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**International Maritime Law Institute**

**THE SUPPRESSION OF UNLAWFUL ACTS AGAINST THE SAFETY OF MARITIME  
NAVIGATION ACT, 2007.**

**(A legislative drafting project submitted in partial fulfillment of the requirements for the  
award of the Degree of Masters of Laws (LL.M), 2006/07).**

By: **Filimon M. Manoni**

(Republic of the Marshall Islands)

Supervisor: **Ms. Josephine Uranza.**

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## **EXPLANATORY NOTES**

### **1. Introduction.**

As a member of the United Nations, the Marshall Islands, like all members of the United Nations share the concern over the spread of acts of terrorism and other unlawful acts that cause serious damage, injury and death to innocent peoples and populations everywhere on the planet. The Marshall Islands realizes that as a member of this international community of nations, that it has a role to play in the efforts to thwart, suppress and eliminate any and all forms of terrorist activities that continue to threaten the freedoms of peace loving societies. An integrated approach to fighting this scourge is the best course of action, as the failure of a State to carry out its obligations not only leaves a gap that can be exploited, but leaves the State itself vulnerable to these threats. It is therefore a matter of State responsibility for governments to see to it that State obligations under international law with respect to terrorism issues are duly fulfilled.

However, the Marshall Islands Counter-Terrorism Act, 2003 devotes only one section (Section 135) to maritime offenses. It is submitted that dealing with the threats to navigation in this superficial and cursory manner does not serve the interests of the Marshall Islands. It is imperative that the Marshall Islands establish a comprehensive regime, addressing all aspects of threats to the safety of maritime navigation, as proposed in this Bill. Section 135 of the Counter-Terrorism Act will therefore be repealed in favor of this Bill.

### **2. Incorporating Treaties under Marshall Islands Law.**

The Constitution of the Marshall Islands, Article V Section 1 (3) (d) provides “that no treaty shall be finally accepted and no ambassador or other head of diplomatic mission shall be appointed by the Cabinet, without the approval of the Nitijela [Parliament], signified by resolution”. Accordingly all treaties and conventions signed by the Foreign Minister must be ratified by the Parliament in order to bind the Marshall Islands.

The Constitution further requires under Article 5 Section 1 (4) requires Parliament by Act to give effect to any treaty that is intended to take the force of law in the Republic. Article 5

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Section 1 (4) provides to the effect that, no treaty or other international agreement which is finally accepted by or on behalf of the Republic on or after the effective date of this Constitution shall, of itself, have the force of law in the Republic.

The Marshall Islands made a conscious decision to accede to this Convention on the basis of a number of reasons. First, there is the realization that the Pacific region, a peace loving region, is no longer immune to the threats of terrorism and terrorist activities. The evolution of technology and the network of transportation links either by air or sea raise the real possibility of terrorist acts being committed in the region. The long standing notion that the Marshall Islands (and the region for that matter) is too isolated to consider preventive measures should be discarded in the face of mounting terror related activities. It can also be argued that this mere fact of isolation could be the catalyst for ill-minded persons to target infrastructure, including shipping, communication and other vital forms of services that could seriously disrupt the lives of the citizenry.

The other cause for concern is the perception that measures in the region and the Marshall Islands are being performed at sub-standard levels and with very lax attitudes, leaving the Marshall Islands and the region vulnerable to terrorism. It is therefore the hope that by acceding to the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation and its protocols, that the Marshall Islands count on the mechanism for inter-State cooperation envisaged under the provisions of the Convention in order to be able to lift the standards of enforcement.

The Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation is also crucial to the Marshall Islands in the sense that the Marshall Islands Registry has to date flagged vessels with combined gross tonnage of over thirty-four million, one hundred and seventy-seven thousand and five hundred and ninety-eight tones (34,177,598), trading in different parts of the world. As a flag State therefore, the Republic has jurisdiction over these vessels and therefore the prerogative to establish measures to ensure the safety of these vessels and the cargo and passengers on these vessels.

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### 3. The SUA Convention and the Protocols.

The Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation, 1988 was adopted in Rome In 1988. The main purpose of the Convention is to ensure that appropriate action is taken against persons committing unlawful acts against ships, including the seizure of ships by force, acts of violence against persons on board ships and placing devices on ships that are likely to destroy the ship. The Convention was a response by the international community to terrorist activity seen in the Archille Lauro incident, which brought to the fore, concerns for safety of crews and passengers in the hijacking of ships, or in the deliberate grounding and blowing up of ships. The Convention consists of the Convention proper and its Protocol 1988. The 1998 protocol sought to make the provisions of the Convention apply not only to ships but also to offenses committed on or against “fixed platforms”. The Convention and the protocol were later amended in a diplomatic conference in 2005.

The major amendments adopted under the 2005 Protocol to the Convention include:

(i) *Art 2bis* – to clarify the that the Convention does not in any way affect the rights duties and obligations of States and individuals under the United Nations Charter and international human rights and refugees laws;

(ii). *Articles 3bis, 3ter and 3quater*, to expand the scope of offenses under the Convention;

(iii) *Art Vbis* is inserted to make corporations and other legal entities liable when a person in control of such corporation commits an offense under the convention;

(iv) Art 6 (4), new text is inserted to reflect new offenses and to oblige a State party to prosecute an offender who is found in its territory, in lieu of extradition;

(v) Inserting a list of Treaties (as “Annex 1” to the Convention), under which an offender may be prosecuted or extradited in like manner as alleged offender under the SUA Convention;

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(vi) Article 8bis is inserted to provide for boarding procedures and safe-guards to observe whilst effecting a boarding as anticipated under said provisions;

(vii) Article 10 (2) amended to provide that the rights of any person taken into custody must be respected;

(viii) Article 11 is amended and new Articles 11*bis* and 11*ter* added to provide for extradition, that none of the offenses under the convention should be classified as a political offense. Article 11*ter*, on the other hand does not oblige States to extradite a person if the basis of the request for extradition is race, religion, nationality ethnic origin political opinion or gender.

(ix) Article 12*bis* provides for the transfer of a person between two jurisdictions other than by extradition.

Two major amendments under the 2005 Protocol to the 1988 Protocol – the two major amendments mirror those set out in 3bis, 3quater of the 2005 Protocol to the Convention, as alluded to above:

(a). criminalizing acts aimed at intimidating a population, government or international organization by unlawful acts using a fixed platform, or against a fixed platform;

(b). for causing the death of a person during the commission of such unlawful acts;

#### **4. Executive Bill Summary.**

**A.** The draft bill is proposed to be titled the “Suppression of Unlawful Acts Against the Safety of Maritime Navigation Act, 2007” (to be introduced in Parliament in the next session), and consists of nine parts as follows.

**(a) Part I – Preliminary Matters.** This part contains the preliminary matters, or the fundamental matters necessary to understand the Bill. It contains amongst other matters, the definition section and perhaps most importantly sets out the scope of application of the Act, and the circumstances that would attract the application of this Act.

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**(b) Part II – Offenses.** This part contains perhaps the core provisions of the bill. Part II defines the offenses under the Act and categorizes them into three groups and discussed in separate sections. Section 9 sets out offenses committed on or against ships or on ships and persons on the ships, which was the original focus under the Convention. Section 9 provisions however also refer to “fixed platforms”, in addition to ships. The extension of the law to fixed platforms, takes into account the provisions of the 1988 Protocol. This section therefore is designed to cover the offenses originally adopted under the 1988 Convention as well as taking into account the aims of the 1988 Protocol.

Similarly, Section 10 of the draft Bill provides for another category of offenses. This section criminalizes acts aimed at intimidating a population, or to compel a government, or an international organization to do or to refrain from doing an act, by the use of weapons or dangerous material on ships and fixed platforms. These offenses rate higher in terms of seriousness than those offenses set out under Section 9 given the references to the use of radio active material, noxious substances and material of the like nature, and therefore should attract far more serious penalties than the offenses prescribed under section 9. Section 10 anticipates not only unlawful acts carried out on ships but on fixed platforms as well. “Fixed platforms” is defined under Section 2 as an artificial island, installation or structure permanently attached to the sea-bed on the continental shelf, for the purpose of exploration or exploitation of resources or for other economic purposes. This section is drafted to incorporate the amendments contained in the 2005 Protocols (Article *3bis* of the 2005 Protocol to the Convention and Article *2bis* of the 2005 Protocol to the 1988 Protocol.)

Section 11 on the other hand criminalizes the act of transporting on a ship any person who is alleged to have committed an offense under this Act or under any of the laws of a State party that has adopted as domestic law any one of the Treaties set out in the Schedule to the Act, for the purpose of assisting the person to evade criminal process. This Section incorporates the new Section *3ter* adopted in the 2005 Protocol to the Convention.

Section 12 sets forth a number of different acts, namely acts causing death and aiding and abetting in the commission of an offense. In addition, section 12 defines as offenses, the acts of participating in an offense, organizing or directing others to commit an offense, contributing to

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the commission of an offense. These provisions are designed deliberately to encompass acts undertaken by corporations and other legal persons in assisting, contributing or organizing other persons to commit crimes under this Act. This section accounts for Article 3<sup>ter</sup> as adopted under the 2005 Protocol to the Convention, and Art 2<sup>bis</sup> as adopted under the 2005 Protocol to the 1988 Protocol. Section 13 acknowledges that there may be cases where the offenders actions may fall short of the actual commission of a crime. In these cases such act is tantamount to an “attempt” to commit a crime under any one of the categories discussed above. As will be seen in the Penalties sections, “attempts” will attract only half the maximum penalty for each crime.

**(c) Part III - Penalties:** - Part III of the Act prescribes the applicable penalties. These penalties are fashioned to cater for the different categories of offenses set out in Part II of the Bill. Although the offenses are categorized in different groups, these offenses are generally of a very serious nature and the penalty is set at levels not only to reflect the seriousness of these acts, but to serve as deterrents to the extent possible.

(i) For Section 9 Offenses, the maximum penalties are set at:

- (a) a term of imprisonment for a period of not less than twenty-five (25) years; or
- (b) a fine of not more than ten million dollars (US \$10,000,000); or
- (c) imprisonment and the fine, within the limits set forth above.

(ii) For offenses set forth under Section 10, which rank higher in seriousness than offenses under Section 9 above, the maximum penalties are set at:

- (a) a term of imprisonment for a period of not less than twenty-five (25) years, or
- (b) a fine of not more than fifty million dollars (US \$50,000,000); or
- (c) imprisonment and the fine, within the limits set forth above.

(iii) For offenses under Section 11, the maximum penalties are set at:

- (a) a term of imprisonment for a period of not less than fifteen (15) years, or
- (b) a fine of not more than five million dollars (US \$5,000,000); or
- (c) or imprisonment and the fine, within the limits set forth above.

(iv) For offenses under Section 12 the maximum penalties are set at:

- (a) a term of imprisonment for a period of not less than twenty (25) years; or
- (b) a fine of not more than fifty million dollars (US \$50,000,000); or
- (c) or imprisonment and the fine, within the limits set forth above.



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(v) For “Attempts” as set out under Section 14, the maximum penalties available would be half of the penalties prescribed for the offence with which the offender is convicted of having attempted to commit, as set forth under Part II herein.

(vi) The draft makes a distinction between natural persons and legal persons. The penalties contained in Section 16 apply only to natural persons whilst Section 17 provides for the penalties applicable to corporations and other legal persons.

**(d) Part IV – Civil Remedies.** This part provides for civil remedies and a cause of action either by the Republic or any individual whether natural person or legal person who suffers as a result of the wrongful act, to sue in the civil courts for damages arising from the unlawful act.

**(e) Part V – Areas of Cooperation.** This part contains core provisions [in addition to the offenses and penalties] of the Act. The provisions herein take into account Articles 6(4), Article 7, Article 8, Article 8bis, Article 10(2), Article 11, Article 11bis, and 11ter and Articles 12 and 12bis, covered by the following sections:

- (a) §21. Arrest for preliminary enquiry;
- (b) §22. Authority to prosecute *in lieu* of Extradition;
- (c) §23. The Role of the Master to deliver an offender;

**(f) Part VI - Boarding Procedures.** This part sets forth the procedures and requirements to follow in boarding of ships by the Republic or by other States. The sections are:

- (a). §24. Procedures for Boarding;
- (b). §25. Evidence of crime and detention of ship;
- (c). §26. Liability for loss caused during boarding;

**(g) Part VII Extradition and Transfer of persons.** This Part discusses extradition and the transfer of persons for investigations or as witnesses in a foreign State. It is important to note that the Act has incorporated the “super treaty notion” by recognizing that where there is no specific bilateral treaty between the Republic and another State party, the Convention will provide the basis for the extradition. The specific sections are:

- (a). §27 Extradition;

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(b). **§28.** Request for transfer by the Republic

(c). **§29.** Request for transfer of person by foreign State.

In this regard the Marshall Islands already has in place an Act (32 Marshall Islands Revised Code, Chapter 2 “Criminal Extraditions”), governing all extraditions requests. This particular law addresses in detail important matters of extradition including, the procedures, the relevant agency of government, the conditions, the rights of the person sought to be extradited, arrest and bail, procedures for extradition hearing and court orders. As such extradition requests and proceedings envisaged under this Section will be made subject to the rules found under the said Act.

**(h) Part VIII – “Intelligence sharing”** covers sharing of intelligence between the Republic and any other foreign State; the duty to notify another State of an impending unlawful act, and for the Republic not to grant asylum to any person who has committed an offense under the Act or against the safety of maritime navigation generally.

**(i) Part IX – Procedural measures.** This part contains matters of procedural nature, including the repeal of Section 135 of the Marshall Islands Counter-Terrorism Act, Regulations and effective date.

**(k)** By virtue of Article 7 of the **Protocol of 2005 to the Convention**, the Bill includes a “Schedule 1” which lists the International Treaties for the purposes of Sections 2, 11, 21, 22, 23 of the bill.

**(l) Reference Material in this project includes:**

1. The SUA Convention, 1988;
2. The Protocol 1988 (Fixed Platform);
3. The 2005 Protocol to the SUA Convention;
4. The 2005 Protocol to the 1988 Protocol;
5. UN Convention on the Law of the Sea, 1982; including sections 27 and 97)
6. UN Security Council Resolution 1373 (2001)
7. UN Security Council Resolution 1566 (2004)

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8. The Marshall Islands Constitution;
  9. The Marshall Islands Criminal Code
  10. Honiara Declaration Agreement (Regional Agreement on cooperation in criminal matters).
  11. Compact of Free Association, As Amended between the Marshall Islands and the United States (provisions dealing with Extradition);
  12. “Cooperation to suppress the proliferation of weapons of mass destruction, their delivery systems and related material by sea” (an agreement between the Marshall Islands and the United States).
  13. ISPS Code

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**THE SUPPRESSION OF UNLAWFUL ACTS AGAINST THE SAFETY OF MARITIME  
NAVIGATION ACT, 2007**

**ARRANGEMENT OF SECTIONS**

**PART I – PRELIMINARY**

- Sections**
1. Short Title
  2. Definitions.
  3. Policy considerations
  4. Application of law and jurisdiction.
  5. Criminal jurisdiction
  6. Enforcement and criminal proceedings.
  7. Limitation.
  8. Obligations under international law.

**PART II - OFFENSES**

9. Acts on or against ships and fixed platforms.
10. Acts to intimidate a population, or to compel a government, or an international organization – ships and fixed platforms.
11. Transporting or harboring an alleged offender.
12. Acts causing serious injury and death.
13. Aiding and abetting by natural persons and corporations and other legal entities.
14. Attempts.
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**PART III – PENALTIES**

16. Criminal Penalties.
17. Criminal liability for corporations and other legal persons.
18. Forfeiture of property.

**PART IV – CIVIL REMEDIES**

19. Civil action on behalf of the State.
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**PART V – AREAS OF COOPERATION**

21. Arrests for preliminary inquiry.
22. Authority to prosecute *in lieu* of extradition.
23. Role of Master of ship in delivering persons.

**PART VI – BOARDING OF SHIPS**

24. Procedures for boarding of ships.
25. Evidence of a crime and detention of ships.
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**PART VII – EXTRADITION AND TRANSFERS**

27. Extradition and extraditable offenses.
28. Request by the Republic for transfer of person(s) in custody.
29. Request by foreign State for person(s) in custody.
30. Existing treaty with the US

**PART VIII – INTELLIGENCE SHARING**

31. Preventive measures.
32. Notification
33. No asylum.

**PART IX – PROCEDURAL MATTERS**

34. Reporting to the IMO.
35. Severability of Provisions
36. Repeal and Savings
37. Regulations.
38. Effective Date

**NITIJELA OF THE MARSHALL ISLANDS**

**28<sup>TH</sup> CONSTITUTIONAL REGULAR SESSION, 2007**

**BILL NO: \_\_\_\_\_**

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**A**

**BILL FOR AN ACT**

to incorporate the Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation, 1988, the 1988 Protocol on Fixed Platforms, and the two 2005 protocols (SUA Convention) into the Marshall Islands Domestic Law, by declaring certain acts as unlawful; and to criminalize said unlawful acts; providing for appropriate penalties thereto; prescribing for a mechanism and or measures for cooperation with other State parties, including the prosecution, extradition, transfer, boarding of ships, intelligence sharing, amongst other things; and for matters related hereto.

**BE IT ENACTED BY THE NITIJELA OF THE MARSHALL ISLANDS:**

**PART I – PRELIMINARY**

**Section 1. Short Title.**

This Act may be cited as the Suppression of Unlawful Acts Against the Safety of Maritime Navigation Act, 2007.

**Section 2. Definitions.**

For the purposes of this Act, unless the contrary intention appears, the following terms shall have the following meanings:

(1) “alleged offender” means a person who is alleged to have committed an offense under this Act, or under any law that incorporates the provisions of any of the Treaties set out in Schedule 1 of this Act.

(2) “Attorney-General” means the Attorney-General of the Marshall Islands, the Deputy Attorney-General or any Assistant Attorney-General to whom the Attorney-

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General delegates authority to carry out the duties and responsibilities of the Attorney-General established under this Act.

(3) “BCN weapons” means:

(a) Biological weapons which are:

(i) Microbial or other biological agents, or toxins whatever their origin or method of production, of types and in quantities that have no justification for prophylactic, protective or other peaceful purposes; or

(ii) Weapons, equipment or means of delivery designed to use such agents or toxins for hostile purposes or in armed conflict;

(b) chemical weapons, which are, together or separately;

(i) a toxic chemical and its precursors, except where intended for a purpose not prohibited by law as long as the type and quantity is consistent with such a purpose;

(A) industrial, agricultural, research, medical pharmaceutical or other peaceful purposes; or

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

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

(D) law enforcement including domestic riot control purposes,

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

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(iii) any equipment specifically designed for use directly in connection with the employment of munitions or devices specified in subparagraph (ii) above;

(c) Nuclear weapons and other explosive devices.

(4) "fixed platform" means an artificial island, installation or structure permanently attached to the sea-bed on the continental shelf, for the purpose of exploration or exploitation of resources or for other economic purposes.

(5) "flag State" means the State whose flag is being flown by a ship;

(6) "foreign State" means a country other than the Republic, including its territories and political sub-divisions;

(7) "foreign national" means a person who is a citizen of a State other than the Republic.

(8) "High Court" means the High Court of the Republic.

(9) "infrastructure facility" means any publicly or privately owned facility providing or distributing services for the benefit of the public, such as water, sewage, energy, fuel or communications;

(10) "Organization" means the International Maritime Organization;

(11) "person" as used herein refers to a natural person and where the circumstances allow may also be interpreted to mean a corporation or other legal entity;

(12) "Place of public use" means those parts of any building, land, street, waterway or other location that are accessible or open to members of the public, whether continuously, periodically or occasionally, and encompasses any commercial, business, cultural, historical, educational, religious, governmental, entertainment, recreational or similar place that is so accessible or open to the public;

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(13) “precursor” means, any chemical reaction that takes part at any stage in the production by whatever method of a toxic chemical. This includes any key component of a binary or multi-component chemical system.

(14) “receiving State” refers to the State that is receiving, or has agreed to receive a person alleged to have committed an offense against the safety of maritime navigation within its territory;

(15) “Republic” means the Republic of the Marshall Islands, including all its political sub-divisions.

(16) “requesting State” refers, depending on the context, to a State that is making the request to the Republic for the extradition of a person alleged to have committed an offense against the safety of maritime navigation; or refers to the State requesting permission of the Republic to board a ship flying the flag of the Marshall Islands;

(17) “Secretary-General” means the Secretary General of the International Maritime Organization;

(18) “Serious injury or damage” means:

(a) serious bodily injury;

(b) extensive destruction of a place of public use, State or government facility or public transportation system, resulting in major economic loss; or

(c) substantial damage to the environment, including air, soil, water, fauna, or flora.

(19) “ship” means a vessel of any type whatsoever not permanently attached to the seabed, including dynamically supported craft, submersibles, or any other floating craft.

(20) “source material” and “Special fissionable material” shall have the same meaning as defined by the International Atomic Agency.



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(21) “State or government facility” means any permanent or temporary facility or conveyance that is used or occupied by representatives of a country, members of government, the legislature or the judiciary or by officials or employees of a country or any other public authority or entity or by employees or officials of an intergovernmental organization in connection with their official duties;

(22) “SUA Convention” means the Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation, 1988, the 1988 Protocol on Fixed Platforms and the two 2005 Protocols, inclusive.

(23) “to grant asylum” as used herein means, means the granting of refugee status or providing a safe haven to any person who is alleged to have committed an offense against the safety of maritime navigation in the Republic or in the territory of a State party to the SUA Convention, in order to prevent such person from being prosecuted.

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

(25) “transport” means to initiate, arrange, or exercise effective control or decision-making authority over the movement of a person or item.

### Section 3.     **Policy Considerations.**

As a member of the United Nations and a peace loving nation, the Republic is deeply concerned about the world-wide escalation of acts of terrorism and especially the potential threat to the safety of maritime navigation. The enactment of this Act will put in place a national regime that will enable the Republic to play its role as a State party in the international effort to suppress all forms of terrorism that threaten the safety of maritime navigation.

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**Section 4. Application of Law and Jurisdiction.**

(1) The provisions of this Act shall apply where the offense is committed:

(a) against or on board a ship flying the flag of the Republic at the time the offence is committed; or

(b) against or on a fixed platform located on the continental shelf of the Republic; and

(c) on a ship flying the flag of a foreign State, whilst such ship is in the territorial sea of the Republic;

(d) in the territory of the Republic, including its territorial sea; or

(e) by a national of the Republic.

(2) In addition to subsection (1) hereinabove, the Republic, likewise, has jurisdiction:

(a) where a national of the Republic is seized, threatened, injured or killed during the commission of the offense, regardless of where the offense was committed; or

(b) where a person, regardless of his nationality, alleged to have committed an offense against the safety of maritime navigation in the jurisdiction of another State party to the SUA Convention is found in the Republic; or

(c) where the offense is committed in an attempt to compel the Republic or any of its political sub-divisions to do or abstain from doing an act, regardless of where the offense was committed.

(3) The provisions of this Act shall not apply to:

(a) a warship, owned or operated by the Republic; or

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(b) a ship owned or operated by the Republic as a naval auxiliary or for customs or police purposes; or

(c) a ship which has been withdrawn from navigation or laid up.

(d) warships owned by a foreign government; or

(e) any ship owned and operated by a foreign government for non-commercial purposes.

(4) In addition to the subsection (4) above, the provisions of this Act shall not apply:

(a) to the activities of armed forces during an armed conflict, as those terms are understood under international humanitarian law; or

(b) the activities undertaken by armed forces in the exercise of their official duties.

**Section 5. Criminal Jurisdiction.**

The criminal jurisdiction over the offenses enumerated under this Act is hereby vested in the High Court of the Republic.

**Section 6. Enforcement and Rules of Procedures.**

(1) The Attorney-General shall have the primary responsibility for the enforcement of the provisions of this Act, including carrying out investigations and the institution of criminal proceedings against any person who has committed an offense prescribed under the provisions of this Act.

(2) Any criminal proceedings instituted under the provisions of this Act, shall be conducted in accordance with the Rules and Procedures set out under the laws of the Republic, including this Act, the Criminal Code, the Criminal Procedures Act, the Rules of Evidence, the Constitution of the Republic and any other law deemed relevant by the Attorney-General.

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(3) Accordingly, where a matter of law or procedure is not provided for under this Act, or where there is an ambiguity in the implementation of the provisions of this Act, the Attorney-General may make reference to the Criminal Code, the Criminal Procedures Act, the Rules of Evidence, the Constitution of the Republic or any other relevant law of the Republic, in order to supplement such deficiency.

**Section 7. No limitation period.**

No limitation period shall apply to the prosecution of an offense under this Act, notwithstanding 31 MIRC Ch.1, “The Criminal Code”, Section 108.

**Section 8. Obligations of the Republic under International Law.**

(1) Nothing in this Act shall affect other rights, obligations, duties and responsibilities of the Republic under international law, with respect in particular to:

- (a) international human rights, refugee and humanitarian law under the United Nations Charter;
- (b) the Treaty on Non-Proliferation of Nuclear Weapons, 1968;
- (c) the Convention on the prohibition of the Development, Production and Stockpiling of Bacterial (Biological) and Toxin Weapons and on their Destruction, 1972;
- (c) the Convention on the Prohibition of the Development, Production, stockpiling and Use of Chemical Weapons and on their Destruction, 1993.

**PART II – OFFENSES AGAINST THE SAFETY OF MARITIME  
NAVIGATION**

**Section 9. Acts committed on or Against Ships or Fixed platforms.**

(1) Any person who intentionally:

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- (a) seizes or exercises control over a ship or fixed platform by force or threat thereof or any other form of intimidation; or
- (b) performs an act of violence against a person on board a ship or fixed platform, if that act is likely to endanger the safe navigation of that ship or the safety of the fixed platform;
- (c) destroys or causes damage to a ship or to its cargo or to a fixed platform, which act, is likely to endanger the safe navigation of that ship and its cargo or the safety of the fixed platform; or
- (d) places or causes to be placed on a ship or fixed platform, by any means whatsoever, a device or substance which is likely to destroy that ship or its cargo, or the fixed platform, which endangers or is likely to endanger the safe navigation of that ship and its cargo or the safety of the fixed platform; 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) destroys or seriously damages any equipment and facilities on a fixed platform;
- (g) communicates information which he knows to be false, thereby endangering the safe navigation of a ship;

shall be guilty of an offense under this Act, and upon conviction shall be liable to the penalties set forth under Part III of this Act.

(2) Any person who threatens to commit any of the offences set forth in subsection (1) above, in order to compel a natural or juridical person to do or refrain from doing any act, and if threat is likely to endanger the safe navigation of the ship in

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question, or the safety of a fixed platform, such person shall likewise be guilty an offense under this Act, and upon conviction shall be liable to the penalties set forth under Part III of this Act.

**Section 10. Acts to Intimidate a population, or to compel a government, or an international organization – ships and fixed platforms.**

(1) Any person who unlawfully and intentionally, when the purpose of the act, by its nature or context, is to intimidate a population, or to compel a government, or an international organization to do or to abstain from doing any act:

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

(b) discharges from a ship or fixed platform, oil, liquefied natural gas, or other hazardous or noxious substance which is not covered under paragraph (a) (i) above, in such amounts that will cause or is likely to cause death or injury or damage;

(c) uses a ship or fixed platform in a manner that causes death or serious injury or damage; or

(d) threatens, with or without a condition, as is provided for under this Act to commit any of the acts set forth under paragraphs (a), (b), and (c) herein-above;

(2) transports on board a ship, or stores on a fixed platform:

(a) any explosive or radio active material, knowing that it is intended to be used to cause, or in a threat to cause, with or without a condition, death or serious injury or damage for the purposes of intimidating a population, or compelling a government or an international organization to do or abstain from doing any act;

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(b) any BCN Weapon knowing it to be a BCN weapon as defined in this Act;

(c) any source material, special fissionable material, or equipment or material especially designed or prepared for the processing, use or production of special fissionable material, knowing that it is intended to be used in a nuclear explosive prohibited under this Act or in any other nuclear activity not conducted within safeguards under international law; or

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

shall be guilty of an offense, and upon conviction shall be liable to the penalties set forth under Part III of this Act.

(3) However, it shall not be an offense within the meaning of this Act to transport an item or material covered under subsection (2) above, where the transport of such item is under the control of a State party to the Nuclear Non-Proliferation Treaty, and where:

(a) the resulting transfer is not contrary to the such State Party's obligations under the Treaty; and

(b) if the item of material is not intended for the delivery system of a nuclear weapon or other nuclear explosive device as a State Party to the said Treaty and the holding of such device is not contrary to the said State Party's obligations under the Treaty.

**Section 11.      Transporting and Harboring an Alleged Offender**

(1) Any person who shall unlawfully and intentionally transport another person who has committed or alleged to have committed an offense under this Act or under any other foreign law that incorporates any one of the Treaties set forth in Schedule I of this

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Act, on a ship, with the intention of assisting such person evade the criminal process shall be guilty of an offense.

(2) Similarly, any person who unlawfully and intentionally harbors or secretes a person who has committed an offense under this Act or under any other foreign law that incorporates any one of the Treaties set forth in Schedule I of this Act, on a fixed platform, with the intention of assisting such person to evade the criminal process shall be guilty of an offense.

(3) Any person found guilty under subsections (1) and (2) above shall be liable to the penalties set forth under Part III of this Act.

**Section 12. Acts Causing Serious Injury and Death.**

Any person who shall unlawfully and intentionally cause serious bodily injury, or the death of any other person in the course of, or in connection with the commission of any of the offenses set forth under this Act shall be guilty of an offense, and upon conviction, shall be liable to the penalties prescribed under Part III of this Act.

**Section 13. Aiding and Abetting in the Commission of an Offense.**

Any person who unlawfully and intentionally:

(a) participates as an accomplice in the commission of an offense set forth under this Act;

(c) organizes, or directs, others to commit an act that constitutes an offense under this Act; or

(d) contributes to the commission of one or more offenses as set out under this Act by a person or persons, acting with a common purpose, intentionally or either:



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(i) with the aim of furthering that criminal activity or criminal purpose of the person or persons, where such activity or purpose involves the commission of an offense prescribed under this Act; or

(ii) in the knowledge of the intention of the person or persons, to commit an offense as prescribed under this Act; or

(e) aids and abets the commission of an unlawful act in any other manner,

shall be guilty of an offense and shall be liable to the penalties prescribed under Part III of this Act.

(3) The term “person” as used in this Section shall where the circumstances warrant, also mean a corporation or legal person.

**Section 14. Attempts.**

(1) Any person who intends to commit an offense as set forth under this Act, and whose actions fall short of the actual commission of the offense, shall be guilty of an “attempt” to commit an offense under this Act.

(2) In determining “intent” in this case, the court may have regard to all the surrounding facts and circumstances.

**Section 15. Pre-Trial Detention.**

Where reasonable grounds exist to believe that the detention of any person is necessary for the purpose of preventing such person from engaging in acts prohibited under this Act; or to prevent any person from interfering with an investigation, any law enforcement officer, shall have the powers to detain such person for a period of 48 hours for purposes of investigation. The period of detention may be extended for an additional 7 days, provided however that such extension is approved by the High Court.

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### PART III – PENALTIES

#### Section 16.    **Criminal Penalties.**

A person convicted of an offence set forth under this Act shall be liable to the following penalties:

(1) where the person is convicted of an offense set forth under Section 9 of this Act, such person shall be liable:

(a) to a term of imprisonment for a period of not less than twenty (20) years; or

(b) to a fine of not more than ten million dollars (US \$10,000,000); or

(c) both to imprisonment and the fine within the limits set forth above.

(2) where the person is convicted of an offense set forth under Section 10 of this Act, such person shall be liable:

(a) to a term of imprisonment for a period of not less than twenty-five (25) years, or

(b) to a fine of not more than fifty million dollars (US \$50,000,000); or

(c) both to imprisonment and the fine within the limits set forth above.

(3) where the person is convicted of an offense set forth under Section 11 of this Act, such person shall be liable:

(a) to a term of imprisonment for a period of not less than fifteen years (15) years; or

(b) to a fine of not more than five million dollars (US \$5,000,000); or

(c) both to imprisonment and the fine, within the limits set forth above.

(4) where the person is convicted of an offense set forth under Section 12 of this Act, such person shall be liable:

(a) to a term of imprisonment for a period of not less than twenty-five (25) years; or

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- (b) to a fine of not more than fifty million dollars (US \$50,000,000); or
  - (c) both to imprisonment and the fine, within the limits set forth above.

(5) Any person found guilty of an “attempt” to commit an offense under this Act, shall be liable to:

- (a) half of the term or imprisonment; or
- (b) half of the maximum amount of the fine; or
- (c) or both,

(6) A person convicted of an offense under this Act:

- (a) shall not be entitled to probation; and
- (b) shall not have the term of imprisonment imposed on him run concurrently with any other term of imprisonment; and
- (c) shall not be entitled to bail, pending his trial or his appeal against conviction for the offense.

(7) The High Court, in imposing sentence on any person convicted of an offense under this Act, shall order, in addition to the sentence imposed, that the person convicted, forfeit to the Republic all property described in Section 18 below.

**Section 17. Criminal Liability of Corporations.**

(1) Where an offense under this Act has been committed by:

- (a) a director, officer or agent of a corporation or other legal person within the scope of his or her official authority; or
- (b) any other person at the direction or with the consent or agreement whether express or implied, of a director, officer or agent of the corporation or legal person, where the direction, consent or agreement is given within the scope of the official authority of the director, officer or agent,

the offense shall likewise be deemed to have been committed by the corporation or legal person.

(2) A corporation convicted of an offense under this section, shall be liable to a fine in the amount not exceeding one hundred million dollars (US\$100,000,000).

(3) The property of a corporation convicted of an offense under this section

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shall be subject to the forfeiture provisions set out under Section 18 below.

**Section 18. Forfeiture of Property.**

(1) Any person convicted of an offense under this Act shall be deemed to have forfeited to the Republic, notwithstanding any other law:

(a) any property derived from, and proceeds obtained, directly or indirectly, as the result of such offense; and

(b) any property used in any manner or part, to commit, or to facilitate the commission of, such offense;

(2) Any weapons found in the possession of an alleged offender under this Act shall be seized, and confiscated and forfeited to the Republic.

(3) For the purposes of forfeiture proceedings under this section, the Attorney-General may seek a temporary restraining order where there is probable cause to believe that the property would be subject to forfeiture in the event of conviction, and further that special circumstances exist that place the life or health of the public in danger.

(4) The provisions of this section shall be implemented without prejudice to the rights of third parties acting in good faith.

(5) The owner or possessor of any property seized under this section shall be liable to the Republic for any expenses incurred incident to the seizure, including any expenses relating to the handling, storage, transportation, and destruction or other disposition of the seized property.

**PART IV – CIVIL REMEDIES**

**Section 19. Civil Action by Republic.**

(1) The Attorney-General may bring a civil action in the High Court against any person who commits an offense under this Act, or convicted of an offense under this Act, and upon proof by a preponderance of the evidence, that such person committed the offense, and

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(a) in the case of a natural person, such person shall be liable to civil penalties in an amount not exceeding ten million United States dollars (US\$10,000,000);

(b) in the case of a corporation or other legal persons, such corporation or legal person shall be liable to civil penalties not exceeding one hundred million US dollars (US\$100,000,000).

(2) The imposition of a civil penalty under subsection (1) shall not preclude any other criminal or civil statutory, common law, or administrative remedy, which is available by law to any other person.

(3) The court shall order any person convicted of an offense under this Act to reimburse the Republic for any expenses incurred by the Republic incident to investigation and prosecution for the offense, including, without limitation, the seizure, storage, handling, transportation, and destruction or other disposition of any property that was seized in connection with an investigation of the commission of the offense by that person.

(4) A person ordered to reimburse the Republic pursuant to subsection (3) shall be jointly and severally liable to reimburse such expenses.

**Section 20.      Civil Action by Private Persons**

(1) Any person injured in his or her person, property, or business as a result of the commission of an offense under this Act, may, through another person or persons, or his or her estate, survivors, or heirs, sue therefore in the High Court to recover damages for injury or damages sustained, and the cost of the suit, including attorney's fees.

(2) A final judgment of criminal conviction is conclusive evidence of the liability of the defendant for the purposes of this Section.

**PART V – MUTUAL ASSISTANCE AND COOPERATION**

**Section 21.      Arrest for Preliminary Inquiry**

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(1) Where a person alleged to have committed a crime against the safety of maritime navigation or against any other law that incorporates the provisions of any of the treaties set out in Schedule 1 of this Act, in a foreign State who is a party to:

- (a) the SUA Convention; or
- (b) the 1988 Protocol on Fixed Platforms; or
- (c) any of the 2005 SUA Protocols;

and such person is present in the Republic, where the circumstances so warrant, the Republic shall, in accordance with relevant law, detain such person and inform the foreign State accordingly.

(2) Upon taking custody of the alleged offender, in accordance with subsection (1) herein, the Republic shall immediately notify the foreign State, or if it considers it necessary, any other interested States, of the fact of the detention of such person.

(3) Any person detained in accordance with subsection (1) herein 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) have access to representatives from his State of nationality.

(4) The rights to arrest a person under subsection (1) above shall be exercised in conformity with existing law.

(5) The notification under subsection (2) above shall also set forth the Republic's decision on whether the Republic intends to extradite such person, or whether the Republic will proceed to prosecute such person under this Act.

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**Section 22. Authority to Prosecute *in lieu* of Extradition.**

(1) Where a person alleged to have committed an offense against the safety of maritime navigation or against any other law that incorporates the provisions of any of the treaties set out in Schedule 1 of this Act, is present in the Republic, and another State party to the SUA Convention has also established jurisdiction in respect of such offense, the Republic shall, where the circumstances warrant, and in accordance with relevant law:

(a) extradite such person to a requesting State; or

(b) prosecute such person in the courts of the Republic in accordance with the provisions of this Act or any other relevant law.

(2) A person detained under the provisions of this Section shall be guaranteed fair treatment at all stages of the proceedings, including enjoyment of all the rights and guarantees as provided for under the Constitution of the Republic.

**Section 23. Role of Master in delivering an Alleged offender.**

(1) The Master of a ship flying the flag of the Republic, shall extend fullest cooperation to other State parties to the SUA, in the suppression and prevention of unlawful acts against the safety of maritime navigation.

(2) The Master of a ship that flies the flag of the Republic, shall deliver to the authorities of a State party any person who the Master has reasonable grounds to believe has committed an offense against the safety of maritime navigation in that State, or against any other law that incorporates the provisions of any of the treaties set out in Schedule 1 of this Act in such State.

(3) The Master of a ship flying the flag of the Republic, before entering the territorial sea of another State to deliver a person, shall notify the receiving State of his intention to deliver such person and the reasons therefore.

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(4). The Master of a ship flying the flag of the Republic shall furnish the authorities of a receiving State, the evidence in his possession which pertains to the alleged offence.

(5) Where the Master of a ship flying a foreign flag delivers a person to the Republic, the Republic shall accept the delivery of such person, except where the offense alleged to have been committed is not covered under this Act or any other laws of the Republic. Where the Republic refuses to accept the delivery, it shall advise the flag State of its reasons accordingly.

## **PART VI – BOARDING OF SHIPS**

### **Section 24      Procedures for Boarding of Ships.**

(1) Where the Republic has reasonable grounds to suspect that an offense set forth under this Act is about to be committed on, against or involving a ship that is flying the flag of the Republic on the high seas or in the territorial waters of another State party, the Republic, through the Office of the Attorney-General, may request the assistance of another State party to board the said ship in order to suppress or prevent the occurrence of the offense.

(2) Where the Republic has reasonable grounds to suspect that an offense under this Act has been, is or is about to be committed on a ship that is flying the flag of another State party, and the ship is located in the Republic's territorial sea or in the high seas, the Republic shall not board the ship unless prior authorization is given by the flag State. The Office of the Attorney-General shall be responsible for seeking the authorization of the flag State in these circumstances

(3) Where a request has been made by another State party to board a ship flying the flag of the Republic either in its territorial waters or on the high seas, the Republic, through the office of the Attorney-General, may, depending on the circumstances:

(a) authorize the requesting State to board the ship; or



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(b) request the appropriate law enforcement personnel of the Republic to board the ship instead; or

(c) allow the boarding and search to be conducted jointly by the appropriate law enforcement personnel of the Republic and the requesting State;

or

(d) decline the request.

(4) The boarding of a ship, as anticipated in subsection (1) and (2) above may be undertaken for the purposes of:

(a) stopping the ship; or

(b) searching the ship, its cargo and persons on board the ship; or

(c) questioning the persons on board the ship;

(5) No State party shall board a ship that is flying the flag of the Republic, without prior express authorization from the Republic, through the Office of the Attorney-General. Conversely, the Republic may not board a ship that is flying the flag of another State party without the prior express authorization of the flag State.

(6) The boarding of any ship that is conducted pursuant to the provisions of this Section shall be undertaken in strict compliance with the following guidelines:

(a) that the use of force is to be avoided at all costs, except when necessary to ensure the safety of officials and persons on board, or where the officials are obstructed in the execution of authorized actions. Any use of force shall not exceed the minimum degree necessary and reasonable.

(b) that the boarding:

(i) must in no way endanger the safety of life at sea; and

(ii) shall ensure that all persons on board the ship are treated in a manner which preserves human dignity and in compliance with the

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applicable provisions of international law, including international law of human rights, and

(iii) shall take into account the safety and security of the ship and its cargo;

(iv) shall not prejudice the commercial or legal interests of the flag State;

(v) shall ensure that measures taken are environmentally sound and the boarding State must ensure that the ship is not being unduly detained or delayed;

(vi) shall ensure that alleged offenders found on the ship are guaranteed fair treatment, including enjoyment of all rights and guarantees in conformity with the law of the territory in which such persons are present, and applicable principles of international law, including international human rights law;

(vii) shall not interfere with the rights and obligations and the exercise of jurisdiction of coastal States in accordance with international law of the sea; or

(viii) shall not interfere with the authority of the Republic as flag State to exercise jurisdiction and control in administrative, technical, and social matters involving the ship; and

(ix) shall carry out the boarding by the use of law enforcement or other authorized officials from warships or military aircraft or from other ships clearly marked to identify them as belonging to the service of the State authorized to board.

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**Section 25. Evidence of a Crime and Detention of Ships.**

(1) Where evidence of the occurrence of an offense, is discovered upon the boarding of a foreign ship by law enforcement personnel of the Republic, the Attorney-General, shall promptly advise the flag State of that fact, and where authorized by the flag State, the Republic shall, through the appropriate law enforcement agencies, detain the ship, its cargo and all persons on board, pending further instructions from flag State.

(2) Any foreign State that has boarded a ship flying the flag of the Republic with the authorization of the Republic, and who discovers evidence of the occurrence of an offense shall promptly advise the Republic, through the office of the Attorney-General of such fact. The foreign State may only detain the ship with the authorization of the Republic, given through the Office of the Attorney-General.

**Section 26. Liability for loss or harm caused during boarding**

(1) A State that has been authorized to board a ship flying the flag of the Republic, shall be liable for any harm or loss caused where:

(a) the grounds for boarding the ship prove to be unfounded;

(b) the boarding was undertaken unlawfully or with measures exceeding that reasonably required by the circumstances, and with deliberate disregard of the guidelines set forth under Section 25 above.

**PART VII –EXTRADITION AND TRANSFER OF PERSONS**

**Section 27. Extradition and Extraditable Offenses.**

(1) The provisions of the Criminal Extradition Act (32 Marshall Islands Revised Code Chapter 2), shall govern all extradition requests and proceedings under this Part.

(2) The offences set forth under this Act are hereby declared to be extraditable offenses and shall be read into and deemed included as extraditable offences in any

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extradition treaty existing between the Republic and a State party to the SUA Convention.

(3) Where there is no extradition treaty between the Republic and a State party to the SUA Convention, the SUA Convention itself shall serve as the legal basis for extradition in respect of the offences set forth under this Act.

(4) For the purposes of this Part:

(a) an offense against the safety of maritime navigation committed in the Republic shall be deemed to have been committed also in the jurisdiction of other State parties to the SUA Convention;

(b) conversely, an offense against the safety of maritime navigation committed in the territory of another State party to the SUA Convention shall likewise be deemed to have been committed also in the territory of the Republic.

(5) Where the Republic receives more than one request for extradition from States who have established jurisdiction, and where the Republic decides not to prosecute the alleged offender, the Republic shall, in reviewing the extradition requests, consider:

(a) the interests and responsibilities of the State Party whose flag the ship was flying at the time of the commission of the offence; and

(b) whether the rights of the alleged offender will be respected by the requesting State;

(6) Where the Republic is satisfied that:

(a) the requesting State has the capability to administer justice; and

(b) the rights of the alleged offender will be respected by the requesting State;

the Republic may extradite the alleged offender to the requesting State.

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(7) Where the Republic has substantial grounds to believe that a request for extradition is made solely for the purposes of punishing a person on the basis of the persons race, religion, nationality, ethnic origin, or political opinion, or that extradition would be prejudicial the person on the basis of the reasons outlined herein, the Republic may decline to grant extradition.

(8) An offense against the safety of maritime navigation either under the laws of the Republic or other State parties to the SUA Convention shall not be classified as political offenses, or as offenses inspired by political motives, for the purposes of extradition.

**Section 28. Request by the Republic for transfer of persons in custody.**

(1) Where the Attorney-General has determined that a person or persons, currently in the custody of another State party possesses material information and evidence, including evidence of identification necessary to establish an offense under this Act, either:

- (a) for the purposes of an on-going investigation; or
- (b) as a witness in a prosecution under this Act;

the Attorney-General may request the appropriate authorities in that other State party for the transfer to the Republic of such person or persons, for the purposes set out herein-above.

(2) Any person or persons transferred to the Republic under subsection (1) above shall be entitled to the same rights and protections available to persons under custody, as provided by the laws of the Republic.

**Section 29. Request by Foreign State for transfer of person(s) in custody.**

(1) Where a foreign State requests the transfer of a person who is being detained or is serving a sentence in the Republic, and whose presence is requested by the foreign State for purposes of identification, testimony or otherwise providing assistance in

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obtaining evidence for the investigation or prosecution of an offense against the safety of maritime navigation, the request shall be granted only upon the following conditions:

(a) that the person himself or herself, consents to the transfer; and

(b) that the Republic obtains an agreement from the State concerned that such State will:

(i) respect the rights of the person transferred, as accorded to such person under the laws of the Republic; and

(ii) respect any other conditions set by the Republic, on the transfer.

**Section 30. Existing Extradition Treaty with the United States.**

The provisions of this part shall not affect the application of the extradition procedures set forth under the Compact of Free Association between the Republic and the United States of America.

**PART VIII – INTELLIGENCE SHARING**

**Section 31. Preventive measures.**

(1)The Republic shall extend cooperation to other States Parties to the SUA Convention in the prevention and or suppression of unlawful acts against the safety of maritime navigation by:

(a) taking all practicable measures to prevent preparations, and to counter preparations conducted in the Republic, for the commission of those offences within or outside of the Republic;

(b) exchanging information in accordance with their national law, and coordinating administrative and other measures taken as appropriate to prevent the commission of any offense set forth under this Act;

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(2) When, due to the commission of an offence under this Act, the passage of a ship has been delayed or interrupted, the Republic shall exercise reasonable efforts to avoid unduly detaining or delaying a ship, its crew or cargo.

**Section 32. Notification of the Commission of an Offense.**

The Republic shall, whenever it has reason to believe that an offence under this Act will be, or is about to be committed, furnish such information as promptly as possible to those States parties which it believes would have jurisdiction over the offense.

**Section 33. No asylum.**

The Republic shall not grant refugee status or provide asylum or safe haven to any person who is alleged to have committed an offense against the safety of maritime navigation in the Republic or in the territory of a State party to the SUA Convention.

**PART IX – PROCEDURAL MATTERS**

**Section 34. Reporting to the IMO.**

(1) Where an offense under this Act has been committed in the territory of the Republic, the Republic shall provide to the Secretary-General, as promptly as possible, relevant information in its possession concerning:

- (a) the circumstances of the offence;
- (b) 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) Where the offender is prosecuted in the Republic, the Republic shall likewise, communicate the final outcome of the proceedings to the Secretary-General.

**Section 35. Severability of Provisions.**

Any provision of this Act that may be determined to be unconstitutional by a court of competent jurisdiction shall be deemed to be severed without affecting the validity of the remaining provisions.

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**Section 36.      **Repeal and Savings.****

Section 135 of the Counter-Terrorism Act, 2003 is hereby repealed in its entirety. Any Rules and Regulations promulgated there under shall remain in force until modified or superseded by Rules and Regulations promulgated under Section 37 below.

**Section 37.      **Regulations.****

The Minister for Justice shall, pursuant to the Marshall Islands Administrative Procedures Act, 1986 (6 Marshall Islands Revised Code Chapter 1), promulgate the necessary rules and regulations for the implementation of the provisions of this Act.

**Section 38      **Effective Date.****

This Act shall take effect on the date of certification in accordance with Article IV Section 21 of the Constitution of the Republic of the Marshall Islands and the Rules of Procedures of Parliament.



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**SCHEDULE “1”**

[Reference Sections: §2, §11, §21, §22, ]

1. The Convention for the Suppression of Unlawful Seizure of Aircrafts, 1970
2. The Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation, 1971;
3. The Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons, Including Diplomatic Agents, 1973
4. International Convention Against the Taking of Hostages, 1979
5. Convention on the Physical Protection of Nuclear Material, 1979
6. Protocol for the Suppression of Unlawful Acts of Violence at Airports serving International Civil Aviation, 1988 (supplementary to the Convention listed in 2 above)
7. Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on Continental Shelf, 1988
8. International Convention For the Suppression of Terrorist Bombings, 1997
9. International Convention for the Suppression of Financing of Terrorism, 1999.

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