



INTERNATIONAL CONFERENCE ON
THE SUPPRESSION OF UNLAWFUL
ACTS AGAINST THE SAFETY OF
MARITIME NAVIGATION -

IMO

Committee of the Whole
Agenda item 3

CONSIDERATION OF THE DRAFT CONVENTION FOR THE SUPPRESSION
OF UNLAWFUL ACTS AGAINST THE SAFETY OF MARITIME NAVIGATION
AND THE DRAFT PROTOCOL FOR THE SUPPRESSION OF UNLAWFUL
ACTS AGAINST THE SAFETY OF FIXED PLATFORMS LOCATED
ON THE CONTINENTAL SHELF

Submission by Saudi Arabia

The annexed text was also submitted to the first session of the Ad Hoc
Preparatory Committee on the Suppression of Unlawful Acts against the Safety of
Maritime Navigation held in London in March 1987.

ANNEX

DRAFT CONVENTION FOR THE SUPPRESSION OF THE 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 persons, 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, by persons or governments, which endanger to 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 that it is urgently necessary to develop international co-operation between States in devising and adopting effective and practical measures for the prevention, prosecution and punishment of all unlawful acts against the safety of maritime navigation,

affirming that matters not regulated by this Convention continue to be governed by the rules of general international law and applicable international conventions,

have agreed as follows:

ART. 1

1. For the purposes of this Convention, "ship" means a sea-going vessel of any type whatsoever, including hydrofoil boats, air cushion vehicles, submersibles, floating craft.
2. A ship is considered "in service" from the beginning of the prepassage preparation of the ship by port personnel or by the crew for a specific passage until the completion of disembarkation or unloading.
A ship is also considered "in service" when temporarily in port for repairs.

ART. 2

(becomes Art. 3 of the draft now being discussed)

1. Any ordinary person or government commits an offence if that person unlawfully and intentionally:
 - a) by force or threat thereof, or by any other form of intimidation, seizes a ship in service or exercises control of it; or
 - b) performs or threatens an act of violence against a person on board a ship in service if that act or threat is likely to endanger the safety of navigation; or
 - c) destroys a ship in service or causes damage to such ship or to its cargo which renders the ship incapable of operation or which is likely to endanger its safe operation; or
 - d) places or causes to be placed on a ship in service by any means whatsoever, a device or substance which is likely to destroy that ship, to cause damage to the ship or its cargo which renders the ship incapable of operation or which is likely to endanger its safe operation; or
 - e) injures or kills any person during the commission of any the offences defined in this article.
 - f) attempts to commit any of the offences mentioned in paragraph 1 of this article; or
 - g) is an accomplice of a person who commits or attempts to commit any such offence.

ART. 3

(becomes Art. 4)

1. This Convention shall apply if:

a) the ship crosses, or intends to cross, waters beyond the limits of the territorial sea; or

b) the place of departure or the place of arrival of the ship, actual or intended, lie outside the territorial sea of the flag State; or

c) the offence is committed in the territory, the territorial sea or the archipelagic waters of a State other than the flag State; or

d) the alleged offender is found in the territory of a State other than the flag State.

e) if the offence is committed in international maritime passages or straits.

2. This convention does not apply when the ship operates or intends to operate exclusively in non-maritime internal waters.

3. This convention does not apply to:

a) any warship, naval auxiliary or other ship owed or operated by a State and used, for the time being, only on government non-commercial service;

b) a ship laid, dismantled, or out of commission.

ART. 4

Each State party shall make the offences set forth in Article 2 punishable by appropriate penalties which take into account the grave nature of those offences.

ART. 5

1. Each State Party shall take such measures as may be necessary to establish its jurisdiction over the offences provided for in Article 2:
 - a) when the offence is committed against or on board a ship flying the flag of that State;
 - b) when the offence is committed in the territory of that State, its territorial sea or its archipelagic waters;
 - c) when the offence is committed by a national of that State or, if that State considers it appropriate, by a stateless person whose habitual residence is in that State;
 - d) when during the commission of an offence a national of that State is seized, threatened, injured or killed, if that State considers it appropriate.
2. Each State Party shall take such measures as may be necessary to establish its jurisdiction over the offences set forth in Article 2 in cases where the alleged offender is present in its territory and it does not extradite him to any of the States mentioned in paragraph 1 of this Article.
3. This convention does not exclude any criminal jurisdiction exercised in accordance with internal law.

ART. 6

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 take him into custody or take other measures to ensure his presence. The custody and other measures shall be as provided in the law of that State but may only be continued for such time as is necessary to enable any criminal or extradition proceeding to take place.
2. Such State shall immediately make a preliminary enquiry into the facts.
3. Any person regarding whom the measures referred to in paragraph 1 of this Article 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. When a State, pursuant to this Article, has taken a person into custody, it shall immediately notify the States mentioned in Article 5, paragraph 1 and, if it considers it advisable, any other interested States of the fact that such a person is in custody and of the circumstances which warrant his detention. The State which makes the preliminary enquiry 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.

ART. 7

1. The State Party in whose territory the alleged offender is found shall, if it does not extradite him, be obliged, without exception whatsoever and whether or not the offence was committed in its territory, to submit without delay the case, to its competent authorities for the purpose of prosecution, through proceedings in accordance with the laws of State. Those authorities shall take their decision in the same manner as in the case of any ordinary offence of a grave nature under the law of that State.
2. Any person regarding whom proceedings are being carried in connection with any of the offences set forth in Article 2 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.

ART. 8

1. The offences set forth in Article 2 shall be deemed to be included as extraditable offences in any extradition treaty existing between any of the State 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 shall consider this Convention as the legal basis for extradition in respect of the offences set forth in Article 2. Extradition shall be subject to the other conditions provided by the law of the requested State.
3. States Parties which do not make extradition conditional on the existence of a treaty shall recognize the offences set forth in Article 2 as extraditable offences between themselves subject to the conditions provided by the law of the requested State.
4. The offences set forth in Article 2 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 territories of the States required to establish their jurisdiction in accordance with paragraph 1 of Article 5.

ART. 9

1. States Parties shall afford one another the greatest measure of assistance in connexion with criminal proceedings brought in respect of the offences set forth in Article 2, including the supply of the evidence at their disposal necessary for the proceedings.
2. The provisions of paragraph 1 of this Article shall not affect obligations concerning mutual judicial assistance embodied in any other treaty.

ART. 10

1. States Parties shall cooperate in the prevention of the offences set forth in Article 2, particularly by:
 - a) taking all practicable measures to prevent preparation in their respective territories for the commission of those offences within or outside their territories, including measures to prohibit in their territories illegal activities of persons, groups and organisations that encourage, instigate, organize or engage in the perpetration of offences

defined by this convention;

b) exchanging information and coordinating the taking of administrative and other measures as appropriate to prevent the commission of those offences.

2. When, due to the commission of an offence mentioned in Article 2, a passage has been delayed or interrupted, any State Party in whose territory the ship or passengers or crew are present shall allow the continuation of the journey of the passengers and crew as soon as practicable, and shall without delay make available the ship and its cargo to the persons lawfully entitled to possession.

ART. 11

Any State Party having reason to believe that an offence mentioned in Article 2 will be committed shall, in accordance with its national law, furnish any relevant information in its possession to those States which it believes would be the States mentioned in Article 5, paragraph 1.

ART. 12

(becomes Art. 15)

1. The State whose naval forces or other ships flying its flag as under its influence committed any of the offences mentioned in Article 2 of this convention shall provide the Secretary General of the International Maritime Organization and the other State or States affected as promptly as possible:

a) circumstance and reasons of offence

b) the measures taken to put an immediate end to such offence.

The above does not prejudice the right of the affected State for compensation for the damage done to her ships.

2. The State Party where the alleged offender is prosecuted shall in accordance with its national laws communicate the final outcome of the proceedings to the Secretary General of the International Maritime Organization.
3. The information transmitted in accordance with paragraphs 1 and 2 of this Article shall be communicated by the Secretary

General of the International Maritime Organization to the other States concerned and the appropriate international intergovernmental organizations.

ART. 13

The provisions of this Convention shall not affect the application of any conventional obligation on the right of asylum, in force at the date of the adoption of this Convention, as between the States which are bound by such obligations.

ART. 14

1. Any dispute between two or more States Parties concerning the interpretation or application of this Convention which is not settled by negotiations 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 Party may at the time of signature or ratification of this convention or accession thereto declare that it does not consider itself bound by paragraph 1 of this Article. The other States Parties shall not be bound by paragraph 1 of this Article with respect to any State Party which has made such a reservation.
3. Any State Party which has made a reservation in accordance with paragraph 2 of this Article may at any time withdraw that reservation by notification to the Secretary General of the International Maritime Organization.

ART. 15

1. This convention shall be open for signature by all States at the Headquarters of the International Maritime Organization from to and shall thereafter remain open for accession. States may become Parties to 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.
2. Ratification, acceptance, approval or accession shall be effected by the deposit of an instrument to that effect with the Secretary General of the International Maritime Organization.

ART. 16

1. This Convention shall enter into force six months after the date on which not less than fifteen States have become Parties to it in accordance with Article 15.
2. For States which have deposited an instrument of ratification, acceptance, approval or accession in respect of this Convention after the conditions for entry into force thereof have been met but prior to the date of entry into force, the ratification, acceptance, approval or accession shall take effect on the date of the entry into force of this Convention or three months after the date of the deposit of the instrument, whichever is the later date.
3. Any instrument of ratification, acceptance, approval or accession deposited after the date on which this Convention enters into force shall take effect three months after the date of deposit.

ART. 17

1. This Convention may be denounced by any party at any time after the expiry of five years from the date on which this convention enters into force for that Party.
2. Denunciations shall be effected by the deposit of an instrument of denunciation with the Secretary General of the International Maritime Organization.
3. A denunciation shall take effect one year, or such longer period as may be specified in the instrument of denunciation, after its receipt by the Secretary General of the International Maritime Organization.

ART. 18

(becomes Art. 21)

1. This Convention shall be deposited with the Secretary General of the International Maritime Organization.
2. The Depository shall:
 - a) inform all States which have signed this Convention or acceded thereto 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) any instrument to withdraw denunciation mentioned in Article 14;
 - 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 force, a certified true copy thereof shall be transmitted by the Depository to the Secretariat of the United Nations for registration and publication in accordance with Article 102 of the Charter of the United Nations.

ART. 19

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

DONE AT this..... day of one thousand nine hundred and

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