

Mauritius

## Maritime Zones Act

Act 2 of 2005

Legislation as at 30 June 2017

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# Mauritius

## Maritime Zones Act

### Act 2 of 2005

Commenced on 1 April 2005

*[This is the version of this document at 30 June 2017.]*

#### Part I – Preliminary

##### 1. Short title

This Act may be cited as the Maritime Zones Act.

##### 2. Interpretation

(1) In this Act, unless otherwise expressly provided—

"**archipelagic baselines**" means straight archipelagic baselines referred to in [section 4](#) (2) (a);

"**archipelagic waters**" means any waters, other than internal waters, enclosed by archipelagic baselines;

"**baselines**" means baselines prescribed in accordance with [section 4](#);

"**closing lines**" means the lines prescribed in accordance with [section 5](#) (1);

"**contiguous zone**" means the area of sea specified in [section 12](#);

"**continental shelf**" means the continental shelf of Mauritius, as defined in [section 18](#) (1);

"**EEZ**" means the exclusive economic zone of Mauritius, as defined in [section 14](#);

"**historic waters**" means the historic waters of Mauritius prescribed under [section 11](#);

"**innocent passage**" has the same meaning as in Article 19 of UNCLOS;

"**internal waters**" means—

(a) in respect of archipelagic waters, all waters landward of the closing lines; and

(b) in any other case, all waters landward of any baselines;

"**joint management area**" or "joint zone" means an area of the continental shelf of Mauritius which is delineated by the coordinate; set out in the First Schedule and depicted in the map set out in the Second Schedule;

"**low-water line**" means the lowest astronomical tide level on the coast of Mauritius that can be predicted to occur under average meteorological conditions and under any combination of astronomical conditions;

"**maritime cultural zone**" means the area of sea referred to in [section 25](#);

"**maritime zones**" means the—

(a) archipelagic waters;

(b) contiguous zone;

(c) continental shelf;

(d) EEZ;

- (e) historic waters;
- (f) internal waters;
- (g) maritime cultural zone; and
- (h) territorial sea;

"**nautical mile**" means a distance of 1.85200 kilometres;

"**outer limit**", in relation to a maritime zone, means a geodesic line of the geodetic datum joining the geographical coordinates of points on the datum in a clockwise direction;

"**territorial sea**" means the territorial sea of Mauritius, as defined in [section 7](#);

"**UNCLOS**" means the United Nations Convention on the Law of the Sea of 10 December 1982.

- (2) Unless otherwise expressly provided, words and expressions defined in UNCLOS and used in this Act shall have the same meaning as in UNCLOS.

*[S. 2 amended by s. 3 of Act [6 of 2012](#) w.e.f. 18 June 2012.]*

## Part II – UNCLOS to have force of law in Mauritius

### 3. UNCLOS to have force of law in Mauritius

Notwithstanding any other enactment, UNCLOS shall have force of law in Mauritius.

## Part III – Baselines

### 4. Baselines

- (1) The Prime Minister may, by regulations, prescribe the baselines from which the maritime zones of Mauritius shall be determined.
- (2) The baselines may be—
  - (a) straight archipelagic baselines determined in the manner referred to in Article 47 of UNCLOS;
  - (b) normal baselines, being the low-water line as specified in Article 5 of UNCLOS;
  - (c) the seaward low-water line of reefs as specified in Article 6 of UNCLOS; or
  - (d) straight baselines determined in the manner referred to in Article 7 of UNCLOS; or
  - (e) a combination of the methods for determining baselines specified in paragraphs (a), (b), (c) and (d).

### 5. Closing lines for internal waters

- (1) The Prime Minister may, by regulations, prescribe closing lines to delimit internal waters.
- (2) The closing lines may be determined by using all or any of the methods specified in Articles 9, 10 and 11 of UNCLOS.

## Part IV – Territorial sea, internal waters, archipelagic waters and historic waters

### 6. Legal status of territorial sea and internal, historic and archipelagic waters

- (1) The sovereignty of Mauritius—
  - (a) extends and has always extended to—
    - (i) the territorial sea;
    - (ii) its internal waters;
    - (iii) its archipelagic waters;
    - (iv) its historic waters;
  - (b) also extends to the air space over the archipelagic waters, the historic waters, the internal waters and the territorial sea as well as to their beds and subsoil, and the resources contained in them.
- (2) Unless otherwise expressly provided, any law in force in Mauritius shall extend to its maritime zones.

### 7. Territorial sea

The territorial sea of Mauritius is and has always been the sea between the baselines and a line of which every point is at a distance of 12 nautical miles from the nearest point of the baselines.

### 8. Limits on exercise of sovereignty in internal waters

Any right of innocent passage existing in internal waters delimited by closing lines prescribed under [section 5](#) shall continue to exist to the extent that it existed immediately before the closing lines were prescribed.

### 9. Limits on exercise of sovereignty in archipelagic waters

The exercise by Mauritius of its sovereignty in archipelagic waters shall be subject to—

- (a) any rights set out in any agreement between Mauritius and any other State;
- (b) rights in respect of submarine cables existing at the time the archipelagic baselines are prescribed; and
- (c) the right of innocent passage.

### 10. Limits on exercise of right of innocent passage

- (1) The Prime Minister may make regulations—
  - (a) to designate the sea lanes and air routes to be used by foreign ships and aircraft in passage through or over any archipelagic waters, internal waters and territorial sea; and
  - (b) to prescribe traffic separation schemes to be observed by ships in passage through narrow channels in the sea lanes.
- (2) Subject to subsection (3), the Prime Minister may make regulations to regulate the passage of ships carrying hazardous waste, nuclear materials or radioactive materials through all or any part of the archipelagic waters, internal waters and territorial sea.
- (3) No ship carrying radioactive materials shall pass through any part of the archipelagic waters, internal waters or territorial sea unless prior notification of the intended passage of the ship

through those waters or sea has been given, and prior authorisation and consent for the passage, specifying the route to be taken by the ship, has been given, in accordance with regulations made under this section.

- (4) The Prime Minister may, by notice in the *Gazette*, suspend temporarily the innocent passage of foreign ships in a specified area of any archipelagic waters, internal waters or territorial sea where he is satisfied that the suspension is essential for the protection of the security of Mauritius.
- (5) Regulations made under this section shall provide for such action as may be taken, including stopping and boarding of ships, to ensure compliance with the regulations.
- (6) In this section, "radioactive materials" means waste that, as a result of being radioactive, is subject to an international control system, or international instrument, applying specifically to radioactive materials.

## 11. Historic waters

The Prime Minister may, by regulations, prescribe the limits of the historic waters of Mauritius.

## Part V – Contiguous zone

### 12. Contiguous zone

The contiguous zone of Mauritius is and has always been the area of sea between the territorial sea and a line of which every point is at a distance of 24 nautical miles from the nearest point of the baselines.

### 13. Controls in the contiguous zone

The Prime Minister may make regulations for the exercise of controls necessary in the contiguous zone to prevent and punish infringement of the customs, fiscal, immigration or sanitary laws within Mauritius, its archipelagic waters, internal waters and territorial sea.

## Part VI – Exclusive economic zone

### 14. Exclusive economic zone

- (1) The exclusive economic zone of Mauritius is the area beyond and adjacent to the territorial sea of Mauritius that extends to the EEZ outer limit line.
- (2) The Prime Minister may, by regulations, prescribe the EEZ outer limit line.
- (3) For the purposes of this Part, "EEZ outer limit line" means a line of which every point is at a distance of 200 nautical miles from the nearest point of the baselines.

### 15. Rights, jurisdiction and duties of Mauritius in EEZ

- (1) In accordance with international law and in particular Article 56 of UNCLOS, Mauritius has in the EEZ—
  - (a) sovereign rights—
    - (i) to explore and exploit, conserve and manage the natural resources, whether living or non-living, of the waters superjacent to the sea-bed and of the sea-bed and its subsoil; and
    - (ii) with regard to other activities for the economic exploitation and exploration of the EEZ, such as the production of energy from the water, currents and winds;



- (b) jurisdiction as provided for by international law with regard to—
    - (i) the establishment and use of artificial islands, installations and structures;
    - (ii) marine scientific research;
    - (iii) the protection and preservation of the marine environment; and
  - (c) such other rights and duties as may be provided for by international law.
- (2) The rights specified in this section with respect to the sea-bed and sub-soil shall be exercised in accordance with international law and, in particular, Part VI of UNCLOS.

## 16. Exercise of jurisdiction by Mauritius in EEZ

- (1) To enable Mauritius to exercise the sovereign rights and jurisdiction which it has in the EEZ, there is extended to that zone, to the extent recognised by international law, the law in force in Mauritius.
- (2) In particular, the law of Mauritius shall apply to artificial islands, installations and structures in the EEZ as if they were in the territorial sea.

## 17. Authority to explore and exploit EEZ

The Prime Minister may make regulations to—

- (a) provide for the authorisation of persons to explore for natural resources in the EEZ, or to recover or attempt to recover any such resources, in accordance with such terms and conditions as may be determined by the Prime Minister;
- (b) regulate the laying of pipelines or cables in the EEZ;
- (c) provide for the authorisation and regulation of any drilling in the EEZ; and
- (d) regulate the construction, operation and use of—
  - (i) artificial islands;
  - (ii) installations and structures for the purposes provided for in Article 56 of UNCLOS; and
  - (iii) installations and structures which may interfere with the exercise of the rights of Mauritius in its EEZ.

## Part VII – Continental shelf

### 18. Continental shelf

- (1) The continental shelf of Mauritius comprises the sea-bed and sub-soil of the submarine areas that extend beyond its territorial sea throughout the natural prolongation of its land territory—
- (a) subject to paragraph 2 of Article 76 of UNCLOS, to the outer edge of the continental margin; or
  - (b) where the outer edge of the continental margin does not extend up to that distance, a distance of 200 nautical miles from the baselines from which the breadth of the territorial sea is measured.
- (2) Where, by virtue of paragraph 2 of Article 76 of UNCLOS, the outer limits of the continental shelf require to be determined in accordance with paragraphs 4 to 6 of UNCLOS, the Prime Minister may make regulations to provide for the outer limit to be determined by any method specified in paragraph 4 of Article 76 of UNCLOS.

## 19. Rights of Mauritius over continental shelf

- (1) In accordance with international law and in particular Article 77 of UNCLOS, and subject to subsection (1A), Mauritius shall exercise sovereign rights over the continental shelf to explore it and exploit its natural resources.
- (1A) In respect of the joint zone, Mauritius shall exercise joint sovereign rights with Seychelles in accordance with the Treaty concerning the Joint Exercise of Sovereign Rights over the Continental Shelf in the Mascarene Plateau Region, done at Clarisse House, Vacoas, Mauritius on 13 March 2012, as set out in the Third Schedule.
- (2) The rights referred to in subsection (1) shall be exclusive in that, if Mauritius does not explore the continental shelf or exploit its natural resources, no one may undertake these activities without the express consent of Mauritius.
- (3) In accordance with Article 80 of UNCLOS, Mauritius has in the continental shelf the exclusive right to construct and to authorise and regulate the construction, operation and use of—
  - (a) artificial islands;
  - (b) installations and structures for the purposes provided for in Article 56 of UNCLOS and other economic purposes; and
  - (c) installations and structures which may interfere with the exercise of the rights of Mauritius in the continental shelf.
- (4) Mauritius has exclusive jurisdiction over such artificial islands, installations and structures, including jurisdiction with regard to customs, fiscal, health, safety and immigration laws and regulations.

*[S. 19 amended by s. 4 of Act [6 of 2012](#) w.e.f. 18 June 2012.]*

## 20. Exercise of jurisdiction by Mauritius on continental shelf

- (1) To enable Mauritius to exercise the sovereign rights and jurisdiction it has in the continental shelf, there is extended to the continental shelf, to the extent recognised by international law and subject to subsections (1A) and (1B), the law in force in Mauritius.
- (1A) In respect of offences committed in the joint zone, Mauritius shall exercise its criminal jurisdiction in accordance with article 16 of the Treaty on the Joint Management of the Continental Shelf in the Mascarene Plateau Region, done at Clarisse House, Vacoas, Mauritius, on 13 March 2012, as set out in the Fourth Schedule, or such other provisions as may be agreed upon by Mauritius and Seychelles.
- (1B) In respect of an activity in the joint zone, Mauritius shall apply such provisions relating to taxation as may be agreed upon pursuant to article 6 of the Treaty Concerning the Joint Management of the Continental Shelf in the Mascarene Plateau Region done at Clarisse House, Vacoas, Mauritius, on 13 March 2012.
- (2) In particular, the law of Mauritius shall apply to artificial islands, installations and structures on the continental shelf as if they were in the territorial sea.

*[S. 20 amended by s. 5 of Act [6 of 2012](#) w.e.f. 18 June 2012.]*

## 21. Authority to explore and exploit continental shelf

- (1) The Prime Minister may make regulations to—
  - (a) provide for the authorisation of persons to explore for natural resources on the continental shelf, or to recover or attempt to recover any such resources, in accordance with such terms and conditions as may be determined by the Prime Minister;

- (b) regulate the laying of pipelines or cables in the continental shelf;
  - (c) provide for the authorisation and regulation of any drilling in the continental shelf; and
  - (d) regulate the construction, operation and use of—
    - (i) artificial islands;
    - (ii) installations and structures for the purposes provided for in Article 77 of UNCLOS; and
    - (iii) installations and structures which may interfere with the exercise of the rights of Mauritius in the continental shelf.
- (2) For the purposes of this Part—
- "natural resources" means—
- (a) the mineral and other non-living resources of the seabed and subsoil; and
  - (b) the living organisms belonging to sedentary species;
- "sedentary species" means organisms which, at their harvestable stage—
- (a) are immobile on or under the seabed; or
  - (b) are unable to move except in constant physical contact with the seabed or the subsoil.

## Part VIIA – Land-based oceanic industry

*[Part VIIA inserted by s. 19 of Act 20 of 2011 w.e.f. 26 May 2014.]*

### 21A. Interpretation

In this Part—

"**areas of the sea**" means such areas of the sea as may be prescribed;

"**Board of Investment**" means the Board of Investment established under the Investment Promotion Act;

"**economic activities**" means such economic activities as may be prescribed;

"**Managing Director**" means the Managing Director of the Board of Investment;

"**Minister**" means the Minister to whom responsibility for the subject of land-based oceanic industry is assigned;

"**Permanent Secretary**" means the Permanent Secretary of the Ministry responsible for the subject of land-based oceanic industry.

*[S. 21A inserted by s. 19 of Act 20 of 2011 w.e.f. 26 May 2014,]*

### 21B. Land-based oceanic industry

- (1) The prescribed areas of the sea shall, for the purposes of this Part, be used to develop a land-based oceanic industry in respect of such economic activities as may be prescribed.
- (2) No person shall carry out any economic activity in any of the areas of the sea unless the person—
  - (a) is a company incorporated or registered under the Companies Act;
  - (b) obtains, in relation to the areas of the sea, an authorisation in principle and in writing from the Permanent Secretary;

- (c) obtains, in relation to the land lying near or adjoining the areas of the sea referred to in paragraph (b) required for the infrastructure, the necessary authorisation from the competent authority or owner of the land;
- (d) obtains an EIA licence under the Environment Protection Act; and
- (e) is the holder of a *concession* granted by the Prime Minister.

[S. 21B inserted by s. 19 of Act [20 of 2011](#) w.e.f. 26 May 2014.]

### 21C. Application for authorisation in principle

- (1) Every application for authorisation under [section 21B](#) (2) (b) shall—
  - (a) be made to the Managing Director in such form and manner as he may determine; and
  - (b) be accompanied by—
    - (i) a full and detailed account of the proposed economic activity;
    - (ii) details of the construction, operations and maintenance of the necessary infrastructure for the development of the proposed economic activity;
    - (iii) an implementation plan relating to the proposed economic activity with full details, including a time frame for its completion; and
    - (iv) such other particulars or information as may be required in the form of application;
  - (c) be dealt with in accordance with section 18B of the Investment Promotion Act.
- (2) The Board of Investment shall make its recommendations on the application to the Permanent Secretary.
- (3) On the recommendations of the Board of Investment, the Permanent Secretary may, subject to [section 21D](#)—
  - (a) approve the application and issue the authorisation, in principle, on such terms and conditions as he may determine; or
  - (b) reject the application and inform the applicant accordingly.

[S. 21C inserted by s. 19 of Act [20 of 2011](#) w.e.f. 26 May 2014.]

### 21D. Application for *concession*

- (1) Any company which has obtained an authorisation under [section 21C](#) (3) shall apply to the Prime Minister for a *concession* in the areas of the sea in respect of its proposed economic activity.
- (2) On receipt of an application under subsection (1), the Prime Minister may, on the recommendations of the Minister and the Board of Investment, grant to the applicant a *concession* by way of a deed of *concession*.
- (3) Any *concession* granted under subsection (2) shall—
  - (a) not exceed 30 years' duration and may be renewable for successive periods of 10 years;
  - (b) not be transferable except with the written authorisation of the Prime Minister;
  - (c) be subject to the *cessionnaire* complying with the Act;
  - (d) be subject to such annual royalty, fees and charges as may be determined by the Prime Minister; and
  - (e) be subject to such other terms and conditions as may be prescribed by the Prime Minister.

- (4) The Prime Minister may, on the ground of public interest, limit the number of concessions granted under this Part.

[S. 21D inserted by s. 19 of Act [20 of 2011](#) w.e.f. 26 May 2014.]

### 21E. Mark-off area of concession

- (1) The *cessionnaire* of any area of the sea shall clearly and visibly markoff the area subject to the *concession*, in such manner as may be approved by the Prime Minister and shall properly maintain the marked-off area.
- (2) Every marked-off area shall be under the overall control and administration of the *cessionnaire*.

[S. 21E inserted by s. 19 of Act [20 of 2011](#) w.e.f. 26 May 2014.]

### 21F. Suspension or cancellation of concession

- (1) Where a company obtains a *concession* under [section 21D](#) and the company—
  - (a) uses the area of the sea subject to the *concession* for any purpose other than that for which it has been granted, without the prior written approval of the Prime Minister;
  - (b) utilises the area of the sea subject to the *concession* so as to constitute a nuisance, or to cause any detriment to, or be a source of pollution of, the natural resources and the environment;
  - (c) fails to carry out, or insufficiently carries out, the economic activity subject to the *concession*; or
  - (d) fails to comply with this Part, or any regulations made under the Act, or any of its obligations under the deed of *concession*,the Prime Minister may suspend or cancel the *concession*.
- (2) The Prime Minister may, on the ground of public interest, or of the implementation of a project of national interest that modifies the status of the areas of the sea, remove a *concession* from a *cessionnaire*, subject to payment of reasonable compensation to the *cessionnaire*.

[S. 21F inserted by s. 19 of Act [20 of 2011](#) w.e.f. 26 May 2014.]

## Part VIII – Marine scientific research

### 22. Marine scientific research in maritime zones

- (1) As provided by international law and in particular Article 245 of UNCLOS, Mauritius, in the exercise of its sovereignty, has the exclusive right to regulate, authorise and conduct marine scientific research in its territorial sea.
- (2) As provided by international law and in particular Article 246 of UNCLOS, Mauritius, in the exercise of its jurisdiction, has the right to regulate, authorise and conduct marine scientific research in its EEZ and on its continental shelf.

### 23. Regulation of marine scientific research in maritime zones

- (1) Marine scientific research shall not be conducted in any maritime zone except with the express consent of the Prime Minister and in accordance with such regulations as may be made by the Prime Minister.
- (2) Regulations made under subsection (1) shall—
  - (a) establish procedures to ensure that consent for marine scientific research is not delayed or denied unreasonably;

- (b) ensure that any person who is given consent for marine scientific research under this section makes the results of his work available to Government of Mauritius; and
- (c) ensure that, in appropriate cases, intellectual property rights that Mauritius has in the use of any living or non-living resource, are recognised and vested in Mauritius.

## **Part IX – Underwater cultural heritage**

### **24. Underwater cultural heritage in internal waters, archipelagic waters and territorial sea**

- (1) Mauritius, in the exercise of its sovereignty, has the exclusive right to regulate and authorise activities directed at underwater cultural heritage in its archipelagic waters, internal waters and territorial sea.
- (2) The Prime Minister may, notwithstanding any other enactment, make regulations for the purpose of regulating activities specified in subsection (1).

### **25. Maritime cultural zone**

- (1) The maritime cultural zone of Mauritius is an area of sea coincident with the contiguous zone.
- (2) The Prime Minister may make regulations to regulate and authorise activities directed at underwater cultural heritage within the maritime cultural zone.

### **26. Underwater cultural heritage in EEZ and continental shelf**

The Prime Minister may, notwithstanding any other enactment, make regulations to prohibit or authorise any activity directed at underwater cultural heritage in the EEZ or the continental shelf to prevent interference with the sovereign rights and jurisdiction of Mauritius.

## **Part X – Miscellaneous**

### **27. Regulations**

- (1) The Prime Minister may make such regulations as he thinks fit for the purposes of this Act.
- (2) Regulations made under this Act may provide for baselines and lines delineating maritime zones to be prescribed—
  - (a) as lists of geographical coordinates of points, specifying the geodetic datum;
  - (b) by reference to charts of a scale or scales adequate for ascertaining the position of the baselines and other limits; or
  - (c) where it is appropriate or necessary to do so, by using both the methods specified in paragraphs (a) and (b).
- (3) Without prejudice to the generality of subsection (1), regulations made by the Prime Minister under this section may, in particular—
  - (a) provide that any enactment that extends to a maritime zone shall extend to that zone with such amendment as may be prescribed by the regulations;
  - (b) prescribe fees, forms and procedures;
  - (c) provide for the payment of royalties and other charges, and the manner in which they shall be calculated;

- (d) provide for the confiscation of property in respect of an offence committed in a maritime zone;
- (e) provide for the appointment of officers necessary for the administration of the regulations and prescribe their powers and duties;
- (f) provide for the amendment of the Schedules.

[S. 27 amended by s. 6 of Act [6 of 2012](#) w.e.f. 18 June 2012.]

## 28. Offences

- (1) Any person who contravenes this Act or any regulations made under this Act shall commit an offence and shall be liable—
  - (a) in the case of an individual, to a fine not exceeding 30 million rupees or to imprisonment for a term not exceeding 5 years;
  - (b) in the case of a body corporate, to a fine not exceeding 150 million rupees.
- (2) Where an offence committed by a body corporate under this Act is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of—
  - (a) a director, manager, secretary or other similar officer of the body corporate; or
  - (b) a person who was purporting to act in any such capacity,that person specified in paragraph (a) or (b) as well as the body corporate, shall commit an offence and be punished accordingly.
- (3) Where the affairs of a body corporate are managed by its members, subsection (2) shall apply in relation to the acts and defaults of a member in connection with the member's functions of management as if the member were a director of the body corporate.

29. \*\*\*

30. \*\*\*

## 31. Transitional and saving provisions

- (1) Pending the determination of baselines in accordance with this Act, the baselines, territorial sea, EEZ and continental shelf shall, for the purposes of this Act, be deemed to be those that existed under the enactments repealed under [section 29](#) immediately before their repeal.
- (2) Any area of sea designated by the Prime Minister as historic waters under the Maritime Zones Act repealed by [section 29](#) shall, on the coming into operation of this Act, be deemed to have been designated to be, and always to have been, historic waters of Mauritius in accordance with this Act.
- (3) Any agreement made for the purposes of the enactments repealed under [section 29](#) and in force immediately before the coming into operation of this Act—
  - (a) shall remain in force to the extent that it is not inconsistent with this Act; and
  - (b) shall be deemed to have been made under this Act.
- (4) The Prime Minister may make regulations making such further transitional, saving, consequential, incidental or supplementary provisions as may be necessary or expedient to bring this Act into effect.

32. \*\*\*

**First Schedule (Section 2)**  
**Geographical coordinates (DATUM WGS 84)**  
**delineating the Seychelles-Mauritius joint zone**

Coordinates ID	Latitude (decimal deg)	Longitude (decimal deg)
ECS 1	-4.90806007	59.27680588
ECS 2	-4.90956497	59.28105164
ECS 3	-4.91540956	59.29670334
ECS 4	-4.92151403	59.31225586
ECS 5	-4.92787600	59.32770157
ECS 6	-4.93449545	59.34303665
ECS 7	-4.94137001	59.35826111
ECS 8	-4.94849682	59.37337112
ECS 9	-4.95587683	59.38836288
ECS 10	-4.96350431	59.40323257
ECS 11	-4.97137928	59.41796875
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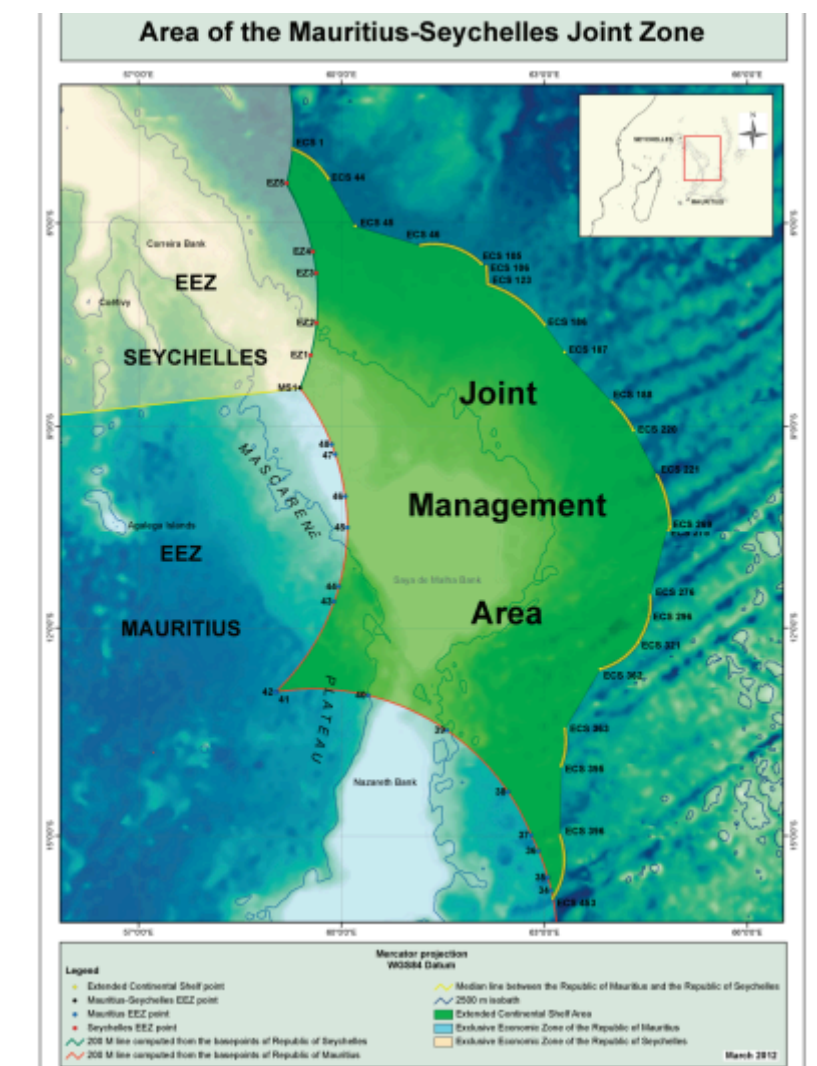
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EZ5	-5.41164578	59.19109953

*[First Sch. inserted by s. 7 of Act [6 of 2012](#) w.e.f. 18 June 2012.]*

## Second Schedule (Section 2)

### Designation and description of joint zone

The joint management area or joint zone comprises the area of continental shelf in the Mascarene Plateau Region, depicted in the map below—



[Second Sch. inserted by s. 7 of Act 6 of 2012 w.e.f. 18 June 2012.]

**Third Schedule (Section 19)**

**Treaty concerning the joint exercise of sovereign rights over the continental shelf in the Mascarene Plateau region**

*The Government of the Republic of Mauritius*

and

*The Government of the Republic of Seychelles*

**("the Contracting Parties")**

RECALLING that both countries being coastal States co-operated on the basis of the Treaty between the Government of the Republic of Seychelles and the Government of the Republic of Mauritius on the Framework for Joint Submission to the United Nations Commission on the Limits of the Continental Shelf dated 18 September 2008, as subsequently amended, to lodge on 1 December 2008 the Joint Submission to the United Nations Commission on the Limits of the Continental Shelf ('the Commission') concerning the Mascarene Plateau region

("Joint Submission") under Article 76, paragraph 8 of the United Nations Convention on the Law of the Sea done at Montego Bay on 10 December 1982 ("the Convention");

RECALLING ALSO that on 30 March 2011, the Commission adopted recommendations confirming the entitlement of the Contracting Parties to the area of continental shelf submitted by them in the Joint Submission, as contained in the Commission document entitled Recommendations of the Commission on the Limits of the Continental Shelf in regard to the Joint Submission made by Mauritius and Seychelles in respect of the Mascarene Plateau Region on 1 December 2008;

NOTING that Article 76 of the Convention provides that the limits of the continental shelf established by coastal States on the basis of the recommendations of the Commission shall be final and binding;

NOTING ALSO that Article 83 of the Convention provides that the delimitation of the continental shelf between States with opposite coasts shall be effected by agreement on the basis of international law in order to achieve an equitable solution and, in the absence of delimitation, that States shall make every effort in a spirit of understanding and co-operation to enter into provisional arrangements of a practical nature which do not prejudice a final delimitation of the continental shelf;

HAVE AGREED as follows:

### **Article 1 – Joint Exercise of Sovereign Rights over the Continental Shelf**

The Contracting Parties shall exercise sovereign rights jointly for the purpose of exploring the continental shelf and exploiting its natural resources in the area described in Article 2 ('the Joint Zone').

### **Article 2 – Delineation of the Joint Zone**

The Joint Zone is defined by the following points, the coordinates of latitude and longitude [referred to the World Geodetic System (WGS84)] of which are set out at Annex 1 to this Treaty, and as illustrated in the map at Annex 2 of this Treaty:

Commencing at point ECS 1 on Seychelles Exclusive Economic Zone Boundary, the boundary line runs through points ECS 2 to ECS 44, thence to point ECS 45, thence to point ECS 46, thence through points ECS 47 to ECS 105, thence to point ECS 106, thence through points ECS 107 to ECS 123, thence through points ECS 124 to ECS 186, thence to point ECS 187, thence to point ECS 188, thence through points ECS 189 to ECS 220, thence to point ECS 221, thence through points ECS 222 to ECS 269, thence through points ECS 270 to ECS 275, thence to point ECS 276, thence through points ECS 277 to ECS 296, thence through points ECS 297 to ECS 321, thence through points ECS 322 to ECS 362, thence to point ECS 363, thence through points ECS 364 to ECS 395, thence to point ECS 396, thence through points ECS 397 to ECS 453 on Mauritius Exclusive Economic Zone boundary, thence along Mauritius Exclusive Economic Zone boundary to point 34, thence through points 35 to 41, thence through points 42 to 47, thence through point 48 to MS 1 on the intersection of the Seychelles and Mauritius Exclusive Economic Zone boundaries, thence along the Seychelles Exclusive Economic Zone boundary through points EZ1 to EZ5, thence along the Seychelles Exclusive Economic Zone boundary to the starting point at ECS 1 on Seychelles Exclusive Economic Zone boundary.

The boundary line between the above listed points is a geodesic.

### **Article 3 – Treaty without prejudice**

Nothing contained in this Treaty, and no act taking place whilst this Treaty is in force, shall be interpreted as prejudicing or affecting the legal position or rights of the Contracting Parties concerning any future delimitation of the continental shelf between them in the Mascarene Plateau Region.



#### Article 4 – Entry into force

- (a) Each Contracting Party shall notify the other, by means of exchange of diplomatic notes, the completion of the procedures required by its law for the bringing into force of this Treaty. The Treaty shall enter into force on the date of receipt of the later notification.
- (b) Upon entry into force, the Treaty shall be taken to have effect, and all of its provisions shall be taken to have applied, from the date of signature.

IN WITNESS WHEREOF the undersigned, being duly authorised thereto by their respective Governments, have signed this Treaty.

DONE at Clarisse House, Vacoas, Mauritius in duplicate on this 13<sup>th</sup> day of March Two Thousand and Twelve in the English language.

For the Government of the Republic of Mauritius

For the Government of the Republic of Seychelles

**Geographical Coordinates (DATUM WGS 84)  
Delineating the Seychelles-Mauritius Joint Zone**

Coordinates ID	Latitude (decimal deg)	Longitude (decimal deg)
ECS 1	-4.90806007	59.27680588
ECS 2	-4.90956497	59.28105164
ECS 3	-4.91540956	59.29670334
ECS 4	-4.92151403	59.31225586
ECS 5	-4.92787600	59.32770157
ECS 6	-4.93449545	59.34303665
ECS 7	-4.94137001	59.35826111
ECS 8	-4.94849682	59.37337112
ECS 9	-4.95587683	59.38836288
ECS 10	-4.96350431	59.40323257
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ECS 23	-5.08429050	59.58334732
ECS 24	-5.09515572	59.59605789
ECS 25	-5.10623217	59.60858536
ECS 26	-5.11751652	59.62093353
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EZ 5	-5.41164578	59.19109953

[Third Sch. inserted by s. 7 of Act [6 of 2012](#) w.e.f. 18 June 2012.]

#### **Fourth Schedule (Section 20)**

### **Treaty concerning the Joint Management of the Continental Shelf in the Mascarene Plateau region**

*The Government of the Republic of Mauritius*

*and*

*The Government of the Republic of Seychelles*

*("the Contracting Parties")*



**SEEKING** to promote the sustainable and long-term economic and social development of their respective small island countries for the benefit of present and future generations;

**COMMITTED** to maintaining, renewing and further strengthening the mutual respect, goodwill, friendship and co-operation between their two countries;

**ACKNOWLEDGING** the existence of an overlapping area of continental shelf extending beyond the Exclusive Economic Zone boundaries established by their two countries under the Treaty between the Government of the Republic of Mauritius and the Government of the Republic of Seychelles on the Delimitation of the Exclusive Economic Zone between the two States dated 29 July 2008;

**RECALLING** that both countries co-operated on the basis of the Treaty between the Government of the Republic of Seychelles and the Government of the Republic of Mauritius on the Framework for a Joint Submission to the United Nations Commission on the Limits of the Continental Shelf dated 18 September 2008, as subsequently amended, to lodge on 1 December 2008 the Joint Submission to the United Nations Commission on the Limits of the Continental Shelf ('the Commission') concerning the Mascarene Plateau region ("Joint Submission") under Article 76, paragraph 8 of the United Nations Convention on the Law of the Sea done at Montego Bay on 10 December 1982 ("the Convention");

**RECALLING ALSO** on 30 March 2011, the Commission adopted recommendations confirming the entitlement of their two countries to the area of continental shelf as contained in the Commission document entitled Recommendations of the Commission on the Limits of the Continental Shelf in regard to the Joint Submission made by Mauritius and Seychelles in respect of the Mascarene Plateau Region on 1 December 2008;

**CONSCIOUS** that the Convention provides in Article 83 that the delimitation of the continental shelf between States with opposite coasts shall be effected by agreement on the basis of international law in order to achieve an equitable solution and, in the absence of delimitation, that States shall make every effort in a spirit of understanding and co-operation to enter into provisional arrangements of a practical nature which do not prejudice a final determination of the extended continental shelf delimitation;

**RECOGNISING** the importance of providing an equitable and co-operative legal basis for the exercise by their two countries of their sovereign rights and jurisdiction over the continental shelf in the Mascarene Plateau Region in accordance with international law;

**REAFFIRMING** the Treaty Concerning the Joint Exercise of Sovereign Rights over the Continental Shelf in the Mascarene Plateau Region of 13 March 2012, under which the Contracting Parties established the outer limits of the continental shelf in the Mascarene Plateau Region and agreed to exercise sovereign rights jointly for the purpose of exploring the continental shelf and exploiting its natural resources;

**MINDFUL** of the importance of jointly managing the natural resources of the continental shelf in the Mascarene Plateau Region in a manner that is sustainable and consistent with the precautionary principle and the protection of the marine environment and the biological diversity of the continental shelf;

**DESIRING** to enter into an international agreement to provide an effective and equitable framework to govern the joint management of the continental shelf in the Mascarene Plateau Region;

**HAVE AGREED** as follows:

## **Part I – Preliminary**

### **Article 1 – Definitions**

For the purposes of this Treaty—

- (a) "**Authority**" means the Designated Authority established in Article 4 of this Treaty;
- (b) "**bioprospecting**" means the examination of biological resources for features including but not limited to chemical compounds, genes and their products and physical properties that may be of value for commercial development;

- (c) "**Commission**" means the Joint Commission established under Article 4 of this Treaty;
- (d) "**continental shelf**" has the meaning contained in Article 76 of the Convention;
- (e) "**contractor**" means a corporation, company or other legal entity or entities with limited liability that enter into a contract with the Designated Authority and which are duly regulated;
- (f) "**Convention**" means the United Nations Convention on the Law of the Sea done at Montego Bay on 10 December 1982;
- (g) "**criminal law**" means any law in force in the territory of either of the Contracting Parties, whether substantive or procedural, that makes provision for, or in relation to offences, or for or in relation to the investigation or prosecution of offences or the punishment of offenders, including the carrying out of a penalty imposed by a court. For this purpose, "investigation" includes entry to an installation or structure in the JMA, the exercise of powers of search and questioning and the apprehension of a suspected offender;
- (h) "**Council**" means the Ministerial Council established in Article 4 of this Treaty;
- (i) "**initially processed**" means processing of petroleum to a point where it is ready for off-take from the production facility and may include such processes as the removal of water, volatiles and other impurities;
- (j) "**JMA**" means the Joint Management Area established in Article 3 of this Treaty;
- (k) "**minerals**" means any naturally occurring element, compound or substance, amorphous or crystalline (including liquid crystalline compounds), formed through geological or biogeochemical processes and any naturally occurring mixture of substances, including in the form of coal, clay, evaporates, gravel, limestone, oil-shale, sand, shale, rock, and polymetallic nodules;
- (l) "**natural resources**" means the mineral, petroleum and other nonliving resources of the seabed and subsoil of the continental shelf together with living organisms belonging to sedentary species that are at the harvestable stage either immobile on or under the seabed or are unable to move except in constant physical contact with the seabed or subsoil;
- (m) "**natural resource activities**" means all activities authorised or contemplated under a contract, permit or licence that are undertaken to explore and exploit natural resources in the JMA including but not limited to development, initial processing, harvesting, production, transportation and marketing, as well as the planning and preparation for such activities;
- (n) "**natural resource codes**" means codes referred to in Article 8 of this Treaty;
- (o) "**natural resources project**" means any natural resource activity taking place with the approval of the Designated Authority in a specified area of the JMA;
- (p) "**petroleum**" means any naturally occurring hydrocarbon, whether in a gaseous, liquid, or solid state and any naturally occurring mixture of hydrocarbons, whether in a gaseous, liquid or solid state, together with other substances produced in association with such hydrocarbons, and includes any petroleum that has been returned to a reservoir;
- (q) "**petroleum produced**" means initially processed petroleum extracted from a reservoir through petroleum activities;
- (r) "**reservoir**" means an accumulation of petroleum in a geological unit limited by rock, water or other substances without pressure communication through liquid or gas to another accumulation of petroleum;
- (s) "**Taxation Code**" means the Code referred to in Article 6 of this Treaty;
- (t) "**Treaty**" means this Treaty, including Annexes A-D and any Annex that may subsequently be agreed by the Contracting Parties to form a part of this Treaty.

## Article 2 – Treaty without prejudice

- (a) This Treaty gives effect to international law as reflected in the Convention which under Article 83 requires States with opposite or adjacent coasts to make every effort to enter into provisional arrangements of a practical nature pending agreement on the final delimitation of the continental shelf between them in a manner consistent with international law. This Treaty is intended to adhere to such obligation.
- (b) Nothing contained in this Treaty, and no act taking place while this Treaty is in force, shall be interpreted as prejudicing or affecting the legal position or rights of the Contracting Parties concerning their respective continental shelf entitlements or the delimitation of the continental shelf.

## Part 2 – The Joint Management Area

### Article 3 – Joint Management Area

- (a) The Joint Management Area (JMA) is established in respect of the Joint Zone described in Article 2 of the Treaty Concerning the Joint Exercise of Sovereign Rights over the Continental Shelf in the Mascarene Plateau Region, done on 13 March 2012 and as depicted in the map at Annex A.
- (b) The Contracting Parties shall jointly control, manage and facilitate the exploration of the continental shelf within the JMA and the conservation, development and exploitation of its natural resources.
- (c) Natural resource activities in the JMA shall be carried out under the direction of the Designated Authority, by such means as it may determine in accordance with this Treaty, including where appropriate through the issue of licences or pursuant to contracts between the Authority and contractor. This provision shall also apply to the successors or assignees of such contractors.
- (d) The Contracting Parties shall each make it an offence under their respective national laws for any person to conduct resource activities in the JMA otherwise than in accordance with this Treaty.

## Part 3 – Institutional and regulatory arrangements

### Article 4 – Regulatory bodies

- (a) A three-tiered joint administrative structure consisting of Ministerial Council, a Joint Commission and a Designated Authority, is established.
- (b) Ministerial Council:
  - (i) A Ministerial Council for the JMA is hereby established. The Ministerial Council shall consist of an equal number of Ministers designated by the Contracting Parties.
  - (ii) The Ministerial Council shall consider any matter relating to the operation of this Treaty that is referred to it by either of the Contracting Parties. It shall also consider any matter referred to under sub-paragraph (c) (iii).
  - (iii) The Ministerial Council shall meet at the request of either Contracting Party or at the request of the Commission.
  - (iv) All decisions of the Ministerial Council shall be adopted by consensus. In the event the Council is unable to resolve a matter, either of the Contracting Parties may invoke the dispute resolution procedure provided under Article 21.
  - (v) No decision of the Ministerial Council shall be valid unless it is recorded in writing and signed by at least one member from each Contracting Party.

- (vi) The Ministerial Council shall establish its own procedures, including those in relation to taking decisions out of session and for conducting meetings by means of telephonic and electronic communication.
- (c) Joint Commission:
- (i) The Joint Commission shall consist of an equal number of commissioners appointed by the Contracting Parties. The Joint Commission shall establish policies and regulations relating to petroleum and other natural resource activities in the JMA and shall oversee the work of the Authority.
  - (ii) A non-exhaustive list of more detailed powers and functions of the Joint Commission is set out in Annex C. This list may be amended from time to time as necessary.
  - (iii) The Joint Commission may at any time refer a matter to the Ministerial Council for resolution.
  - (iv) The Joint Commission shall meet at least once a year in the Contracting Parties on an alternate basis, or otherwise as agreed, and each meeting shall be co-chaired.
  - (v) Decisions of the Joint Commission shall be made by consensus.
- (d) Designated Authority:
- (i) The Joint Commission shall establish the Designated Authority ("Authority").
  - (ii) The Authority shall have juridical personality and such legal capacities under the law of the Contracting Parties as are necessary for the exercise of its powers and the performance of its functions. It shall have the capacity to contract, to acquire and dispose of movable and immovable property and to institute and be party to legal proceedings.
  - (iii) The Authority shall be responsible to the Joint Commission and shall carry on the day-to-day regulation and management of natural resource activities in the JMA.
  - (iv) A non-exhaustive list of more detailed powers and functions of the Authority is contained in Annex D. The Annexes to this Treaty may identify other additional powers and functions of the Authority. The Authority also has such other powers and functions as may be conferred upon it by the Commission.
  - (v) The Authority shall be financed on an equal basis by the Contracting Parties, including eventually through the remittance of fees collected under natural resource codes.
  - (vi) The Authority shall be exempt from:
    - (1) income tax or business tax, as the case may be; and
    - (2) customs duties, excise tax, Value Added Tax (VAT), levy and other similar taxes on imports for official use, imposed under the law in force in the territory of each of the Contracting Parties, as well as any identical or substantially similar taxes that are imposed after the date of signature of this Treaty in addition to, or in place of, the existing taxes.
  - (vii) Personnel of the Authority:
    - (1) shall be subject to taxation in the Contracting Party of which they are a national and in accordance with the tax law of that Contracting Party in respect of salaries, allowances and other payments made to them by the Authority in connection with their employment with the Authority. For the purposes of this paragraph the term "national" includes a resident of either Contracting Party as defined in the income tax law of the Contracting Party; and
    - (2) shall, at the time of the first taking up the post with the Authority located in either of the Contracting Parties in which they are not resident, be exempt from customs duties, excise tax, VAT, levy and other similar taxes and other such charges (except payments for services) in respect of imports of furniture and other household and personal effects including one motor vehicle in their ownership or possession or already ordered by them and intended for

their personal use or for their establishment, subject to terms and conditions established by the Joint Commission. Such goods shall be imported within six months of an officer's first entry but in exceptional circumstances an extension of time shall be granted by the Contracting Parties respectively. Goods that have been acquired or imported by officers and to which exemptions under this sub-paragraph apply shall not be given away, sold, lent or hired out, or otherwise disposed of except under conditions agreed in advance depending on in which country the officer is located.

- (e) No member of the Ministerial Council, Joint Commission and personnel of the Authority shall have any financial or personal interest in any natural resource project in the JMA.

### **Article 5 – Sharing of revenue**

- (a) The Contracting Parties shall share revenue received in respect of natural resource activities carried out in the JMA equally, whereby fifty (50) per cent of revenue received shall be remitted to Mauritius and fifty (50) per cent of revenue received shall be remitted to Seychelles.
- (b) To the extent that fees referred to in Article 4 (d) (v) and other income are inadequate to cover the expenditure of the Authority in relation to this Treaty, that expenditure shall be borne by each of the Contracting Parties in the same proportion as set out in paragraph (a).
- (c) Paragraph (a) shall not apply to the equitable sharing of the benefits arising from unitisation under Article 10 unless mutually agreed by the Contracting Parties.

### **Article 6 – Taxation Code**

- (a) The Contracting Parties shall agree upon a Taxation Code applicable to income derived from natural resource activities in the JMA.
- (b) Neither Contracting Party may during the life of a natural resource project vary any of the provisions of the Taxation Code applicable to it except by mutual agreement.

### **Article 7 – Application of domestic law**

For the purposes of the application of the domestic laws of each Contracting Party related directly or indirectly to —

- (i) the exploration of the continental shelf within the JMA and the development and exploitation of natural resources in the JMA; and
- (ii) acts, matters, circumstances and things touching, concerning, arising out of or connected with, natural resource activities in the JMA,

the JMA shall be deemed to be and treated by each Contracting Party as forming part of its respective territory.

### **Article 8 – Natural resource codes**

- (a) The Contracting Parties may agree upon natural resource codes concerning the exploration of the continental shelf within the JMA and the development, exploitation, harvesting, conservation and export of natural resources from the JMA.
- (b) The Commission shall, where necessary, adopt interim arrangements to be applied pending the adoption of natural resource codes in accordance with paragraph (a).

## **Part 4 – Pipelines and unitisation**

### **Article 9 – Pipelines**

- (a) The construction and operation of a pipeline within the JMA for the purposes of exporting petroleum from the JMA shall be subject to the approval of the Commission.
- (b) The Contracting Parties shall consult each other on the terms and conditions for laying of pipelines exporting petroleum from the JMA to the point of landing.
- (c) A pipeline landing in the territory of a Contracting Party shall be under the jurisdiction of the country of landing.
- (d) In the event a pipeline is constructed from the JMA to the territory of either of the Contracting Parties, the country where the pipeline lands may not object to or impede decisions of the Commission regarding that pipeline except where the construction of a pipeline would have an adverse economic or physical impact upon an existing natural resource project in the JMA.
- (e) Petroleum from the JMA and from fields which straddle the boundaries of the JMA shall at all times have priority of carriage along any pipeline carrying petroleum from and within the JMA.
- (f) There shall be open access to pipelines for petroleum from the JMA. The open access arrangements shall be in accordance with good international regulatory practice. If one Contracting Party has jurisdiction over the pipeline, it shall consult with the other Contracting Party over access to the pipeline.

### **Article 10 – Unitisation**

- (a) Any reservoir of petroleum or unitary mineral deposit that extends across or straddles the boundary of the JMA into the Exclusive Economic Zone of either or both Contracting Parties shall be treated as a single entity for exploration, development and management purposes.
- (b) The Contracting Parties shall work expeditiously and in good faith to reach agreement on the manner in which the petroleum field or mineral deposit referred to in paragraph (a) will be most effectively managed and developed and on the equitable sharing of revenue arising from such development.

### **Article 11 – Surveys**

Each of the Contracting Parties has the right to conduct surveys including hydrographic, geological, geophysical and seismic surveys to facilitate natural resource activities in the JMA. In the exercise of such right, the Contracting Parties shall—

- (i) notify the Authority of any proposed survey;
- (ii) co-operate on the conduct of such surveys, including the provision of necessary on-shore facilities; and
- (iii) exchange information relevant to natural resource activities in the JMA.

## **Part 5 – Protection of the environment, biodiversity and bioprospecting**

### **Article 12 – Protection of the seabed marine environment**

- (a) The Contracting Parties shall co-operate to protect natural resources in the JMA so as to secure seabed biodiversity and prevent pollution and other risks of harm to the environment arising from, or connected with, natural resource activities in the JMA.

- (b) The Contracting Parties shall apply the precautionary principle in co-operating to conserve and protect the environment and biodiversity of the seabed in the JMA. This shall include measures concerning fishing activity in the waters superjacent to the seabed in the JMA where such activity is having a direct impact upon, or poses a significant risk to, the natural resources of the seabed and subsoil in the JMA.
- (c) The Contracting Parties shall co-operate to protect seabed marine habitats and associated ecological communities of the seabed in the JMA. This shall include the identification of environmental benchmarks and the identification of seabed marine protected areas, having regard to the following—
  - (i) geographical distribution of seabed marine species and biological communities;
  - (ii) the structure of these communities;
  - (iii) their relationship with the physical and the chemical environment;
  - (iv) the natural ecological and genetic variability; and
  - (v) the nature and the effect of the anthropogenic influences including fishing and natural resource activities on these ecosystem components.
- (d) Where pollution of the marine environment occurring in the JMA spreads beyond the JMA, the Contracting Parties shall co-operate in taking prompt and effective action to prevent, mitigate and eliminate such pollution in accordance with international best practices, standards and procedures.
- (e) The Authority shall issue regulations to protect the living natural resources and seabed environment in the JMA. It shall establish a contingency plan for combating pollution from natural resource activities in the JMA.
- (f) Contractors shall be liable for damage or expenses incurred as a result of pollution of the marine environment arising out of natural resource activities within the JMA in accordance with—
  - (i) their contract, licence or permit or other form of authority issued pursuant to this Treaty; and,
  - (ii) the law of the jurisdiction of the Contracting Party in which the claim is brought.

### **Article 13 – Biological surveys and bioprospecting**

- (a) Each of the Contracting Parties has the right to carry out biological surveys for the purposes of Article 12 of this Treaty and to engage in bioprospecting to identify and examine living natural resources that may be of value for commercial development in the JMA or of conservation significance.
- (b) The Contracting Parties shall—
  - (i) notify the Authority of any proposed survey;
  - (ii) co-operate in the conduct of such biological surveys and bioprospecting, including the provision of necessary on-shore facilities; and
  - (iii) exchange information relevant to biological surveys and bioprospecting in the JMA.

## **Part 6 – Employment, health and safety and application of domestic laws**

### **Article 14 – Employment**

The Contracting Parties shall take appropriate measures to ensure that preference is given in employment in the JMA to nationals of both Contracting Parties and to facilitate, as a matter of priority, training and employment opportunities for those nationals.

### **Article 15 – Health and safety for workers**

- (a) The Authority shall develop, and contractors shall apply where required, occupational health and safety standards and procedures for persons employed on installations and structures in the JMA in accordance with internationally accepted standards and best practices.
- (b) Similar occupational health, safety standards and procedures shall apply to all workers engaged in natural resource activities in the JMA.

### **Article 16 – Criminal jurisdiction**

- (a) The Contracting Parties shall examine different options for addressing offences committed in the JMA. Pending the completion of such exercise, the provisions of this Article shall apply with respect to offences committed in the JMA.
- (b) A national or resident of a Contracting Party shall be subject to the criminal law of the country of nationality or residence in respect of acts or omissions occurring in the JMA connected with or arising out of natural resource activities.
- (c) Notwithstanding paragraph (e), a national of a third state, not being a resident of either Contracting Party, shall be subject to the criminal law of either Contracting Party in respect of acts or omissions occurring in the JMA connected with or arising out of natural resource activities. Such person shall not be subject to criminal proceedings under the law of either Contracting Party if he or she has already been tried and discharged or acquitted by a competent tribunal or already undergone punishment for the same act or omission under the law of the other country or where the competent authorities of one country, in accordance with its law, have decided in the public interest to refrain from prosecuting the person for that act or omission.
- (d) In cases referred to in paragraph (c), the Contracting Parties shall, as and when necessary, consult each other to determine which criminal law is to be applied, taking into account the nationality of the victim and the interests of the country most affected by the alleged offence.
- (e) The criminal law of the flag state shall apply in relation to acts or omissions on board vessels operating in the waters superjacent to the JMA.
- (f) The Contracting Parties shall provide assistance to and co-operate with each other, including through agreements or arrangements as appropriate, for the purposes of enforcement of criminal law under this Article, including the obtaining of evidence and information.
- (g) The Contracting Parties each recognise the interest of the other country where a victim of an alleged offence is a national of that other country and shall keep that other country informed, to the extent permitted by its law, of action being taken with regard to the alleged offence.
- (h) The Contracting Parties may make arrangements permitting officials of one country to assist in the enforcement of the criminal law of the other country. Where such assistance involves the detention of a person who under paragraph (b) is subject to the jurisdiction of the other country, that detention may only continue until it is practicable to hand the person over to the relevant officials of that other country.

### **Article 17 – Customs, migration and quarantine**

- (a) The Contracting Parties may, subject to paragraphs (c), (e), (f) and (g), apply customs, migration and quarantine laws in accordance with internationally accepted standards and best practices to persons, equipment and goods entering its territory from, or leaving its territory for, the JMA. The Contracting Parties may adopt arrangements to facilitate such entry and departure.



- (b) Contractors shall ensure, unless otherwise authorised by the Contracting Parties, that persons, equipment and goods do not enter structures in the JMA without first entering the Contracting Parties, and that their employees and the employees of their subcontractors are authorised by the Authority to enter the JMA.
- (c) Either Contracting Party may request consultations with the other Contracting Party in relation to the entry of particular persons, equipment and goods to structures in the JMA aimed at controlling the movement of such persons, equipment and goods.
- (d) Nothing in this Article prejudices the right of either Contracting Party to apply customs, migration and quarantine controls to persons, equipment and goods entering the JMA without the authority of either Contracting Party. The Contracting Parties may adopt arrangements to coordinate the exercise of such rights.
- (e) Goods and equipment entering the JMA for purposes related to natural resource activities shall not be subject to customs duties, excise tax, VAT, levy and other similar taxes.
- (f) Goods and equipment leaving or in transit through the territory of the Contracting Parties for the purpose of entering the JMA for purposes related to natural resource activities shall not be subject to customs duties, excise tax, VAT, levy and other similar taxes.
- (g) Goods and equipment leaving the JMA for the purpose of being permanently transferred to a part of the territory of the Contracting Parties may be subject to customs duties, excise tax, VAT, levy and other similar taxes of that Contracting Party.

### **Article 18 – Safety, operating standards and crewing of resource industry vessels**

- (a) Except as otherwise provided in this Treaty, vessels of the nationality of a Contracting Party engaged in natural resource activities in the JMA shall be subject to the law of their nationality in relation to safety and operating standards and crewing regulations.
- (b) Vessels flying the flag of States other than the Contracting Parties and which are engaged in natural resource activities in the JMA shall be subject to the relevant international safety and operating standards and crewing regulations.

## **Part 7 – Surveillance, security and rescue**

### **Article 19 – Surveillance and security measures**

- (a) For the purposes of this Treaty, the Contracting Parties shall have the right to carry out surveillance activities in the JMA in relation to natural resource activities.
- (b) The Contracting Parties shall co-operate on and coordinate any surveillance activities carried out in accordance with paragraph (a) and shall exchange information on likely threats to, or security incidents relating to, natural resource activities in the JMA.
- (c) The Contracting Parties shall make arrangements for responding promptly and effectively to security incidents in the JMA.

### **Article 20 – Search and rescue**

The Contracting Parties shall, at the request of the Authority and consistent with this Treaty, co-operate and assist in the conduct of search and rescue operations in the JMA, taking into account generally accepted international rules, regulations and procedures established through competent international organisations.

## **Part 8 – Settlement of disputes, duration and entry into force**

### **Article 21 – Settlement of disputes**

- (a) With the exception of disputes falling within the scope of the Taxation Code referred to in Article 6 of this Treaty and which shall be settled in accordance with that Code as agreed by the Contracting Parties, any dispute concerning the interpretation or application of this Treaty shall, as far as possible, be settled amicably through mutual consultation.
- (b) Any dispute which is not settled in the manner set out in paragraph (a) and any unresolved matter relating to the operation of this Treaty under Article 4 (b) (ii) shall, at the request of either of the Contracting Parties, be submitted to an Arbitral Tribunal established in accordance with the procedure set out in Annex B.

### **Article 22 – Amendment**

This Treaty may be amended at any time by written agreement between the Contracting Parties.

### **Article 23 – Duration of the Treaty**

- (a) This Treaty shall remain in force until a permanent delimitation of the continental shelf is agreed between the Contracting Parties or for thirty (30) years from the date of its entry into force, whichever is sooner.
- (b) This Treaty may be renewed by agreement between the Contracting Parties.
- (c) Natural resource projects commenced under this Treaty shall continue, notwithstanding that this Treaty is no longer in force, under conditions that are consistent with those that are provided for under this Treaty.

### **Article 24 – Entry into force**

- (a) Each of the Contracting Parties shall notify the other, by means of exchange of diplomatic notes, the completion of the procedures required by its law for the bringing into force of this Treaty. The Treaty shall enter into force on the date of receipt of the later notification.
- (b) Upon entry into force, the Treaty shall be taken to have effect, and all of its provisions shall be taken to have applied, from the date of signature.

IN WITNESS WHEREOF the undersigned, being duly authorised thereto by their respective Governments, have signed this Treaty.

DONE at Clarisse House, Vacoas, Mauritius in duplicate on this 13<sup>th</sup> day of March Two Thousand and Twelve in the English language.

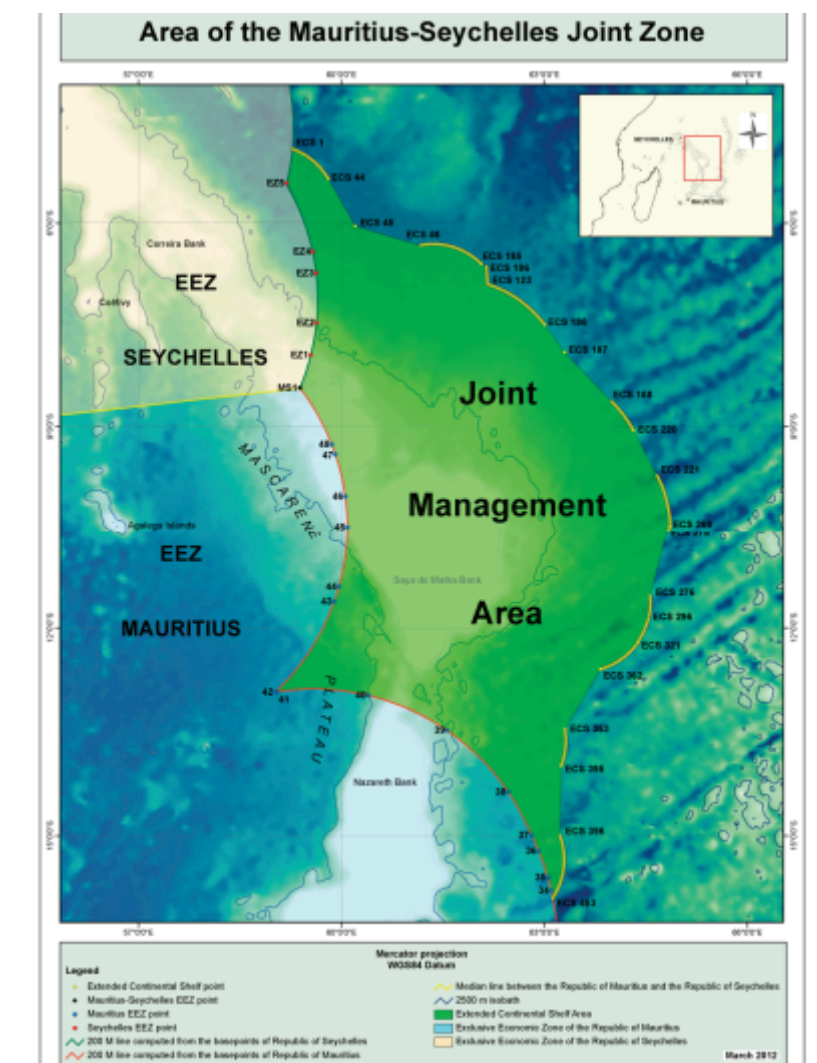
For the Government of the Republic of Mauritius

For the Government of the Republic of Seychelles

### **Annex A under Article 3 of this Treaty**

#### **Designation and description of the JMA**

The JMA referred to in Article 3 comprises the area of continental shelf set out in Article 2 of the Treaty Concerning the Joint Exercise of Sovereign Rights over the Continental Shelf in the Mascarene Plateau Region, done on 13 March 2012, as depicted in the map below—



Joint Management Area (JMA) over the Continental Shelf in the Mascarene Plateau

## Annex B under Article 21 of this Treaty

### Dispute resolution procedure

- (a) An Arbitral Tribunal ("Tribunal") to which a dispute is submitted pursuant to Article 21 (b) shall consist of three persons appointed as follows—
- the Contracting Parties shall each appoint one arbitrator;
  - the arbitrators appointed by the Contracting Parties shall, within sixty (60) days of the appointment of the second of them, by agreement, select a third arbitrator who shall be a citizen, or permanent resident of a third country which has diplomatic relations with both the Contracting Parties; and
  - the Contracting Parties shall, within sixty (60) days of the selection of the third arbitrator, approve the selection of that arbitrator who shall act as Chairman of the Tribunal.
- (b) Arbitration proceedings shall be instituted upon notice being given through the diplomatic channel by the Contracting Party instituting such proceedings to the other Contracting Party. Such notice shall contain—
- a statement setting forth in summary form the grounds of the claim;

- (ii) the nature of the relief sought; and,
- (iii) the name of the arbitrator appointed by the Contracting Party instituting such proceedings,

Within sixty (60) days after the giving of such notice, the respondent Contracting Party shall notify the Contracting Party instituting proceedings of the name of the arbitrator appointed by the respondent Contracting Party.

- (c) If, within the time limits provided for in sub-paragraphs (a) (ii) and (iii) and paragraph (b) of this Annex, the required appointment has not been made or the required approval has not been given, the Contracting Parties may request the President of the international Tribunal of the Law of the Sea ("ITLOS") to make the necessary appointment. If the President is a citizen or permanent resident of the Contracting Parties or is otherwise unable to act, the Vice-President shall be invited to make the appointment. If the Vice-President is a citizen or permanent resident of the Contracting Parties or is otherwise unable to act, the Member of the ITLOS next in seniority who is not a citizen or permanent resident of the Contracting Parties shall be invited to make the appointment.
- (d) In case any arbitrator appointed as provided for in this Annex resigns or becomes unable to act, another arbitrator shall be appointed in the same manner as prescribed for the appointment of the original arbitrator and the new arbitrator shall have all the powers and duties of the original arbitrator.
- (e) The Tribunal shall convene at such time and place as shall be fixed by the Chairman of the Tribunal. Thereafter, the Tribunal shall determine where and when it shall sit.
- (f) The Tribunal shall decide all questions relating to its competence and shall, subject to any agreement between the Contracting Parties, determine its own procedures.
- (g) Before the Tribunal makes a decision, it may at any stage of the proceedings propose to the Contracting Parties that the dispute be settled amicably. The Arbitral Tribunal shall reach its award by majority vote, taking into account the provisions of this Treaty and relevant international law.
- (h) Each Contracting Party shall bear the costs incurred in relation to its appointed arbitrator and its own costs in preparing and presenting cases. The cost incurred in relation to the Chairman of the Tribunal and the expenses associated with the conduct of the arbitration shall be borne in equal parts by the Contracting Parties.
- (i) The Tribunal shall afford to the Contracting Parties a fair hearing. It may render an award on the default of either of the Contracting Parties. In any case, the Arbitral Tribunal shall render its award within six (6) months from the date it is convened by the Chairman of the Tribunal. Any award shall be rendered in writing and shall state its legal basis. A signed counterpart of the award shall be transmitted to the Contracting Parties.
- (j) An award of the Tribunal shall be final and binding on the Contracting Parties.

### **Annex C under Article 4(c)(ii) of this Treaty**

#### **Powers and functions of the Joint Commission**

The powers and functions of the Joint Commission shall include—

- (a) establishing the Authority;
- (b) giving directions to the Authority on the exercise of its powers and performance of its functions;
- (c) conferring additional powers and functions to the Authority;
- (d) adopting taxation and natural resource codes applicable to the JMA including amendments and interim arrangements as necessary;
- (e) approving financial estimates of income and expenditure of the Authority;
- (f) approving rules, regulations and procedures for the effective functioning of the Authority;

- (g) calling for the auditing of the Authority's books and accounts;
- (h) considering and adopting the annual report of the Authority.

### **Annex D under Article 4(d)(iv) of this Treaty**

#### **Powers and functions of the Authority**

The powers and functions of the Authority shall include—

- (a) day-to-day management and regulation of natural resource activities in accordance with this Treaty and any instruments made or entered into under this Treaty, including directions given by the Joint Commission;
- (b) preparation of annual estimates of income and expenditure of the Authority for submission to the Joint Commission. Any expenditure shall only be made in accordance with estimates approved by the Joint Commission or otherwise in accordance with regulations and procedures approved by the Joint Commission;
- (c) preparation of annual reports for submission to the Joint Commission;
- (d) requesting assistance from the appropriate authorities consistent with this Treaty—
  - (i) for search and rescue operations in the JMA;
  - (ii) in the event of piracy or terrorist threats to vessels and structures engaged in natural resource petroleum operations in the JMA;
- (e) requesting assistance with pollution prevention measures, equipment and procedures from the appropriate authorities or other bodies or persons;
- (f) establishment of safety zones and restricted zones, consistent with international law, to ensure the safety of navigation connected with natural resource activities;
- (g) controlling movements into, within and out of the JMA of vessels, aircraft, structures and other equipment engaged in natural resource activities in a manner consistent with international law; and, subject to Article 15, authorising the entry of employees and contractors and their subcontractors and other persons into the JMA;
- (h) applying regulations and giving directions as approved by the Commission under this Treaty, on all matters related to the supervision and control of natural resource activities including on health, safety, environmental protection and assessments and work practices, pursuant to natural resource codes;
- (i) acting as a repository of all data and information pertaining to the JMA;
- (j) conducting inspections and audits concerning natural resource activities in the JMA; and
- (k) such other powers and functions as may be identified by the Contracting Parties or as may be conferred on it by the Joint Commission.

*[Fourth Sch. inserted by s. 7 of Act [6 of 2012](#) w.e.f. 18 June 2012.]*