

MARITIME MATTERS

Incidents

**Agreement Between the
UNITED STATES OF AMERICA
and RUSSIAN FEDERATION**

Amending the Agreement of May 25, 1972

Effected by Exchange of Notes
Dated at Moscow
October 12, 1997 and May 28, 1998



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.”

RUSSIAN FEDERATION

Maritime Matters: Incidents

*Agreement amending the agreement of May 25, 1972.
Effected by exchange of notes
Dated at Moscow October 12, 1997 and May 28, 1998;
Entered into force May 28, 1998.*

DEPARTMENT OF STATE
OFFICE OF LANGUAGE SERVICES
Translating Division

MINISTRY OF FOREIGN AFFAIRS
OF THE RUSSIAN FEDERATION

No. 4829/DSA

The Ministry of Foreign Affairs of the Russian Federation presents its compliments to the Embassy of the United States of America and, referring to the arrangements that have taken effect during the past 25 years within the framework of the Agreement between the Government of the Union of Soviet Socialist Republics and the Government of the United States of America on the Prevention of Incidents on and over the High Seas signed on May 25, 1972, hereinafter referred to as the 1972 Agreement, has the honor to report that the Government of the Russian Federation, wishing to ensure a higher level of safety for the navigation of its vessels and the flights of its aircraft outside the boundaries of territorial waters, proposes the following amendments and supplements to the 1972 Agreement:

1) throughout the text, the words "high seas" should be replaced with the words "waters outside the limits of the territorial sea";

2) Paragraph I(1) shall be worded as follows:

"1. "Ship" shall mean:

a) a warship belonging to the Armed Forces of the Russian Federation or the Armed Forces of the United States of America bearing the external marks distinguishing warships of its nationality, under the command of an officer duly commissioned by the government

service of the respective Party, and whose name appears in the appropriate service list or an equivalent document, and is manned by a crew subject to regular military discipline;

b) an auxiliary vessel belonging to the Armed Forces of the Russian Federation or the Armed Forces of the United States of America and authorized to fly the naval auxiliary flag where such a flag has been established by the respective Party”;

3) Article I should be supplemented with paragraphs 4 and 5, which read as follows:

“4. Non-naval vessel” shall mean all vessels not included in Para. 1 of this article.

5. “Non-naval aircraft” means all flying craft not included in Para. 2 of this article, except for spacecraft”;

4) Article II should be worded as follows:

“Article II

The Parties shall take measures to ensure strict compliance by the commanders of their ships with the letter and spirit of the International Regulations for Preventing Collision of Vessels at Sea adopted in 1972 (COLREGS-72).

The Parties also recognize that the basis of freedom of navigation and flights outside the limits of territorial waters is the principles and norms recognized by international law and reflected, in particular, in the 1982 UN Convention on the Law of the Sea”;

5) Article III(6) should read as follows:

“6. Ships of the Parties shall not:

- simulate attacks by aiming guns, missile launchers, torpedo tubes, and other weapons in the direction of the other Party’s ships or aircraft;

- eject any objects or launch signal rockets in the direction of the other Party's ships or aircraft in such a manner as to possibly endanger these ships or aircraft or hamper navigation or flights;

- use searchlights or other powerful illumination devices to illuminate the navigation bridges of ships or the cabins of aircraft in flight of the other Party;

- use lasers in such a manner as to possibly impair the health of crew members or damage the equipment aboard a ship or aircraft of the other Party;

- deliberately interfere with the communications systems of the other Party's ships and aircraft.

Nor shall the ships of the Parties take such actions against non-naval vessels and non-military aircraft of the other Parties”;

6) Article IV should be worded as follows:

“Article IV

The commanders of aircraft of each of the Parties shall exercise maximum caution and prudence in approaching the other Party's vessels and aircraft, especially vessels engaged in launching or landing aircraft, and in the interest of mutual safety shall not:

- simulate attacks or the use of weapons against the other Party's ships and aircraft;

- drop any objects or launch signal rockets in the direction of the other Party's ships and aircraft in such a manner as to possibly endanger these ships or aircraft or hamper navigation or flights;

- direct searchlights or other powerful illumination devices

toward the other Party's vessels and aircraft;

- perform aerobatics above the ships and[or] in the immediate vicinity of aircraft of the other Party;

- use lasers in such a manner as to possibly impair the health of crew members or damage equipment aboard a ship or aircraft of the other Party;

- deliberately interfere with the communications systems of the other Party's ships and aircraft.

Nor shall the Parties' aircraft take such actions against non-naval vessels and[or] non-military aircraft of the other Party";

7) Article VI should be supplemented with paragraphs 4 and 5, which shall read as follows:

"4. Take necessary measures to ensure that the commanders of ships and aircraft of each of the Parties exercise maximum caution in areas where the activities of the other Party's ships and aircraft have been reported to them in accordance with paragraph 1 of this article, and that they refrain as much as possible from interfering with these activities.

5. Take measures to notify non-naval ships and non-military aircraft of each of the Parties of the provisions of the 1972 Convention that are directed at ensuring mutual safety."

If the foregoing supplements and amendments are acceptable to the Government of the United States of America, the Ministry of Foreign Affairs of the Russian Federation has the further honor to propose that this note and the U.S. side's reply thereto regarding the acceptability of the supplements to the 1972 Agreement contained in this note shall constitute an Agreement between the Government of the Russian Federation and the Government of the United States of America.

The Ministry of Foreign Affairs of the Russian Federation takes this opportunity to renew to the Embassy of the United States of America the assurances of its high consideration.

Moscow
October 12, 1997

/Stamp: Foreign Ministry of the Russian Federation/

**EMBASSY OF THE
UNITED STATES OF AMERICA**

MFA/064/98

The Embassy of the United States of America presents its compliments to the Ministry of Foreign Affairs of the Russian Federation and has the honor to refer to the Ministry's Diplomatic Note Number 4829/DSA of October 12, 1997, which reads as follows:

"The Ministry of Foreign Affairs of the Russian Federation presents its compliments to the Embassy of the United States of America and, referring to the arrangements that have taken effect during the past 25 years within the framework of the Agreement between the Government of the Union of Soviet Socialist Republics and the Government of the United States of America on the Prevention of Incidents On and Over the High Seas signed on May 25, 1972, hereinafter referred to as the 1972 Agreement, has the honor to report that the Government of the Russian Federation, wishing to ensure a higher level of safety for the navigation of its vessels and the flights of its aircraft outside the boundaries of territorial waters, proposes the following amendments and supplements to the 1972 Agreement:

1) Throughout the text, the words "high seas" should be replaced with the words "waters outside the limits of the territorial sea";

2) Paragraph 1, Article I shall be worded as follows:

"1. "Ship" shall mean:

(a) A warship belonging to the Armed Forces of the Russian Federation or the Armed Forces of the United States of America bearing the external marks distinguishing warships of its nationality, under the command of an officer duly commissioned by the government of the respective Party and whose name appears in the appropriate service list or an equivalent document, and is manned by a crew subject to regular military discipline;

(b) An auxiliary vessel belonging to the Armed Forces of the Russian Federation or the Armed Forces of the United States of America and authorized to fly the naval auxiliary flag where such a flag has been established by the respective party";

3) Article I should be supplemented with Paragraphs 4 and 5, which read as follows:

"4. "Non-naval vessel" shall mean all vessels not included in Paragraph 1 of this Article.

5. "Non-naval aircraft" shall mean all flying craft not included in Paragraph 2 of this Article, except for spacecraft";

4) Article II should be worded as follows:

"Article II

The Parties shall take measures to ensure strict compliance by the commanders of their ships with the letter and spirit of the International Regulations for Preventing Collision of Vessels at Sea adopted in 1972 (COLREGS-72).

The Parties also recognize that the basis of freedom of navigation and flights outside the limits of territorial waters is the principles and norms recognized by international law and reflected, in particular, in the 1982 UN Convention on the Law of the Sea";

5) Paragraph 6, Article III should be worded as follows:

"6. Ships of the Parties shall not:

simulate attacks by aiming guns, missile launchers, torpedo tubes, and other weapons in the direction of the other Party's ships or aircraft;

eject any objects or launch signal rockets in the direction of the other Party's ships or aircraft in such a manner as to possibly endanger these ships or aircraft or hamper navigation or flights;

use searchlights or other powerful illumination devices to illuminate the navigation bridges of ships or the cabins of aircraft in flight of the other Party;

use lasers in such a manner as to possibly impair the health of crew members or damage the equipment aboard a ship or aircraft of the other Party;

deliberately interfere with the communications systems of the other Party's ships and aircraft.

Nor shall the ships of the Parties take such actions against non-naval vessels and non-military aircraft of the other Party";

6) Article IV should be worded as follows:

"Article IV

The commanders of aircraft of each of the Parties shall exercise maximum caution and prudence in approaching the other Party's vessels and aircraft, especially vessels engaged in launching or landing aircraft, and in the interest of mutual safety shall not:

simulate attacks or the use of weapons against the other Party's ships and aircraft;

drop any objects or launch signal rockets in the direction of the other Party's ships and aircraft in such a manner as to possibly endanger

these ships or aircraft or hamper navigation or flights;

direct searchlights or other powerful illumination devices toward the other Party's vessels and aircraft;

perform aerobatics above the ships and or in the immediate vicinity of aircraft of the other party;

use lasers in such a manner as to possibly impair the health of crew members or damage equipment aboard a ship or aircraft of the other Party;

deliberately interfere with the communications systems of the other Party's ships and aircraft.

Nor shall the aircraft of the Parties take such actions against non-naval vessels and non-military aircraft of the other Party";

7) Article VI should be supplemented with Paragraphs 4 and 5, which shall read as follows:

"4. Take necessary measures to ensure that the commanders of ships and aircraft of each of the Parties exercise maximum caution in areas where the activities of the other Party's ships and aircraft have been reported to them in accordance with Paragraph 1 of this Article, and that they refrain as much as possible from interfering with these activities.

5. Take measures to notify non-naval ships and non-military aircraft of each of the Parties of the provisions of the 1972 Agreement that are directed at ensuring mutual safety."

If the foregoing supplements and amendments are acceptable to the Government of the United States of America, the Ministry of Foreign Affairs of the Russian Federation has the further honor to propose that this note and the U.S. Party's reply thereto regarding the acceptability of the supplements to the 1972 Agreement contained in this note shall constitute an Agreement between the Government of the Russian Federation and the Government of the United States of America.

The Ministry of Foreign Affairs of the Russian Federation takes this opportunity to renew to the Embassy of the United States of America the assurances of its high consideration."

The Embassy has the honor to inform the Ministry of Foreign Affairs that the proposal contained in the Ministry's note is acceptable to the Government of the United States of America and that the Ministry's note of October 12, 1997 and this note in reply shall constitute an Agreement between the two governments, which will enter into force on the date of this note.

The Embassy of the United States of America would like to avail itself of this opportunity to extend to the Ministry of Foreign Affairs of the Russian Federation renewed assurances of its highest consideration.

Embassy of the United States of America

Moscow, May 28, 1998



МИНИСТЕРСТВО ИНОСТРАННЫХ ДЕЛ
РОССИЙСКОЙ ФЕДЕРАЦИИ

№ 4829/24A

Министерство иностранных дел Российской Федерации свидетельствует свое уважение Посольству Соединенных Штатов Америки и, ссылаясь на договоренности, достигнутые за 25-летний период действия Соглашения между Правительством Союза Советских Социалистических Республик и Правительством Соединенных Штатов Америки о предотвращении инцидентов в открытом море и в воздушном пространстве над ним от 25 мая 1972 г., далее именуемого Соглашением 1972 года, имеет честь сообщить, что Правительство Российской Федерации, стремясь обеспечить более высокий уровень безопасности плавания своих кораблей и полетов самолетов за пределами территориальных вод, предлагает внести в Соглашение 1972 года следующие изменения и дополнения:

- 1) по всему тексту заменить слова "открытое море" на слова "воды за пределами территориального моря";
- 2) изложить пункт 1 статьи I в следующей редакции:

ПОСОЛЬСТВУ
СОЕДИНЕННЫХ ШТАТОВ АМЕРИКИ

г.Москва

"1. "Корабль" означает:

(а) боевой корабль, принадлежащий Вооруженным Силам Российской Федерации или Вооруженным Силам Соединенных Штатов Америки, имеющий внешние знаки, отличающие боевые корабли его национальности, находящийся под командованием офицера, состоящего на государственной службе соответствующей Стороны, фамилия которого включена в соответствующий список военнослужащих или эквивалентный ему документ, укомплектованный экипажем, подчиняющимся регулярной военной дисциплине;

(b) вспомогательное судно, принадлежащее Вооруженным Силам Российской Федерации или Вооруженным Силам Соединенных Штатов Америки и имеющее право нести военно-морской флаг вспомогательных судов в тех случаях, когда такой флаг предусмотрен соответствующей Стороной";

3) дополнить статью I пунктами 4 и 5 следующего содержания:

"4. "Невоенное морское судно" означает все суда, не включенные в пункт 1 настоящей статьи.

5. "Невоенное воздушное судно" означает все летательные аппараты, не включенные в пункт 2 настоящей статьи, кроме космических аппаратов";

4) изложить статью II в следующей редакции:

"Статья II

Стороны примут меры по неукоснительному соблюдению командирами своих кораблей буквы и духа

Международных правил предупреждения столкновения судов в море 1972 года (МППСС-72).

Стороны также признают, что основой свободы мореплавания и полетов за пределами территориальных вод являются принципы и нормы, признанные международным правом, нашедшие отражение, в частности, в Конвенции ООН по морскому праву 1982 года";

5) изложить пункт 6 статьи III в следующей редакции:

"6. Корабли Сторон не должны:

предпринимать имитации атак путем разворота орудий, пусковых ракетных установок, торпедных аппаратов и других видов оружия в направлении кораблей и самолетов другой Стороны;

выбрасывать какие-либо предметы, производить пуски сигнальных ракет в направлении кораблей и самолетов другой Стороны таким образом, чтобы это могло представлять опасность для этих кораблей или самолетов либо создавать помехи для мореплавания или полетов;

использовать прожекторы или другие мощные осветительные средства для освещения ходовых мостиков кораблей и кабин, находящихся в полете самолетов другой Стороны;

применять лазеры таким образом, чтобы они могли нанести вред здоровью личного состава или причинить ущерб оборудованию, находящемуся на борту корабля или самолета другой Стороны;

преднамеренно создавать помехи системам связи кораблей и самолетов другой Стороны.

Такие же действия корабли Сторон не должны предпринимать и в отношении невоенных морских и невоенных воздушных судов другой Стороны";

б) изложить статью IV в следующей редакции:

"Статья IV

Командиры самолетов каждой из Сторон должны проявлять максимальную осторожность и благоразумие при приближении к кораблям и самолетам другой Стороны, в особенности к кораблям, занятым выпуском или приемом самолетов, и в интересах взаимной безопасности не должны:

допускать имитации атак или имитации применения оружия по кораблям и самолетам другой Стороны;

сбрасывать какие-либо предметы, производить пуски сигнальных ракет в направлении кораблей и самолетов другой Стороны таким образом, чтобы это могло представлять опасность для этих кораблей или самолетов либо создавать помехи для мореплавания или полетов;

использовать прожекторы или другие мощные осветительные средства в направлении кораблей и самолетов другой Стороны;

выполнять различные пилотажные фигуры над кораблями и в непосредственной близости от самолетов другой Стороны;

применять лазеры таким образом, чтобы они могли нанести вред здоровью личного состава или причинить

ущерб оборудованию, которые находятся на борту корабля или самолета другой Стороны;

преднамеренно создавать помехи системам связи кораблей и самолетов другой Стороны.

Такие же действия самолеты Сторон не должны предпринимать и в отношении невоенных морских и невоенных воздушных судов другой Стороны";

7) дополнить статью VI пунктами 4 и 5 следующего содержания:

"4. Предпринимать необходимые меры для того, чтобы командиры кораблей и самолетов каждой из Сторон проявляли максимальную осторожность в районах, о действиях кораблей и самолетов в которых передана информация другой Стороны в соответствии с пунктом 1 настоящей статьи, и воздерживались по мере возможности от вмешательства в эти действия.

5. Предпринимать меры, чтобы поставить в известность невоенные морские и невоенные воздушные суда каждой из Сторон о положениях Соглашения 1972 года, направленных на обеспечение взаимной безопасности".

Если вышеприведенные дополнения и изменения приемлемы для Правительства Соединенных Штатов Америки, Министерство иностранных дел Российской Федерации имеет честь также предложить, чтобы настоящая нота и ответная нота Американской Стороны о приемлемости изложенных в настоящей ноте дополнений к Соглашению 1972 года составили Соглашение между Правительством Российской Федерации и

Правительством Соединенных Штатов Америки по этому вопросу, которое вступит в силу с даты ответной ноты.

Министерство иностранных дел Российской Федерации пользуется случаем, чтобы возобновить Посольству Соединенных Штатов Америки уверения в своем высоком уважении.

Москва, "12" октября 1997 года

