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MARITIME LAW



Treaty Series No. 78 (1984)

Protocol

amending the International Convention
relating to the Limitation of the Liability of
Owners of Sea-going Ships
dated 10 October 1957

Brussels, 21 December 1979

[The United Kingdom instrument of ratification was deposited on 2 March 1982
and the Protocol entered into force on 6 October 1984]

*Presented to Parliament
by the Secretary of State for Foreign and Commonwealth Affairs
by Command of Her Majesty
November 1984*

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PROTOCOL
AMENDING THE INTERNATIONAL CONVENTION
RELATING TO THE LIMITATION OF THE LIABILITY OF
OWNERS OF SEA-GOING SHIPS DATED 10 OCTOBER 1957

The Contracting Parties to the present Protocol,

Being Parties to the International Convention relating to the limitation of the liability of owners of sea-going ships, done at Brussels on 10th October 1957⁽¹⁾,

Have agreed as follows :

ARTICLE I

For the purpose of this Protocol, " Convention " means the International Convention relating to the limitation of the liability of owners of sea-going ships and its Protocol of signature, done at Brussels on 10th October 1957.

ARTICLE II

(1) Article 3, paragraph (1) of the Convention is replaced by the following :

"(1) The amounts to which the owner of a ship may limit his liability under Article 1 shall be :

- (a) where the occurrence has only given rise to property claims an aggregate amount of 66·67 units of account for each ton of the ship's tonnage;
- (b) where the occurrence has only given rise to personal claims an aggregate amount of 206·67 units of account for each ton of the ship's tonnage;
- (c) where the occurrence has given rise both to personal claims and property claims an aggregate amount of 206·67 units of account for each ton of the ship's tonnage, of which a first portion amounting to 140 units of account for each ton of the ship's tonnage shall be exclusively appropriated to the payment of personal claims and of which a second portion amounting to 66·67 units of account for each ton of the ship's tonnage shall be appropriated to the payment of property claims. Provided however that in cases where the first portion is insufficient to pay the personal claims in full, the unpaid balance of such claims shall rank rateably with the property claims for payment against the second portion of the fund."

(2) Article 3, paragraph (6) of the Convention is replaced by the following :

"(6) The unit of account mentioned in paragraph (1) of this Article is the Special Drawing Right as defined by the International Monetary

(1) Treaty Series No. 52 (1968), Cmnd. 3678.

Fund. The amounts mentioned in that paragraph shall be converted into the national currency of the State in which limitation is sought on the basis of the value of that currency on the date on which the shipowner shall have constituted the limitation fund, made the payment or given a guarantee which under the law of that State is equivalent to such payment. The value of the national currency, in terms of the Special Drawing Right, of a State which is a member of the International Monetary Fund, shall be calculated in accordance with the method of valuation applied by the International Monetary Fund in effect at the date in question for its operations and transactions. The value of the national currency, in terms of the Special Drawing Right, of a State which is not a member of the International Monetary Fund, shall be calculated in a manner determined by that State.

(7) Nevertheless, a State which is not a member of the International Monetary Fund and whose law does not permit the application of the provisions of paragraph (6) of this Article may, at the time of ratification of the Protocol of 1979 or accession thereto or at any time thereafter, declare that the limits of liability provided for in this Convention to be applied in its territory shall be fixed as follows:

- (a) in respect of paragraph (1), (a) of this Article, 1,000 monetary units;
- (b) in respect of paragraph (1), (b) of this Article, 3,100 monetary units;
- (c) in respect of paragraph (1), (c) of this Article, 3,100, 2,100 and 1,000 monetary units, respectively.

The monetary unit referred to in this paragraph corresponds to 65.5 milligrammes of gold of millesimal fineness 900'. The conversion of the amounts specified in this paragraph into the national currency shall be made according to the law of the State concerned.

(8) The calculation mentioned in the last sentence of paragraph (6) of this Article and the conversion mentioned in paragraph (7) of this Article shall be made in such a manner as to express in the national currency of the State as far as possible the same real value for the amounts in paragraph (1) of this Article as is expressed there in units of account. States shall communicate to the depositary the manner of calculation pursuant to paragraph (6) of this Article or the result of the conversion in paragraph (7) of this Article, as the case may be, when depositing an instrument of ratification of the Protocol of 1979 or of accession thereto or when availing themselves of the option provided for in paragraph (7) of this Article and whenever there is a change in either."

(3) Article 3, paragraph (7) of the Convention shall be renumbered Article 3, paragraph (9).

ARTICLE III

This Protocol shall be open for signature by the States which have signed the Convention or which are Parties thereto.

ARTICLE IV

- (1) This Protocol shall be ratified.
- (2) Ratification of this Protocol by any State which is not a Party to the Convention shall have the effect of ratification of the Convention.
- (3) The instruments of ratification shall be deposited with the Belgian Government.

ARTICLE V

- (1) States not referred to in Article III may accede to this Protocol.
- (2) Accession to this Protocol shall have the effect of accession to the Convention.
- (3) The instruments of accession shall be deposited with the Belgian Government.

ARTICLE VI

- (1) This Protocol shall come into force three months after the date of the deposit of six instruments of ratification or accession⁽²⁾.
- (2) For each State which ratifies this Protocol or accedes thereto after the sixth deposit, this Protocol shall come into force three months after the deposit of its instrument of ratification or accession.

ARTICLE VII

- (1) Any Contracting Party may denounce this Protocol by notification to the Belgian Government.
- (2) The denunciation shall take effect one year after the date on which the notification has been received by the Belgian Government.

ARTICLE VIII

- (1) Each State may at the time of signature, ratification or accession or at any time thereafter declare by written notification to the Belgian Government which among the territories for whose international relations it is responsible, are those to which the present Protocol applies. The Protocol shall three months after the date of the receipt of such notification by the Belgian Government extend to the territories named therein, but not before the date of the coming into force of the Protocol in respect of such State.
- (2) This extension also shall apply to the Convention if the latter is not yet applicable to these territories.

⁽²⁾ The Protocol entered into force on 6 October 1984.

(3) Any Contracting Party which has made a declaration under paragraph (1) of this Article may at any time thereafter declare by notification given to the Belgian Government that the Protocol shall cease to extend to such territories. This denunciation shall take effect one year after the date on which notification thereof has been received by the Belgian Government.

ARTICLE IX

The Belgian Government shall notify the signatory and acceding States of the following :

1. The signatures, ratifications and accessions received in accordance with Articles III, IV and V.
2. The date on which the present Protocol will come into force in accordance with Article VI.
3. The notifications with regard to the territorial application in accordance with Article VIII.
4. The declarations and communications made in accordance with Article II.
5. The denunciations received in accordance with Article VII.

In witness whereof the undersigned, duly authorized thereto, have signed this Protocol.

Done at Brussels, this 21st day of December 1979, in the English and French languages, both texts being equally authentic, in a single copy, which shall remain deposited in the archives of the Belgian Government, which shall issue certified copies.

[Here follow the signatures. See page 7.]

SIGNATURES AND RATIFICATIONS

<i>State</i>	<i>Date of signature</i>	<i>Date of deposit of instrument of ratification</i>
Australia	30 Nov. 1983	30 Nov. 1983
Belgium	21 Dec. 1979	7 Sept. 1983
Finland	21 Dec. 1979	
Germany, Federal Republic of	7 Feb. 1980	
Holy See	21 Dec. 1979	
Madagascar	11 Jan. 1980	
Poland	21 Dec. 1979	6 July 1984
Portugal	21 Dec. 1979	30 Apr. 1982
Spain	4 June 1980	14 May 1982
Switzerland	21 Dec. 1979	
Syrian Arab Republic*	21 Dec. 1979	
United Kingdom	21 Dec. 1979	2 Mar. 1982

* On signing the Protocol the Government of the Syrian Arab Republic made the following declaration:

L'acceptation de ce Protocole ainsi que sa signature n'implique en aucune façon la reconnaissance d'Israël et n'entraîne pas l'engagement de la République Arabe Syrienne d'entretenir des relations découlant des dispositions de ce document.

(Translation)

The acceptance and signature of this Protocol by the Syrian Arab Republic shall in no way signify recognition of Israel and cannot have as a result the establishment with the latter of any contact governed by the provisions of this Protocol.

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