

*Extract from:*

# UNITED NATIONS JURIDICAL YEARBOOK

1962

Part Two. Legal activities of the United Nations and related intergovernmental organizations

Chapter IV. Treaties concerning international law concluded under the auspices of the United Nations and related inter-governmental organizations



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TABLE OF CONTENTS (continued)

	<u>Page</u>
CHAPTER IV: TREATIES CONCERNING INTERNATIONAL LAW CONCLUDED UNDER THE AUSPICES OF THE UNITED NATIONS AND RELATED INTER-GOVERNMENTAL ORGANIZATIONS . . . . .	184
1. UNITED NATIONS: CONVENTION ON CONSENT TO MARRIAGE, MINIMUM AGE FOR MARRIAGE AND REGISTRATION OF MARRIAGES. ADOPTED BY THE GENERAL ASSEMBLY OF THE UNITED NATIONS ON 7 NOVEMBER 1962 . . . . .	184
2. UNITED NATIONS EDUCATIONAL, SCIENTIFIC AND CULTURAL ORGANIZATION: PROTOCOL INSTITUTING A CONCILIATION AND GOOD OFFICES COMMISSION TO BE RESPONSIBLE FOR SEEKING THE SETTLEMENT OF ANY DISPUTES WHICH MAY ARISE BETWEEN STATES PARTIES TO THE CONVENTION AGAINST DISCRIMINATION IN EDUCATION. ADOPTED BY THE GENERAL CONFERENCE AT ITS TWELFTH SESSION, PARIS, 10 DECEMBER 1962 . . . . .	187
3. INTERNATIONAL CIVIL AVIATION ORGANIZATION: AMENDMENT TO ARTICLE 48 (a) OF THE CONVENTION ON INTERNATIONAL CIVIL AVIATION INCREASING THE NUMBER OF STATES AT WHOSE REQUEST AN EXTRAORDINARY SESSION OF THE ASSEMBLY WOULD BE CALLED . . . . .	197
4. INTER-GOVERNMENTAL MARITIME CONSULTATIVE ORGANIZATION: AMENDMENTS TO THE INTERNATIONAL CONVENTION FOR THE PREVENTION OF POLLUTION OF THE SEA BY OIL, 1954 . . . . .	198
5. INTERNATIONAL ATOMIC ENERGY AGENCY: INTERNATIONAL CONVENTION ON THE LIABILITY OF OPERATORS OF NUCLEAR SHIPS. ADOPTED AT THE ELEVENTH SESSION OF THE DIPLOMATIC CONFERENCE ON MARITIME LAW, BRUSSELS, 25 MAY 1962 . . . . .	209
CHAPTER V: DECISIONS OF ADMINISTRATIVE TRIBUNALS OF THE UNITED NATIONS AND RELATED INTER-GOVERNMENTAL ORGANIZATIONS . .	222
A. DECISIONS OF THE ADMINISTRATIVE TRIBUNAL OF THE UNITED NATIONS . .	222
1. Judgement No. 84 (11 September 1962): Young v. Secretary-General of the International Civil Aviation Organization	

Request by a former Technical Assistance official of ICAO for for validation by the United Nations Joint Staff Pension Fund of service completed before his participation in the Fund . . . . . 222

CHAPTER IV

TREATIES CONCERNING INTERNATIONAL LAW CONCLUDED UNDER THE AUSPICES  
OF THE UNITED NATIONS AND RELATED INTER-GOVERNMENTAL ORGANIZATIONS

1. UNITED NATIONS

CONVENTION ON CONSENT TO MARRIAGE, MINIMUM AGE FOR MARRIAGE AND  
REGISTRATION OF MARRIAGES. ADOPTED BY THE GENERAL ASSEMBLY OF  
THE UNITED NATIONS ON 7 NOVEMBER 1962.

Preamble

The Contracting States,

Desiring, in conformity with the Charter of the United Nations, to promote universal respect for, and observance of human rights and fundamental freedoms for all, without distinction as to race, sex, language or religion,

Recalling that article 16 of the Universal Declaration of Human Rights states that:

"(1) Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution.

"(2) Marriage shall be entered into only with the free and full consent of the intending spouses.",

Recalling further that the General Assembly of the United Nations declared, by resolution 843 (IX) of 17 December 1954, that certain customs, ancient laws and practices relating to marriage and the family were inconsistent with the principles set forth in the Charter of the United Nations and in the Universal Declaration of Human Rights,

Reaffirming that all States, including those which have or assume responsibility for the administration of Non-Self-Governing and Trust Territories until their achievement of independence, should take all appropriate measures with a view to abolishing such customs, ancient laws and practices by ensuring, inter alia, complete freedom in the choice of a spouse, eliminating completely child marriages and the betrothal of young girls before the age of puberty, establishing appropriate penalties where necessary and establishing a civil or other register in which all marriages will be recorded,

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Hereby agree as hereinafter provided:

Article 1

1. No marriage shall be legally entered into without the full and free consent of both parties, such consent to be expressed by them in person after due publicity and in the presence of the authority competent to solemnize the marriage and of witnesses, as prescribed by law.

2. Notwithstanding anything in paragraph 1 above, it shall not be necessary for one of the parties to be present when the competent authority is satisfied that the circumstances are exceptional and that the party has, before a competent authority and in such manner as may be prescribed by law, expressed and not withdrawn consent.

Article 2

States parties to the present Convention shall take legislative action to specify a minimum age for marriage. No marriage shall be legally entered into by any person under this age, except where a competent authority has granted a dispensation as to age, for serious reasons, in the interest of the intending spouses.

Article 3

All marriages shall be registered in an appropriate official register by the competent authority.

Article 4

1. The present Convention shall, until 31 December 1963, be open for signature on behalf of all States Members of the United Nations or members of any of the specialized agencies, and of any other State invited by the General Assembly of the United Nations to become a party to the Convention.

2. The present Convention is subject to ratification. The instruments of ratification shall be deposited with the Secretary-General of the United Nations.

Article 5

1. The present Convention shall be open for accession to all States referred to in article 4, paragraph 1.

2. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.

Article 6

1. The present Convention shall come into force on the ninetieth day following the date of deposit of the eighth instrument of ratification or accession.

2. For each State ratifying or acceding to the Convention after the deposit of the eighth instrument of ratification or accession, the Convention shall enter into force on the ninetieth day after deposit by such State of its instrument of ratification or accession.

Article 7

1. Any Contracting State may denounce the present Convention by written notification to the Secretary-General of the United Nations. Denunciation shall take effect one year after the date of receipt of the notification by the Secretary-General.

2. The present Convention shall cease to be in force as from the date when the denunciation which reduces the number of parties to less than eight becomes effective.

Article 8

Any dispute which may arise between any two or more Contracting States concerning the interpretation or application of the present Convention which is not settled by negotiation shall, at the request of all the parties to the dispute, be referred to the International Court of Justice for decision, unless the parties agree to another mode of settlement.

Article 9

The Secretary-General of the United Nations shall notify all States Members of the United Nations and the non-member States contemplated in article 4, paragraph 1, of the present Convention of the following:

- (a) Signatures and instruments of ratification received in accordance with article 4;
- (b) Instruments of accession received in accordance with article 5;
- (c) The date upon which the Convention enters into force in accordance with article 6;

(d) Notifications of denunciation received in accordance with article 7, paragraph 1;

(e) Abrogation in accordance with article 7, paragraph 2.

#### Article 10

1. The present Convention, of which the Chinese, English, French, Russian and Spanish texts shall be equally authentic, shall be deposited in the archives of the United Nations.

2. The Secretary-General of the United Nations shall transmit a certified copy of the Convention to all States Members of the United Nations and to the non-member States contemplated in article 4, paragraph 1.

IN FAITH WHEREOF the undersigned, being duly authorized, have signed, and on behalf of their respective Governments, the present Convention which was opened for signature at the Headquarters of the United Nations, New York, on the tenth day of December, one thousand nine hundred and sixty-two.

#### 2. UNITED NATIONS EDUCATIONAL, SCIENTIFIC AND CULTURAL ORGANIZATION.

PROTOCOL INSTITUTING A CONCILIATION AND GOOD OFFICES COMMISSION  
TO BE RESPONSIBLE FOR SEEKING THE SETTLEMENT OF ANY DISPUTES WHICH  
MAY ARISE BETWEEN STATES PARTIES TO THE CONVENTION AGAINST  
DISCRIMINATION IN EDUCATION. ADOPTED BY THE GENERAL CONFERENCE  
AT ITS TWELFTH SESSION, PARIS, 10 DECEMBER 1962.

The General Conference of the United Nations Educational, Scientific and Cultural Organization, meeting in Paris from 9 November to 12 December 1962, at its twelfth session,

Having adopted, at its eleventh session, the Convention against Discrimination in Education,

Desirous of facilitating the implementation of that Convention, and

Considering that it is important, for this purpose, to institute a Conciliation and Good Offices Commission to be responsible for seeking the amicable settlement of any disputes which may arise between States Parties to the Convention, concerning its application or interpretation,

Adopts this Protocol on the tenth day of December 1962;

#### Article 1

There shall be established under the auspices of the United Nations Educational, Scientific and Cultural Organization a Conciliation and Good Offices Commission, hereinafter referred to as the Commission, to be responsible for seeking the

/...

amicable settlement of disputes between States Parties to the Convention against Discrimination in Education, hereinafter referred to as the Convention, concerning the application or interpretation of the Convention.

#### Article 2

1. The Commission shall consist of eleven members who shall be persons of high moral standing and acknowledged impartiality and shall be elected by the General Conference of the United Nations Educational, Scientific and Cultural Organization, hereinafter referred to as the General Conference.
2. The members of the Commission shall serve in their personal capacity.

#### Article 3

1. The members of the Commission shall be elected from a list of persons nominated for the purpose by the States Parties to this Protocol. Each State shall, after consulting its National Commission for UNESCO, nominate not more than four persons. These persons must be nationals of States Parties to this Protocol.
2. At least four months before the date of each election to the Commission, the Director-General of the United Nations Educational, Scientific and Cultural Organization, hereinafter referred to as the Director-General, shall invite the States Parties to the present Protocol to send within two months, their nominations of the persons referred to in paragraph 1 of this article. He shall prepare a list in alphabetical order of the persons thus nominated and shall submit it, at least one month before the election, to the Executive Board of the United Nations Educational, Scientific and Cultural Organization, hereinafter referred to as the Executive Board, and to the States Parties to the Convention. The Executive Board shall transmit the aforementioned list, with such suggestions as it may consider useful, to the General Conference, which shall carry out the election of members of the Commission in conformity with the procedure it normally follows in elections of two or more persons.

#### Article 4

1. The Commission may not include more than one national of the same State.

2. In the election of members of the Commission, the General Conference shall endeavour to include persons of recognized competence in the field of education and persons having judicial experience, or legal experience particularly of an international character. It shall also give consideration to equitable geographical distribution of membership and to the representation of the different forms of civilization as well as of the principal legal systems.

#### Article 5

The members of the Commission shall be elected for a term of six years. They shall be eligible for re-election if re-nominated. The terms of four of the members elected at the first election shall, however, expire at the end of two years, and the terms of three other members at the end of four years. Immediately after the first election, the names of these members shall be chosen by lot by the President of the General Conference.

#### Article 6

1. In the event of the death or resignation of a member of the Commission, the Chairman shall immediately notify the Director-General, who shall declare the seat vacant from the date of death or the date on which the resignation takes effect.
2. If, in the unanimous opinion of the other members, a member of the Commission has ceased to carry out his functions for any cause other than absence of a temporary character or is unable to continue the discharge of his duties, the Chairman of the Commission shall notify the Director-General and shall thereupon declare the seat of such member to be vacant.
3. The Director-General shall inform the Member States of the United Nations Educational, Scientific and Cultural Organization, and any States not members of the Organization which have become Parties to this Protocol under the provisions of article 23, of any vacancies which have occurred in accordance with paragraphs 1 and 2 of this article.
4. In each of the cases provided for by paragraphs 1 and 2 of this article, the General Conference shall arrange for the replacement of the member whose seat has fallen vacant, for the unexpired portion of his term of office.



Article 7

Subject to the provisions of article 6, a member of the Commission shall remain in office until his successor takes up his duties.

Article 8

1. If the Commission does not include a member of the nationality of a State which is party to a dispute referred to it under the provisions of article 12 or article 13, that State, or if there is more than one, each of those States, may choose a person to sit on the Commission as a member ad hoc.
2. The State thus choosing a member ad hoc shall have regard to the qualities required of members of the Commission by virtue of article 2, paragraph 1, and article 4, paragraphs 1 and 2. Any member ad hoc thus chosen shall be of the nationality of the State which chooses him or of a State Party to the Protocol, and shall serve in a personal capacity.
3. Should there be several States Parties to the dispute having the same interest they shall, for the purpose of choosing members ad hoc, be reckoned as one party only. The manner in which this provision shall be applied shall be determined by the Rules of Procedure of the Commission referred to in article 11.

Article 9

Members of the Commission and members ad hoc chosen under the provisions of article 8 shall receive travel and per diem allowances in respect of the periods during which they are engaged on the work of the Commission from the resources of the United Nations Educational, Scientific and Cultural Organization on terms laid down by the Executive Board.

Article 10

The Secretariat of the Commission shall be provided by the Director-General.

Article 11

1. The Commission shall elect its Chairman and Vice-Chairman for a period of two years. They may be re-elected.

2. The Commission shall establish its own Rules of Procedure, but these rules shall provide, inter alia, that:

(a) Two-thirds of the members, including the members ad hoc, if any, shall constitute a quorum.

(b) Decisions of the Commission shall be made by a majority vote of the members and members ad hoc present; if the votes are equally divided, the Chairman shall have a casting vote.

(c) If a State refers a matter to the Commission under article 12 or article 13:

(i) such State, the State complained against, and any State Party to this Protocol whose national is concerned in such matter may make submissions in writing to the Commission;

(ii) Such State and the State complained against shall have the right to be represented at the hearings of the matter and to make submissions orally.

3. The Commission, on the occasion when it first proposes to establish its Rules of Procedure, shall send them in draft form to the States then Parties to the Protocol who may communicate any observation and suggestion they may wish to make within three months. The Commission shall re-examine its Rules of Procedure if at any time so requested by any State Party to the Protocol.

#### Article 12

1. If a State Party to this Protocol considers that another State Party is not giving effect to a provision of the Convention, it may, by written communication, bring the matter to the attention of that State. Within three months after the receipt of the communication, the receiving State shall afford the complaining State an explanation or statement in writing concerning the matter, which should include, to the extent possible and pertinent, references to procedures and remedies taken, or pending, or available in the matter.

2. If the matter is not adjusted to the satisfaction of both parties, either by bilateral negotiations or by any other procedure open to them, within six months after the receipt by the receiving State of the initial communication, either State shall have the right to refer the matter to the Commission, by notice given to the Director-General and to the other State.

3. The provisions of the preceding paragraphs shall not affect the rights of States Parties to have recourse, in accordance with general or special international agreements in force between them, to other procedures for settling disputes including that of referring disputes by mutual consent to the Permanent Court of Arbitration at The Hague.

#### Article 13

From the beginning of the sixth year after the entry into force of this Protocol, the Commission may also be made responsible for seeking the settlement of any dispute concerning the application or interpretation of the Convention arising between States which are Parties to the Convention but are not, or are not all, Parties to this Protocol, if the said States agree to submit such dispute to the Commission. The conditions to be fulfilled by the said States in reaching agreement shall be laid down by the Commission's Rules of Procedure.

#### Article 14

The Commission shall deal with a matter referred to it under article 12 or article 13 of this Protocol only after it has ascertained that all available domestic remedies have been invoked and exhausted in the case, in conformity with the generally recognized principles of international law.

#### Article 15

Except in cases where new elements have been submitted to it, the Commission shall not consider matters it has already dealt with.

#### Article 16

In any matter referred to it, the Commission may call upon the States concerned to supply any relevant information.

#### Article 17

1. Subject to the provisions of article 14, the Commission, after obtaining all the information it thinks necessary, shall ascertain the facts, and make available its good offices to the States concerned with a view to an amicable solution of the matter on the basis of respect for the Convention.

2. The Commission shall in every case, and in no event later than eighteen months after the date of receipt by the Director-General of the notice under article 12, paragraph 2, draw up a report in accordance with the provisions of paragraph 3 below which will be sent to the States concerned and then communicated to the Director-General for publication. When an advisory opinion is requested of the International Court of Justice, in accordance with article 18, the time-limit shall be extended appropriately.

3. If a solution within the terms of paragraph 1 of this article is reached, the Commission shall confine its report to a brief statement of the facts and of the solution reached. If such a solution is not reached, the Commission shall draw up a report on the facts and indicate the recommendations which it made with a view to conciliation. If the report does not represent in whole or in part the unanimous opinion of the members of the Commission, any member of the Commission shall be entitled to attach to it a separate opinion. The written and oral submissions made by the parties to the case in accordance with article 11, paragraph 2 (c), shall be attached to the report.

#### Article 18

The Commission may recommend to the Executive Board, or to the General Conference if the recommendation is made within two months before the opening of one of its sessions, that the International Court of Justice be requested to give an advisory opinion on any legal question connected with a matter laid before the Commission.

#### Article 19

The Commission shall submit to the General Conference at each of its regular sessions a report on its activities, which shall be transmitted to the General Conference by the Executive Board.

#### Article 20

1. The Director-General shall convene the first meeting of the Commission at the Headquarters of the United Nations Educational, Scientific and Cultural Organization within three months after its nomination by the General Conference.

2. Subsequent meetings of the Commission shall be convened when necessary by the Chairman of the Commission to whom, as well as to all other members of the Commission, the Director-General shall transmit all matters referred to the Commission in accordance with the provisions of this Protocol.

3. Notwithstanding paragraph 2 of this article, when at least one-third of the members of the Commission consider that the Commission should examine a matter in accordance with the provisions of this Protocol, the Chairman shall on their so requiring convene a meeting of the Commission for that purpose.

#### Article 21

The present Protocol is drawn up in English, French, Russian and Spanish, all four texts being equally authentic.

#### Article 22

1. This Protocol shall be subject to ratification or acceptance by States Members of the United Nations Educational, Scientific and Cultural Organization which are Parties to the Convention.

2. The instruments of ratification or acceptance shall be deposited with the Director-General.

#### Article 23

1. This Protocol shall be open to accession by all States not Members of the United Nations Educational, Scientific and Cultural Organization which are Parties to the Convention.

2. Accession shall be effected by the deposit of an instrument of accession with the Director-General.

#### Article 24

This Protocol shall enter into force three months after the date of the deposit of the fifteenth instrument of ratification, acceptance or accession, but only with respect to those States which have deposited their respective instruments on or before that date. It shall enter into force with respect to any other State three months after the deposit of its instrument of ratification, acceptance or accession.

Article 25

Any State may, at the time of ratification, acceptance or accession or at any subsequent date, declare, by notification to the Director-General, that it agrees, with respect to any other State assuming the same obligation, to refer to the International Court of Justice, after the drafting of the report provided for in article 17, paragraph 3, any dispute covered by this Protocol on which no amicable solution has been reached in accordance with article 17, paragraph 1.

Article 26

1. Each State Party to this Protocol may denounce it.
2. The denunciation shall be notified by an instrument in writing, deposited with the Director-General.
3. Denunciation of the Convention shall automatically entail denunciation of this Protocol.
4. The denunciation shall take effect twelve months after the receipt of the instrument of denunciation. The State denouncing the Protocol shall, however, remain bound by its provisions in respect of any cases concerning it which have been referred to the Commission before the end of the time-limit stipulated in this paragraph.

Article 27

The Director-General shall inform the States Members of the United Nations Educational, Scientific and Cultural Organization; the States not Members of the Organization which are referred to in article 23, as well as the United Nations, of the deposit of all the instruments of ratification, acceptance and accession provided for in articles 22 and 23, and of the notifications and denunciations provided for in articles 25 and 26 respectively.

Article 28

In conformity with Article 102 of the Charter of the United Nations, this Protocol shall be registered with the Secretariat of the United Nations at the request of the Director-General.

Done in Paris, this eighteenth day of December 1962, in two authentic copies bearing the signatures of the President of the twelfth session of the General Conference and of the Director-General of the United Nations Educational, Scientific and Cultural Organization, which shall be deposited in the archives of the United Nations Educational, Scientific and Cultural Organization, and certified true copies of which shall be delivered to all the States referred to in articles 12 and 13 of the Convention against Discrimination in Education as well as to the United Nations.

The foregoing is the authentic text of the Protocol duly adopted by the General Conference of the United Nations Educational, Scientific and Cultural Organization during its twelfth session, which was held in Paris and declared closed the twelfth day of December 1962.

In faith whereof we have appended our signatures this eighteenth day of December 1962.

The President of the General Conference

PAULO E. DE BERREDO CARNEIRO

The Director-General

RENÉ MAHEU

### 3. INTERNATIONAL CIVIL AVIATION ORGANIZATION.

#### AMENDMENT TO ARTICLE 48 (a) OF THE CONVENTION ON INTERNATIONAL CIVIL AVIATION INCREASING THE NUMBER OF STATES AT WHOSE REQUEST AN EXTRAORDINARY SESSION OF THE ASSEMBLY WOULD BE CALLED.

On 14 September 1962, the Assembly of ICAO adopted an amendment to article 48 (a) of the Convention on International Civil Aviation with the objective that the number of States at whose request an extraordinary session of the Assembly would be called should be increased from ten to not less than one-fifth of the total number of Contracting States. This amendment will come into force when ratified by sixty-six Contracting States.<sup>1/</sup>

1/ See the following documents: A14-WP/1, P/1, 20/12/61 Addendum, English - French - Spanish, Agenda of the Fourteenth Session of the Assembly. - Proposal for an Additional Item. (Presented by the United States of America). (1 page); C-WP/3509, 21/2/62, English - Subject No. 24.2: Assembly Agenda and Documentation. - Subject No. 27: Amendment of the Chicago Convention. (5 pages); C-WP/3510, 22/2/62, English - Subject No. 24.2: Assembly Agenda and Documentation. - Subject No. 27: Amendment of the Chicago Convention. (13 pages); C-WP/3543, 22/3/62, English - Subject No. 24.2: Assembly Agenda and Documentation. - Subject No. 27: Amendment of the Chicago Convention. (1 + 7 pages); Doc 8230-1, C/936-1, 21/5/62 - Council - Forty-fifth Session, Minutes of First Meeting, 19 March 1962, pp. 3-4, 7-15 (paras. 5-7, 22-58); Doc 8230-10 (Open), C/936-10, 11/6/62 - Council, Forty-fifth Session, Minutes of Tenth Meeting, 11 April 1962, pp. 157, 166-167 (paras. 7, 59-72); A14-WP/55, EX/4, 26/3/62, English - French - Spanish - Executive Committee. - Proposal for Amendment of article 48 (a) of the Convention on International Civil Aviation. (Presented by the United States of America). (1 page); A.4-WP/56, EX/5, 20/6/62, English - French - Spanish - Comments of the Council on the Proposal of the United States of America for Amendment of article 48 (a) of the Convention on International Civil Aviation. (15 pages); Doc 8270, A14-EX/31, Report of the Executive Committee, Fourteenth Session of the Assembly. Rome, 21 August - 15 September 1962. English - French - Spanish, pp. 2, 15-18, 43-44 (paras. 6, 49-55); A14-Draft Min. EX/1 - Assembly, Fourteenth Session, Executive Committee, Minutes of the First Meeting, (Rome) 22 August 1962, English - French - Spanish, p. 1-2 (paras. 2-5); A14-Draft Min. EX/9 - Assembly, Fourteenth Session, Executive Committee, Minutes of the Ninth Meeting (Rome) 3 September 1962, English - French - Spanish, pp. 1-13 (paras. 1-37); A14-Draft Min. EX/10 - Assembly, Fourteenth Session, Executive Committee, Minutes of the Fourteenth Meeting, (Rome) 4 September 1962. English - French - Spanish, pp. 13-17 (paras. 53-70); A14-Draft Min. EX/16 - Assembly, Fourteenth Session, Executive Committee, Minutes of the Sixteenth Meeting, (Rome) 11 September 1962. English - French - Spanish, p. 3-4 (paras. 11-12); A14-Draft Min. P/2 - Fourteenth Session, Minutes of the Second Plenary Meeting, (Rome) 22 August 1962. English - French - Spanish, p. 28 (para. 27); A14-Draft Min. P/7 - Assembly - Fourteenth Session, Minutes of the Seventh Plenary Meeting, (Rome), 14 September 1962, English - French - Spanish, p. 11 (paras. 45-47); Assembly Resolution A14-5; Protocol Relating to an Amendment to the Convention on International Civil Aviation (Article 48 (a)).



4. INTER-GOVERNMENTAL MARITIME CONSULTATIVE ORGANIZATION.

AMENDMENTS TO THE INTERNATIONAL CONVENTION FOR THE PREVENTION  
OF POLLUTION OF THE SEA BY OIL, 1954.

Final Act of the Conference of Contracting Governments to the International  
Convention for the prevention of pollution of the sea by oil, 1954 (London,  
11 April 1962):

1. Upon the request of the Governments of Denmark, Ireland, the Netherlands, Sweden, the United Kingdom of Great Britain and Northern Ireland and the United States of America, being parties to the International Convention for the Prevention of Pollution of the Sea by Oil, 1954, a Conference was convened at London from 4 April to 11 April 1962, in accordance with the provisions of paragraph (3) of article XVI of the said Convention, for the purpose of considering and adopting amendments to the Convention.

.....

6. The Conference considered amendments proposed by Contracting Governments and related to the provisions of articles I, II, III, IV, V, VI, VII, VIII, IX, X, XIV, XVI and XVIII and to annexes A and B of the International Convention for the Prevention of Pollution of the Sea by Oil, 1954.

7. The Conference duly adopted each of the amendments to the Convention and requested the Inter-Governmental Maritime Consultative Organization, in accordance with the provisions of article XVI, paragraph (3) of the Convention, to communicate the amendments to the Contracting Governments for their acceptance. The amendments are annexed to this Final Act.

8. The Conference agreed to recommend to the Contracting Governments that the above-mentioned amendments should be accepted by Contracting Governments at the earliest practicable date.

.....

ANNEX

The following are the amendments to the International Convention  
for the Prevention of Pollution of the Sea by Oil, 1954:

1. The existing text of Article 1 of the Convention is replaced by the following:

/...

Article I

(1) For the purposes of the present Convention, the following expressions shall (unless the context otherwise requires) have the meanings hereby respectively assigned to them, that is to say:

"The Bureau" has the meaning assigned to it by article XXI:

"Discharge" in relation to oil or to oily mixture means any discharge or escape howsoever caused;

"Heavy diesel oil" means marine diesel oil, other than those distillates of which more than 50 per cent by volume distills at a temperature not exceeding 340°C. when tested by A.S.T.M. Standard Method D.86/59;

"Mile" means a nautical mile of 6,080 feet or 1,852 metres;

"Oil" means crude oil, fuel oil, heavy diesel oil and lubricating oil, and "oily" shall be construed accordingly;

"Oily mixture" means a mixture with an oil content of 100 parts or more in 1,000,000 parts of the mixture;

"Organization" means the Inter-Governmental Maritime Consultative Organization;

"Ship" means any sea-going vessel of any type whatsoever, including floating craft, whether self-propelled or towed by another vessel, making a sea voyage; and "tanker" means a ship in which the greater part of the cargo space is constructed or adapted for the carriage of liquid cargoes in bulk and which is not, for the time being, carrying a cargo other than oil in that part of its cargo space.

(2) For the purposes of the present Convention, the territories of a Contracting Government mean the territory of the country of which it is the Government and any other territory for the international relations of which it is responsible and to which the Convention shall have been extended under article XVIII.

2. The existing text of article II of the Convention is replaced by the following:

Article II

(1) The present Convention shall apply to ships registered in any of the territories of a Contracting Government and to unregistered ships having the nationality of a Contracting Party, except:

- (a) tankers of under 150 tons gross tonnage and other ships of under 500 tons gross tonnage, provided that each Contracting Government will take the necessary steps, so far as is reasonable and practicable, to apply the requirements of the Convention to such ships also, having regard to their size, service and the type of fuel used for their propulsion;
- (b) ships for the time being engaged in the whaling industry when actually employed on whaling operations;
- (c) ships for the time being navigating the Great Lakes of North America and their connecting and tributary waters as far east as the lower exit of St. Lambert Lock at Montreal in the Province of Quebec, Canada;
- (d) naval ships and ships for the time being used as naval auxiliaries.

(2) Each Contracting Government undertakes to adopt appropriate measures ensuring that requirements equivalent to those of the present Convention are, so far as is reasonable and practicable, applied to the ships referred to in sub-paragraph (d) of paragraph (1) of this article.

3. The existing text of article III of the Convention is replaced by the following:

Article III

Subject to the provisions of articles IV and V:

- (a) the discharge from a tanker to which the present Convention applies, within any of the prohibited zones referred to in annex A to the Convention, of oil or oily mixture shall be prohibited;
- (b) the discharge from a ship to which the present Convention applies, other than a tanker, of oil or oily mixture shall be made as far as practicable from land. As from a date three years after that on which the Convention comes into force for the relevant territory in respect of the ship in accordance with paragraph (1) of article II, sub-paragraph (a) of this article shall apply to a ship other than a tanker, except that the discharge of oil or of oily mixture from such a ship shall not be prohibited when the ship is proceeding to a port not provided with such facilities for ships other than tankers as are referred to in article VIII;

- (c) the discharge from a ship of 20,000 tons gross tonnage or more, to which the present Convention applies and for which the building contract is placed on or after the date on which this provision comes into force, of oil or oily mixture shall be prohibited. However, if, in the opinion of the master, special circumstances make it neither reasonable nor practicable to retain the oil or oily mixture on board, it may be discharged outside the prohibited zones referred to in annex A to the Convention. The reasons for such discharge shall be reported to the Contracting Government of the relevant territory in respect of the ship in accordance with paragraph (1) of article II. Full details of such discharges shall be reported to the Organization at least every twelve months by Contracting Governments.

4. The existing text of article IV of the Convention is replaced by the following:

Article IV

Article III shall not apply to:

- (a) the discharge of oil or of oily mixture from a ship for the purpose of securing the safety of a ship, preventing damage to a ship or cargo, or saving life at sea;
- (b) the escape of oil or of oily mixture resulting from damage to a ship or unavoidable leakage, if all reasonable precautions have been taken after the occurrence of the damage or discovery of the leakage for the purpose of preventing or minimizing the escape;
- (c) the discharge of residue arising from the purification or clarification of fuel oil or lubricating oil, provided that such discharge is made as far from land as is practicable.

5. The existing text of article V of the Convention is replaced by the following:

Article V

Article III shall not apply to the discharge from the bilges of a ship:

- (a) during the period of twelve months following the date on which the present Convention comes into force for the relevant territory in respect of the ship in accordance with paragraph (1) of article II, of oily mixture;

- (b) after the expiration of such period, of oily mixture containing no oil other than lubricating oil which has drained or leaked from machinery spaces.

6. The existing text of article VI of the Convention is replaced by the following:

Article VI

(1) Any contravention of articles III and IX shall be an offence punishable under the law of the relevant territory in respect of the ship in accordance with paragraph (1) of article II.

(2) The penalties which may be imposed under the law of any of the territories of a Contracting Government in respect of the unlawful discharge from a ship of oil or oily mixture outside the territorial sea of that territory shall be adequate in severity to discourage any such unlawful discharge and shall not be less than the penalties which may be imposed under the law of that territory in respect of the same infringements within the territorial sea.

(3) Each Contracting Government shall report to the Organization the penalties actually imposed for each infringement.

7. The existing text of article VII of the Convention is replaced by the following:

Article VII

(1) As from a date twelve months after the present Convention comes into force for the relevant territory in respect of a ship in accordance with paragraph (1) of article II, such a ship shall be required to be so fitted as to prevent, so far as reasonable and practicable, the escape of fuel oil or heavy diesel oil into bilges, unless effective means are provided to ensure that the oil in the bilges is not discharged in contravention of this Convention.

(2) Carrying water ballast in oil fuel tanks shall be avoided if possible.

8. The existing text of article VIII of the Convention is replaced by the following:

Article VIII

(1) Each Contracting Government shall take all appropriate steps to promote the provision of facilities as follows:

- (a) according to the needs of ships using them, ports shall be provided with facilities adequate for the reception, without causing undue delay to ships, of such residues and oily mixtures as would remain for disposal from ships other than tankers if the bulk of the water had been separated from the mixture;
- (b) oil loading terminals shall be provided with facilities adequate for the reception of such residues and oily mixtures as would similarly remain for disposal by tankers;
- (c) ship repair ports shall be provided with facilities adequate for the reception of such residues and oily mixtures as would similarly remain for disposal by all ships entering for repairs.

(2) Each Contracting Government shall determine which are the ports and oil loading terminals in its territories suitable for the purposes of sub-paragraphs (a), (b) and (c) of paragraph (1) of this article.

(3) As regards paragraph (1) of this article, each Contracting Government shall report to the Organization, for transmission to the Contracting Government concerned, all cases where the facilities are alleged to be inadequate.

9. The existing text of article IX of the Convention is replaced by the following:

Article IX

(1) Of the ships to which the present Convention applies, every ship which uses oil fuel and every tanker shall be provided with an oil record book, whether as part of the ship's official log book or otherwise, in the form specified in annex B to the Convention.

(2) The oil record book shall be completed on each occasion, whenever any of the following operations takes place in the ship:

- (a) ballasting of and discharge of ballast from cargo tanks of tankers;
- (b) cleaning of cargo tanks of tankers;

- (c) settling in slop tanks and discharge of water from tankers;
- (d) disposal from tankers of oily residues from slop tanks or other sources;
- (e) ballasting, or cleaning during voyage, of bunker fuel tanks of ships other than tankers;
- (f) disposal from ships other than tankers of oily residues from bunker fuel tanks or other sources;
- (g) accidental or other exceptional discharges or escapes of oil from tankers or ships other than tankers.

In the event of such discharge or escape of oil or oily mixture as is referred to in sub-paragraph (c) of article III or in article IV, a statement shall be made in the oil record book of the circumstances of, and reason for, the discharge or escape.

(3) Each operation described in paragraph (2) of this article shall be fully recorded without delay in the oil record book so that all the entries in the book appropriate to that operation are completed. Each page of the book shall be signed by the officer or officers in charge of the operations concerned and, when the ship is manned, by the master of the ship. The written entries in the oil record book shall be in an official language of the relevant territory in respect of the ship in accordance with paragraph (1) of article II, or in English or French.

(4) Oil record books shall be kept in such a place as to be readily available for inspection at all reasonable times, and, except in the case of unmanned ships under tow, shall be kept on board the ship. They shall be preserved for a period of two years after the last entry has been made.

(5) The competent authorities of any of the territories of a Contracting Government may inspect on board any ship to which the present Convention applies, while within a port in that territory, the oil record book required to be carried in the ship in compliance with the provisions of this article, and may make a true copy of any entry in that book and may require the master of the ship to certify that the copy is a true copy of such entry. Any copy so made which purports to have been certified by the master of the ship as a

true copy of an entry in the ship's oil record book shall be made admissible in any judicial proceedings as evidence of the facts stated in the entry. Any action by the competent authorities under this paragraph shall be taken as expeditiously as possible and the ship shall not be delayed.

10. The existing text of article X of the Convention is replaced by the following:

Article X

(1) Any Contracting Government may furnish to the Government of the relevant territory in respect of the ship in accordance with paragraph (1) of article II particulars in writing of evidence that any provision of the present Convention has been contravened in respect of that ship, wheresoever the alleged contravention may have taken place. If it is practicable to do so, the competent authorities of the former Government shall notify the master of the ship of the alleged contravention.

(2) Upon receiving such particulars, the Government so informed shall investigate the matter, and may request the other Government to furnish further or better particulars of the alleged contravention. If the Government so informed is satisfied that sufficient evidence is available in the form required by its law to enable proceedings against the owner or master of the ship to be taken in respect of the alleged contravention, it shall cause such proceedings to be taken as soon as possible, and shall inform the other Government and the Organization of the result of such proceedings.

11. The existing text of article XIV of the Convention is replaced by the following:

Article XIV

(1) The present Convention shall remain open for signature for three months from this day's date and shall thereafter remain open for acceptance.

(2) Subject to article XV, the Governments of States Members of the United Nations or of any of the Specialized Agencies or parties to the Statute of the International Court of Justice may become parties to the present Convention by:



- (a) signature without reservation as to acceptance;
- (b) signature subject to acceptance followed by acceptance; or
- (c) acceptance.

(3) Acceptance shall be effected by the deposit of an instrument of acceptance with the Bureau, which shall inform all Governments that have already signed or accepted the present Convention of each signature and deposit of an acceptance and of the date of such signature or deposit.

12. The existing text of article XVI of the Convention is replaced by the following:

Article XVI

- (1)(a) The present Convention may be amended by unanimous agreement between the Contracting Governments.
- (b) Upon request of any Contracting Government a proposed amendment shall be communicated by the Organization to all Contracting Governments for consideration and acceptance under this paragraph.
- (2)(a) An amendment to the present Convention may be proposed to the Organization at any time by any Contracting Government, and such proposal if adopted by a two-thirds majority of the Assembly of the Organization upon recommendation adopted by a two-thirds majority of the Maritime Safety Committee of the Organization shall be communicated by the Organization to all Contracting Governments for their acceptance.
- (b) Any such recommendation by the Maritime Safety Committee shall be communicated by the Organization to all Contracting Governments for their consideration at least six months before it is considered by the Assembly.
- (3)(a) A conference of Governments to consider amendments to the present Convention proposed by any Contracting Government shall at any time be convened by the Organization upon the request of one-third of the Contracting Governments.
- (b) Every amendment adopted by such conference by a two-thirds majority of the Contracting Governments shall be communicated by the Organization to all Contracting Governments for their acceptance.

(4) Any amendment communicated to Contracting Governments for their acceptance under paragraph (2) or (3) of this article shall come into force for all Contracting Governments, except those which before it comes into force make a declaration that they do not accept the amendment, twelve months after the date on which the amendment is accepted by two-thirds of the Contracting Governments.

(5) The Assembly, by a two-thirds majority vote, including two-thirds of the Governments represented on the Maritime Safety Committee, and subject to the concurrence of two-thirds of the Contracting Governments to the present Convention, or a conference convened under paragraph (3) of this article by a two-thirds majority vote, may determine at the time of its adoption that the amendment is of such an important nature that any Contracting Government which makes a declaration under paragraph (4) of this article and which does not accept the amendment within a period of twelve months after the amendment comes into force, shall, upon the expiry of this period, cease to be a party to the present Convention.

(6) The Organization shall inform all Contracting Governments of any amendments which come into force under this article, together with the date on which such amendments shall come into force.

(7) Any acceptance or declaration under this article shall be made by a notification in writing to the Organization which shall notify all Contracting Governments of the receipt of the acceptance or declaration.

13. The existing text of article XVIII of the Convention is replaced by the following:

Article XVIII

(1)(a) The United Nations in cases where they are the administering authority for a territory or any Contracting Government responsible for the international relations of a territory shall as soon as possible consult with such territory in an endeavour to extend the present Convention to that territory and may at any time by notification in writing given to the Bureau declare that the Convention shall extend to such territory.

- (b) The present Convention shall from the date of the receipt of the notification or from such other date as may be specified in the notification extend to the territory named therein.
- (2)(a) The United Nations in cases where they are the administering authority for a territory or any Contracting Government which has made a declaration under paragraph (1) of this article, at any time after the expiry of a period of five years from the date on which the present Convention has been so extended to any territory, may be a notification in writing given to the Bureau after consultation with such territory declare that the Convention shall cease to extend to any such territory named in the notification.
- (b) The present Convention shall cease to extend to any territory mentioned in such notification one year, or such longer period as may be specified therein, after the date of receipt of the notification by the Bureau.
- (3) The Bureau shall inform all the Contracting Governments of the extension of the present Convention to any territory under paragraph (1) of this article, and of the termination of any such extension under the provisions of paragraph (2) stating in each case the date from which the Convention has been or will cease to be so extended.
14. The existing text of annex A to the Convention is replaced by the following:

Annex A

/Not reproduced/

15. The following changes to be made in Annex B to the Convention:

/Not reproduced/

5. INTERNATIONAL ATOMIC ENERGY AGENCY

INTERNATIONAL CONVENTION ON THE LIABILITY OF OPERATORS OF NUCLEAR SHIPS. ADOPTED AT THE ELEVENTH SESSION OF THE DIPLOMATIC CONFERENCE ON MARITIME LAW,<sup>1/</sup> BRUSSELS, 25 MAY 1962.

The Contracting Parties,

Having recognized the desirability of determining by agreement certain uniform rules concerning the liability of operators of nuclear ships,

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

Article I

For the purposes of this Convention:

1. "Nuclear ship" means any ship equipped with a nuclear power plant.
2. "Licensing State" means the Contracting State which operates or which has authorized the operation of a nuclear ship under its flag.
3. "Person" means any individual or partnership, or any public or private body whether corporate or not, including a State or any of its constituent subdivisions.
4. "Operator" means the person authorized by the licensing State to operate a nuclear ship, or where a Contracting State operates a nuclear ship, that State.
5. "Nuclear fuel" means any material which is capable of producing energy by a self-sustaining process of nuclear fission and which is used or intended for use in a nuclear ship.
6. "Radioactive products or waste" means any material, including nuclear fuel, made radioactive by neutron irradiation incidental to the utilization of nuclear fuel in a nuclear ship.
7. "Nuclear damage" means loss of life or personal injury and loss or damage to property which arises out of or results from the radioactive properties or a combination of radioactive properties with toxic, explosive or other hazardous properties of nuclear fuel or of radioactive products or waste; any other loss, damage or expense so arising or resulting shall be included only if and to the extent that the applicable national law so provides.

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<sup>1/</sup> Convened by the International Atomic Energy Agency and the Belgian Government.

8. "Nuclear incident" means any occurrence or series of occurrences having the same origin which causes nuclear damage.
9. "Nuclear power plant" means any power plant in which a nuclear reactor is, or is to be used as, the source of power, whether for propulsion of the ship or for any other purpose.
10. "Nuclear reactor" means any installation containing nuclear fuel in such an arrangement that a self-sustained chain process of nuclear fission can occur therein without an additional source of neutrons.
11. "Warship" means any ship belonging to the naval forces of a State and bearing the external marks distinguishing warships of its nationality, under the command of an officer duly commissioned by the Government of such State and whose name appears in the Navy List, and manned by a crew who are under regular naval discipline.
12. "Applicable national law" means the national law of the court having jurisdiction under the Convention including any rules of such national law relating to conflict of laws.

#### Article II

1. The operator of a nuclear ship shall be absolutely liable for any nuclear damage upon proof that such damage has been caused by a nuclear incident involving the nuclear fuel of, or radioactive products or waste produced in, such ship.
2. Except as otherwise provided in this Convention no person other than the operator shall be liable for such nuclear damage.
3. Nuclear damage suffered by the nuclear ship itself, its equipment, fuel or stores shall not be covered by the operator's liability as defined in this Convention.
4. The operator shall not be liable with respect to nuclear incidents occurring before the nuclear fuel has been taken in charge by him or after the nuclear fuel or radioactive products or waste have been taken in charge by another person duly authorized by law and liable for any nuclear damage that may be caused by them.

5. If the operator proves that the nuclear damage resulted wholly or partially from an act or omission done with intent to cause damage by the individual who suffered the damage, the competent courts may exonerate the operator wholly or partially from his liability to such individual.

6. Notwithstanding the provisions of paragraph 1 of this article, the operator shall have a right of recourse:

- (a) If the nuclear incident results from a personal act or omission done with intent to cause damage, in which event recourse shall lie against the individual who has acted, or omitted to act with such intent;
- (b) If the nuclear incident occurred as a consequence of any wreck-raising operation, against the person or persons who carried out such operation without the authority of the operator or of the State having licensed the sunken ship or of the State in whose waters the wreck is situated;
- (c) If recourse is expressly provided for by contract.

#### Article III

1. The liability of the operator as regards one nuclear ship shall be limited to 1,500 million francs in respect of any one nuclear incident, notwithstanding that the nuclear incident may have resulted from any fault of privity of that operator; such limit shall include neither any interest nor costs awarded by a court in actions for compensation under this Convention.

2. The operator shall be required to maintain insurance, or other financial security covering his liability for nuclear damage, in such amount, of such type and in such terms as the licensing State shall specify. The licensing State shall ensure the payment of claims for compensation for nuclear damage established against the operator by providing the necessary funds up to the limit laid down in paragraph 1 of this article to the extent that the yield of the insurance or the financial security is inadequate to satisfy such claims.

3. However, nothing in paragraph 2 of this article shall require any Contracting State or any of its constituent subdivisions, such as States, Republics or Cantons, to maintain insurance or other financial security to cover their liability as operators of nuclear ships.

4. The franc mentioned in paragraph 1 of this article is a unit of account constituted by sixty-five and one half milligrams of gold of millesimal fineness nine hundred. The amount awarded may be converted into each national currency in round figures. Conversion into national currencies other than gold shall be effected on the basis of their gold at the date of payment.

#### Article IV

Whenever both nuclear damage and damage other than nuclear damage have been caused by a nuclear incident or jointly by a nuclear incident and one more other occurrences and the nuclear damage and such other damage are not reasonably separable, the entire damage shall, for the purposes of this Convention, be deemed to be nuclear damage exclusively caused by the nuclear incident. However, where damage is caused jointly by a nuclear incident covered by this Convention and by an emission of ionizing radiation or by an emission of ionizing radiation in combination with the toxic, explosive or other hazardous properties of the source of radiation not covered by it, nothing in this Convention shall limit or otherwise affect the liability, either as regards the victims or by way of recourse or contribution, of any person who may be held liable in connexion with the emission of ionizing radiation or by the toxic explosive or other hazardous properties of the source of radiation not covered by this Convention.

#### Article V

1. Rights of compensation under this Convention shall be extinguished if an action is not brought within ten years from the date of the nuclear incident. If, however, under the law of the licensing State the liability of the operator is covered by insurance or other financial security or State indemnification for a period longer than ten years, the applicable national law may provide that rights of compensation against the operator shall only be extinguished after a period which may be longer than ten years but shall not be longer than the period for which his liability is so covered under the law of the licensing State. However, such extension of the extinction period shall in no case affect the right of compensation under this Convention of any person who has brought an action for loss of life or personal injury against the operator before the expiry of the aforesaid period of ten years.

2. Where nuclear damage is caused by nuclear fuel, radioactive products or waste which were stolen, lost, jettisoned, or abandoned, the period established under paragraph 1 of this article shall be computed from the date of the nuclear incident causing the nuclear damage, but the period shall in no case exceed a period of twenty years from the date of the theft, loss jettison or abandonment.

3. The applicable national law may establish a period of extinction or prescription of not less than three years from the date on which the person who claims to have suffered nuclear damage had knowledge or ought reasonably to have had knowledge of the damage and of the person responsible for the damage, provided that the period established under paragraphs 1 and 2 of this article shall not be exceeded.

4. Any person who claims to have suffered nuclear damage and who has brought an action for compensation within the period applicable under this article may amend this claim to take into account any aggravation of the damage, even after the expiry of that period, provided that final judgement has not been entered.

#### Article VI

Where provisions of national health insurance, social insurance, social security, workmen's compensation or occupational disease compensation systems include compensation for nuclear damage, rights of beneficiaries under such systems and rights of subrogation, or of recourse against the operator, by virtue of such systems, shall be determined by the law of the Contracting State having established such systems. However, if the law of such Contracting State allows claims of beneficiaries of such systems and such rights of subrogation and recourse to be brought against the operator in conformity with the terms of this Convention, this shall not result in the liability of the operator exceeding the amount specified in paragraph 1 of article III.

#### Article VII

1. Where nuclear damage engages the liability of more than one operator and the damage attributable to each operator is not reasonably separable, the operators involved shall be jointly and severally liable for such damage. However, the liability of any one operator shall not exceed the limit laid down in article III.



2. In the case of a nuclear incident where the nuclear damage arises out of or results from nuclear fuel or radioactive products or waste of more than one nuclear ship of the same operator, that operator shall be liable in respect of each ship up to the limit laid down in article III.

3. In case of joint and several liability, and subject to the provisions of paragraph 1 of this article:

- (a) Each operator shall have a right of contribution against the others in proportion to the fault attaching to each of them;
- (b) Where circumstances are such that the degree of fault cannot be apportioned, the total liability shall be borne in equal parts.

#### Article VIII

No liability under this Convention shall attach to an operator in respect to nuclear damage caused by a nuclear incident directly due to an act of war, hostilities, civil war or insurrection.

#### Article IX

The sums provided by insurance, by other financial security or by State indemnification in conformity with paragraph 2 of this article III shall be exclusively available for compensation due under this Convention.

#### Article X

1. Any action for compensation shall be brought, at the option of the claimant, either before the courts of the licensing State or before the courts of the Contracting State or States in whose territory nuclear damage has been sustained.

2. If the licensing State has been or might be called upon to ensure the payment of claims for compensation in accordance with paragraph 2 of article III of this Convention, it may intervene as party in any proceedings brought against the operator.

3. Any immunity from legal processes pursuant to rules of national or international law shall be waived with respect to duties or obligations arising under, or for the purpose of, this Convention. Nothing in this Convention shall

make warships or other State-owned or State-operated ships on non-commercial service liable to arrest, attachment or seizure or confer jurisdiction in respect of warships on the courts of any foreign State.

Article XI

1. When, having regard to the likelihood of any claims arising out of a nuclear incident exceeding the amount specified in article III of this Convention, a court of the licensing State, at the request of the operator, a claimant or the licensing State, so certifies, the operator or the licensing State shall make that amount available in that court to pay any such claims; that amount shall be regarded as constituting the limitation fund in respect of that incident.

2. The amount may be made available for the purposes of the preceding paragraph by payment into court or by the provision of security or guarantees sufficient to satisfy the court that the money will be available when required to meet any established claim.

3. After the fund has been constituted in accordance with paragraph 1 of this article the court of the licensing State shall be exclusively competent to determine all matters relating to the apportionment and distribution of the fund.

4. (a) A final judgement entered by a court having jurisdiction under article X shall be recognized in the territory of any other Contracting State, except:

- (i) where the judgement was obtained by fraud; or
- (ii) the operator was not given a fair opportunity to present his case;

(b) A final judgement which is recognized shall, upon being presented for enforcement in accordance with the formalities required by the law of the Contracting State where enforcement is sought, be enforceable as if it were a judgement of a court of that State;

(c) The merits of a claim on which the judgement has been given shall not be subject to further proceedings.

5. (a) If a person who is a national of a Contracting State, other than the operator, has paid compensation for nuclear damage under an International Convention or under the law of a non-Contracting State, such person shall, up to the amount which he has paid, acquire by subrogation the rights which the person

so compensated would have enjoyed under this Convention. However, no rights shall be so acquired by any person if and to the extent that the operator has a right of recourse or contribution against such person under this Convention;

- (b) If a limitation fund has been set up and
  - (i) the operator has paid, prior to its being set up, compensation for nuclear damage; or
  - (ii) the operator has paid, after it has been set up, compensation for nuclear damage under an International Convention or the law of a non-Contracting State,

he shall be entitled to recover from the fund, up to the amount which he has paid, the amount which the person so compensated would have obtained in the distribution of the fund;

(c) If no limitation fund is set up, nothing in this Convention shall preclude an operator, who has paid compensation for nuclear damage out of funds other than those provided pursuant to paragraph 2 of article III, from recovering from the person providing financial security under paragraph 2 of article III or from the licensing State, up to the amount he has paid, the sum which the person so compensated would have obtained under this Convention;

(d) In this paragraph the expression "a national of a Contracting State" shall include a Contracting State or any of its constituent sub-divisions or a partnership or any public or private body whether corporate or not established in a Contracting State.

6. Where no fund has been constituted under the provisions of this article, the licensing State shall adopt such measures as are necessary to ensure that adequate sums provided by it or by insurance or other financial security in accordance with paragraph 2 of article III, shall be available for the satisfaction of any claim established by a judgement of a court of any other Contracting State which would be recognized under paragraph 4 of this article; the sums shall be made available, at the option of the claimant, either in the licensing State or in the Contracting State in which the damage was sustained or in the Contracting State in which the claimant is habitually resident.

7. After the limitation fund has been constituted in accordance with paragraph 1 of this article or, where no such fund has been constituted, if the sums provided by the licensing State, or by insurance, or other financial security are available in accordance with paragraph 6 of this article to meet a claim for compensation, the claimant shall not be entitled to exercise any right against any other asset of the operator in respect of this claim for nuclear damage, and any bail or security (other than security for costs) given by or on behalf of that operator in any Contracting State shall be released.

#### Article XIII

1. The Contracting States undertake to adopt such measures as are necessary to ensure implementation of the provisions of this Convention, including any appropriate measures for the prompt and equitable distribution of the sums available for compensation for nuclear damage.

2. The Contracting States undertake to adopt such measures as are necessary to ensure that insurance and reinsurance premiums and sums provided by insurance, reinsurance or other financial security, or provided by them in accordance with paragraph 2 of article III, shall be freely transferable into the currency of the Contracting State in which the damage was sustained, of the Contracting State in which the claimant is habitually resident or, as regards insurance and reinsurance premiums and payments, in the currencies specified in the insurance or reinsurance contract.

3. This Convention shall be applied without discrimination based upon nationality, domicile or residence.

#### Article XIII

This Convention applies to nuclear damage caused by a nuclear incident occurring in any part of the world and involving the nuclear fuel of, or radioactive products or waste produced in, a nuclear ship flying the flag of a Contracting State.

#### Article XIV

This Convention shall supersede any International Conventions in force or open for signature, ratification or accession at the date on which this Convention is

opened for signature, but only to the extent that such Conventions would be in conflict with it; however, nothing in this article shall affect the obligations of Contracting States to non-Contracting States arising under such International Conventions.

#### Article XV

1. Each Contracting State undertakes to take all measures necessary to prevent a nuclear ship flying its flag from being operated without a licence or authority granted by it.

2. In the event of nuclear damage involving the nuclear fuel of, or radioactive products or waste produced in a nuclear ship flying the flag of a Contracting State, the operation of which was not at the time of the nuclear incident licensed or authorized by such Contracting State, the owner of the nuclear ship at the time of the nuclear incident shall be deemed to be the operator of the nuclear ship for all the purposes of this Convention, except that his liability shall not be limited in amount.

3. In such an event, the Contracting State whose flag the nuclear ship flies shall be deemed to be the licensing State for all the purposes of this Convention and shall, in particular, be liable for compensation for victims in accordance with the obligations imposed on a licensing State by article III and up to the limit laid down therein.

4. Each Contracting State undertakes not to grant a licence or other authority to operate a nuclear ship flying the flag of another State. However, nothing in this paragraph shall prevent a Contracting State from implementing the requirements of its national law concerning the operation of a nuclear ship within its internal waters and territorial sea.

#### Article XVI

This Convention shall apply to a nuclear ship from the date of her launching. Between her launching and the time she is authorized to fly a flag, the nuclear ship shall be deemed to be operated by the owner and to be flying the flag of the State in which she was built.

Article XVII

Nothing in this Convention shall affect any right which a Contracting State may have under international law to deny access to its waters and harbours to nuclear ships licensed by another Contracting State, even when it has formally complied with all the provisions of this Convention.

Article XVIII

An action for compensation for nuclear damage shall be brought against the operator; it may also be brought against the insurer or any person other than the licensing State who has provided financial security to the operator pursuant to paragraph 2 of article III, if the right to bring an action against the insurer or such other person is provided under the applicable national law.

Article XIX

Notwithstanding the termination of this Convention or the termination of its application to any Contracting State pursuant to article XXVII, the provisions of the Convention shall continue to apply with respect to any nuclear damage caused by a nuclear incident involving the nuclear fuel of, or radioactive products or waste produced in, a nuclear ship licensed or otherwise authorized for operation by any Contracting State prior to the date of such termination, provided the nuclear incident occurred prior to the date of such termination or, in the event of a nuclear incident occurring subsequent to the date of such termination, prior to the expiry of a period of twenty-five years after the date of such licensing or other authorization to operate such ship.

Article XX

Without prejudice to Article X, 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 XXI

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 XX 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 XXII

This Convention shall be open for signature by the States represented at the eleventh session (1961-1962) of the Diplomatic Conference on Maritime Law.

Article XXIII

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

Article XXIV

1. This Convention shall come into force three months after the deposit of an instrument of ratification by at least one licensing State and one other State.

2. This Convention shall come into force, in respect of each signatory State which ratifies it after its entry into force as provided in paragraph 1 of this article, three months after the date of deposit of the instrument of ratification of that State.

Article XXV

1. States Members of the United Nations, Members of the specialized agencies and of the International Atomic Energy Agency not represented at the eleventh 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 XXIV.

Article XXVI

1. A conference for the purpose of revising this Convention shall be convened by the Belgian Government and the International Atomic Energy Agency after the Convention has been in force five years.

2. Such a conference shall also be convened by the Belgian Government and the International Atomic Energy Agency before the expiry of this term or thereafter, if one third of the Contracting States express a desire to that effect.

Article XXVII

1. Any Contracting State may denounce this Convention by notification to the Belgian Government at any time after the first revision Conference held in accordance with the provisions of article XXVI 1.

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

Article XXVIII

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

1. Signatures, ratifications and accessions received in accordance with article XXII, XXIII and XXV.

2. The date on which the Convention will come into force in accordance with article XXIV.

3. Denunciations received in accordance with article XXVII.

In witness whereof, the undersigned Plenipotentiaries, whose credentials have been found in order, have signed this Convention.

Done at Brussels, this twenty-fifth day of May, one thousand nine hundred and sixty-two, in the English, French, Russian and Spanish languages in a single copy, which shall remain deposited in the archives of the Belgian Government, which shall issue certified copies.

In case of any disparity in the texts, the English and French versions shall be authentic.