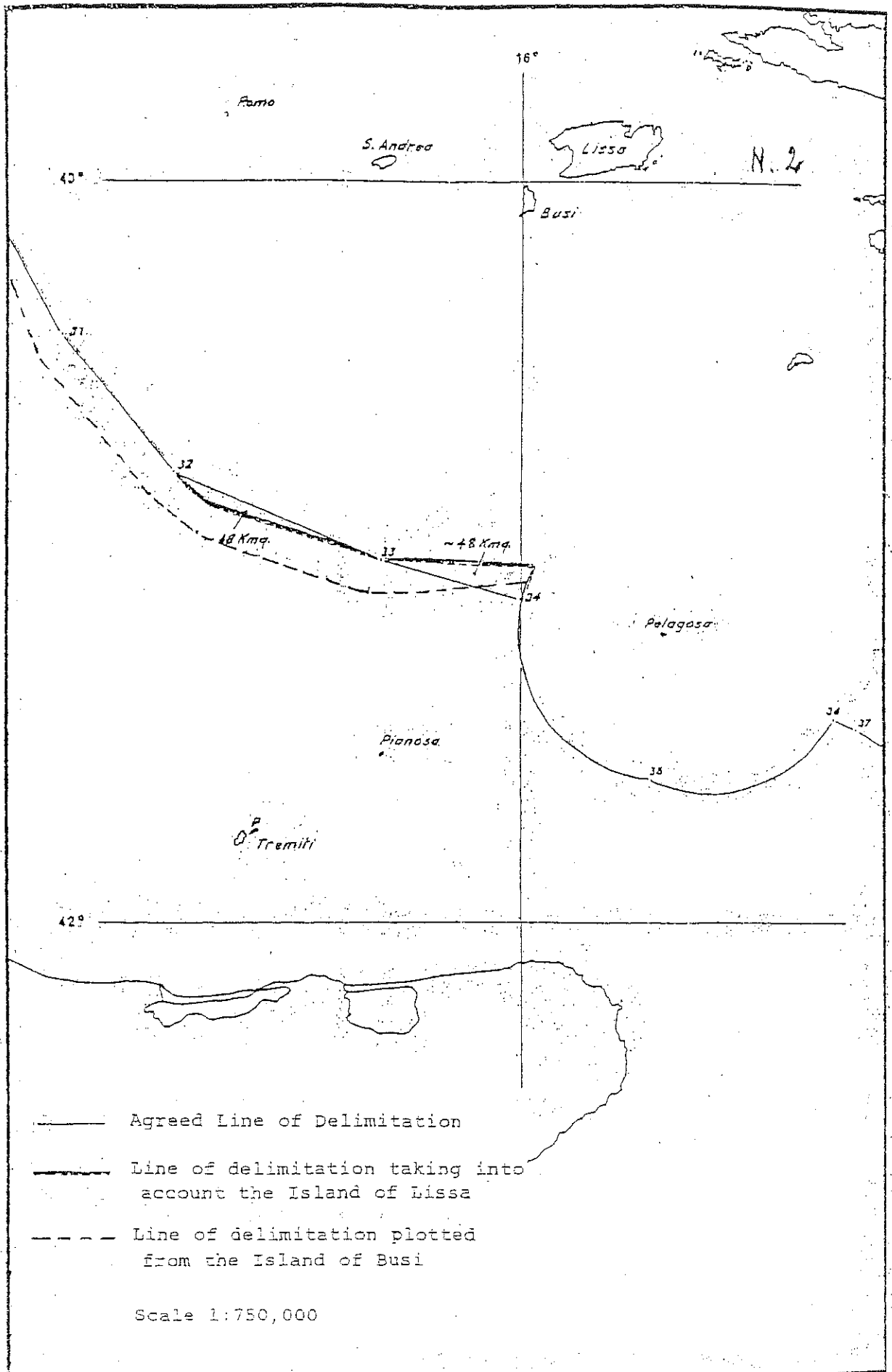
The present Agreement shall be ratified according to the constitutional processes of the Contracting Parties and shall enter into force on the date of the exchange of instruments of ratification, which will take place in Belgrade as soon as possible.

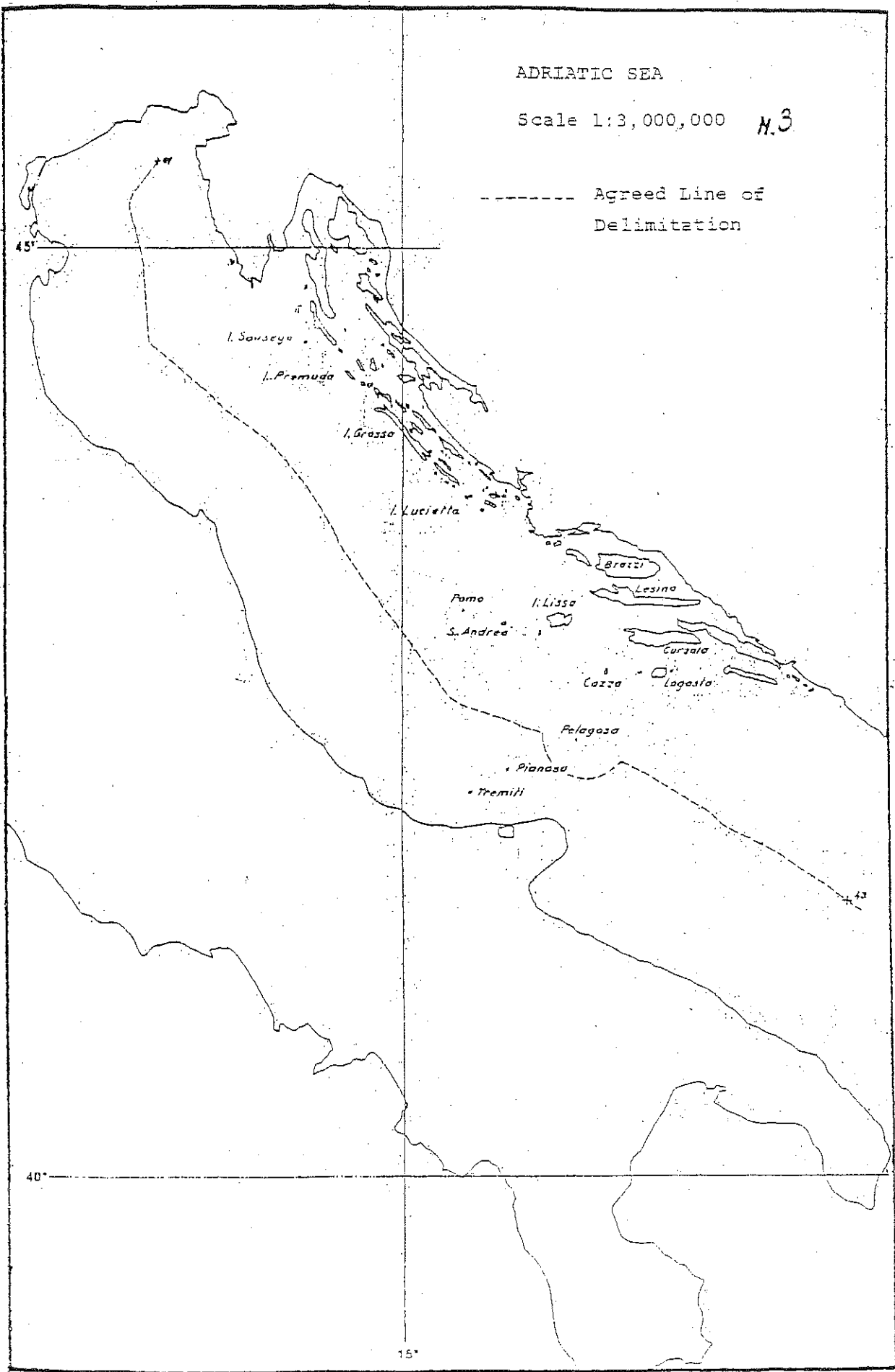
Done in Rome, January 8, 1968, in two copies, each in Italian and Serbo-Croatian, both texts being equally authentic.

FOR THE GOVERNMENT OF THE ITALIAN REPUBLIC
(Fanfani)

FOR THE GOVERNMENT OF THE SOCIALIST FEDERAL REPUBLIC OF YUGOSLAVIA
(Nikezić)







NETHERLANDS

The Director of the International
Oil Pollution Compensation Fund
Portland House
Stag Place
LONDON SW 1 E 5PN

Directie Juridische Zaken
Afdeling Verdragen
Bezuidenhoutseweg 67
2594 AC Den Haag

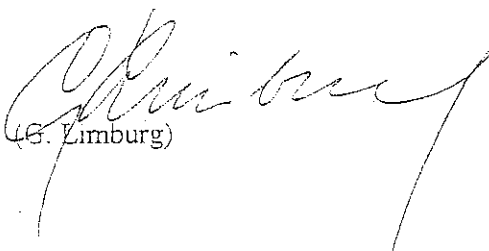
Datum 13 december 2002
Kenmerk DJZ/VE-1167/02
Blad 1/1
Bijlage(n)
Betreft 1992 Civil Liability Convention and
1992 Fund Convention
C.c.

Auteur G. Limburg
Telefoon 070 - 3484930
Fax 070 - 3486000
E-mail djz-ve@minbuza.nl

Mr. Director,

Further to my letter of 28 June 2002 concerning the 1992 Civil Liability Convention and the 1992 Fund Convention, I have pleasure in forwarding to you herewith, for information, an English translation of the two Acts and the Decree relating to the territorial scope of application of the Conventions in the Netherlands, that were annexed to my letter of 28 June 2002.

Sincerely yours,
The Secretary-General of the Ministry of Foreign Affairs,
p.p. the Director of Treaties,


(G. Limburg)

FILE: CR/28 COPY: EEZ	
DCN#: 15254	
RECEIVED: 20 DEC 2002	
SEEN BY:	JM OJB JC
COMMENTS	

Ministerie van
Buitenlandse Zaken

The Director of the International
Oil Pollution Compensation Fund
Mr. M. Jacobsson
LONDON

Legal Affairs Department
Treaties Division
Bezuidenhoutseweg 67
2594 AC The Hague

Date
Our ref.
Page
Encl.
Re

June 28, 2002
DJZ/VE-595/02
1/2
2

FILE: EEZ	COPY: CTR/28
DCN#: 9496	
RECEIVED: 20 AUG 2002	
SEEN BY: JAN 17 E	
COMMENTS:	

Contact mr. G. Limburg
Tel. (070) 348 4930
Fax (070) 348 6000
Email djz-ve@minbuza.nl

Dear Mr. Director,

In accordance with Resolution N° 4 (Establishment of an exclusive economic zone (EEZ) or an area determined under Article 3(a) (ii) of the 1992 Fund Convention) of the Assembly of the 1992 International Oil Pollution Compensation Fund, I herewith inform you of the territorial scope of application of the 1992 Civil Liability Convention and the 1992 Fund Convention for the Kingdom of the Netherlands.

Article II of the 1992 Civil Liability Convention and Article 3 of the 1992 Fund Convention provide for application in the exclusive economic zone or, if a State has not established such a zone, in an equivalent area as described in these Articles.

Article 1(g) of the "Wet aansprakelijkheid olietankschepen", implementing the 1992 Civil Liability Convention, provides that this Act applies to pollution damage caused in the territory, including the territorial sea, of the Netherlands, and in the exclusive economic zone (EEZ) of the Netherlands or, as long as such a zone has not been established, in an area beyond and adjacent to the territorial sea, that equals the Netherlands' part of the continental shelf. Therefore the aforementioned equivalent zone applies as from 15 November 1997, the date of entry into force of the 1992 Civil Liability Convention and the 1992 Fund Convention for the Netherlands.

Ministerte van

Buitenlandse Zaken

On 28 april 2000, the Netherlands established an EEZ. Therefore, as of that date the 1992 Civil Liability Convention and the 1992 Fund Convention apply to the EEZ.

I enclose a copy of the "Wet aansprakelijkheid olietankschepen", as well as the Act of 27 May 1999, Staatsblad 281, that entered into force for the Netherlands on 28 April 2000 and the regulation ("Besluit") of 13 March 2000, implementing the EEZ for the Netherlands. I apologise for not providing you with this information earlier.

Yours sincerely,

The Secretary-General of the
Ministry of Foreign Affairs,



(F.A.M. Majoor)



Act of 11 June 1975 implementing the International Convention on civil liability for oil pollution damage, concluded at Brussels on 29 November 1969 (Treaty Series 1970, No. 196), and rules on liability in accordance with the Convention

We, JULIANA, by the Grace of God, Queen of the Netherlands, Princess of Orange-Nassau, etc., etc., etc.

Greetings to all who shall see or hear these presents! Be it known:

Whereas We have considered it desirable, with a view to the ratification of the International Convention on civil liability for oil pollution damage, concluded at Brussels on 29 November 1969 (Treaty Series 1970, no. 196), to adopt rules implementing the Convention and, pending the entry into force of the Convention, already to adopt appropriate rules on the civil liability for damage caused by oil pollution emanating from oil tankers and related matters:

We, therefore, having heard the Council of State, and in consultation with the States General, have approved and decreed as we hereby approve and decree:

Chapter I. General provisions

Section 1

For the purposes of this Act and the provisions based thereon, the following definitions shall apply:

- a. 'Our Minister': Our Minister of Transport, Public Works and Water Management;
- b. 'Convention': the International Convention on civil liability for oil pollution damage concluded at London on 27 November 1992, and Annex (Treaty Series 1994, no. 229);
- c. 'ship': any sea-going vessel and any seaborne craft of any type whatsoever, constructed or adapted for the carriage of oil in bulk as cargo, with the exception of warships or other ships owned or operated by a State and used, for the time being, only on government non-commercial service, and provided that a vessel capable of carrying oil and other types of cargo shall be regarded as a ship only if it is actually carrying oil in bulk as cargo and during every voyage following such carriage, unless it is proved that it has no residues of such carriage of oil in bulk aboard;
- d. 'person': a natural person or corporate body whether governed by private or public law;

- e. 'owner': the person registered as the owner of the ship in the shipping register referred to in section 85 of the Land Registry Act (Bulletin of Acts and Decrees 1989, no. 186) or the person registered as the owner of the ship in a foreign shipping register, or, if the ship is not registered either in the register referred to in article 193 or article 783 of Book 8 of the Civil Code or in a foreign register, the person who owns the ship. If the ship is owned by a State and is operated by a person who is registered in that State as the ship's operator, the latter person shall be regarded as being the ship's owner;
- f. 'oil': crude oil, fuel oil, heavy diesel oil, lubricating oil and any other persistent mineral oils consisting of hydrocarbons defined if necessary by order in council;
- g. 'pollution damage':
 - a. loss or damage arising outside the ship in the Netherlands, including the territorial sea, and in the Dutch exclusive economic zone (EEZ) or, if such a zone has not been established, within an area beyond and adjacent to the territorial sea the outer limits of which coincide with those of the Dutch section of the continental shelf, and caused by contamination resulting from the escape or discharge of oil from the ship, wherever such escape or discharge may occur, provided that compensation for impairment of the environment other than loss of profit from such impairment shall be limited to costs of reasonable measures of reinstatement actually undertaken or to be undertaken;
 - b. the costs of preventive measures and further loss or damage caused by preventive measures;
- h. 'preventive measures': any reasonable measures taken after an incident has occurred to prevent or minimise pollution damage;
- i. 'incident': any occurrence, or series of occurrences having the same origin, which causes pollution damage or creates a grave and imminent threat of causing such damage;
- j. 'ton': except in section 4, a unit of weight of 1,000 kilograms.

Section 2

This Act shall also apply to liability resulting from incidents occurring when the ship, in connection with the carriage, is located at a loading or unloading point, in a harbour or on an inland waterway in the Netherlands, and to the obligation to maintain insurance or other financial security to cover this liability.

Chapter II. Liability on account of pollution damage and limitation of liability

Section 3

1. The owner of the ship at the time of an incident or, where the incident consists of a series of occurrences, at the time of the first such occurrence, shall be liable for any pollution damage caused by the ship as the result of the incident.
2. No liability for pollution damage shall attach to the owner if he proves that the damage:
 - resulted from an act of war, hostilities, civil war, insurrection or a natural phenomenon of an exceptional, inevitable and irresistible character, or
 - was wholly caused by an act or omission done with intent to cause damage by a third party, or
 - was wholly caused by the negligence or other wrongful act of any Government or other authority responsible for the maintenance of lights or other navigational aids in the exercise of that function.
3. If the owner proves that the pollution damage resulted wholly or partially either from an act or omission done with intent to cause damage by the person who suffered the damage or from the negligence of that person, the owner may be exonerated wholly or partially from his liability to such person.
4. No claim for compensation for pollution damage shall be made against the owner otherwise than in accordance with this Act.
5. Without prejudice to the provisions of subsection 6 of this section, no claim for pollution damage under this Act or otherwise may be made against:
 - a. servants or agents of the owner, or the members of the crew;
 - b. the pilot or any other person who, without being a member of the crew, performs services for the ship;
 - c. any charterer (howsoever described, including a bareboat charterer), manager or operator of the ship;
 - d. any person performing salvage operations with the consent of the owner or on the instructions of a competent public authority;
 - e. any person taking preventive measures;
 - f. all servants or agents of persons mentioned in points b, c, d and e;unless the damage resulted from their personal act or omission, committed with the intent to cause such damage, or recklessly and in the knowledge that such damage would probably result.

6. The owner has a right of recourse against third parties who are liable for the damage to the victims on grounds other than contractual grounds. Unless otherwise agreed, however, he has no right of recourse against the persons referred to in subsection 5 who are exonerated from liability, unless the damage resulted from their personal act or omission, committed with the intent to cause such damage, or recklessly and in the knowledge that such damage would probably result.

Section 3a

When an incident involving two or more ships occurs and pollution damage results therefrom, the owners of all the ships concerned, unless exonerated under section 3, shall be jointly and severally liable for all such damage which is not reasonably separable. Article 545, paragraph 3, final sentence, of Book 8 of the Civil Code shall apply *mutatis mutandis* to the relationship between the owners of the ships involved.

Section 4

1. The owner of a ship shall be entitled to limit his liability in respect of any one incident to an aggregate amount calculated as follows:
 - a. three million units of account for a ship not exceeding 5,000 units of gross tonnage;
 - b. for a ship with a gross tonnage in excess thereof, for each additional unit of tonnage, 420 units of account in addition to the amount mentioned in point a, provided, however, that this aggregate amount shall not in any event exceed 59.7 million units of account.
2. The owner shall not be entitled to limit his liability in accordance with the previous subsection if it is proved that the pollution damage resulted from his personal act or omission, committed with the intent to cause such damage, or recklessly and in the knowledge that such damage would probably result.
3. The unit of account referred to in subsection 1 is the Special Drawing Right as defined by the International Monetary Fund.
4. For the purpose of this section, the ship's gross tonnage shall be the gross tonnage calculated in accordance with the tonnage measurement regulations contained in Annex I of the International Convention on Tonnage Measurement of Ships, 1969.

Section 5

1. For the purpose of availing himself of the benefit of limitation provided for in section 4, the owner shall constitute a fund for the total sum representing the limit of his liability with the court referred to in section 9, subsection 1. The fund can be constituted either by depositing a sum of money or by producing a bank guarantee or other financial security considered to be adequate by the court.
2. Where the owner has constituted a fund and is entitled to limit his liability, no person having a claim for pollution damage arising out of that incident shall be entitled to exercise any right against any other assets of the owner, if the fund is actually available in respect of his claim.

Section 6

If, before the fund is distributed, the owner or any of his servants or agents or any insurance company or other person furnishing financial security for his liability, or any other person who had an interest in paying the owner's debt, has as a result of the incident in question, paid compensation for pollution damage, such person shall, up to the amount he has paid, acquire by subrogation the rights which the person so compensated would have enjoyed under this Act.

Section 7

1. Any claim for compensation for pollution damage may be brought directly against the insurer or any other person furnishing financial security for the owner's liability. In such case the defendant may, even if the owner is not entitled to limit his liability under section 4, subsection 2, avail himself of the limits of liability prescribed in section 4.
2. The defendant may avail himself of the defences which the owner himself would have been entitled to invoke, other than the fact that the owner has been granted a suspension of payments, is subject to an arrangement under the Debt Repayment (Natural Persons) Act, is bankrupt or is in the process of being wound up. Furthermore, the defendant may avail himself of the defence that the pollution damage resulted from the wilful misconduct of the owner himself, but the defendant may not avail himself of any other defence which he might have been entitled to invoke in proceedings brought by the owner against him.

3. The defendant shall in any event have the right to require the owner to be joined in the proceedings.
4. An insurer or other person furnishing financial security for the owner's liability shall be entitled to constitute a fund in his place in accordance with the provisions of section 5, even if the owner, under the provisions of section 4, subsection 2, is not entitled to limit his liability. This fund shall have the same effect as if it were constituted by the owner, but if the owner, under the provisions of section 4, subsection 2, is not entitled to limit his liability, its constitution shall in that case not prejudice the rights of any claimants against the owner, in so far as their claims have not been paid out of the fund, and the constitution of the fund shall have an effect only on the person constituting the fund.

Section 8

Rights of compensation under this Act shall be extinguished unless an action is brought hereunder within three years of the date when the damage occurred. However, in no case shall an action be brought after six years from the date of the incident which caused the damage. Where this incident consists of a series of occurrences, the six years' period shall run from the date of the first such occurrence.

Chapter III. Claims for compensation for pollution damage and the procedure for the apportionment of the fund

Section 8a

In the first instance, the only court in the Netherlands that is competent to take cognisance of actions for compensation in respect of pollution damage pursuant to the Convention and this Act is the District Court of Rotterdam.

Section 9

1. Any person wishing to avail himself of the entitlement granted to him in section 4 to set a limit on his liability shall request the District Court of Rotterdam to establish the limit of his liability and to order that the procedure for the apportionment of this amount be instituted.
2. Article 642a, paragraphs 2 to 4, articles 642b-d, article 642e, paragraph 1, articles 642f to 642t, paragraph 1, and articles 642u to 642z of the Code of Civil Procedure

- shall apply *mutatis mutandis* to the request and to the apportionment procedure, provided that, if article 642e, paragraph 1, is effective, the Court must order either any prejudgment attachment order to be lifted or any security that has already been provided to be returned. The fund shall be distributed among the claimants in proportion to the amounts of their established claims. If the sum of the claims exceeds the amount fixed by the Court, the claims shall be reduced proportionately.
3. Claims brought by the owner in respect of expenses reasonably incurred or sacrifices reasonably made by the owner voluntarily to prevent or minimise pollution damage shall rank equally with other claims against the fund.
 4. The unit of account referred to in section 4 shall be converted into Dutch currency in accordance with the method of valuation employed by the International Monetary Fund for its own operations and transactions on the date on which the owner complies with an order made under article 642c of the Code of Civil Procedure to deposit a sum of money or to provide security, according to the rate of exchange prevailing on that date.

Section 10

1. In the event that pollution damage arising from one and the same incident is caused in both the Netherlands and one or more other Contracting States, the constitution of a fund in one of those States in pursuance of article V of the Convention shall have the same legal consequences in the Netherlands as the constitution of a fund in the Netherlands, if the claimant has access to the court administering the fund and the fund is actually available in respect of his claim.
2. If, in the situation referred to in the preceding subsection, the fund is constituted in the Netherlands, only the court referred to in section 9, subsection 1, shall be competent in the first instance to take cognisance of requests as referred to in article 985 of the Code of Civil Procedure with respect to judicial decisions rendered in other Contracting States by which claims for compensation for pollution damage have been allowed.

Chapter III A. The limitation of liability for damage arising outside the territory of a Contracting State

Section 10a

In accordance with the provisions of Title 7 of Book 8 of the Civil Code and articles 642a to 642z of the Code of Civil Procedure, the owner is entitled to limit his liability on other grounds in respect of actions relating to loss or damage arising outside the ship outside the Netherlands, including the territorial sea, outside the Dutch exclusive economic zone (EEZ) or, if such a zone has not been established, outside an area beyond and adjacent to the territorial sea the outer limits of which coincide with those of the Dutch section of the continental shelf and not in the territory of a Contracting State, and caused by contamination with oil resulting from the escape or discharge of oil from the ship, including the costs of preventive measures and further loss or damage caused by these measures.

Chapter IV. Provisions for the implementation of article VII of the Convention

Title I. The obligation to maintain insurance or other financial security and the contract for the provision of financial security

Section 11

The owner of a ship registered in the Netherlands and carrying more than 2,000 tons of oil in bulk as cargo, no matter where in the world, shall be required to maintain insurance or other financial security to cover his liability under this Act and under the Convention, up to the limit specified in section 4, subsection 1.

Section 12

The owner of a ship registered in a country other than the Netherlands or flying a flag other than the Dutch flag and carrying more than 2,000 tons of oil in bulk as cargo shall be required, whenever the ship enters or leaves a harbour or other loading or unloading point in the Netherlands or navigates an inland waterway in the Netherlands, to maintain insurance or other financial security to cover his liability under this Act and under the Convention, up to the limit specified in section 4, subsection 1, of this Act and article V, paragraph 1, of the Convention.

Section 13

The contract for the provision of financial security relating to a ship registered in the Netherlands or in a State that is not a Contracting State, or flying the flag of such a State, shall comply with the following requirements:

- a. the contract must be concluded with an insurance company, bank or other financial institution or another person whose financial capacity is judged by Our Minister, after consultation with Our Minister of Finance, to be adequate to cover the owner's liability under this Act and under the Convention;
- b. the monies to be disbursed under the contract must, if the person furnishing financial security has its seat outside the Netherlands, actually be made available in the Netherlands;
- c. the contract must stipulate that the victim of pollution damage, in accordance with section 7 of this Act and with article VII, paragraph 8, of the Convention, is entitled to institute an action directly against the person furnishing financial security. If the contract contains a condition that the owner himself shall contribute in part to the compensation for pollution damage, it must also stipulate that the person furnishing financial security shall nevertheless remain responsible also for the payment of that part of the compensation to the victim of pollution damage;
- d. the contract must stipulate that, except where the certificate has been surrendered or a new certificate has been issued within the period in question, the person furnishing financial security may not suspend or terminate the contract or alter it such a way that it no longer satisfies the requirements of this section, before the expiry of the period for which the certificate referred to in section 15 has been issued, until three months after the reception of a notice as referred to in section 18, subsection 1.

Section 14

Any sum provided under an insurance policy or as a result of other financial security maintained in accordance with sections 11 and 12 of shall be available exclusively for the satisfaction of claims under this Act. It may not be used for the satisfaction of any other claims.

Title 2. The certificate and evidence of financial security

Section 15

1. At the request of an owner of a ship registered in the Netherlands or of a ship that is not registered in a Contracting State, Our Minister shall issue him with a certificate as described in article VII, paragraph 2, of the Convention and in the form of the annexed model, or shall certify as such a document issued in this form on the owner's behalf by a person furnishing financial security, provided that Our Minister is satisfied that the owner has complied with his obligation referred to in section 11.
2. When making his request, the owner shall submit the following particulars and documents:
 - a. the name and place of residence of the owner and the place where the owner's head office is established;
 - b. an extract from the shipping register referred to in section 106, subsection 1, of the Land Registry Act (Bulletin of Acts and Decrees 1989, No. 186), stating in any event the information referred to in section 85, subsection 2 (a, c, d, e, f, g and j) of the same Act, as well as information on any provisional entries that have not been deleted, provided that, if the extract was issued more than two days prior to the date on which it is submitted, it should include a statement from the registrar issued within the above two-day period to the effect that there has been no change in the information contained in the extract since it was issued;
 - c. a copy of the contract for the provision of financial security;
 - d. the name of the person furnishing financial security, the place where the latter's head office is established and, where appropriate, the office where this security is provided;
 - e. the date on which the financial security takes effect and the date on which it expires.

Section 16

[Repealed.]

Section 17

Our Minister shall refuse a request as referred to in section 15 if the particulars or documents submitted are inadequate or inaccurate, or if the contract for the provision of financial security does not satisfy the requirements laid down by or pursuant to this Act. The decision shall contain the reasons for the refusal and shall be communicated in writing to the applicant. The communication shall also inform the applicant how and within which time limit he may appeal against the decision.

Section 18

1. The owner to whom a certificate has been issued is obliged to give immediate written notice to Our Minister of the invalidation, suspension or termination of the contract for the provision of financial security during the period for which the certificate has been issued, as also of any changes occurring during that period in the particulars submitted in connection with the request referred to in section 15.
2. Our Minister shall ensure that written notice is given to the Land and Public Registry Agency at which the public registers are kept containing the request to register the ship, of a notice as referred to in subsection 1 in relation to a contract for the provision of financial security for a ship registered in the Netherlands. The written notice given by Our Minister shall be kept at the Land and Public Registry Agency.
3. The existence and date of receipt of notices as referred to in subsection 2 shall be recorded immediately in the shipping register referred to in section 85 of the Land Registry Act. All notices as referred to in subsection 2 shall be public.
4. The notice referred to in subsection 1 may be given either by the owner or by the person furnishing financial security.

Section 19

1. Our Minister may, after consultation with Our Minister of Finance, withdraw a certificate if, owing to a change in the particulars submitted with the request referred to in section 15 or because the particulars prove to be inadequate or inaccurate, the certificate no longer satisfies the requirements laid down by or pursuant to this Act, or if there is good reason to believe that the financial capacity of the person furnishing the financial security was or has become inadequate, or, where the latter is established outside the Netherlands, there is found to be an impediment preventing the money from actually becoming available in the Netherlands.

2. The decision shall contain the reasons for the withdrawal and shall be communicated to the owner in writing. The communication shall prescribe the period within which the certificate must be surrendered and shall further inform the owner how and within which time limit he may appeal against the decision. Should the owner decide to appeal, the period within which the certificate must be surrendered shall commence on the day after that on which the owner received notice of the decision to dismiss or disallow the appeal.

Section 20

1. The owner is obliged to surrender the certificate to Our Minister as soon as possible after notice has been given, in accordance with section 18, subsection 1, of the invalidation, suspension or termination of the contract for the provision of financial security, or after the period for which the certificate has been issued has elapsed.
2. Should the certificate be irrevocably withdrawn, the owner is obliged to surrender it to Our Minister within the period specified in section 19, subsection 2.

Section 21

1. Our Minister shall send a copy of every certificate issued by him in respect of a ship registered in the Netherlands, and of every final and conclusive decision to withdraw a certificate issued in respect of a ship registered in the Netherlands, to the Land and Public Registry Agency, which shall keep the copy.
2. Section 18, subsection 3, shall apply *mutatis mutandis*.

Chapter V. Monitoring of the observance of the Convention and the Act; penal provisions

Section 22

The captain of a ship registered in the Netherlands carrying, no matter where in the world, more than 2,000 tons of oil in bulk as cargo is obliged to have on board a valid certificate as referred to in section 15 and to present it or have it presented at the first time of asking to the officials responsible for monitoring the observance of this Act.

Section 23

The captain of a ship carrying more than 2,000 tons of oil in bulk as cargo is obliged to carry on board a valid certificate as referred to in section 15 of this Act or in article VII of the Convention and to present it or have it presented at the first time of asking to the officials responsible for monitoring the observance of this Act, when arriving at or leaving a harbour or other loading or unloading point in the Netherlands, and also during the time that the ship, in connection with the carriage, is located either in such a location or on an inland waterway in the Netherlands or is navigating such waters.

Section 24

1. It is forbidden for the owner, the bareboat charterer and the captain of a ship carrying more than 2,000 tons of oil in bulk as cargo to cause that ship to call at or leave a harbour or other loading or unloading point in the Netherlands or, in connection with the carriage, to cause the ship to be located either in such a location or on an inland waterway in the Netherlands, or to navigate such waters, if a certificate as referred to in section 15 of this Act or in article VII of the Convention has not been issued in respect of that ship. If necessary, the police shall be called upon to assist in enforcing this prohibition in relation to outward bound ships.
2. In the interests of oil pollution control, of the safety of shipping or of the wellbeing of those on board the ship, dispensation from the prohibition referred to in the preceding subsection may, in special cases, be granted by or on behalf of Our Minister. Such dispensation may be made subject to certain conditions and restrictions.

Section 25

1. Where a suspicion arises that the provisions of section 24 have been breached, the captain may be ordered not to allow the ship to leave the Netherlands before a sum of money specified in the same order has been deposited in a location designated in the order, which may be used to pay a fine imposed in connection with the said breach. If necessary, the police shall be called upon to assist in enforcing this order.
2. The order referred to in subsection 1 shall be made, at the request of the public prosecutor, by the president of the district court in which the action is being or is to be brought. The captain shall be heard, or in any event duly summoned to appear in court, before such an order is made. The order shall be immediately enforceable and shall be served on the captain forthwith.

3. The public prosecutor is entitled to appeal to the court of appeal against a decision to deny the request within fourteen days. The suspect is entitled to appeal to the court of appeal against the order within fourteen days of the date on which the order was served. The court of appeal shall rule on the appeal as soon as possible.
4. As soon as the judgment given in the criminal proceedings has become final and conclusive, the sum of money deposited shall revert to the owner once any fine imposed under the judgment has been deducted from it. Interest shall be paid on the deposit until that date, as from the date on which the money was deposited.

Section 26

1. Our Minister may require the owner of a ship acting in breach of the prohibition imposed under section 24, subsection 1, to take out an insurance policy or to conclude a contract for the provision of other financial security to cover his liability for pollution damage, up to the limit referred to in section 4 and for the duration of the period in which the ship, carrying a cargo of more than 2,000 tons of oil, navigates an inland waterway in the Netherlands or, in connection with the carriage, is located at a loading or unloading point, in a harbour or on an inland waterway in the Netherlands. If the owner fails to comply with this request, Our Minister is entitled to take out such a policy or to conclude such a contract on his behalf, in consultation with Our Minister of Finance.
2. In such an event, the captain is prohibited from allowing the ship to leave before he has paid Our Minister the cost of the policy or contract or before he has security therefor. Our Minister is entitled to apply administrative coercion to enforce the prohibition.

Section 27

[Contains amendments to other legislation.]

Chapter VI. Concluding provisions

Section 28

[Repealed.]

Section 29

Rules shall be laid down by or pursuant to order in council on the fees payable for the issue or certification of a certificate as referred to in section 15, on the amount of the interest referred to in section 25, subsection 4, and, if this is required in the interests of the proper implementation of the Act or in connection with international agreements on the enforcement of the Convention, on other matters regulated in Chapters I to IV.

Section 30

This Act may be cited as the Oil Tankers (Third Party Liability) Act. Sections 4 to 7 and 9 to 29 of this Act shall enter into force on a date to be determined by Us. Sections 1 to 3 and 8 shall apply only to liability arising from an incident occurring after the date on which this Act entered into force.

We order and command that this Act shall be published in the Bulletin of Acts and Decrees and that all ministerial departments, authorities, bodies and officials whom it may concern shall diligently implement it.

Done at Soestdijk Palace on 11 June 1975.

JULIANA.

VAN AGT
Minister of Justice

M.H.M. VAN HULTEN
State Secretary for Transport, Public Works and Water Management

A. DE GOEDE
State Secretary for Finance

Published on the first of July 1975.

VAN AGT
Minister of Justice

Bulletin of Acts and Decrees
of the Kingdom of the Netherlands

1999

281

Kingdom Act of 27 May 1999 establishing an exclusive economic zone of the
Kingdom (Exclusive Economic Zone (Establishment) Act)

We, Beatrix, by the grace of God Queen of the Netherlands, Princess of Orange-Nassau,
etc., etc., etc.

Greetings to all who shall see or hear these presents! Be it known:

Whereas We have considered that, mainly in order to enhance the protection and
preservation of the marine environment, it is desirable to extend the Kingdom's jurisdiction
and, to that end, to establish an exclusive economic zone;

We, therefore, having heard the Council of State of the Kingdom, and in consultation with
the States-General, taking into account the provisions of the Charter of the Kingdom, have
approved and decreed as We hereby approve and decree:

Section 1

1. The Kingdom shall have an exclusive economic zone.
2. The Kingdom's exclusive economic zone shall be the region beyond and adjacent to the
Kingdom's territorial sea that does not extend beyond two hundred nautical miles from
the baselines from which the breadth of the territorial sea is measured.

Section 2

The outer limit of the exclusive economic zone shall be determined by order in council in the

AVT99/8256946

case of the Netherlands and by order in council for the Kingdom in the case of the Netherlands Antilles or Aruba.

Section 3

In the exclusive economic zone, in accordance with the restrictions laid down by international law, the Kingdom shall have:

- a. sovereign rights for the purpose of exploring and exploiting, conserving and managing the natural resources, whether living or non-living, of the waters superjacent to the seabed and of the seabed and its subsoil, and with regard to other activities for the economic exploitation and exploration of the zone, such as the production of energy from water, currents and winds;
- b. jurisdiction with regard to the establishment and use of artificial islands, installations and structures, marine scientific research, and the protection and preservation of the marine environment.

Section 4

This Act shall enter into force on a date to be determined by Royal Decree, which may differ for each of the countries of the Kingdom.

Section 5

This Act may be cited as the Exclusive Economic Zone (Establishment) Act.

We order and command that this Act shall be published in the Bulletin of Acts and Decrees, the Official Bulletin of the Netherlands Antilles and the Official Bulletin of Aruba, and that all ministries, authorities, bodies and officials whom it may concern shall diligently implement it.

Done at The Hague on 27 May 1999

Beatrix

J.J. van Aartsen

AVT99/9256946

Minister of Foreign Affairs

J.M. de Vries

State Secretary for Transport, Public Works and Water Management

Published on the *thirteenth* of July 1999

A.H. Korthals
Minister of Justice

Decree of 13 March 2000 determining the outer limits of the exclusive economic zone of the Netherlands and effecting the entry into force of the Kingdom Act establishing an exclusive economic zone (Exclusive Economic Zone of the Netherlands (Outer Limits) Decree)

We Beatrix, by the grace of God Queen of the Netherlands, Princess of Orange-Nassau, etc., etc., etc.

On the recommendation of Our Minister of Foreign Affairs of 25 October 1999, no. DJZ/BR/1922-99, with the support of the State Secretary for Transport, Public Works and Water Management;

Having regard to sections 2 and 4 of the Kingdom Act establishing an exclusive economic zone;

Having heard the Council of State (report no. W02.99.0535/II of 21 December 1999);

Having seen the further report of Our Minister of Foreign Affairs of 2 March 2000, no. DJZ/BR/0278-00, with the support of the State Secretary for Transport, Public Works and Water Management;

Have approved and decreed as We hereby approve and decree:

Article 1

The outer limits of the exclusive economic zone of the Netherlands shall coincide with:

- a. the outer limits of the Netherlands' territorial sea as referred to in section 1, subsection 1 of the Territorial Sea of the Netherlands (Demarcation) Act and
- b. the outer limits of the Netherlands' portion of the continental shelf.

Article 2

1. The Exclusive Economic Zone (Establishment) Act shall enter into force for the Netherlands with effect from the date of the entry into force of this Decree.
2. This Decree shall enter into force with effect from the day after the date of publication of the Bulletin of Acts and Decrees containing this Decree.

Article 3

This Decree may be cited as the Exclusive Economic Zone of the Netherlands (Outer Limits) Decree.

We order and command that this Decree and the explanatory memorandum pertaining to it shall be published in the Bulletin of Acts and Decrees (Staatsblad).

The Hague, 13 March 2000

Beatrix

J.J. van Aartsen
Minister of Foreign Affairs

J.M. de Vries
State Secretary for Transport, Public Works and Water Management

Published on the twenty-seventh of April 2000

A.H. Korthals
Minister of Justice