



Note

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Ministry of Foreign Affairs

Legal Affairs Directorate

MinBuza-2013.279583

The Ministry of Foreign Affairs of the Kingdom of the Netherlands presents its compliments to the Embassy of the Russian Federation and wishes to notify the Russian Federation that it submits the dispute between the Kingdom of the Netherlands and the Russian Federation, set out in the 'Statement of the claim and the grounds on which it is based' annexed to this notification, to the arbitral procedure provided for in Annex VII to the 1982 United Nations Convention on the Law of the Sea.

The Ministry of Foreign Affairs of the Kingdom of the Netherlands avails itself of this opportunity to renew to the Embassy of the Russian Federation the assurances of its highest consideration.

The Hague, 4 October 2013

The Embassy of the Russian Federation

Andries Bickerweg 2

2517 JP The Hague



SUBMISSION OF DISPUTE TO ARBITRATION

'ARCTIC SUNRISE'

THE KINGDOM OF THE NETHERLANDS

v.

THE RUSSIAN FEDERATION

4 October 2013

**STATEMENT OF THE CLAIM
AND THE GROUNDS ON WHICH IT IS BASED**

I. INTRODUCTION

1. On 19 September 2013, authorities of the Russian Federation boarded, took control over and detained the 'Arctic Sunrise', a vessel that flies the flag of the Kingdom of the Netherlands, without the prior consent of the Flag State in the exclusive economic zone of the Russian Federation. The 'Arctic Sunrise' is an icebreaker operated by Greenpeace International. The vessel was brought to Murmansk Oblast in the Russian Federation and the detention is continuing.

2. Following the boarding of the vessel, authorities of the Russian Federation arrested and detained the crew, and initiated judicial proceedings against them. The detention of these persons and the judicial proceedings are continuing.

3. On 28 September 2013, authorities of the Russian Federation again boarded the 'Arctic Sunrise' in Kola Bay in Murmansk Oblast, without the prior consent of the Kingdom of the Netherlands, to investigate the vessel. The investigation continued over a period of several days.

4. The acts referred to in the paragraphs above constitute violations by the Russian Federation of the 1982 United Nations Convention on the Law of the Sea (hereinafter "UNCLOS" or the "Convention"), the 1966 International Covenant on Civil and Political Rights, and customary international law.

5. Said violations prevent the Kingdom of the Netherlands, the vessel and the crew members from exercising and enjoying their rights, notably the freedom of navigation, and human rights and fundamental freedoms. The Kingdom of the Netherlands thereby suffered and continues to suffer injuries both in its own right and in the form of injuries to the vessel and the crew members.

6. The Kingdom of the Netherlands has repeatedly requested the immediate release of the vessel and its crew in an effort to vindicate its rights and those of the vessel and its crew. Notwithstanding these efforts, the Russian Federation has failed to comply with these requests depriving the Netherlands, the vessel and the crew of the opportunity from exercising their rights under the international law of the sea and international human rights law. Accordingly, a dispute has arisen between the Kingdom of the Netherlands and the Russian Federation related to the rights and obligations of the Russian Federation as the Coastal State in its exclusive economic zone.

7. In accordance with Section 2 of Part XV of UNCLOS and Article 1 of Annex VII to the Convention, the Kingdom of the Netherlands hereby submits the dispute between the Kingdom of the Netherlands and the Russian Federation set out in this Statement to the arbitral procedure provided for in Annex VII to the Convention.

II. JURISDICTION

8. Both the Kingdom of the Netherlands and the Russian Federation are Parties to UNCLOS. The Convention entered into force for the Kingdom of the Netherlands on 28 July 1997, having ratified it on 28 June 1996. The

Convention entered into force for the Russian Federation on 11 April 1997, having ratified it on 12 March 1997.

9. Upon signature of the Convention, the Russian Federation declared, *inter alia*, that

“under article 287 of the United Nations Convention on the Law of the Sea, it chooses an arbitral tribunal constituted in accordance with Annex VII as the basic means for the settlement of disputes concerning the interpretation or application of the Convention. It opts for a special arbitral tribunal constituted in accordance with Annex VIII for the consideration of matters relating to fisheries, the protection and preservation of the marine environment, marine scientific research, and navigation, including pollution from vessels and dumping.”

10. Upon ratification of the Convention, the Kingdom of the Netherlands declared

“that having regard to article 287 of the Convention, it accepts the jurisdiction of the International Court of Justice in the settlement of disputes concerning the interpretation and application of the Convention with States Parties to the Convention which have likewise accepted the said jurisdiction.”

11. Article 287, paragraph 5, of the Convention provides:

“If the parties to a dispute have not accepted the same procedure for the settlement of the dispute, it may be submitted only to arbitration in accordance with Annex VII, unless the parties otherwise agree.”

12. Consequently, since the Kingdom of the Netherlands and the Russian Federation have not accepted the same procedure for the settlement of the dispute, Annex VII to the Convention applies and an arbitral tribunal established thereunder has jurisdiction over this dispute.

13. The jurisdiction of the arbitral tribunal is not affected by the declaration of the Russian Federation upon ratification that

“in accordance with article 298 of the United Nations Convention on the Law of the Sea, it does not accept the procedures, provided for in section 2 of Part XV of the Convention, entailing binding decisions with respect to [...] disputes concerning law-enforcement activities in regard to the exercise of sovereign rights or jurisdiction”.

Under Article 298, paragraph 1(b), of the Convention, the optional exception in connection with disputes concerning law enforcement activities in regard to the exercise of sovereign rights or jurisdiction to the applicability of Section 2 of Part XV of the Convention only applies with respect to “disputes [...] excluded from the jurisdiction of a court or tribunal under article 297, paragraph 2 or 3”. Such disputes concern marine scientific research and fisheries, respectively, neither of which is at issue in the present case. Insofar as the Russian Federation intended the aforementioned declaration to apply to disputes other than those concerning marine scientific research and fisheries, this would be in contravention of Article 309 of the Convention, which provides: “No reservations or exceptions may be made to this Convention unless expressly permitted by other articles of this Convention”. Furthermore, the Kingdom of the Netherlands upon ratification declared that it “objects to any declaration or statement excluding or modifying the legal effect of the provisions of the United Nations Convention on the Law of the Sea”.

III. PROCEDURAL MATTERS

(a) Appointment of Arbitrator

14. In accordance with Article 3, paragraph (b), of Annex VII to UNCLOS, the Kingdom of the Netherlands appoints Professor Dr. Alfred Soons as its arbitrator, whose contact details are as follows:

Professor Dr. Alfred H.A. Soons
Blikkenburgerlaan 83
3703 CV Zeist
The Netherlands
e-mail: a.h.a.soons@uu.nl

(b) Appointment of Agent and Co-agent

15. The Minister of Foreign Affairs of the Kingdom of the Netherlands has designated Professor Dr. Liesbeth Lijnzaad, Legal Adviser of the Ministry of Foreign Affairs, as agent and Professor Dr. René Lefeber, Deputy Legal Adviser of the Ministry of Foreign Affairs, as co-agent.

IV. STATEMENT OF FACTS

The 'Arctic Sunrise' and its crew

16. The 'Arctic Sunrise' is owned by *Stichting Phoenix*, whose address is as follows:

Stichting Phoenix
Dorpsstraat 3
1151 AC Broek in Waterland
The Netherlands

17. The vessel is operated by Greenpeace International, whose address is as follows:

C/o Stichting Greenpeace Council
Otto Heldringstraat 5
1066 AZ Amsterdam
The Netherlands

18. The 'Arctic Sunrise' is flying the flag of the Netherlands. The details of the vessel are as follows:

- IMO number: 7382902
- Gross tonnage: 949
- Category of Ice Strengthening: 1A1 Icebreaker (for max draught 4.7 m) E0 Recyclable (Det Norske Veritas classification certificate)
- Port of registry: Amsterdam, Netherlands
- Type of ship: Motor Yacht
- Call sign: PE 6851

19. According to the Crew List ([Annex 1](#)), the number of persons on board the 'Arctic Sunrise' was 30. In addition to two Dutch nationals, the members of the crew are nationals from Argentina, Australia, Brazil, Canada, Denmark, Finland, France, Italy, Morocco, New Zealand, Poland, Russian Federation, Sweden, Switzerland, Turkey, Ukraine, United Kingdom and United States.

The events giving rise to the dispute

20. On 18 September 2013, Greenpeace International used the 'Arctic Sunrise' to stage a protest directed against the offshore ice-resistant fixed platform (OIRFP) 'Prirazlomnaya' in the Barents Sea. In connection with this protest, in a *note verbale*, dated 18 September 2013 ([Annex 2](#)), the Russian

Federation informed the Kingdom of the Netherlands that it had been decided "to seize the *Arctic Sunrise*."

21. On 19 September 2013, in the Russian Federation's exclusive economic zone, authorities of the Russian Federation boarded, took over control and detained the 'Arctic Sunrise', and proceeded to bring it to Murmansk Oblast.

22. By *note verbale*, informally communicated on 20 September 2013 receipt of which was acknowledged by the Russian Federation on the same day and formally communicated on 23 September 2013 (Annex 3), the Kingdom of the Netherlands, as the Flag State of the 'Arctic Sunrise', requested the Russian Federation to provide information, including answers to specific questions, concerning the actions by the Russian Federation's authorities against the vessel and its crew. In the *note verbale*, the Kingdom of the Netherlands also underlined the importance of the immediate release of the vessel and its crew. The Kingdom of the Netherlands requested the Russian Federation to reply by 23 September 2013.

23. On 24 September 2013, 08:42 hrs Coordinated Universal Time (UTC), as far as known, the 'Arctic Sunrise' was moored alongside the Russian Federation's coast guard vessel *Ladoga*, which is clearly marked and identifiable as being on government service, in position 69 04.3N 033 06.9E. As far as known, all crew members of the 'Arctic Sunrise' had been removed from the vessel to shore by 15:42 hrs UTC that day. The crew members have since been kept in detention in Murmansk Oblast pending judicial proceedings.

24. The Kingdom of the Netherlands' requests in its *note verbale* of 23 September 2013 remained unanswered and in a further *note verbale* to the Russian Federation, dated 26 September 2013 (Annex 4), the Kingdom of the Netherlands reiterated its request for information and urged a reply. In the *note verbale*, the Kingdom of the Netherlands also reiterated its request

that the Russian Federation immediately release the vessel and its crew. In this connection, the Kingdom of the Netherlands inquired as to

“whether such release would be facilitated by the posting of a bond or other financial security and, if so, what the Russian Federation would consider to be a reasonable amount for such bond or other financial security.”

25. On 27 September, the Russian Federation informed the Consulate-General of the Kingdom of the Netherlands in St. Petersburg that, from 28 September 2013 to 2 October 2013, officials of the Committee of Investigation of the Russian Federation (Investigation Department for the Northwestern Federal District) would conduct investigations on board of the ‘Arctic Sunrise’ as part of the criminal investigations in case Nr. 83543 (Annex 5). It was suggested that a representative of the Consulate-General be present during these investigations. On 28 September 2013, authorities of the Russian Federation commenced an investigation of the vessel. The Kingdom of the Netherlands had denied its consent thereto and after the investigation, the Kingdom of the Netherlands recorded its formal protest in a *note verbale*, dated 29 September 2013 (Annex 6). To date, a report of the investigation has not been received by the Kingdom of the Netherlands.

26. On 1 October 2013, the Russian Federation sent a *note verbale* responding to the requests for information of the Kingdom of the Netherlands’ *note verbale* of 23 September 2013 (Annex 7). According to the note, the boarding, investigation and detention of the ‘Arctic Sunrise’ and its crew were justified on the basis of general provisions in UNCLOS related to the exclusive economic zone and the continental shelf. In its *note verbale* of 3 October 2013, the Kingdom of the Netherlands expressed its view that these provisions did not justify the actions taken against the ‘Arctic Sunrise’ and its crew (Annex 8).

27. In its *note verbale* of 3 October 2013, the Kingdom of the Netherlands stated that it therefore appeared that the Russian Federation and the Kingdom of the Netherlands have diverging views on the rights and obligations of the Russian Federation as a Coastal State in its exclusive economic zone. It was indicated that, in view of the urgency of the matter, resulting from the detention of the vessel and its crew, the Kingdom of the Netherlands was considering to initiate arbitration as soon as feasible.

V. STATEMENT OF LEGAL GROUNDS

28. The Kingdom of the Netherlands notes that, pursuant to Article 293 of UNCLOS, the arbitral tribunal shall apply UNCLOS and other rules of international law not incompatible with UNCLOS.

29. Such other rules of international law include the 1966 International Covenant on Civil and Political Rights (hereinafter "ICCPR"). Both the Kingdom of the Netherlands and the Russian Federation are Parties to the ICCPR. The ICCPR entered into force for the Kingdom of the Netherlands on 11 March 1979, having ratified it on 11 December 1978. The ICCPR entered into force for the Russian Federation on 23 March 1976, having ratified it on 16 October 1973.

30. The Kingdom of the Netherlands claims that, pursuant to UNCLOS, in particular Part V and Part VII, notably Articles 56, paragraph 2, 58, paragraph 2, and 110, paragraph 1, and customary international law, the Russian Federation was and is under an obligation to the Kingdom of the Netherlands to obtain the latter's prior consent for:

- (1) the boarding, investigation, inspection, arrest and detention of the 'Arctic Sunrise' in the exclusive economic zone of the Russian Federation, and that the Russian Federation has breached these obligations by boarding, inspecting, arresting, investigating and detaining the vessel without the prior consent of the Kingdom of the Netherlands, thereby impairing the exercise of the freedom of navigation by a vessel flying the flag of the Kingdom of the Netherlands as provided by Articles 58, paragraph 1, and 87, paragraph 1(a), of UNCLOS, and under customary international law;
- (2) the boarding, investigation, inspection, arrest and detention of the 'Arctic Sunrise' in the exclusive economic zone of the Russian Federation, and that the Russian Federation has breached these obligations by boarding, inspecting, arresting, investigating and detaining the vessel without the prior consent of the Kingdom of the Netherlands, thereby impairing the exercise of jurisdiction of the Kingdom of the Netherlands over a vessel flying the flag of the Kingdom of the Netherlands, as provided by Article 58 and Part VII of UNCLOS, and under customary international law;
- (3) the boarding of the 'Arctic Sunrise' in the exclusive economic zone of the Russian Federation to arrest and detain the crew members and to initiate judicial proceedings against them, and that the Russian Federation has breached these obligations by boarding the vessel without the prior consent of the Kingdom of the Netherlands to detain and arrest the crew members, irrespective of their nationality, thereby depriving them of their right to liberty and security as well as their right to leave the territory and maritime zones of the Russian Federation as provided by Articles 9 and 12,

paragraph 2, of the 1966 International Covenant on Civil and Political Rights, and under customary international law;

- (4) the subsequent transfer of the 'Arctic Sunrise' from its exclusive economic zone to Murmansk Oblast and boarding of the 'Arctic Sunrise' in this port to investigate the vessel, and that the Russian Federation has breached these obligations by boarding the vessel without the prior consent of the Kingdom of the Netherlands, thereby impairing the exercise of jurisdiction of the Kingdom of the Netherlands over a vessel flying the flag of the Kingdom of the Netherlands, as provided under customary international law.

31. Furthermore, the Kingdom of the Netherlands draws the attention to its declaration upon ratification that it "objects to any declaration or statement excluding or modifying the legal effect of the provisions of the United Nations Convention on the Law of the Sea". This particularly concerns the matters set out in the Declaration, which includes a section pertaining to the exclusive economic zone. This section concerns limits to the exercise of jurisdiction by the coastal state in the exclusive economic zone, including with respect to "Installations in the Exclusive Economic Zone" and the absence of any "Residual rights".

VI. PROVISIONAL MEASURES

32. Pending the constitution of the arbitral tribunal in accordance with Section II of Part XV of UNCLOS and Article 3 of Annex VII of UNCLOS, the Kingdom of the Netherlands requests the Russian Federation, pursuant to Article 290 of UNCLOS, to adopt and implement provisional measures to:

- (1) immediately enable the 'Arctic Sunrise' to be resupplied, to leave its place of detention and the maritime zones of the Russian Federation, and to exercise the freedom of navigation in said zones;
- (2) immediately release the crew members, and to allow them to leave the territory and maritime zones of the Russian Federation.

33. If such measures are not adopted and implemented within a period of 14 days from the date of this Statement, the Kingdom of the Netherlands will request the International Tribunal for the Law of the Sea to prescribe the measures set forth in the preceding paragraph, unless the Russian Federation and the Kingdom of the Netherlands agree to refer the request set forth in the preceding paragraph to any other court or tribunal, or reach agreement on this request by other means.

34. The crew members would not have been arrested, detained and subjected to judicial proceedings but for the Russian Federation's violation of the international law of the sea, as set out in this Statement. Pending arbitration proceedings during which the legality of the actions of the Russian Federation remains to be determined, it would cause irreparable prejudice to these persons to have to continue to undergo pre-trial detention and face criminal prosecution with potentially severe sentences being imposed, if found guilty.

35. As to the release of the vessel, its operator is currently unable to maintain it and ensure its proper servicing, which is imperative in particular considering the vessel's technological features as an icebreaker. There is concern of fire, flooding, pollution, security and related risks if the vessel were to remain unmanned for extended periods in cold weather with possible

damage to machinery. There is consequently a real risk of irreparable prejudice in connection with the state of the vessel. As a corollary, in order for the vessel to leave the place of detention and the maritime zones of the Russian Federation, its crew must necessarily be allowed to operate it.

36. As set out above, an arbitral tribunal established under Annex VII to the Convention has jurisdiction over this dispute and the *prima facie* test in Article 290, paragraph 5, of UNCLOS is consequently met.

VII. AWARD REQUESTED

37. The Kingdom of the Netherlands therefore requests the arbitral tribunal to adjudge and declare that:

(1) The Russian Federation:

- a. In boarding, investigating, inspecting, arresting and detaining the 'Arctic Sunrise' without the prior consent of the Kingdom of the Netherlands, as described in this Statement, breached its obligations to the Kingdom of the Netherlands, in its own right and in the exercise of its right to protect a vessel flying its flag, in regard to the freedom of navigation as provided by Articles 58, paragraph 1, and 87, paragraph 1(a), of UNCLOS, and under customary international law;
- b. In boarding, investigating, inspecting, arresting and detaining the 'Arctic Sunrise' without the prior consent of the Kingdom of the Netherlands, as described in this Statement, breached its obligations to the Kingdom of the Netherlands, in regard to the exercise of jurisdiction by a flag state as provided by Article 58

and Part VII of UNCLOS, and under customary international law;

- c. In boarding the 'Arctic Sunrise' without the prior consent of the Kingdom of the Netherlands to arrest and detain the crew members and initiating judicial proceedings against them, as described in this Statement, breached its obligations to the Kingdom of the Netherlands, in its own right, in the exercise of its right to diplomatic protection of its nationals, and its right to seek redress on behalf of crew members of a vessel flying the flag of the Kingdom of the Netherlands, irrespective of their nationality, in regard to the right to liberty and security of a vessel's crew members and their right to leave the territory and maritime zones of a coastal state as provided by Articles 9 and 12, paragraph 2, of the 1966 International Covenant on Civil and Political Rights, and customary international law;

(2) The aforementioned violations constitute internationally wrongful acts entailing the international responsibility of the Russian Federation;

(3) Said internationally wrongful acts involve legal consequences requiring the Russian Federation to:

- a. Cease, forthwith, the internationally wrongful acts continuing in time;
- b. Provide the Kingdom of the Netherlands with appropriate assurances and guarantees of non-repetition of all the internationally wrongful acts referred to in subparagraph (2) above;

- c. Provide the Kingdom of the Netherlands full reparation for the injury caused by all the internationally wrongful acts referred to in subparagraph (2) above.

VIII. RESERVATION OF RIGHTS

38. The Kingdom of the Netherlands reserves the right to modify and extend the terms of this statement of the claim and the grounds on which it is based.

The Hague, 4 October 2013

A handwritten signature in black ink, appearing to read 'E. Lijnzaad', written in a cursive style.

Professor Dr. E. Lijnzaad

Agent of the Kingdom of the Netherlands

Annex 1

Amsterdam: 3rd October 2013

To Whom It May Concern

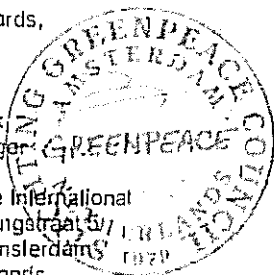
With this letter I confirm that all of the below were on board when the MY Arctic Sunrise left the port of Kirkenes, Norway when she departed to continue her onwards journey.

| Surname | Given name | Nationality |
|------------------|------------------|--------------------------------------|
| Willcox | Peter Henry | USA |
| Ruzyski | Paul Douglas | CANADA |
| Perez Orzi | Miguel Hernan | ARGENTINA |
| Jensen | Anne Mie Roer | DENMARK |
| Ubels | Mannes | NETHERLANDS |
| Rogers | Iain Christopher | UK |
| Hausmann | David John | NEW ZEALAND |
| Beauchamp | Jonathan David | NEW ZEALAND |
| Russell | Colin Keith | AUSTRALIA |
| Yakushev | Ruslan | UKRAINE |
| Paul | Alexandre | CANADA |
| Pisanu | Francesco Pierre | FRANCE |
| D'Alessandro | Cristian | ITALY |
| Alminhana Maciel | Aria Paula | BRAZIL |
| Zaspa | Ekaterina | RUSSIA |
| Akhan | Gizlieni | TURKEY |
| Speziale | Camila | ARGENTINA / ITALY - dual nationality |
| Saarela | Sini | FINLAND |
| Dziemianczuk | Tomasz | POLAND |
| Weber | Marco Paolo | SWITZERLAND |
| Ball | Philip Edward | UK |
| Perrell | Anthony | UK |
| Oulahsen | Faiza | NETHERLANDS / MOROCCO |
| Lilvinov | Dimilri | SWEDEN / USA |
| Harris | Alexandra Hazel | UK |
| Hewelson | Frank | UK |
| Sinyakov | Dennis | RUSSIA |
| Bryan | Kieron | UK |
| Dolgov | Roman | RUSSIA |
| Allakhverdov | Andrey | RUSSIA |

In case of any questions, I urge you to contact me. Contact details are to be found in my signature

Kindest regards,

Frits de Vink
 Crew Manager
 Ships Unit
 Greenpeace International
 Ottho Heldringstraat 5
 1066 AZ Amsterdam
 The Netherlands



Stichting Greenpeace Council
 Crew Department
 Ottho Heldringstraat 5
 1066 AZ Amsterdam, The Netherlands
 Tel: +31 (0)20 718 2000
 Fax: +31 (0)20 514 8151

GSM: +31(0)653504705 (24 hours)
 Tel: +31(0)207182184
 e-mail: frits.de.vink@greenpeace.org
 e-mail: crew.manager@greenpeace.org

Annex 2 TO THE EMBASSY OF THE KINGDOM OF THE NETHERLANDS
Moscow

No. 10344/1 edn

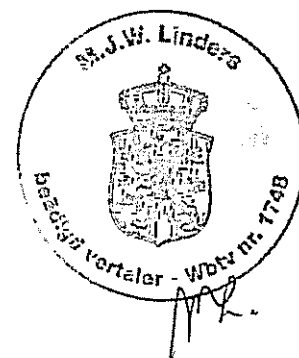
The Ministry of Foreign Affairs of the Russian Federation presents its compliments to the Embassy of the Kingdom of the Netherlands and has the honour to inform the Embassy as follows.

Despite being warned by the Russian authorities, the *Arctic Sunrise*, a ship which sails under the flag of the Netherlands, continues to carry out provocative activities in waters off the Russian Federation's northern coastline.

On several previous occasions the ship's crew have carried out activities that constituted a threat to the maritime safety of ships performing exploratory activities on the continental shelf in the Russian sector of the Arctic region.

After plans were announced in the media by activists of the organisation Greenpeace, aimed at disrupting the activities of OAO *Rosneft* and other Russian companies, the coastguard vessel *Ladoga* was deployed to the area in which the ship was located.

Despite the warnings given by coastguard officials, the *Arctic Sunrise* attempted to approach the oil and gas drilling platform *Prirazlomnaya*, even though the drilling platform is surrounded by a security zone, which ships are prohibited from entering.



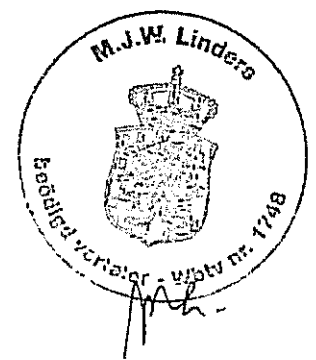
At 04:20 (Moscow time) on 18 September 2013, four speedboats were lowered from the ship, crewed by unidentified individuals, who approached the drilling platform *Prirazlomnaya* and attempted to gain admittance and force entry using special equipment. As the speedboats travelled in the direction of the platform they trailed an unidentified, barrel-shaped object.

Furthermore, the intruders' conduct was aggressive and provocative. To outward appearances their actions bore the characteristics of terrorist activities which could put lives in danger and have serious consequences for the platform.

The coastguard vessel *Ladoga* responded to the conduct described above by taking measures to prevent occupation of the platform. These included firing warning shots from firearms. Two of the speedboats' occupants (a Swiss national and a Finnish national) were removed from the platform and taken aboard the coastguard vessel. Two others remained behind, chained to the platform. The speedboats were brought back on board the vessel.

In view of the genuine danger posed to the Russian Federation's oil-and-gas drilling platform and the activists' refusal to follow the coastguard's instructions (issued in accordance with proper procedure) to cease their unlawful activities, the decision was made to seize the *Arctic Sunrise*.

The captain did not respond to the order (given in accordance with proper procedure) to bring the ship to a halt. As a consequence, at 07.15 (Moscow time) warning shots were fired from the coastguard vessel's artillery. The ship did not respond to the warning shots, however, and proceeded to leave the security zone, after which it remained in the area that bordered on the security zone.



The actions of the ship *Arctic Sunrise* can only be interpreted as a provocation, which exposed the Arctic region to the threat of an ecological disaster with unimaginable consequences.

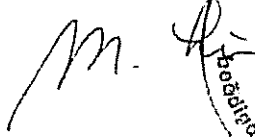
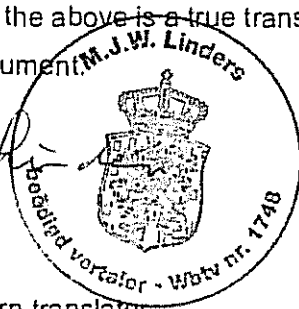
The Ministry of Foreign Affairs of the Russian Federation urgently requests the authorities of the Kingdom of the Netherlands to immediately take appropriate measures aimed at avoiding a repeat of such actions.

The Ministry avails itself of this opportunity to renew to the Embassy of the Kingdom of the Netherlands the assurances of its highest consideration.

Moscow, 18 September 2013

[Official stamp:] Ministry of Foreign Affairs of the Russian Federation * No. 1

This is to certify that the above is a true translation of the sworn translation into Dutch of the original Russian document.

M.J.W. Linders, sworn translator,
registered under no. 1748 with Bureau WBTV
(Bureau for Sworn Interpreters and Translators)
of the Dutch Legal Aid Council

Annex 3



Ministry of Foreign Affairs

The Hague, 23 September 2013

Europe Department
DEU-0725/2013

The Ministry of Foreign Affairs of the Kingdom of the Netherlands presents its compliments to the Embassy of the Russian Federation and wishes to raise the following matter with the Embassy:

The Netherlands' Government has learned that on Thursday, September 19, 2013, Russian officials boarded the Dutch flagged vessel "Arctic Sunrise". It also learned that these officials have taken over command of the vessel and that the "Arctic Sunrise" is currently taken to Murmansk.

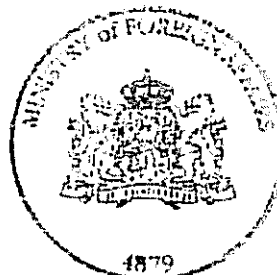
In order to ascertain the factual circumstances of these actions of the Russian Federation, the Ministry would appreciate information by the Russian Federation of these actions and answers to the following questions by Monday September 23, 2013:

- Why did the Russian authorities decide to board the "Arctic Sunrise" on Thursday, September 19, 2013;
- Why was the Netherlands, as flag state of the "Arctic Sunrise", not asked for its consent to board the vessel;
- What are the exact coordinates of the location where the Arctic Sunrise was boarded;
- Has the "Arctic Sunrise" been arrested or detained;
- Has the crew been arrested, or committed to prison or to custody pending trial or detained in any other manner;
- What are the nationalities of the individual members of the crew;
- What is the legal justification of the decision of the Russian authorities to board, arrest and detain the "Arctic Sunrise" and to arrest or detain in any other manner its crew;
- Have the Russian authorities considered alternative, less extreme measures?

The Ministry wishes to underline the importance that vessel and its crew are released by the Russian authorities immediately.

The Ministry of Foreign Affairs avails itself of this opportunity to renew to the Embassy of the Russian Federation the assurances of its highest consideration.

The Embassy of the Russian Federation
Scheveningseweg 2
2517 KT The Hague



Annex 4



Ministry of Foreign Affairs

The Hague, 26 September 2013

Europe Department
DEU-0735/2013

The Ministry of Foreign Affairs of the Kingdom of the Netherlands presents its compliments to the Embassy of the Russian Federation and wishes to inform the Embassy as follows.

Referring to our Notes of 26 August 2013 (DEU-0674/2013) and of 23 September 2013 (DEU-0725/2013) the Netherlands regrets not having received the requested information before the set deadline, and urges the Russian Federation to provide answers to the questions put forward in these Notes.

The Netherlands reiterates the importance of this matter and its request that the Russian Federation immediately release the vessel and its crew. In this respect, the Netherlands would appreciate being informed whether such release would be facilitated by the posting of a bond or other financial security and, if so, what the Russian Federation would consider to be a reasonable amount for such bond or other financial security.

In addition, the Ministry requests the Russian authorities to detail the procedural steps leading to the inculcation of the two Dutch nationals among the arrested crew members, Faiza Oulahsen en Mannes Ubels, and to continue to allow visits by a consular officer of the Netherlands to these persons, in accordance with article 36 of the 1963 Vienna Convention on Consular Relations. The Ministry informs the Embassy that the Dutch authorities are present at the public hearing scheduled relating to the charges brought against these persons.

The Ministry would appreciate receiving all information requested in the present Note and aforementioned Notes by 26 September 2013 at 5 PM.

The Ministry of Foreign Affairs avails itself of this opportunity to renew to the Embassy of the Russian Federation the assurances of its highest consideration.

The Embassy of the Russian Federation
Andries Bickerweg 2
2517 JP THE HAGUE



Annex 5

Committee of Investigation of the Russian Federation, Murmansk Oblast (tel. 88152403902 27 September 2013, 17:08 page 1

[coat of arms of the Russian Federation]

**COMMITTEE OF INVESTIGATION OF THE
RUSSIAN FEDERATION**

**INVESTIGATION DEPARTMENT FOR THE
NORTHWESTERN FEDERAL DISTRICT**

ul. Torzhkovskaya no. 4, building A
St Petersburg, Russia 197342

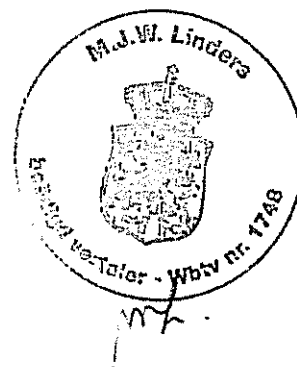
To the Consul General of the Kingdom of
the Netherlands in St Petersburg
Jennes de Mol
Nab. reki Moyki no. 11,
St Petersburg, 191186

27 September 2013 No. 303-49k-2013

Dear Jennes de Mol,

I am writing to inform you that from 28 September to 2 October 2013 members of the Committee of Investigation of the Russian Federation will, as part of the investigation concerning criminal case no. 83543, conduct a search of the ship *Arctic Sunrise*, which sails under the flag of the Netherlands, is registered in the port of Amsterdam, and is currently moored in Kola Bay in Murmansk Oblast.

In order to be able to participate in the investigative activities in question, the representatives of the Consulate General of the Kingdom of the Netherlands must be present at 09:00 on 28 September 2013 at the Department of the Committee of Investigation of the Russian Federation for Murmansk Oblast (address: ul. Karla Libknekhta no. 48, Murmansk).



Your contact person is Mr Vyacheslav Viktorovich Kazin, director of the Murmansk Investigation Division for Transport, at the Investigation Department for the Northwestern District of the Committee of Investigation of the Russian Federation, tel. +7-921-847-89-48, fax. +7-8152-42-38-28.



Yours sincerely,

[signature]

I.V. Turetsky

Colonel of Justice [sic]
Deputy Director, Investigation Department

This is to certify that the above is a true translation of the sworn translation into Dutch of the original Russian document.

M.J.W. Linders, sworn translator
registered under no. 1748 with Bureau WBTV
(Bureau for Sworn Interpreters and Translators)
of the Dutch Legal Aid Council

Annex b



Note

Legal Affairs Directorate

MinBuza-2013.274797

The Ministry of Foreign Affairs of the Kingdom of the Netherlands presents its compliments to the Embassy of the Russian Federation and wishes to inform the Embassy as follows.

On 27 September 2013, the Russian Investigative Committee, by communication of its Investigative Directorate of the North-Western Federal District in St. Petersburg, informed the Consulate-General of the Kingdom of the Netherlands in St. Petersburg that, from 28 September 2013 to 2 October 2013, officials of the Investigative Committee would conduct investigations on board of the "Arctic Sunrise", a vessel flying the flag of the Kingdom of the Netherlands, as part of criminal investigations in case Nr. 83543. It was suggested that a representative of the Consulate-General be present during these investigations.

In response to this communication, the Kingdom of the Netherlands informed the Embassy of the Russian Federation in The Hague on 27 September 2013 (DEU-0749/2013) that, pending the receipt of information requested in its Notes of 23 September 2013 (DEU-0725/2013) and 26 September 2013 (DEU-735/2013) and the consideration of this information by the Netherlands, the Netherlands was not in a position to consider the matter addressed in the communication, and noted that boarding and investigation of the "Arctic Sunrise" in the present circumstances is subject to the consent of the Netherlands.

On 28 September 2013, Greenpeace International informed the Netherlands Ministry of Foreign Affairs that officials of the Russian Federation have subsequently boarded and investigated the "Arctic Sunrise". Since the Russian Federation has not obtained the prior consent of the Netherlands, the Netherlands formally lodges its protest over the boarding and investigation of the "Arctic Sunrise" that commenced on 28 September 2013.

The Ministry of Foreign Affairs of the Kingdom of the Netherlands avails itself of this opportunity to renew to the Embassy of the Russian Federation the assurances of its highest consideration.

The Hague, 29 September 2013

The Embassy of the Russian Federation

Andries Bickerweg 2

2517 JP The Hague



Annex 7

№ 162-4

The Embassy of the Russian Federation presents its compliments to the Ministry of Foreign Affairs of the Kingdom of the Netherlands and in response to the Note of the Ministry № DEU-0725/2013 dated 23 September 2013 has the honour to convey the following.

On 18 September 2013, in the Barents Sea, at night time, unidentified individuals on 6 speedboats from the vessel "Arctic Sunrise" undertook an attempt to board and get into the offshore ice-resistant fixed platform (OIRFP) "Prirazlomnaya". Towards the drilling platform, around which an area dangerous for navigation was established and diving operations were carried out, the speedboats towed a large-size floating object, what created a real danger to divers' lives.

Measures taken by the coast guard ship "Ladoga" allowed to avert activities of unidentified individuals.

MINISTRY OF FOREIGN AFFAIRS
OF THE KINGDOM
OF THE NETHERLANDS

The Hague

During the next day the vessel continued dangerous maneuvering on the boundary of the area adjacent to the platform. The captain of the vessel had not reacted to lawful requests by the officials of the coast guard authorities to stop, nor to signals as provided under the International Code of Signals (ICS 1965). In contravention of the International Regulations for Preventing Collisions at Sea, 1972, the vessel carried out dangerous maneuvers, not allowing on board an inspection team from the coast guard ship, thus endangering life and health of members of both the crew of the vessel itself, and that of the coast guard ship.

On 19 September at 21:50 at the point with geographic coordinates 69°20,5'N, 57°17,9'E within the exclusive economic zone of the Russian Federation, on the basis of Articles 56, 60 and 80 of the United Nations Convention the Law of the Sea, 1982, and in accordance with Article 36 (1(1)) of the Federal Law "On the Exclusive Economic Zone of the Russian Federation" a visit of to the vessel "Arctic Sunrise" was carried out.

Based on the findings of the visit, in accordance with the fourth paragraph of Article 36 (1(1)) of the abovementioned Federal Law a decision was taken to bring the vessel to the port of Murmansk for the purpose of carrying out of investigative procedures and holding the captain of the vessel accountable pursuant to the legislation of the Russian Federation.

In view of the authority that a coastal State possesses in accordance with the aforementioned rules of international law, in the situation in question requesting consent of the flag State

to the visit by the inspection team on board the vessel was not required.

On 24 September 2013 the Investigative Department of the Investigative Committee of the Russian Federation for the North-West Federal District instituted a criminal investigation № 83543 into the attack on the OIRFP “Prirazlomnaya” by unidentified individuals from the crew of the vessel “Arctic Sunrise”, who acted as an organized group in the Barents Sea outside territorial waters of any state, i.e. on the elements of the crime provided for in Article 227(3) of the Criminal Code of the Russian Federation (“Piracy committed by an organized group”).

For the commission of the abovementioned acts, in the night from 24 to 25 September 2013, under Articles 91, 92 of the Code of Criminal Procedure of the Russian Federation 30 members of the crew of the “Arctic Sunrise” were detained, possessing nationalities of 18 foreign States (the United States, Canada, Argentina, the Netherlands, Denmark, the United Kingdom, New Zealand, Australia, Ukraine, Turkey, Sweden, Switzerland, Finland, Italy, France, Brazil, Poland) and the Russian Federation.

According to the decisions of the District Court Leninsky of the city of Murmansk detention of all 30 suspects was found lawful and justified.

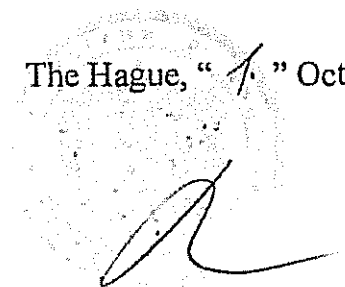
For the time being in respect of all suspects restrictive measures in the form of pre-trial detention were established by the same court.

Criminal charges in respect of the abovementioned crime will be brought against the crew members of the vessel “Arctic

Sunrise” and the detained activists of the “Greenpeace” in the nearest future within the time limits, prescribed by the Code of Criminal Procedure of the Russian Federation.

The Embassy avails itself of this opportunity to renew to the Ministry the assurances of its highest consideration.

The Hague, “ 1. ” October 2013



Annex 8



Note

Ministry of Foreign Affairs

Legal Affairs Directorate

MinBuza-2013.277972

The Ministry of Foreign Affairs of the Kingdom of the Netherlands presents its compliments to the Embassy of the Russian Federation and wishes to thank the Embassy for its note of 1 October 2013 (No. 162-4).

The note responds to the requests for information of the Kingdom of the Netherlands in its notes of 23 September 2013 (DEU-0725/2013) and 26 September 2013 (DEU-0735/2013), for which the Kingdom of the Netherlands expresses its appreciation. According to the note, the boarding, investigation and detention of the "Arctic Sunrise" and its crew were justified on the basis of general provisions in the United Nations Convention on the Law of the Sea related to the exclusive economic zone and the continental shelf (Articles 56, 60 and 80). The Kingdom of the Netherlands does not consider that these provisions justify the actions taken against the "Arctic Sunrise" and its crew.

It appears therefore that the Russian Federation and the Kingdom of the Netherlands have diverging views on the rights and obligations of the Russian Federation as a coastal state in its exclusive economic zone. Accordingly, there seems to be merit in submitting this dispute to arbitration under the United Nations Convention on the Law of the Sea. In view of the urgency of the matter, resulting from the detention of the vessel and its crew, the Kingdom of the Netherlands is considering to initiate such arbitration as soon as feasible. In this respect, the Kingdom of the Netherlands reiterates its request that the vessel and its crew be immediately released and would like to stress the urgent nature of this request.

The Ministry of Foreign Affairs of the Kingdom of the Netherlands avails itself of this opportunity to renew to the Embassy of the Russian Federation the assurances of its highest consideration.

The Hague, 3 October 2013

The Embassy of the Russian Federation

Andries Bickerweg 2

2517 JP The Hague

