WEAPONS

Proliferation

Agreement between the
UNITED STATES OF AMERICA
and MALTA

Signed at Washington March 15, 2007

with

Appendix

NOTE BY THE DEPARTMENT OF STATE

Pursuant to Public Law 89—497, approved July 8, 1966 (80 Stat. 271; 1 U.S.C. 113)—

". . .the Treaties and Other International Acts Series issued under the authority of the Secretary of State shall be competent evidence . . . of the treaties, international agreements other than treaties, and proclamations by the President of such treaties and international agreements other than treaties, as the case may be, therein contained, in all the courts of law and equity and of maritime jurisdiction, and in all the tribunals and public offices of the United States, and of the several States, without any further proof or authentication thereof."

MALTA

Weapons: Proliferation

Agreement signed at Washington March 15, 2007;
Entered into force December 19, 2007.
With appendix.

AGREEMENT

BETWEEN

THE GOVERNMENT OF THE UNITED STATES OF AMERICA

AND

THE GOVERNMENT OF MALTA

CONCERNING COOPERATION TO SUPPRESS THE PROLIFERATION OF WEAPONS OF MASS DESTRUCTION, THEIR DELIVERY SYSTEMS, AND RELATED MATERIALS BY SEA

The Government of the United States of America and the Government of Malta, (hereinafter, "the Parties");

Deeply concerned about the proliferation of weapons of mass destruction (WMD), their delivery systems, and related materials, particularly by sea, as well as the risk that these may fall into the hands of terrorists;

Recalling the 31 January 1992 United Nations Security Council Presidential statement that proliferation of all WMD constitutes a threat to international peace and security, and underlines the need for Member States of the UN to prevent proliferation;

Also recalling United Nations Security Council Resolution 1540 (2004), which calls on all States, in accordance with their national legal authorities and legislation and consistent with international law, to take cooperative action to prevent illicit trafficking in nuclear, chemical or biological weapons, their means of delivery, and related materials;

Recalling further the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction, done at Paris 13 January 1993; the Treaty on Nonproliferation of Nuclear Weapons, done at Washington, London and Moscow 1 July 1968; and the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin

Weapons and on their Destruction, done at Washington, London and Moscow 10 April 1972;

Further recalling the International Ship and Port Facility Security Code, adopted by the International Maritime Organization (IMO) on 12 December 2002;

Acknowledging the widespread consensus that proliferation and terrorism seriously threaten international peace and security;

Convinced that trafficking in these items by States and non-state actors of proliferation concern must be stopped;

Guided by the Statement of Interdiction Principles for the Proliferation Security Initiative;

Inspired by the efforts of the IMO to improve the effectiveness of the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, done at Rome 10 March 1988;

Reaffirming the importance of customary international law of the sea as reflected in the 1982 United Nations Convention on the Law of the Sea;

Committed to cooperation to stop the flow by sea of WMD, their delivery systems, and related materials to or from States or non-state actors of proliferation concern;

Have agreed as follows:

Article 1

Object, Purpose and Scope

1. The object and purpose of this Agreement is to promote cooperation between the Parties to enable them to prevent the transportation by sea of items of proliferation concern.

2. The Parties shall carry out their obligations and responsibilities under this Agreement in a manner consistent with the principles of international law pertaining to the sovereign

equality and territorial integrity of States and freedom of navigation, on the basis of the principle of reciprocity.

3. The Parties shall cooperate to the fullest extent possible, subject to the availability of resources and in compliance with their respective laws.

Article 2

Definitions

For the purposes of this Agreement, unless the context otherwise requires:

1. "Proliferation by sea" means the transportation by ship of weapons of mass destruction, their delivery systems, and related materials to or from States or non-state actors of proliferation concern.

2. "Weapons of mass destruction" (WMD) means nuclear, chemical, biological and radiological weapons.

3. "Related materials" means materials, equipment and technology, of whatever nature or type, that are related to and destined for use in the development, production, utilization or delivery of WMD.

4. "Items of proliferation concern" means WMD, their delivery systems, and related materials.

5. "States or non-state actors of proliferation concern" means those countries or entities whose activities should be impeded or stopped because they are or are believed to be engaged in: (1) efforts to develop or acquire WMD or their delivery systems; or (2) trafficking (either selling, receiving, or facilitating) of WMD, their delivery systems, or related materials.

6. "Security Force Officials" means for:

a. the United States, uniformed or otherwise clearly identifiable members of the United States Coast Guard and the United States Navy, who may be accompanied by clearly identifiable law enforcement officials of the Departments of Homeland Security and Justice, and other clearly identifiable officials duly authorized by the

Government of the United States of America and notified to the Competent Authority of the Government of Malta; and

b. Malta, uniformed or otherwise clearly identifiable members of the Armed Forces of Malta, the Malta Police Force and the Department of Customs, and other clearly identifiable officials duly authorized by the Government of Malta and notified to the Competent Authority of the United States.

7. "Security Force vessels" means warships and other vessels of the Parties, or of third States as may be authorized in accordance with Articles 5 and 9 of this Agreement, on which Security Force Officials of either or both Parties may be embarked, clearly marked and identifiable as being on government non-commercial service and authorized to that effect, including any vessel and aircraft embarked on or supporting such vessels.

8. "Suspect vessel" means a vessel used for commercial or private purposes in respect of which there are reasonable grounds to suspect it is engaged in proliferation by sea, as determined pursuant to Article 5 of this Agreement.

9. "International waters" means all parts of the sea not included in the territorial sea, internal waters and archipelagic waters of a State, consistent with international law.

10. "Competent Authority" means for the United States, the Commandant of the United States Coast Guard (including any officer designated by the Commandant to perform such functions), and for Malta, the Commander of the Armed Forces of Malta (including any officer designated by the Commander to perform such functions).

Article 3

Cases of Suspect Vessels

1. Subject to paragraph 2 of this Article, operations to suppress proliferation by sea pursuant to this Agreement shall be carried out only against suspect vessels:

a. having the nationality of one of the Parties and entitled to fly its flag, or

b. registered under the law of one of the Parties under a bareboat charter, notwithstanding an underlying registration in another State not Party to this Agreement, or

c. without nationality or assimilated to vessels without nationality.

2. Such operations shall not be carried out under this Agreement against vessels registered under the law of one of the Parties while bareboat chartered in another State not party to this Agreement.

Article 4

Operations in and over National Waters

This Agreement does not authorize the conduct of operations to suppress proliferation by sea by one Party in and over the waters of the other Party.

Article 5

Operations in International Waters

1. Authority to Board Suspect Vessels. Whenever the Security Force Officials of one Party ("the requesting Party") encounter a suspect vessel claiming nationality in the other Party ("the requested Party") located in international waters, the requesting Party may request through the Competent Authority of the requested Party, that it:

a. confirm the claim of nationality of the suspect vessel; and

b. if nationality is confirmed:

i. authorize the boarding and search of the suspect vessel, cargo, and persons found on board by Security Force Officials of the requesting Party; and

ii. if evidence of proliferation is found, authorize the Security Force Officials of the requesting Party to detain the vessel, as well as items and persons on board, pending instructions conveyed through the Competent Authority of the requested Party as to the actions the requesting Party is permitted to take concerning such items, persons and vessels.

Each authorization to act shall be in writing between the Competent Authorities. Nevertheless, in urgent circumstances, an authorization to act may be granted orally by the Competent Authority of the requested Party. An oral authorization to act shall be confirmed in writing forthwith by the Competent Authority.

2. Contents of Requests. Each request should be in writing and contain the name of the suspect vessel, sufficiently reliable information forming the basis for the suspicion, the geographic position of the vessel, the IMO number if available, the homeport, the port of origin and destination, and any other identifying information. Nevertheless, in urgent circumstances, a request may be made orally, but shall be confirmed in writing forthwith.

The requested Party shall acknowledge to the Competent Authority of the requesting Party in writing, by e-mail or by facsimile, its receipt of any written or urgent oral request immediately upon receiving it.

3. Responding to Requests

a. If the nationality is verified and the requested Party is satisfied with the basis for suspicion that the vessel is a suspect vessel, and that the information provided by the requesting Party is sufficiently reliable, the requested Party may:

i. decide to conduct the boarding and search with its own Security Force Officials;

ii. authorize the boarding and search by the Security Force Officials of the requesting Party, subject to conditions if deemed appropriate;

iii. decide to conduct the boarding and search together with the requesting Party; or

iv. nevertheless, deny permission to board and search.

b. The requested Party shall answer through its Competent Authority requests made for the verification of nationality and authorization to board within four hours of its acknowledgment of the receipt of such requests unless the requested Party requests additional time to answer.

c. If the nationality is not verified or verifiable within the four hours, the requested Party shall, through its Competent Authority:

i. nevertheless stipulate that it does not object to the boarding and search by the Security Force Officials of the requesting Party; or

ii. refute the claim of the suspect vessel to its nationality.

d. Either Party, consistent with the other provisions of this Agreement, may subject its authorization under this paragraph to conditions, including obtaining additional information from the requesting Party, and conditions relating to responsibility for and the extent of measures to be taken. Information to be provided in response to such a request shall be exchanged in a timely manner by the Competent Authorities; however, the requesting Party may notify the requested Party if it is providing additional information through established information sharing channels.

e. Notification to the Master. Prior to the boarding being conducted, the flag State may, in coordination with the requesting Party, transmit to the Master of the suspect vessel notice that it has authorized the requesting Party to board the vessel.

4. Right of Visit. Notwithstanding the foregoing paragraphs of this Article, the Security Force Officials of one Party ("the first Party") are authorized to board suspect vessels claiming nationality in the other Party that are not flying the flag of the other Party, not displaying any marks of its registration or nationality, and claiming to have no documentation on board the vessel, for the purpose of locating and examining the vessel's documentation. If documentation or other physical evidence of nationality is located, the foregoing paragraphs of this Article apply. If no documentation or other physical evidence of nationality is available, the other Party will not object to the first Party assimilating the vessel to a ship without nationality consistent with international law.

5. Use of Force. The authorization to board, search and detain includes the authority to use force in full compliance with the provisions of Article 11 of this Agreement.

6. Shipboarding Otherwise in Accordance with International Law. This Agreement does not limit the right of either Party to conduct boardings of vessels or other activities consistent with international law whether based, *inter alia*, on the right of visit, the rendering of assistance to persons, vessels, and property in distress or peril, or an

authorization from the Flag or Coastal State, or other appropriate bases in international law.

Article 6

Jurisdiction over Detained Vessels

1. Limitations. Neither Party shall undertake the exercise of jurisdiction and performance of functions in the territory of the other Party.

2. Jurisdiction of the Parties. In all cases covered by Article 5 concerning the vessels of a Party ("the flag State") located in international waters, jurisdiction rests with the flag State over a detained vessel, cargo or other items and persons on board (including seizure, forfeiture, arrest, and prosecution). However, the flag State may, subject to its Constitution and laws, consent to the exercise of jurisdiction by the other Party in accordance with the provisions of this Agreement.

3. Jurisdiction in the contiguous zone of a Party. In a zone contiguous to its territorial sea, described as the contiguous zone, a Party may exercise the control necessary, *inter alia*, to prevent the infringement of its customs, fiscal, immigration or sanitary laws and regulations within its territory or territorial sea. In all cases not covered by Article 5 involving the vessel of one Party that arise in the contiguous zone of the other Party and in which both Parties have authority to board in accordance with their respective jurisdictions-

a. except as provided in subparagraph (b), the Party which conducts the boarding shall have the right to exercise its authorized jurisdiction;

b. in cases involving suspect vessels fleeing from the territorial sea of a Party in which that Party has the authority to board and to exercise jurisdiction, that Party shall have the right to exercise its authorized jurisdiction.

4. Disposition Instructions. Consultations as to the exercise of jurisdiction pursuant to paragraphs 2 and 3 of this Article shall be undertaken between the Competent Authorities without delay.

5. Form of waiver. Where permitted by its Constitution and laws, waiver of jurisdiction may be granted verbally, but as soon as possible it shall be recorded in a written note from the Competent Authority and be processed through the appropriate diplomatic

channel, without prejudice to the immediate exercise of jurisdiction over the suspect vessel by the other Party.

Article 7

Points of Contact

Each Party shall identify to the other Party, and keep current, through its Competent Authority the points of contact for communicating with its national authorities competent to receive and act at any time to requests under Article 5 for verification of nationality and authority to board, search and detain suspect vessels, and for instructions as to the exercise of jurisdiction under Article 6, and to receive and act on notifications under Article 8, and to respond to requests for technical assistance under Article 18 in addition to any other communication necessary for the implementation of this Agreement.

Article 8

Exchange of Information, Notification of Results of Shipboardings and Actions Taken

1. Model Forms. The Parties shall use the model forms appended to this Agreement for communications pursuant to this Agreement, except as otherwise provided in this Agreement. The Competent Authorities of the Parties may, by mutual agreement, amend or replace in accordance with their laws the model forms annexed to this Agreement.

2. Exchange of Operational Information. The Competent Authorities of both Parties shall endeavor to exchange operational information on the detection and location of suspect vessels and shall maintain communication with each other as necessary to carry out the purpose of this Agreement.

3. Protection of classified information and material. Each Party shall protect classified information and material from unauthorized disclosure at all times in accordance with such requirements as the requesting Party may specify or as otherwise agreed by the Parties.

4. Notification of Results. A Party conducting a boarding and search pursuant to this Agreement shall promptly, and in any case not later than 48 hours, notify the other Party of the results thereof through their Competent Authorities, following the conclusion of the boarding and search. Such notification shall be effected through the Competent Authorities of the Parties.

5. Status Reports. Each Party, in compliance with its laws, shall timely report at least every month to the other Party, through their Competent Authorities, on the status of all investigations, prosecutions and judicial proceedings and other actions and processes, arising out of the application of this Agreement.

Article 9

Conduct of Security Force Officials

1. Compliance with Law and Practices. Each Party shall ensure that its Security Force Officials, when conducting boardings and searches pursuant to this Agreement, act in accordance with its applicable national laws and policies and consistent with international law and accepted international practices.

2. Boarding and Search Teams

a. Boardings and searches pursuant to this Agreement shall be carried out by Security Force Officials from Security Force vessels as may be authorized on a case-by-case basis.

b. Neither Party shall be required to authorize a boarding from a vessel or aircraft of a third State that it would consider adverse to its interests.

c. The boarding and search teams may carry personal weapons.

Article 10

Safeguards

1. Where a Party takes measures against a vessel in accordance with this Agreement, it shall:

a. take due account of the need not to endanger the safety of life at sea;

b. take due account of the safety and security of the vessel and its cargo;

c. not prejudice the commercial or legal interests of the Flag State;

d. ensure, within available means, that any measure taken with regard to the vessel is environmentally sound under the circumstances;

e. ensure that persons on board are afforded the protections, rights and guarantees provided by international law and the boarding State's law and regulations;

f. ensure that the master of the vessel is, or has been, afforded at any time the opportunity to contact the vessel's Flag State, and, subject to preserving the safety and security of operations, is, or has been, afforded the opportunity to contact the vessel's owner or manager.

2. All reasonable efforts shall be taken to avoid a vessel being unduly detained or delayed.

Article 11

Use of Force

1. All uses of force pursuant to this Agreement shall be in strict accordance with the applicable laws and policies of the Party conducting the boarding and with applicable international law.

2. Each Party shall avoid the use of force except when and to the degree necessary to ensure the safety of Security Force vessels and officials, and where Security Force Officials are obstructed in the execution of their duties.

3. Any use of force pursuant to this Article shall not exceed the minimum degree of force that is necessary, proportional and reasonable in the circumstances.

4. Boarding and search teams and Security Force vessels have the inherent right to use all available means to apply that force reasonably necessary to defend themselves or others from physical harm.

5. Any use of force by the Party conducting a boarding and search pursuant to this Agreement shall be immediately reported with all necessary details to the Competent Authority of the other Party.

Article 12

Exchange and Knowledge of Laws and Policies of Other Party

1. Exchange of Information. To facilitate implementation of this Agreement, each Party, shall endeavor to ensure the other Party is appropriately informed of its respective applicable laws and policies, particularly those pertaining to the use of force.

2. Knowledge. Each Party shall endeavor to ensure that its Security Force Officials are knowledgeable concerning the applicable laws and policies in accordance with this Agreement.

Article 13

Points of Contact

1. Information. Each Party shall inform the other Party through their Competent Authorities, and keep current, the points of contact for communication, decision and instructions under Articles 4 and 5, and notifications under Articles 6 and 8, of this Agreement.

2. Availability. The Parties shall ensure that the points of contact have the capability to receive, process and respond to requests and reports at any time.

Article 14

Disposal of Seized Property

1. Disposal of Property. Assets seized in consequence of any operation undertaken pursuant to this Agreement shall be disposed of in accordance with the laws of that Party exercising jurisdiction in accordance with Article 6 of this Agreement.

2. The seizing Party may transfer in accordance with its laws forfeited assets or proceeds of their sale to the flag State Party after deducting therefrom all expenses directly and reasonably connected with the seizure and disposal and any share thereof which any Party may in accordance with its legislation be entitled to.

Article 15

Disputes and Consultations

1. Disputes. Disputes arising from the interpretation or implementation of this Agreement shall be settled by mutual agreement of the Parties. Where mutual agreement cannot be reached after a reasonable time, the Parties may, by mutual agreement, seek settlement of the dispute by another peaceful means of their own choice, including, but not limited to, arbitration.

2. Evaluation of Implementation. The Parties agree to consult as necessary to evaluate the implementation of this Agreement and to consider enhancing its effectiveness. The evaluation shall be carried out at least once a year.

3. Resolving Difficulties. In case a difficulty arises concerning operations under this Agreement, either Party may request consultations with the other Party to resolve the matter.

Article 16

Claims

1. Injury or Loss of Life. Any claim for injury to or loss of life of a Security Force Official of a Party while carrying out operations arising from this Agreement shall normally be resolved in accordance with the laws of that Party.

2. Other Claims. Any other claim submitted for damage, harm, injury, death or loss resulting from an operation carried out by a Party under this Agreement shall be resolved in accordance with the domestic law of the Party to which the claim is brought and international law.

3. Consultation. If any damage, harm, injury, death or loss is suffered as a result of any action asserted to have been taken by the Security Force Officials of one Party in contravention of this Agreement, including action taken on unfounded suspicions, or if any improper, disproportionate or unreasonable action is asserted to have been taken by a Party, the Parties shall, without prejudice to any other legal recourse which may be available, consult at the request of either Party with a view to resolving the matter and deciding any questions relating to compensation or payment.

4. No Waiver of Other Rights. Neither Party thereby waives any rights it may have under international law to raise a claim with the other Party through diplomatic channels.

Article 17

Technical Assistance

The Competent Authority of one Party ("the Requesting Party") may request, and the Competent Authority of the other Party may authorize, Security Force Officials to provide technical assistance, such as specialized assistance in the boarding and search of suspect vessels, including vessels of the Requesting Party wherever located (provided that any activity in a marine area under the sovereignty of a third State has been authorized by that State), and for the boarding and search of suspect vessels located in the territory or waters of the requesting Party.

Article 18

Miscellaneous Provisions

Nothing in this Agreement:

(a) precludes the Parties from otherwise agreeing on operations or other forms of cooperation to suppress proliferation;

(b) alters the rights and privileges due any person in any administrative or judicial proceeding conducted under the jurisdiction of either Party;

(c) shall be construed as creating any private right of action for any individual or entity;

(d) prejudices in any manner the positions of either Party regarding the international law of the sea.

Article 19

Entry into Force

This Agreement shall enter into force upon an exchange of notes indicating that the necessary internal procedures of each Party have been completed.

Article 20

Termination

1. Notification. This Agreement may be terminated at any time by either Party upon written notification to the other Party through the diplomatic channel.

2. Effective Date. Such termination shall take effect 90 days from the date of notification.

Article 21

Continuation of Actions Taken

This Agreement shall continue to apply after termination with respect to any administrative or judicial proceedings arising out of actions taken pursuant to this Agreement

IN WITNESS WHEREOF, the undersigned, being duly authorized by their respective Governments, have signed this Agreement.

DONE AT Washington, this 15th day of March, 2007.

FOR THE GOVERNMENT OF
THE UNITED STATES OF AMERICA

FOR THE GOVERNMENT
OF MALTA

APPENDIX: MODEL FORMS

Model Form: STEP 1

Request for
Confirmation of Nationality
and
Request for Authorization to Board and Search Suspect Vessel
Pursuant to Article 5 of the Agreement

Date/Time (GMT (Z)): _____

Reference (Vessel Name): _____

To: _____
(insert identification of the Competent Authority of Requested Party)

Telephone: _____
Fax: _____
e-mail: _____

From _____

(insert identification of the Competent Authority of Requesting Party)
Telephone: _____
Fax: _____
e-mail: _____

❑ If this box is checked, then this request confirms an urgent oral request made previously by [the United States of America directed to the Operations Center of the Armed Forces of Malta] [Malta directed to the United States Coast Guard National Command Center].

Pursuant to Article 5 of the Agreement between the Government of the United States of America and the Government of Malta Concerning Cooperation to Suppress the Proliferation of Weapons of Mass Destruction, their Delivery Systems, and Related Materials by Sea (hereinafter, the "Agreement"), the Security Force Officials of [name of Requesting Party] have encountered a suspect vessel claiming nationality in [name of the Requested Party] located in international waters. Accordingly, [name of Requesting Party] invites [name of the Requested Party]'s attention to following information and requests.

1. Name/ hull number /flag of Security Force Vessel on scene: _____

2. Available Description of Suspect Vessel:

   a. Vessel's name: _____

   b. Claimed flag: _____

c. Call Sign: _____

d. IMO number: _____

e. Port & year of registry: _____

f. Type of vessel: **(Check one)**

- ❑ Container
- ❑ Tanker
- ❑ Bulk carrier
- ❑ Pleasure craft
- ❑ Fishing vessel
- ❑ Cruise ship
- ❑ Other: _____

g. Length of vessel: _____

h. Last port of call (LPOC): _____

i. Date of LPOC: _____

j. Next port of call (NPOC): _____

k. Date of NPOC: _____

l. Claimed cargo: _____

m. Purpose of voyage: _____

3. Suspect vessel's position:

a. Latitude: _____

b. Longitude: _____

c. Geographic reference: _____

d. Course/Speed: _____ / _____

4. Persons on board, if known:

a. Number: _____

b. Name of Master: _____

c. Nationality of Master: _____

d. Master's date of birth: _____

5. Reasonable grounds to suspect that vessel is engaged in proliferation by sea: (include, if possible, a brief description of the suspect cargo, including any relationship to relevant multilateral or national export control lists, such as the Nuclear Suppliers Group Trigger List)

_____
_____
_____
_____
_____
_____
_____
_____
_____
_____
_____

❑ If this box is checked, relevant information is being provided through established information sharing channels.

6. Estimated duration indicated for the boarding based on current information (this is only an estimate and subject to substantial change depending on circumstances encountered; if this request is approved, the [name of Requesting Party] shall keep [name of Requested Party] apprised of developments and changed circumstances that may decrease or increase the duration of the boarding):

_____

7. Action Request: The [name of Requesting Party] requests [name of the Requested Party]:

   a. Confirm the claim of nationality of the suspect vessel; and

   b. If nationality is confirmed:

      (1) Authorize the boarding and search of the suspect vessel, cargo and the persons found on board by [name of the Requesting Party] Security Force Officials; and

      (2) If evidence of proliferation is found, authorize the Security Force Officials of the [name the of Requesting Party] to detain the vessel, as well as items and persons on board, pending instructions conveyed through [name of the Competent Authority of the Requested Party] as to the actions the [name of the Requesting Party] is permitted to take concerning such items, persons and vessels.

Signature/Date/Time (GMT (Z)): _____

Model Form: STEPS 2-4

Response to Requests for
Confirmation of Nationality
and
Authorization to Board and Search Suspect Vessel
Pursuant to Article 5 of the Agreement

Date/Time (GMT (Z)): _____

Reference (Vessel Name): _____

To: _____
(insert identification of the Competent Authority of Requested Party)

Telephone: _____
Fax: _____
e-mail: _____

From: _____
_____ **(insert identification of the Competent Authority of Requesting Party)**
Telephone: _____
Fax: _____
e-mail: _____

☐ If this box is checked, then this authorization confirms an urgent oral authorization given previously by [the United States of America directed to the Operations Center of the Armed Forces of Malta] [Malta directed to the United States Coast Guard National Command Center].

THIS SPACE INTENTIONALLY LEFT BLANK

STEP 2: CONFIRMATION OF NATIONALITY

In response to your request of [date/time GMT (Z) from request form] for confirmation of nationality of [name of suspect vessel] pursuant to article 5 of the Agreement between the Government of the United States America and the Government of Malta Concerning Cooperation to Suppress the Proliferation of Weapons of Mass Destruction, their Delivery Systems, and Related Materials by Sea (hereinafter, the "Agreement"), the [name of Requested Party] hereby:

CHECK ONLY ONE OF THE BOXES:

❑ Confirms that the [name of suspect vessel] is presently lawfully registered [in the American Register of Ships] [under the Merchant Shipping Act (CAP. 234) of the Laws of Malta] and is entitled to fly the flag of the [name of Requested Party] (see paragraph 2 of request).

❑ Can neither confirm nor deny that [name of suspect vessel] is registered [in the American Register of Ships][under the Merchant Shipping Act (CAP. 234) of the Laws of Malta], but nevertheless stipulates that it does not object to the boarding and search by the Security Force Officials of the Requesting Party (see paragraph 2 of request).

❑ Denies that the [name of suspect vessel] is presently lawfully registered [in the American Register of Ships] [under the Merchant Shipping Act (CAP. 234) of the Laws of Malta] and therefore is NOT entitled to fly the flag of the [name of Requested Party].

STEP 3: IF NATIONALITY IS CONFIRMED or STIPULATED, THEN COMPLETE STEP 3 –

Further to your request, the Government of the [name of the Requested Party] hereby:

CHECK ONLY ONE OF THE BOXES:

❑ Authorizes, **subject to completion of the procedures in Step 4 below**, the boarding and search of [name of suspect vessel] by Security Force Officials of [name of boarding Party] from [name and nationality of boarding platform] in international waters; and if evidence is found on board that the [name of suspect vessel] is engaged in proliferation by sea, detain the vessel as well as items and persons on board, pending instructions from [name of the Requested Party] regarding the actions the [name of Requesting Party] is permitted to take concerning the [name of suspect vessel], as well as items and persons on board.

❑ Authorizes the boarding and search of [name of suspect vessel] by Security Force Officials of [name of boarding Party] from [name and nationality of boarding platform] in international waters; and if evidence is found on board that the [name of suspect vessel] is engaged in proliferation by sea, detain the vessel as well as items and persons on board, pending instructions from [name of the Requested Party] regarding the actions the [name of Requesting Party] is permitted to take concerning the [name of suspect vessel], as well as items and persons on board. The Requested Party does not intend to transmit notice of authorization for the boarding to the Master. Accordingly, the Requesting Party may execute this authorization forthwith.

❑ Is prepared to authorize the boarding and search of [name of suspect vessel] by Security Force Officials of [name of boarding Party] in international waters, but not from [name and nationality of boarding platform]. Please identify to [name of Requested Party] an alternative platform, if available, and [name of Requested Party] will consider the request and respond accordingly.

❑ Decides to conduct the boarding and search with its own Security Force Officials and proposes the following additional instructions:

_____

_____

_____

_____

❑ Decides to conduct the boarding and search together with the Security Force Officials of the Requesting Party and proposes the following rendezvous instructions:

_____
_____
_____
_____
_____

❑ Denies authorization to stop, board, and search the [name of suspect vessel] on the following grounds:

CHECK THE APPROPRIATE BOX OR BOXES:

❑ According to the information officially submitted by to the Government of the [name of the Requested Party] there are not reasonable grounds to suspect that the said vessel is engaged in proliferation by sea.

❑ It was not possible for the Parties to mutually agree on certain additional conditions relating to the Authorization required by the Government of the [name of the Requested Party] in its capacity as the Requested Party.

❑ The Government of the [name of the Requested Party], in its capacity as the Requested Party, decided that under the present circumstances it is more appropriate and efficient to conduct the boarding and search of [name of suspect vessel] with its own Security Force Officials at a later date.

❑ Other: _____
_____

❑ The present authorization is given to the [name of the Requesting Party] subject, in addition to the terms and safeguards of the Agreement, to the following additional conditions mutually agreed between the Parties:

❑ *None*

❑ _____

❑ _____

❑ _____

❑ _____

STEP 4: INSTRUCTIONS REGARDING TRANSMITTAL OF NOTIFCATION TO THE MASTER

- The [name of the Requesting Party] shall notify the [name of the Requested Party] by [identify mode(s) of communication] of the time that it wishes to conduct the boarding and when notification to the Master should be given.

- Thereafter, [the name of the Requested Party] shall notify the [name of the Requesting Party] by [identify mode(s) of communication] when it has transmitted to the Master of the suspect vessel notice that it has authorized the boarding.

- [Name of the Requesting Party] may thereafter execute this authorization.

Signature/Date/Time (GMT (Z)): _____

Model Form: STEP 5

Arrangements for Transmittal of Notice to the Master of a Suspect Vessel that the Flag State has Authorized a Boarding Pursuant to the Agreement

---

Date/Time (GMT (Z)): _____

Reference (Vessel Name): _____

To: _____
(insert identification of the Competent Authority of Requested Party)

Telephone: _____
Fax: _____
e-mail: _____

From: _____
(insert identification of the Competent Authority of Requesting Party)

Telephone: _____
Fax: _____
e-mail: _____

STEP 5: INSTRUCTIONS REGARDING TRANSMITTAL OF NOTIFCATION TO THE MASTER:

- The [name of the Requesting Party] wishes to conduct the boarding at [date & time GMT (Z)].
- The [name of the Requesting Party] recommends notification of the boarding be transmitted to the Master be given [instructions on date & time GMT (Z)].

Absent urgent circumstances, where a request for Confirmation of Nationality and Authorization to Board and Search and relevant authorization may be respectively submitted or granted orally pursuant to Article 5 of the Agreement, the [name of the Requesting Party] shall await notification from [name of the Requested Party] by [identify mode(s) of communication described by the Requested Party in Step 4 above] that it has transmitted to the Master of the suspect vessel notice that it has authorized the boarding.

Signature/Date/Time (GMT (Z)): _____

Model Form: STEP 6

Confirmation of Transmittal of Notice to the Master of a Suspect Vessel that the Flag State has Authorized a Boarding Pursuant to the Agreement

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Date/Time (GMT (Z)): _____

Reference (Vessel Name): _____

To: _____
(insert identification of the Competent Authority of Requested Party)

Telephone: _____
Fax: _____
e-mail: _____

From: _____
(insert identification of the Competent Authority of Requesting Party)

Telephone: _____
Fax: _____
e-mail: _____

STEP 6: CONFIRMATION OF TRANSMITTAL OF NOTIFCATION TO THE MASTER:

The [name of the Requested Party] confirms that it has transmitted to the Master of the suspect vessel notice that it has authorized the boarding. Consequently, the [name of the Requesting Party] may exercise the previous authorization granted to board the suspect vessel.

Signature/Date/Time (GMT (Z)): _____

Model Form: STEP 7

Report of Results of Boarding and Search of Suspect Vessel Pursuant to Article 5 of the Agreement

---

Date/Time (GMT (Z)): _____

Reference (Vessel Name): _____

To: _____
(insert identification of the Competent Authority of Requested Party)

Telephone: _____
Fax: _____
e-mail: _____

From: _____
(insert identification of the Competent Authority of Requesting Party)

Telephone: _____
Fax: _____
e-mail: _____

In accordance with authorization previously granted pursuant to article 5 of the Agreement between the Government of the United States America and the Government of Malta Concerning Cooperation to Suppress the Proliferation of Weapons of Mass Destruction, their Delivery Systems, and Related Materials by Sea (hereinafter, the "Agreement"), the Security Force Officials of [name of Requesting Party] boarded the suspect vessel [name of suspect vessel]. Accordingly, [name of Requesting Party] invites [name of the Requested Party]'s attention to following information and requests:

1. Boarding logistics:

    1. Time boarding commenced (GMT (Z)): _____

    2. Position at time of boarding: _____

    3. Resistance or opposition to boarding: _____

    4. Number of persons in boarding team: _____

2. Evidence of proliferation by sea:

    CHECK ONLY ONE OF THE BOXES:

    ❑ The boarding yielded no evidence of proliferation by sea.

    ❑ The boarding yielded the following evidence that the vessel is engaged in proliferation by sea:

3. Persons on board:

Name & Position	Nationality	Date of Birth	Document Number

4. Other evidence or issues:

_____

_____

_____

_____

5. Intentions/request for disposition instructions:

CHECK ONLY ONE OF THE BOXES:

- ❑ Due to the absence of evidence of proliferation by sea, the [name of Requesting Party] intends to conclude the boarding and release the vessel.

- ❑ Based on the evidence described above, the [name of Requesting Party] requests from [name of Requested Party] authorization to divert and direct the suspect vessel to [name of place or port] to continue the boarding and space/cargo accountability dockside. Pursuant to authority previously granted, the [Requesting Party] will detain the vessel as well as items and persons on board, pending instructions from the [name of the Requested Party] regarding the actions the [name of Requesting Party] is permitted to take concerning the [name of suspect vessel], as well as items and persons on board.

- ❑ Based on the evidence that the vessel is engaged in proliferation by sea set forth above, the [name of Requesting Party] requests from [name of Requested Party] disposition instructions with respect to the vessel, cargo, and persons on board. Pursuant to authority previously granted, the [Requesting Party] will detain the vessel as well as items and persons on board, pending instructions from the [name of the Requested Party] regarding the actions the [name of Requesting Party] is permitted to take concerning the [name of suspect vessel], as well as items and persons on board.

Signature/Date/Time (GMT (Z)): _____

Model Form

Miscellaneous Communications Regarding Suspect Vessel Pursuant to the Agreement

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Date/Time (GMT (Z)): _____

Reference (Vessel Name): _____

To: _____
(insert identification of the Competent Authority of Requested Party)

Telephone: _____
Fax: _____
e-mail: _____

From: _____
(insert identification of the Competent Authority of Requesting Party)

Telephone: _____
Fax: _____
e-mail: _____

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Signature/Date/Time (GMT (Z)): _____