

SCHEDULE 2

INTERNATIONAL ARTICLES

PART VI

CO-OPERATION IN CRIMINAL JUSTICE

ARTICLE 38

(1) Without prejudice to the provisions of Articles 11 and 30(2), when an offence is committed in the territory of one of the two States, including that lying within the Fixed Link up to its frontier, that State shall have jurisdiction.

- (a) (2) (a) Within the Fixed Link, each State shall have jurisdiction and shall apply its own law:
- (i) when it cannot be ascertained with certainty where an offence has been committed; or
 - (ii) when an offence committed in the territory of one State is related to an offence committed on the territory of the other State; or
 - (iii) when an offence has begun in or has been continued into its own territory;
- (b) however, the State which first receives the person suspected of having committed such an offence (in this Article referred to as “the receiving State”) shall have priority in exercising jurisdiction.

(3) When the receiving State decides not to exercise its priority jurisdiction under paragraph (2) of this Article it shall inform the other State without delay. If the latter decides not to exercise its jurisdiction, the receiving State shall be obliged to exercise its jurisdiction in accordance with its own national law.

ARTICLE 39

Where an arrest has been made for an offence in respect of which a State has jurisdiction under Article 38, that arrest shall not be affected by the fact that it continues in the territory of the other State.

ARTICLE 40

Without prejudice to the application of Article 3 of the Treaty and of Part II of this Protocol, the police and customs officers of one State may in accordance with their own national laws make arrests on the territory of the other State in cases where a person is found committing, attempting to commit, or just having committed an offence:

- (a) on board any train which has commenced its journey from one State to the other and is within the Fixed Link; or
- (b) within any tunnel described in Article 1(2) of the Treaty.

ARTICLE 41

In the case of arrests covered by Articles 39 and 40:

- (a) the person arrested shall be presented without delay to the competent authorities of the State of arrival for that State to be responsible for determining the exercise of jurisdiction as required by Article 38; and

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- (b) where jurisdiction shall be exercised by the other State in accordance with Article 38, the person arrested may be transferred to the territory of that State. However, any such transfer shall take place within 48 hours of the presentation under paragraph (a) of this Article. Moreover, each State reserves the right not to transfer its nationals.