

Document No. 522  
April 3, 1968

THE MARITIME LAW ASSOCIATION  
OF THE UNITED STATES

**REPORT OF  
COMMITTEE ON THE COMITE MARITIME  
INTERNATIONAL**

**on**

**CONVENTIONS ADOPTED AT BRUSSELS, BELGIUM  
IN MAY 1967 and FEBRUARY 1968**

The Brussels Diplomatic Conference had under consideration the following five conventions:

1. Amendment to the Convention on Assistance and Salvage at Sea.
2. Convention Relating to Carriage of Passenger Luggage by Sea.
3. The Visby Rules. A convention revising the Hague Rules.
4. Convention Relating to Registration of Rights in respect to Vessels under Construction.
5. The Convention for the Unification of Certain Rules Relating to Maritime Liens and Mortgages.

**AMENDMENT TO THE CONVENTION ON ASSISTANCE  
AND SALVAGE AT SEA**

A convention was adopted at Brussels amending Article 14 of the Salvage Convention of 1910 making it applicable to ships of war or any other ships owned, operated or chartered by a state or public authority.

The text of Article 14 as it now stands is:

*"Ships of War, etc.* This Convention does not apply to ships of war or to Government ships appropriated exclusively to a public service."

The revised text adopted at Brussels is as follows:

#### ARTICLE 1

Article 14 of the Convention for the Unification of certain rules of law relating to assistance and salvage at sea, signed at Brussels on 23rd September, 1910, shall be replaced by the following:

"The provisions of this Convention shall also apply to assistance or salvage services rendered by or to a ship of war or any other ship owned, operated or chartered by a State or Public Authority.

"A claim against a State for assistance or salvage services rendered to a ship of war or other ship which is, either at the time of the event or when the claim is brought, appropriated exclusively to public non-commercial service, shall be brought only before the Courts of such State.

"Any High Contracting Party shall have the right to determine whether and to what extent Article 11 shall apply to ships coming within the terms of the second paragraph of this Article."

The United States opposed this Convention and cast the sole vote against it.

The Association has taken no position on this proposed Salvage Convention because it primarily concerns the government of the United States.

The opposition to the Convention within the Government came from the Navy. The Navy is opposed to it for reasons that seem logical to them.

If ratified, this Convention would make very little change in our law. Suits for salvage can be brought against the United States for salvage services rendered to public vessels under the provisions of

the Public Vessels Act. The only limitation in such suits is a provision in Title 46, U.S.C.A. Sec. 785:

“No suit may be brought under Section 781-790 of this Title by a national of any foreign government unless it shall appear to the satisfaction of the court in which the suit is brought that said government, under similar circumstances, allows nationals of the United States to sue in its courts.”

Under these circumstances, it is hard to understand the opposition of the United States Government to this Convention. Although there is little prospect of the ratification of this Convention, we believe the Association should go on record as approving it.

### **CONVENTION RELATING TO CARRIAGE OF PASSENGER LUGGAGE BY SEA**

The consideration of this Convention was handled by Allan I. Mendelsohn of the State Department. He followed the position paper adopted by the United States whose principal objective was to increase the limitations of liabilities of the carrier. These objectives were attained. Of the four Conventions adopted at Brussels in May 1967 this is the only one which the United States signed.

Article 6 fixed the limit for liability for cabin luggage at 10,000 Francs per passenger, \$660; (2) for loss of a vehicle 30,000 Francs, \$1,980; (3) for loss or damage to other articles 16,000 Francs, approximately \$1,000. It is also provided that the carrier and passenger may agree upon a deductible of 1500 Francs for damage to a vehicle and 100 Francs for damage to other luggage.

This proposed convention is important to European countries especially in reference to their ferry services. While this convention is not of great importance to the United States, we see no objection to it and recommend its ratification.

**THE CONVENTION RELATING TO REGISTRATION  
OF RIGHTS IN RESPECT TO VESSELS UNDER  
CONSTRUCTION**

Under our law ship construction is not subject to admiralty jurisdiction. Such rights and liens as may exist during construction are determined by the law of the State where the ship is constructed. However, we believe it is within the authority of Congress to extend the admiralty and maritime jurisdiction to cover this field.

The important provisions of this Convention are:

**ARTICLE 5**

Titles to and mortgages and "hypotheques" on a vessel which is to be or is being constructed shall, on application, be entered in the register.

**ARTICLE 6**

The effects of the registration of the rights set out in Article 5, including the ranking of mortgages and "hypotheques" between themselves, shall be determined by the law of the State where the vessel is to be or is being constructed; however, without prejudice to the provisions of this Convention, all matters relating to the procedure of enforcement shall be regulated by the law of the State where the enforcement takes place.

**ARTICLE 7**

The ranking between registered mortgages and "hypotheques" in vessels under construction on the one hand and liens and rights of retention on such vessels on the other hand shall be determined according to the rules applicable to vessels registered after completion.

**ARTICLE 8**

The national law may provide that the registered rights on a vessel under construction shall attach to materials machinery and equipment which are within the precincts of the builder's

yard and which by marking or other means are distinctly identified as intended to be incorporated in the vessel.

ARTICLE 9

The rights set out in Article 5 which are registered in one of the Contracting States in accordance with the national law of such State, and the priority thereby obtained, shall be recognized in all other Contracting States.

ARTICLE 10

No Contracting State shall permit, except in the case of forced sale, the deregistration of the rights set out in Article 5 without the written consent of the holders of such rights. A vessel which is being or has been constructed in a Contracting State shall not be eligible for registration in another Contracting State unless a certificate has been issued by the former State to the effect that the rights registered pursuant to Article 5 have been deregistered or that such rights will be deregistered on the day when the vessel is registered.

This Convention provides for the registration of rights against ships during construction and further provides that these rights shall continue in full force and effect after the launching of the ship but their effect and ranking shall be determined by the law of the State in which the vessel is constructed.

This Convention will be in the interests of those who want, not only to lend money on the ships as ships, but to advance parts of those loans during the construction. We see no objection to this Convention. We believe it in the interests of the industry and recommend its approval.

**THE INTERNATIONAL CONVENTION FOR THE  
UNIFICATION OF CERTAIN RULES RELATING  
TO MARITIME LIENS AND MORTGAGES**

Our main concern with this Convention is Article 4 which deals with the priority of liens.

Article 4 as adopted reads as follows:

1. The following claims shall be secured by maritime liens on the vessel.

i) wages and other sums due to the master, officers and other members of the vessel's complement in respect of their employment on the vessel;

ii) port, canal and other waterway dues and pilotage dues;

iii) claims against the owner in respect of loss of life or personal injury occurring, whether on land or on water, in direct connection with the operation of the vessel;

iv) claims against the owner, based on tort and not capable of being based on contract, in respect of loss of or damage to property occurring, whether on land or on water, in direct connection with the operation of the vessel;

v) claims for salvage, wreck removal and contribution in general average.

The word "owner" mentioned in this paragraph shall be deemed to include the demise or other charterer, manager or operator of the vessel.

Then in Article 5 it is provided:

1. The maritime liens set out in Article 4 shall take priority over registered mortgages and "hypotheques" and no other claim shall take priority over such maritime liens or over mortgages and "hypotheques" which comply with the requirements of Article 1, except as provided in Article 6 (2).

2. The maritime liens set out in Article 4 shall rank in the order listed, provided however that maritime liens securing claims for salvage, wreck removal and contribution in general average shall take priority over all other maritime liens which have attached to the vessel prior to the time when the operations giving rise to the said liens were performed.

In Article 6 it is provided:

“Each Contracting State may grant liens or rights of retention to secure claims other than those referred to in Article 4. Such liens shall rank after all maritime liens set out in Article 4 and after all registered mortgages and “hypotheques” which comply with the provisions of Article 1;”

It was our endeavor to bring this Convention as nearly as possible into line with our own Mortgage Act. That Act provides, Title 46, U.S.C.A. Sec. 953, that the following liens come ahead of the mortgage:

- 1) A lien arising prior in time to the recording and endorsement of a preferred mortgage;
- 2) A lien for damages arising out of tort;
- 3) For wages of a stevedore when employed directly by the owner, operator, master, ship's husband, or agent of the vessel;
- 4) For wages of the crew of the vessel;
- 5) For general average; and
- 6) For salvage.

Under our law all other maritime liens come after the preferred mortgage.

The only liens under our law which come ahead of the mortgage and are not so treated in the Convention are:

- 1) Liens arising prior in time to the recording of the mortgage;

2) Liens for wages of the stevedore directly employed by the owner;

3) A lien for cargo damage based upon tort.

We were unable to obtain any support for putting all existing liens at the time of the recording of the mortgage ahead of the mortgage. There will be no such liens in the case of new construction. In the case of existing vessels they are probably not of great importance.

The lien for stevedore's wages when employed directly by the owner does not seem to be of practical importance.

The cargo lien is of importance. We urged it at the meeting of the C.M.I. in New York and in Brussels but without success. We got very little support for our position. If we want a convention on ship mortgages we have got to agree that the cargo lien is junior to the mortgage.

We did succeed in getting an amendment to Article 11 to take care of a problem of our lending institutions. Lending institutions now on long term loans, especially in connection with new construction of bulk carriers, insist upon a particular kind of charter party and assignment of that charter party to the lender. This charter party is designed to yield revenues which have been assigned to the lenders sufficient to pay the interest on the loan and retire the debt as it becomes due. They want to be sure that this charter party is not frustrated by a judicial sale of the vessel.

Paragraph 1 of Article 11 reads as follows:

1. In the event of the forced sale of the vessel in a contracting State all mortgages and "hypothèques", except those assumed by the purchaser with the consent of the holders, and all liens and other encumbrances of whatsoever nature shall cease to attach to the vessel, provided however that:

a) at the time of the sale, the vessel is in the jurisdiction of such Contracting State, and



b) the sale has been effected in accordance with the law of the said State and the provisions of this Convention.

*No charter party or contract for the use of the vessel shall be deemed a lien or encumbrance for the purpose of this Article*

We had extreme difficulty in getting this provision accepted but we finally succeeded. The leading lending institutions with whom we were in contact are satisfied with Article 11 as adopted.

The only thing we failed to get in this Convention that was of importance was the cargo lien. On the whole, we think it is a good Convention and recommend its approval.

We send you herewith a copy of each of the following Conventions:

Amendment to the Convention on Assistance and Salvage at Sea (Appendix A).

Convention Relating to Carriage of Passenger Luggage by Sea (Appendix B).

Convention Relating to Registration of Rights in respect to Vessels under Construction (Appendix C).

Convention for the Unification of Certain Rules Relating to Maritime Liens and Mortgages (Appendix D).

The Visby Rules. A convention revising the Hague Rules (Appendix E).

A report will be submitted at a later date by the Bill of Lading Committee on the Visby Rules.

We also send you a copy of the Report of Carl C. Davis, Chief of the American delegation at the Brussels 1967 Conference (Document No. 523).

## CONCLUSION

We request that the Association approve each of the four conventions and that a separate vote be taken on each convention, and that representation of the Association be authorized to appear before the appropriate Congressional Committees in support of each of the four conventions.

Gordon L. Becker  
Henry C. Blackiston  
Leavenworth Colby  
John F. Gerity  
Charles S. Haight  
Nicholas J. Healy  
Wilbur H. Hecht  
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John C. McHose  
John C. Moore  
John W. Sims  
William G. Symmers  
Stanley R. Wright

ARTHUR M. BOAL—*Chairman*

APPENDIX A

PROTOCOL  
TO AMEND THE CONVENTION FOR THE UNIFICATION  
OF CERTAIN RULES OF LAW RELATING TO  
ASSISTANCE AND SALVAGE AT SEA

*signed at Brussels on 23rd September 1910*

*done at Brussels on 27th May 1967*

The Contracting Parties,

Considering that it is desirable to amend the Convention for the unification of certain rules of law relating to assistance and salvage at sea, signed at Brussels on 23rd September 1910,

Have agreed as follows:

ARTICLE 1

Article 14 of the Convention for the unification of certain rules of law relating to assistance and salvage at sea, signed at Brussels on 23rd September 1910, shall be replaced by the following:

“The provisions of this Convention shall also apply to assistance or salvage services rendered by or to a ship of war or any other ship owned, operated or chartered by a State or Public Authority.

A claim against a State for assistance or salvage services rendered to a ship of war or other ship which is, either at the time of the event or when the claim is brought, appropriated exclusively to public non-commercial service, shall be brought, only before the Courts of such State.

Any High Contracting Party shall have the right to determine whether and to what extent Article 11 shall apply to ships coming within the terms of the second paragraph of this Article.”

ARTICLE 2

This Protocol shall be open for signature by the States which have ratified the Convention or which have adhered thereto before the 27th May 1967, and by any State represented at the twelfth session of the Diplomatic Conference on Maritime Law.

ARTICLE 3

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 accession to the Convention.
3. The instruments of ratification shall be deposited with the Belgian Government.

ARTICLE 4

1. This Protocol shall come into force one month after the deposit of five instruments of ratification.
2. This Protocol shall come into force, in respect of each signatory State which ratifies it after the deposit of the fifth instrument of ratification, one month after the date of deposit of the instrument of ratification of that State.

ARTICLE 5

1. States, Members of the United Nations or Members of the specialized agencies, not represented at the twelfth session of the Diplomatic Conference on Maritime Law, 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.
4. The Protocol shall come into force in respect of the acceding State one month after the date of deposit of the instrument of accession of that State, but not before the date of entry into force of the Protocol as established by Article 4 <sup>(1)</sup>.

ARTICLE 6

1. Any Contracting State may denounce this Protocol by notification to the Belgian Government.

2. This denunciation shall have the effect of denunciation of the Convention.

3. The denunciation shall take effect one year after the date on which the notification has been received by the Belgian Government.

ARTICLE 7

1. Any Contracting State may at the time of signature, ratification or accession to this Convention or at any time thereafter declare by written notification to the Belgian Government which among the territories under its sovereignty or for whose international relation it is responsible, are those to which the present Protocol applies. The Protocol shall one month 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 later is not yet applicable to those territories.

3. Any Contracting State which has made a declaration under § 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 territory. This denunciation shall take effect one year after the date on which notification thereof has been received by the Belgian Government; it also shall apply to the Convention.

ARTICLE 8

The Belgian Government shall notify the States represented at the twelfth session of the Diplomatic Conference on Maritime Law, the acceding States to this Protocol, and the States parties to the Convention, of the following:

1. The signatures, ratifications and accessions received in accordance with Articles 2, 3 and 5.

2. The date on which the present Protocol will come into force in accordance with Article 4.

3. The notifications with regard to the territorial application in accordance with Article 7.

4. The denunciations received in accordance with Article 6.

IN WITNESS WHEREOF the undersigned plenipotentiaries, duly authorized, have signed this Protocol.

DONE at Brussels, this 27th day of May 1967, in the French and English 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.

**APPENDIX B**

INTERNATIONAL CONVENTION  
FOR THE UNIFICATION OF CERTAIN RULES  
RELATING TO  
CARRIAGE OF PASSENGER LUGGAGE BY SEA

DONE AT BRUSSELS ON 27TH MAY 1967

The Contracting Parties.

Having recognized the desirability of determining by agreement certain rules relating to carriage of passenger luggage by sea.

Have decided to conclude a convention for this purpose, and thereto agreed as follows:

ARTICLE 1

In this Convention the following expressions have the meaning hereby assigned to them:

a) "carrier" includes the shipowner, charterer or operator who, having concluded a contract of carriage for a passenger, undertakes to carry his luggage;

b) "passenger" means only a person carried in a ship under a contract of carriage;

c) "ship" means only a sea-going ship;

d) (1) "luggage means any article or vehicle carried by the carrier in connection with a passenger's contract of carriage; excluding:

1. articles or vehicles carried under a charter-party or bill of lading;

2. articles or vehicles, if the carriage is governed by the International Convention concerning the carriage of passengers and luggage by rail;

3. live animals;

(2) "cabin luggage" means luggage which the passenger has with him, or in his cabin, or which is in his custody. Except for the

application of Article 6 paragraph (1), "cabine luggage" includes the luggage which the passenger has in or on his vehicle;

e) "carriage" covers the following periods:

(1) with regard to cabin luggage, the period while the luggage is on board the ship or in the course of embarkation or disembarkation. In addition, "carriage" covers the period while such luggage is in custody of the carrier or his agent either in a marine station or on a quay or in or on any other port installation, as well as the period during the transport by water from land to ship or vice-versa, if the cost is included in the fare, or if the vessel used for this auxiliary transport has been put at the disposal of the passenger by the carrier;

(2) with regard to all other luggage, the period from the time of delivery to the carrier or his servant and agent on shore or on board until the time of re-delivery by the carrier or his agent;

f) "loss of or damage to luggage" includes pecuniary loss resulting from the luggage not having been re-delivered to the passenger within a reasonable time after the arrival of the ship on which the luggage has been or should have been carried, but does not include delays resulting from strikes or lock-outs;

g) "international carriage" means any carriage in which according to the contract of carriage the place of departure and the place of destination are situated either in a single State, if there is an intermediate port of call in another State, or in two different States;

h) "contracting State" means a State whose ratification or accession to this Convention has become effective and whose denunciation thereof has not become effective.

## ARTICLE 2

This Convention shall apply to any international carriage if:

a) the ship is registered in a contracting State or

b) the contract of carriage has been made in a contracting State, or

c) the place of departure according to the contract of carriage is in a contracting State.



ARTICLE 3

1. Where a carrier is the owner of the carrying ship, he shall exercise due diligence and shall ensure that his servants and agents, acting within the scope of their employment, exercise due diligence to make the ship seaworthy and properly manned, equipped and supplied at the beginning of the carriage and at any time during the carriage and in all other respects to secure the safe transportation of the luggage.

2. Where a carrier is not the owner of the carrying ship, he shall ensure that the shipowner or operator, as the case may be, and their servants and agents acting within the scope of their employment, exercise due diligence in the respects set out in paragraph (1) of this Article.

ARTICLE 4

1. The carrier shall be liable for loss of or damage to luggage if the incident which causes the loss or damage occurs in the course of carriage and is due to the fault or neglect of the carrier or his servants or agents acting within the scope of their employment.

2. Notwithstanding the provisions of Article 3 and of paragraph (1) of this Article, the carrier shall not be liable for loss or damage to any vehicle, arising or resulting from any act, neglect, or default of the master, mariner, pilot or the servants of the carrier in the navigation or in the management of the ship during the carriage.

3. Unless agreed expressly and in writing, the carrier shall not be liable for loss of or damage to monies, bonds and other valuables such as gold and silverware, watches, jewelry, ornaments or works of art.

4. The burden of proving

a) the extent of the loss or damage.

b) that the incident which caused the loss or damage occurred in the course of carriage

shall lie with the passenger.

5. a) If luggage has been lost or damaged, the fault or neglect of the carrier, his servants or agents, shall, subject to paragraph (5) (b), be presumed unless the contrary is proved.

b) If cabin luggage is lost or damaged, the burden of proving such fault or neglect shall lie with the passenger except when the loss or damage arises from, or in connection with, shipwreck, collision, stranding, explosion or fire.

#### ARTICLE 5

If the carrier proves that the loss of or damage to the luggage was caused or contributed to by the fault or neglect of the passenger, the Court may exonerate the carrier wholly or partly from his liability in accordance with the provisions of its own law.

#### ARTICLE 6

1. The liability for the loss of or damage to cabin luggage shall in no case exceed 10.000 F per passenger.

2. The liability for loss or damage to vehicles including all luggage carried in or on the vehicle shall in no case exceed 30.000 F per vehicle.

3. The liability for the loss of or damage to all other articles than those mentioned under (1) or (2) shall in no case exceed 16.000 F per passenger.

4. Each franc mentioned in this Article shall be deemed to refer to a unit consisting of 65,6 milligrams of gold of millesimal fineness 900. The date of conversion of the sum awarded into national currencies shall be governed by the law of the Court seized of the case.

5. The carrier and the passenger may agree, expressly and in writing, to a higher limit of liability.

6. The carrier and the passenger may agree, expressly and in writing, that the liability of the carrier shall be subject to a deductible not exceeding 1.500 F in the case of damage to a vehicle and not exceeding 100 F per passenger in the case of loss or damage to other luggage, such sum to be deducted from the loss or damage.

7. Interest on damages and legal costs awarded and taxed by a Court in an action for damages shall not be included in the limits of liability prescribed in this Article.

8. The limits of liability prescribed in this Article shall apply to the aggregate of the claims put forward by or on behalf of any one passenger, his personal representative, heirs or dependents on any distinct occasion.

#### ARTICLE 7

The carrier shall not be entitled to the benefit of the limitation of liability provided for in Article 6, if it is proved that the damage resulted from an act or omission of the carrier done with the intent to cause damage or recklessly and with knowledge that the damage would probably result.

#### ARTICLE 8

The provisions of this Convention shall not modify the rights or duties of the carrier provided for in international conventions relating to the limitation of liability of owners of sea-going ships or in any national law relating to such limitation.

#### ARTICLE 9

Any claim for damages, however founded, may only be made subject to the conditions and the limits set out in this Convention.

#### ARTICLE 10

1. a) In case of apparent damage to luggage the claimant shall give written notice to the carrier or his agent

(i) in the case of cabin luggage, before or at the time of disembarkation;

(ii) in the case of all other luggage, before or at the time of its delivery.

b) In the case of loss or of damage which is not apparent, such notice must be given within fifteen days from the date of disembarkation or delivery or from the time when such delivery should have taken place.

c) If the claimant fails to comply with the requirements of this Article, he shall be presumed, in the absence of proof to the contrary, to have received the luggage undamaged.

d) The notice in writing need not be given if the state of the luggage has at the time of its receipt been the subject of joint survey or inspection.

2. Actions for damages arising out of loss of or damage to luggage shall be time-barred after a period of two years from the date of disembarkation, or, if the ship has become a total loss, from the date when the disembarkation should have taken place.

3. The law of the Court seized of the case shall govern the grounds of suspension and interruption of limitation periods in this Article; but in no case shall an action under this Convention be brought after the expiration of a period of three years from the date of disembarkation, or, if the ship has become a total loss, from the date when the disembarkation should have taken place.

#### ARTICLE 11

1. If an action is brought against a servant or agent of the carrier arising out of damage to which this Convention relates, such servant or agent, if he proves that he acted within the scope of his employment, shall be entitled to avail himself of the defenses and limits of liability which the carrier himself is entitled to invoke under this Convention.

2. In that case, the aggregate of the amounts recoverable from the carrier, his servants and agents shall not exceed the said limits.

3. Nevertheless, a servant or agent of the carrier shall not be entitled to avail himself of the provisions of paragraphs (1) and (2) of this Article if it is proved that the damage resulted from an act or omission of the servant or agent, done with intent to cause damage or recklessly and with knowledge that damage would probably result.

#### ARTICLE 12

Except as provided for in Article 6 (6), any contractual provision concluded before the occurrence which caused the loss or damage purporting to relieve the carrier of his liability towards the passenger, or to prescribe a lower limit than that fixed in this Convention, as well as any such provision purporting to shift the burden of proof which rests on the carrier, shall be null and void but the nullity of

that provision shall not render void the contract which shall remain subject to the provisions of this Convention.

#### ARTICLE 13

1. Prior to the occurrence of the incident which causes the loss or damage, the parties to the contract of carriage may agree that the claimant shall have the right to maintain an action for damages, according to his preference, only before:

a) the Court of the permanent residence or principal place of business of the defendant, or

b) the Court of the place of departure or that of destination according to the contract of carriage, or

c) the Court of the State of the domicile or permanent place of residence of the claimant if the defendant has a place of business and is subject to jurisdiction in that State.

2. Any contractual provision which restricts the claimant's choice of jurisdiction beyond that permitted under paragraph (1) shall be null and void, but the nullity of such provision shall not render void the contract which shall remain subject to the provisions of this Convention.

3. After the occurrence of the incident which caused the loss or damage, the parties may agree that the claim for damages shall be submitted to any jurisdiction or to arbitration.

#### ARTICLE 14

This Convention shall be applied to commercial carriage within the meaning of Article 1 undertaken by States or Public Authorities.

#### ARTICLE 15

This Convention shall not affect the provisions of any international convention or national law which governs liability for nuclear damage.

ARTICLE 16

Any contracting Party may at the time of signing, ratifying or acceding to this Convention make the following reservations:

1. not to give effect to this Convention when the passenger and the carrier are both subjects of the said Contracting Party;

2. that in giving effect to this Convention, it may with respect to contracts of carriage issued within its territorial boundaries, for a voyage of which the port of embarkation is in such territorial boundaries, provide in its national laws, for the form and size of any notice of the terms of this Convention to be inserted in a contract of carriage.

ARTICLE 17

Any dispute between two or more Contracting Parties concerning the interpretation or application of this Convention which cannot be settled through negotiation, shall, at the request of one of them, be submitted to arbitration. If within six months from the date of the request for arbitration the Parties are unable to agree on the organization of the arbitration, any one of those Parties may refer the dispute to the International Court of Justice by request in conformity with the Statute of the Court.

ARTICLE 18

1. Each Contracting Party may at the time of signature or ratification of this Convention or accession thereto, declare that it does not consider itself bound by Article 17 of the Convention. The other Contracting Parties shall not be bound by this Article with respect to any Contracting Party having made such a reservation.

2. Any Contracting Party having made a reservation in accordance with paragraph (1) may at any time withdraw this reservation by notification to the Belgian Government.

This Convention shall be open for signature by the States represented at the twelfth session of the Diplomatic Conference on Maritime Law.

ARTICLE 20

This Convention shall be ratified and the instruments of ratification shall be deposited with the Belgian Government.

ARTICLE 21

1. This Convention shall come into force three months after the date of the deposit of the fifth instrument of ratification.

2. This Convention shall come into force in respect of each signatory State which ratifies it after the deposit of the fifth instrument of ratification, three months after the date of the deposit of the instrument of ratification.

ARTICLE 22

1. States, Members of the United Nations or Members of the specialized agencies, not represented at the twelfth session of the Diplomatic Conference on Maritime Law, may accede to this Convention.

2. The instruments of accession shall be deposited with the Belgian Government.

3. The Convention shall come into force in respect of the acceding State three months after the date of deposit of the instrument of accession of that State, but not before the date of entry into force of the Convention as established by Article 21 paragraph (1).

ARTICLE 23

Each Contracting Party shall have the right to denounce this Convention at any time after the coming into force thereof in respect of such Contracting Party. Nevertheless, this denunciation shall only take effect one year after the date on which notification thereof has been received by the Belgian Government.

ARTICLE 24

1. Any Contracting Party may at the time of signature, ratification or accession to this Convention or at any time thereafter declare by written notification to the Belgian Government which among the territories under its sovereignty or for whose it is responsible, are those to which the present Convention applies.

The Convention shall three months after the date of the receipt of such notification by the Belgian Government, extend to the territories named therein.

2. 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 Convention 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 25

The Belgian Government shall notify the States represented at the twelfth session of the Diplomatic Conference on Maritime Law, and the acceding States to this Convention, of the following:

1. The signatures, ratifications and accessions received in accordance with Articles 19, 20 and 22.
2. The date on which the present Convention will come into force in accordance with Article 21.
3. The notifications with regard to Articles 18 and 24.
4. The denunciations received in accordance with Article 23.

#### ARTICLE 26

Any Contracting Party may three years after the coming into force of this Convention, in respect of such Contracting Party, or at any time thereafter request that a Conference be convened in order to consider amendments to this Convention.

Any Contracting Party proposing to avail itself of this right shall notify the Belgian Government which, provided that one third of the Contracting Parties are in agreement, shall convene the Conference within six months thereafter.

IN WITNESS WHEREOF the undersigned plenipotentiaries, duly authorized, have signed this Convention.

DONE at Brussels, this 27th day of May 1967, in the French and English 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.



**APPENDIX C**

**CONVENTION  
RELATING TO REGISTRATION OF RIGHTS IN RESPECT  
OF VESSELS UNDER CONSTRUCTION**

*done at Brussels on 27th May 1967*

The Contracting Parties,

Having recognized the desirability of determining by agreement certain rules relating to registration of rights in respect of ships under construction,

Have decided to conclude a convention for this purpose, and thereto agreed as follows:

**ARTICLE 1**

The Contracting States undertake that their national law shall contain provisions permitting the registration in accordance with the provisions of this Convention, in an official public register established by or under the control of the State, of the rights set out in Article 5 in respect of vessels which are to be or are being constructed within their territories.

The registration of such rights may be restricted to vessels which, under the national law of the State of registration, will be of a type and size making them eligible, when completed, for registration as sea-going vessels.

**ARTICLE 2**

The Contracting States may restrict registration of such rights to cases where vessels are to be or are being constructed for a foreign purchaser.

The Contracting States shall allow registration of rights in respect of vessels which are to be or are being constructed irrespective of the nationality or domicile of the applicant. However, the foregoing shall not effect any provision of the national law of the State of reg-

istration restricting the acquisition of such rights by aliens or for controlling shipbuilding.

The effects of registrations under the provisions of this Convention as regards the national status of any vessel shall be determined by the law of the State where the vessel is to be or is being constructed.

#### ARTICLE 3

No right in respect of a vessel which is to be or is being constructed within the territory of a Contracting State shall be admissible for registration in any other Contracting State.

#### ARTICLE 4

Registration of rights in respect of a vessel which is to be or is being constructed shall be permitted when a contract for the building of a properly specified vessel has been executed or the builder declares that he has decided to build such a vessel for his own account.

However, the national law may make it a condition for registration that the keel has been laid or equivalent constructional work has been performed in the place of launching.

#### ARTICLE 5

Titles to and mortgages and "hypothèques" on a vessel which is to be or is being constructed shall, on application, be entered in the register.

#### ARTICLE 6

The effects of the registration of the rights set out in Article 5, including the ranking of mortgages and "hypothèques" between themselves, shall be determined by the law of the State where the vessel is to be or is being constructed; however, without prejudice to the provisions of this Convention, all matters relating to the procedure of enforcement shall be regulated by the law of the State where the enforcement takes place.

ARTICLE 7

The ranking between registered mortgages and "hypothèques" on vessels under construction on the one hand and liens and rights of retention on such vessels on the other hand shall be determined according to the rules applicable to vessels registered after completion.

ARTICLE 8

The national law may provide that the registered rights on a vessel under construction shall attach to materials, machinery and equipment which are within the precincts of the builder's yard and which by marking or other means are distinctly identified as intended to be incorporated in the vessel.

ARTICLE 9

The rights set out in Article 5 which are registered in one of the Contracting States in accordance with the national law of such State, and the priority thereby obtained, shall be recognized in all other Contracting States.

ARTICLE 10

No Contracting State shall permit, except in the case of forced sale, the deregistration of the rights set out in Article 5 without the written consent of the holders of such rights.

A vessel which is being or has been constructed in a Contracting State shall not be eligible for registration in another Contracting State unless a certificate has been issued by the former State to the effect that the rights registered pursuant to Article 5 have been deregistered or that such rights will be deregistered on the day when the vessel is registered.

ARTICLE 11

Any dispute between two or more contracting Parties concerning the interpretation or application of this Convention which cannot be settled through negotiation, shall, at the request of one of them, be submitted to arbitration. If within six months from the date of the request for arbitration the Parties are unable to agree on the organization of the arbitration, any one of those Parties may refer the dispute to the International Court of Justice by request in conformity with the Statute of the Court.

ARTICLE 12

1. Each Contracting Party may at the time of signature or ratification of this Convention or accession thereto, declare that it does not consider itself bound by Article 11 of the Convention. The other contracting Parties shall not be bound by this Article with respect to any Contracting Party having made such a reservation.

2. Any Contracting Party having made a reservation in accordance with paragraph 1 may at any time withdraw this reservation by notification to the Belgian Government.

ARTICLE 13

This Convention shall be open for signature by the States represented at the twelfth session of the Diplomatic Conference on Maritime Law.

ARTICLE 14

This Convention shall be ratified and the instruments of ratification shall be deposited with the Belgian Government.

ARTICLE 15

1. This Convention shall come into force three months after the date of the deposit of the fifth instrument of ratification.

2. This Convention shall come into force in respect of each signatory State which ratifies it after the deposit of the fifth instrument of ratification, three months after the date of the deposit of the instrument of ratification.

ARTICLE 16

1. States, Members of the United Nations or Members of the specialized agencies, not represented at the twelfth session of the Diplomatic Conference on Maritime Law, may accede to this Convention.

2. The instruments of accession shall be deposited with the Belgian Government.

3. The Convention shall come into force in respect of the acceding State three months after the date of deposit of the instrument of accession of that State, but not before the date of entry into force of the Convention as established by Article 15(1).

#### ARTICLE 17

Each Contracting Party shall have the right to denounce this Convention at any time after the coming into force thereof in respect of such Contracting Party. Nevertheless, this denunciation shall only take effect one year after the date on which notification thereof has been received by the Belgian Government.

#### ARTICLE 18

1. Any Contracting Party may at the time of signature, ratification or accession to this Convention or at any time thereafter declare by written notification to the Belgian Government which, among the territories under its sovereignty or for whose international relations it is responsible, are those to which the present Convention applies.

The Convention shall three months after the date of the receipt of such notification by the Belgian Government, extend to the territories named therein.

2. 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 Convention 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 19

The Belgian Government shall notify the States represented at the twelfth session of the Diplomatic Conference on Maritime Law, and the acceding States to this Convention, of the following:

1. The signatures, ratifications and accessions received in accordance with Articles 13, 14 and 16.

2. The date on which the present Convention will come into force in accordance with Article 15.

3. The notifications with regard to Articles 12 and 18.
4. The denunciations received in accordance with Article 17.

ARTICLE 20

Any Contracting Party may three years after the coming into force of this Convention, in respect of such Contracting Party, or at any time thereafter request that a Conference be convened in order to consider amendments to this Convention.

Any Contracting Party proposing to avail itself of this right shall notify the Belgian Government which, provided that one third of the Contracting Parties are in agreement, shall convene the Conference within six months thereafter.

IN WITNESS WHEREOF the undersigned plenipotentiaries, duly authorised, have signed this Convention.

DONE at Brussels, this 27th day of May 1967, in the French and English 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.

**APPENDIX D**

INTERNATIONAL CONVENTION  
FOR THE UNIFICATION OF CERTAIN RULES  
RELATING TO  
MARITIME LIENS AND MORTGAGES

*done at Brussels on 27th May 1967*

The Contracting Parties,

Having recognized the desirability of determining by agreement certain rules relating to maritime liens and mortgages.

Have resolved to conclude a convention for this purpose, and thereto agree as follows:

ARTICLE 1

Mortgages and "hypothèques" on sea-going vessels shall be enforceable in Contracting States provided that:

a) such mortgages and "hypothèques" have been effected and registered in accordance with the law of the State where the vessel is registered;

b) the register and any instruments required to be deposited with the registrar in accordance with the law of the State where the vessel is registered are open to public inspection, and that extracts of the register and copies of such instruments are obtainable from the registrar, and

c) either the register or any instruments referred to in paragraph b) above specifies the name and address of the person in whose favor the mortgage or "hypothèque" has been effected or that it has been issued to bearer, the amount secured and the date and other particulars which, according to the law of the State of registration, determine the rank as respects other registered mortgages and "hypothèques".

ARTICLE 2

The ranking of registered mortgages and "hypothèques" as between themselves and, without prejudice to the provisions of this

Convention, their effect in regard to third parties shall be determined by the law of the State of registration; however, without prejudice to the provisions of this Convention, all matters relating to the procedure of enforcement shall be regulated by the law of the State where enforcement takes place.

### ARTICLE 3

1. Subject to the provisions of Article 11, no Contracting State shall permit the deregistration of a vessel without the written consent of all holders of registered mortgages and "hypothèques".

2. A vessel which is or has been registered in a Contracting State shall not be eligible for registration in another Contracting State, unless:

a) a certificate has been issued by the former State to the effect that the vessel has been deregistered, or

b) a certificate has been issued by the former State to the effect that the vessel will be deregistered on the day when such new registration is effected.

### ARTICLE 4

1. The following claims shall be secured by maritime liens on the vessel:

i) wages and other sums due to the master, officers and other members of the vessel's complement in respect of their employment on the vessel;

ii) port, canal and other waterway dues and pilotage dues;

iii) claims against the owner in respect of loss of life or personal injury occurring, whether on land or on water, in direct connection with the operation of the vessel;

iv) claims against the owner, based on tort and not capable of being based on contract, in respect of loss of or damage to property occurring, whether on land or on water, in direct connection with the operation of the vessel;

v) claims for salvage, wreck removal and contribution in general average.



The word "owner" mentioned in this paragraph shall be deemed to include the demise or other charterer, manager or operator of the vessel.

2. No maritime lien shall attach to the vessel securing claims as set out in paragraph 1. iii) and iv) of this Article which arise out of or result from the radioactive properties or a combination of radioactive properties with toxic, explosive or other hazardous properties of nuclear fuel or of radioactive product or waste.

#### ARTICLE 5

1. The maritime liens set out in Article 4 shall take priority over registered mortgages and "hypothèques", and no other claim shall take priority over such maritime liens or over mortgages and "hypothèques" which comply with the requirements of Article 1, except as provided in Article 6 (2).

2. The maritime liens set out in Article 4 shall rank in the order listed, provided however, that maritime liens securing claims for salvage, wreck removal and contribution in general average shall take priority over all other maritime liens which have attached to the vessel prior to the time when the operations giving rise to the said liens were performed.

3. The maritime liens set out in each of sub-paragraphs (i), (ii), (iii) and (iv) of paragraph (1) of Article 4 shall rank *pari passu* as between themselves.

4. The maritime liens set out in sub-paragraph (v) of paragraph (1) of Article 4 shall rank in the inverse order of the time when the claims secured thereby accrued. Claims for contribution in general average shall be deemed to have accrued on the date on which the general average act was performed; claims for salvage shall be deemed to have accrued on the date on which the salvage operation was terminated.

#### ARTICLE 6

1. Each Contracting State may grant liens of rights of retention to secure claims other than those referred to in Article 4. Such liens shall rank after all maritime liens set out in Article 4 and after all registered mortgages and "hypothèques" which comply with the provisions of Article 1 and such rights of retention shall

not prejudice the enforcement of maritime liens set out in Article 4 or registered mortgages or "hypothèques" which comply with the provisions of Article 1, nor the delivery of the vessel to the purchaser in connection with such enforcement.

2. In the event that a lien or right of retention is granted in respect of a vessel in possession of

a) a shipbuilder, to secure claims for the building of the vessel, or

b) a ship repairer, to secure claims for repair of the vessel effected during such possession.

such lien or right of retention shall be postponed to all maritime liens set out in Article 4, but may be preferred to registered mortgages or "hypothèques". Such lien or right of retention may be exercisable against the vessel notwithstanding any registered mortgage or "hypothèques" on the vessel, but shall be extinguished when the vessel ceases to be in the possession of the shipbuilder or ship repairer, as the case may be.

#### ARTICLE 7

1. The maritime liens set out in Article 4 arise whether the claims secured by such liens are against the owner or against the demise or other charterer, manager or operator of the vessel.

2. Subject to the provisions of Article 11, the maritime liens securing the claims set out in Article 4 follow the vessel notwithstanding any change of ownership or of registration.

#### ARTICLE 8

1. The maritime liens set out in Article 4 shall be extinguished after a period of one year from the time when the claims secured thereby arose unless, prior to the expiry of such period, the vessel has been arrested, such arrest leading to a forced sale.

2. The one year period referred to in the preceding paragraph shall not be subject to suspension or interruption, provided however that time shall not run during the period that the lienor is legally prevented from arresting the vessel.

ARTICLE 9

The assignment of or subrogation to a claim securing by a maritime lien set out in Article 4 entails the simultaneous assignment of or subrogation to such maritime lien.

ARTICLE 10

Prior to the forced sale of a vessel in a Contracting State, the competent authority of such State shall give, or cause to be given at least thirty days written notice of the time and place of such sale to:

- a) all holders of registered mortgages and "hypothèques" which have not been issued to bearer;
- b) such holders of registered mortgages and "hypothèques" issued to bearer and to such holders of maritime liens set out in Article 4 whose claims have been notified to the said authority;
- c) the registrar of the register in which the vessel is registered.

ARTICLE 11

1. In the event of the forced sale of the vessel in a Contracting State all mortgages and "hypothèques", except those assumed by the purchaser with the consent of the holders, and all liens and other encumbrances of whatsoever nature shall cease to attach to the vessel, provided however that:

- a) at the time of the sale, the vessel is in the jurisdiction of such Contracting State, and
- b) the sale has been effected in accordance with the law of said State and the provisions of this Convention.

No charter party or contract for the use of the vessel shall be deemed a lien or encumbrance for the purpose of this Article.

2. The cost awarded by the Court and arising out of the arrest and subsequent sale of the vessel and the distribution of the proceeds shall first be paid out of the proceeds of such sale. The balance shall be distributed among the holders of maritime liens, liens and rights

of retention mentioned in paragraph 2 of Article 6 and registered mortgages and “hypothèques” in accordance with the provisions of this Convention to the extent necessary to satisfy their claims.

3. When a vessel registered in a Contracting State has been the object of a forced sale in a Contracting State, the Court or other competent authority having jurisdiction shall, at the request of the purchaser, issue a certificate to the effect that the vessel is sold free of all mortgages and “hypothèques”, except those assumed by the purchaser, and all liens and other encumbrances, provided that the requirements set out in paragraph 1, sub-paragraphs a) and b) have been complied with, and that the proceeds of such forced sale have been distributed in compliance with paragraph 2 of this Article or have been deposited with the authority that is competent under the law of the place of the sale. Upon production of such certificate the registrar shall be bound to delete all registered mortgages and “hypothèques”, except those assumed by the purchaser, and to register the vessel in the name of the purchaser or to issue a certificate of deregistration for the purpose of reregistration, as the case may be.

#### ARTICLE 12

1. Unless otherwise provided in this Convention, its provisions shall apply to all sea-going vessels registered in a Contracting State or in a non-Contracting State.

2. Nothing in this Convention shall require any rights to be conferred in or against, or enable any rights to be enforced against any vessel owned, operated or chartered by a State and appropriated to public non-commercial services.

#### ARTICLE 13

For the purposes of Articles 3, 10 and 11 of this Convention, the competent authorities of the Contracting States shall be authorized to correspond directly between themselves.

#### ARTICLE 14

Any Contracting Party may at the time of signing, ratifying or acceding to this Convention make the following reservations:

1. to give effect to this Convention either by giving it the force of law or by including the provisions of this Con-

vention in its national legislation in a form appropriate to that legislation;

2. to apply the International Convention relating to the limitation of the liability of owners of seagoing ships, signed at Brussels on the 10th of October 1957.

#### ARTICLE 15

Any dispute between two or more Contracting Parties concerning the interpretation or application of this Convention which cannot be settled through negotiation, shall, at the request of one of them, be submitted to arbitration. If within six months from the date of the request for arbitration the Parties are unable to agree on the organization of the arbitration, any one of those Parties may refer the dispute to the International Court of Justice by request in conformity with the Statute of the Court.

#### ARTICLE 16

1. Each Contracting Party may at the time of signature or ratification of this Convention or accession thereto, declare that it does not consider itself bound by Article 15 of the Convention. The other Contracting Party shall not be bound by this Article with respect to any Contracting Party having made such a reservation.

2. Any Contracting Party having made a reservation in accordance with paragraph 1 may at any time withdraw this reservation by notification to the Belgian Government.

#### ARTICLE 17

This Convention shall be open for signature by the States represented at the twelfth session of the Diplomatic Conference on Maritime Law.

#### ARTICLE 18

This Convention shall be ratified and the instruments of ratification shall be deposited with the Belgian Government.

#### ARTICLE 19

1. This Convention shall come into force three months after the date of the deposit of the fifth instrument of ratification.

2. This Convention shall come into force in respect of each signatory State which ratifies it after the deposit of the fifth instrument of ratification, three months after the date of the deposit of the instrument of ratification.

#### ARTICLE 20

1. States, Members of the United Nations or Members of the specialized agencies, not represented at the twelfth session of the Diplomatic Conference on Maritime Law, may accede to this Convention.

2. The instruments of accession shall be deposited with the Belgian Government.

3. The Convention shall come into force in respect of the acceding State three months after the date of deposit of the instrument of accession of that State, but not before the date of entry into force of the Convention as established by Article 19 (1).

#### ARTICLE 21

Each Contracting Party shall have the right to denounce this Convention at any time after the coming into force thereof in respect of such Contracting Party. Nevertheless, this denunciation shall only take effect one year after the date on which notification thereof have been received by the Belgian Government.

#### ARTICLE 22

1. Any Contracting Party may at the time of signature, ratification or accession to this Convention or at any time thereafter declare by written notification to the Belgian Government which, among the territories under its sovereignty or for whose international relations it is responsible, are those to which the present Convention applies.

The Convention shall three months after the date of the receipt of such notification by the Belgian Government, extend to the territories named therein.

2. 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 Convention 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 23

The Belgian Government shall notify the States represented at the twelfth session of the Diplomatic Conference on Maritime Law, and the acceding States to this Convention, of the following:

1. The signatures, ratifications and accessions received in accordance with Articles 17, 18 and 20.
2. The date on which the present Convention will come into force in accordance with Article 19.
3. The notifications with regard to Articles 14, 16 and 22.
4. The denunciations received in accordance with Article 21.

ARTICLE 24

Any Contracting Party may three years after the coming into force of this Convention, in respect of such Contracting Party, or at any time thereafter request that a Conference be convened in order to consider amendments to this Convention.

Any Contracting Party proposing to avail itself of this right shall notify the Belgian Government which, provided that one-third of the Contracting Parties are in agreement, shall convene the Conference within six months thereafter.

ARTICLE 25

In respect of the relations between States which ratify this Convention shall replace and abrogate the International Convention for the unification of certain rules relating to Maritime Liens and Mortgages and Protocol of signature, signed at Brussels on April 10th, 1926.

IN WITNESS WHEREOF the undersigned plenipotentiaries, duly authorized, have signed this Convention.

DONE at Brussels, this 27th day of May 1967, in the French and English 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.