

*Extract from:*

# UNITED NATIONS JURIDICAL YEARBOOK 1978

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 intergovernmental organizations



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## Chapter IV

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

#### Treaties concerning international law concluded under the auspices of the United Nations

##### 1. UNITED NATIONS CONFERENCE ON SUCCESSION OF STATES IN RESPECT OF TREATIES (VIENNA, 4 APRIL–6 MAY 1977 AND 31 JULY–23 AUGUST 1978)

###### (a) VIENNA CONVENTION ON SUCCESSION OF STATES IN RESPECT OF TREATIES. DONE AT VIENNA ON 23 AUGUST 1978

*The States Parties to the present Convention,*

*Considering* the profound transformation of the international community brought about by the decolonization process,

*Considering also* that other factors may lead to cases of succession of States in the future,

*Convinced*, in these circumstances, of the need for the codification and progressive development of the rules relating to succession of States in respect of treaties as a means for ensuring greater juridical security in international relations,

*Noting* that the principles of free consent, good faith and *pacta sunt servanda* are universally recognized,

*Emphasizing* that the consistent observance of general multilateral treaties which deal with the codification and progressive development of international law and those the object and purpose of which are of interest to the international community as a whole is of special importance for the strengthening of peace and international co-operation,

*Having in mind* the principles of international law embodied in the Charter of the United Nations, such as the principles of the equal rights and self-determination of peoples, of the sovereign equality and independence of all States, of non-interference in the domestic affairs of States, of the prohibition of the threat or use of force, and of universal respect for, and observance of, human rights and fundamental freedoms for all,

*Recalling* that respect for the territorial integrity and political independence of a State is required by the Charter of the United Nations,

*Bearing in mind* the provisions of the Vienna Convention on the Law of Treaties of 1969,

*Bearing also in mind* article 73 of that Convention,

*Affirming* that questions of the law of treaties other than those that may arise from a succession of States are governed by the relevant rules of international law, including those rules of customary international law which are embodied in the Vienna Convention on the Law of Treaties of 1969,

*Affirming* that the rules of customary international law will continue to govern questions not regulated by the provisions of the present Convention,

*Have agreed* as follows:

## PART I. GENERAL PROVISIONS

### *Article 1. Scope of the present Convention*

The present Convention applies to the effects of a succession of States in respect of treaties between States.

### *Article 2. Use of terms*

1. For the purposes of the present Convention:

(a) "treaty" means an international agreement concluded between States in written form and governed by international law, whether embodied in a single instrument or in two or more related instruments and whatever its particular designation;

(b) "succession of States" means the replacement of one State by another in the responsibility for the international relations of territory;

(c) "predecessor State" means the State which has been replaced by another State on the occurrence of a succession of States;

(d) "successor State" means the State which has replaced another State on the occurrence of a succession of States;

(e) "date of the succession of States" means the date upon which the successor State replaced the predecessor State in the responsibility for the international relations of the territory to which the succession of States relates;

(f) "newly independent State" means a successor State the territory of which immediately before the date of the succession of States was a dependent territory for the international relations of which the predecessor State was responsible;

(g) "notification of succession" means in relation to a multilateral treaty any notification, however phrased or named, made by a successor State expressing its consent to be considered as bound by the treaty;

(h) "full powers" means in relation to a notification of succession or a any other notification under the present Convention a document emanating from the competent authority of a State designating a person or persons to represent the State for communicating the notification of succession or, as the case may be, the notification;

(i) "ratification", "acceptance" and "approval" mean in each case the international act so named whereby a State establishes on the international plane its consent to be bound by a treaty;

(j) "reservation" means a unilateral statement, however phrased or named, made by a State when signing, ratifying, accepting, approving or acceding to a treaty or when making a notification of succession to a treaty, whereby it purports to exclude or to modify the legal effect of certain provisions of the treaty in their application to that State;

(k) "contracting State" means a State which has consented to be bound by the treaty, whether or not the treaty has entered into force;

(l) "party" means a State which has consented to be bound by the treaty and for which the treaty is in force;

(m) "other State party" means in relation to a successor State any party, other than the predecessor State, to a treaty in force at the date of a succession of States in respect of the territory to which that succession of States relates;

(n) "international organization" means an intergovernmental organization.

2. The provisions of paragraph 1 regarding the use of terms in the present Convention are without prejudice to the use of those terms or to the meanings which may be given to them in the internal law of any State.

*Article 3. Cases not within the scope of the present Convention*

The fact that the present Convention does not apply to the effects of a succession of States in respect of international agreements concluded between States and other subjects of international law or in respect of international agreements not in written form shall not affect:

(a) the application to such cases of any of the rules set forth in the present Convention to which they are subject under international law independently of the Convention;

(b) the application as between States of the present Convention to the effects of a succession of States in respect of international agreements to which other subjects of international law are also parties.

*Article 4. Treaties constituting international organizations and treaties adopted within an international organization*

The present Convention applies to the effects of a succession of States in respect of:

(a) any treaty which is the constituent instrument of an international organization without prejudice to the rules concerning acquisition of membership and without prejudice to any other relevant rules of the organization;

(b) any treaty adopted within an international organization without prejudice to any relevant rules of the organization.

*Article 5. Obligations imposed by international law independently of a treaty*

The fact that a treaty is not considered to be in force in respect of a State by virtue of the application of the present Convention shall not in any way impair the duty of that State to fulfil any obligation embodied in the treaty to which it is subject under international law independently of the treaty.

*Article 6. Cases of succession of States covered by the present Convention*

The present Convention applies only to the effects of a succession of States occurring in conformity with international law and, in particular, the principles of international law embodied in the Charter of the United Nations.

*Article 7. Temporal application of the present Convention*

1. Without prejudice to the application of any of the rules set forth in the present Convention to which the effects of a succession of States would be subject under international law independently of the Convention, the Convention applies only in respect of a succession of States which has occurred after the entry into force of the Convention except as may be otherwise agreed.

2. A successor State may, at the time of expressing its consent to be bound by the present convention or at any time thereafter, make a declaration that it will apply the provisions of the Convention in respect of its own succession of States which has occurred before the entry into force of the Convention in relation to any other contracting State or State Party to the Convention which makes a declaration accepting the declaration of the successor State. Upon the entry into force of the Convention as between the States making the declarations or upon the making of the declaration of acceptance, whichever occurs later, the provisions of the Convention shall apply to the effects of the succession of States as from the date of that succession of States.

3. A successor State may at the time of signing or of expressing its consent to be bound by the present Convention make a declaration that it will apply the provisions of the Convention provisionally in respect of its own succession of States which has occurred before the entry into force of the Convention in relation to any other signatory or contracting State which makes a declaration accepting the declaration of the successor State; upon the making of the declaration of acceptance, those provisions shall apply provisionally to the effects of the succession of States as between those two States as from the date of that succession of States.

4. Any declaration made in accordance with paragraph 2 or 3 shall be contained in a written notification communicated to the depositary, who shall inform the Parties and the States entitled to become Parties to the present Convention of the communication to him of that notification and of its terms.

*Article 8. Agreements for the devolution of treaty obligations or rights from a predecessor State to a successor State*

1. The obligations or rights of a predecessor State under treaties in force in respect of a territory at the date of a succession of States do not become the obligations or rights of the successor State towards other States parties to those treaties by reason only of the fact that the predecessor State and the successor State have concluded an agreement providing that such obligations or rights shall devolve upon the successor State.

2. Notwithstanding the conclusion of such an agreement, the effects of a succession of States on treaties which, at the date of that succession of States, were in force in respect of the territory in question are governed by the present Convention.

*Article 9. Unilateral declaration by a successor State regarding treaties of the predecessor State*

1. Obligations or rights under treaties in force in respect of a territory at the date of a succession of States do not become the obligations or rights of the successor State or of other States parties to those treaties by reason only of the fact that the successor State has made a unilateral declaration providing for the continuance in force of the treaties in respect of its territory

2. In such a case, the effects of the succession of States on treaties which, at the date of that succession of States, were in force in respect of the territory in question are governed by the present Convention.

*Article 10. Treaties providing for the participation of a successor State*

1. When a treaty provides that, on the occurrence of a succession of States, a successor State shall have the option to consider itself a party to the treaty, it may notify its succession in respect of the treaty in conformity with the provisions of the treaty or, failing any such provisions, in conformity with the provisions of the present Convention.

2. If a treaty provides that, on the occurrence of a succession of States, a successor State shall be considered as a party to the treaty, that provision takes effect as such only if the successor State expressly accepts in writing to be so considered.

3. In cases falling under paragraph 1 or 2, a successor State which establishes its consent to be a party to the treaty is considered as a party from the date of the succession of States unless the treaty otherwise provides or it is otherwise agreed.

*Article 11. Boundary régimes*

A succession of States does not as such affect:

- (a) a boundary established by a treaty; or
- (b) obligations and rights established by a treaty and relating to the régime of a boundary.

*Article 12. Other territorial régimes*

1. A succession of States does not as such affect:

(a) obligations relating to the use of any territory, or to restrictions upon its use, established by a treaty for the benefit of any territory of a foreign State and considered as attaching to the territories in question;

(b) rights established by a treaty for the benefit of any territory and relating to the use, or to restrictions upon the use, of any territory of a foreign State and considered as attaching to the territories in question.

2. A succession of States does not as such affect:

(a) obligations relating to the use of any territory, or to restrictions upon its use, established by a treaty for the benefit of a group of States or of all States and considered as attaching to that territory;

(b) rights established by a treaty for the benefit of a group of States or of all States and relating to the use of any territory, or to restrictions upon its use, and considered as attaching to that territory.

3. The provisions of the present article do not apply to treaty obligations of the predecessor State providing for the establishment of foreign military bases on the territory to which the succession of States relates.

*Article 13. The present Convention and permanent sovereignty  
over natural wealth and resources*

Nothing in the present Convention shall affect the principles of international law affirming the permanent sovereignty of every people and every State over its natural wealth and resources.

*Article 14. Questions relating to the validity of a treaty*

Nothing in the present Convention shall be considered as prejudging in any respect any question relating to the validity of a treaty.

PART II. SUCCESSION IN RESPECT OF PART OF TERRITORY

*Article 15. Succession in respect of part of territory*

When part of the territory of a State, or when any territory for the international relations of which a State is responsible, not being part of the territory of that State, becomes part of the territory of another State:

(a) treaties of the predecessor State cease to be in force in respect of the territory to which the succession of States relates from the date of the succession of States; and

(b) treaties of the successor State are in force in respect of the territory to which the succession of States relates from the date of the succession of States, unless it appears from the treaty or is otherwise established that the application of the treaty to that territory would be incompatible with the object and purpose of the treaty or would radically change the conditions for its operation.

PART III. NEWLY INDEPENDENT STATES

SECTION 1. GENERAL RULE

*Article 16. Position in respect of the treaties of the predecessor State*

A newly independent State is not bound to maintain in force, or to become a party to, any treaty by reason only of the fact that at the date of the succession of States the treaty was in force in respect of the territory to which the succession of States relates.

SECTION 2. MULTILATERAL TREATIES

*Article 17. Participation in treaties in force at the date of the  
succession of States*

1. Subject to paragraphs 2 and 3, a newly independent State may, by a notification of succession, establish its status as a party to any multilateral treaty which at the date of the succession of States was in force in respect of the territory to which the succession of States relates.

2. Paragraph 1 does not apply if it appears from the treaty or is otherwise established that the application of the treaty in respect of the newly independent State would be incompatible with the object and purpose of the treaty or would radically change the conditions for its operation.

3. When, under the terms of the treaty or by reason of the limited number of the negotiating States and the object and purpose of the treaty, the participation of any other State in the treaty must be considered as requiring the consent of all the parties, the newly independent State may establish its status as a party to the treaty only with such consent.

*Article 18. Participation in treaties not in force at the date of the succession of States*

1. Subject to paragraphs 3 and 4, a newly independent State may, by a notification of succession, establish its status as a contracting State to a multilateral treaty which is not in force if at the date of the succession of States the predecessor State was a contracting State in respect of the territory to which that succession of States relates.

2. Subject to paragraphs 3 and 4, a newly independent State may, by a notification of succession, establish its status as a party to a multilateral treaty which enters into force after the date of the succession of States if at the date of the succession of States the predecessor State was a contracting State in respect of the territory to which that succession of States relates.

3. Paragraphs 1 and 2 do not apply if it appears from the treaty or is otherwise established that the application of the treaty in respect of the newly independent State would be incompatible with the object and purpose of the treaty or would radically change the conditions for its operation.

4. When, under the terms of the treaty or by reason of the limited number of the negotiating States and the object and purpose of the treaty, the participation of any other State in the treaty must be considered as requiring the consent of all the parties or of all the contracting States, the newly independent State may establish its status as a party or as a contracting State to the treaty only with such consent.

5. When a treaty provides that a specified number of contracting States shall be necessary for its entry into force, a newly independent State which establishes its status as a contracting State to the treaty under paragraph 1 shall be counted as a contracting State for the purpose of that provision unless a different intention appears from the treaty or is otherwise established.

*Article 19. Participation in treaties signed by the predecessor State subject to ratification, acceptance or approval*

1. Subject to paragraphs 3 and 4, if before the date of the succession of States the predecessor State signed a multilateral treaty subject to ratification, acceptance or approval and by the signature intended that the treaty should extend to the territory to which the succession of States relates, the newly independent State may ratify, accept or approve the treaty as if it had signed that treaty and may thereby become a party or a contracting State to it.

2. For the purpose of paragraph 1, unless a different intention appears from the treaty or is otherwise established, the signature by the predecessor State of a treaty is considered to express the intention that the treaty should extend to the entire territory for the international relations of which the predecessor State was responsible.

3. Paragraph 1 does not apply if it appears from the treaty or is otherwise established that the application of the treaty in respect of the newly independent State would be incompatible with the object and purpose of the treaty or would radically change the conditions for its operation.

4. When, under the terms of the treaty or by reason of the limited number of the negotiating States and the object and purpose of the treaty, the participation of any other State in the treaty must be considered as requiring the consent of all the parties or of all the contracting States, the newly independent State may become a party or a contracting State to the treaty only with such consent.

*Article 20. Reservations*

1. When a newly independent State establishes its status as a party or as a contracting State to a multilateral treaty by a notification of succession under article 17 or 18, it shall be considered as



maintaining any reservation to that treaty which was applicable at the date of the succession of States in respect of the territory to which the succession of States relates unless, when making the notification of succession, it expresses a contrary intention or formulates a reservation which relates to the same subject-matter as that reservation.

2. When making a notification of succession establishing its status as a party or as a contracting State to a multilateral treaty under article 17 or 18, a newly independent State may formulate a reservation unless the reservation is one the formulation of which would be excluded by the provisions of sub-paragraph (a), (b) or (c) of article 19 of the Vienna Convention on the Law of Treaties.

3. When a newly independent State formulates a reservation in conformity with paragraph 2, the rules set out in articles 20 to 23 of the Vienna Convention on the Law of Treaties apply in respect of that reservation.

*Article 21. Consent to be bound by part of a treaty and choice  
between differing provisions*

1. When making a notification of succession under article 17 or 18 establishing its status as a party or contracting State to a multilateral treaty, a newly independent State may, if the treaty so permits, express its consent to be bound by part of the treaty or make a choice between differing provisions under the conditions laid down in the treaty for expressing such consent or making such choice.

2. A newly independent State may also exercise, under the same conditions as the other parties or contracting States, any right provided for in the treaty to withdraw or modify any consent expressed or choice made by itself or by the predecessor State in respect of the territory to which the succession of States relates.

3. If the newly independent State does not in conformity with paragraph 1 express its consent or make a choice, or in conformity with paragraph 2 withdraw or modify the consent or choice of the predecessor State, it shall be considered as maintaining:

- (a) the consent of the predecessor State, in conformity with the treaty, to be bound in respect of the territory to which the succession of States relates, by part of that treaty; or
- (b) the choice of the predecessor State, in conformity with the treaty, between differing provisions in the application of the treaty in respect of the territory to which the succession of States relates.

*Article 22. Notification of succession*

1. A notification of succession in respect of a multilateral treaty under article 17 or 18 shall be made in writing.

2. If the notification of succession is not signed by the Head of State, Head of Government or Minister for Foreign Affairs, the representative of the State communicating it may be called upon to produce full powers.

3. Unless the treaty otherwise provides, the notification of succession shall:

- (a) be transmitted by the newly independent State to the depositary, or, if there is no depositary, to the parties or the contracting States;
- (b) be considered to be made by the newly independent State on the date on which it is received by the depositary or, if there is no depositary, on the date on which it is received by all the parties or, as the case may be, by all the contracting States.

4. Paragraph 3 does not affect any duty that the depositary may have, in accordance with the treaty or otherwise, to inform the parties or the contracting States of the notification of succession or any communication made in connection therewith by the newly independent State.

5. Subject to the provisions of the treaty, the notification of succession or the communication made in connection therewith shall be considered as received by the State for which it is intended only when the latter State has been informed by the depositary.

*Article 23. Effects of a notification of succession*

1. Unless the treaty otherwise provides or it is otherwise agreed, a newly independent State which makes a notification of succession under article 17 or article 18, paragraph 2 shall be considered a party to the treaty from the date of the succession of States or from the date of entry into force of the treaty, whichever is the later date.

2. Nevertheless, the operation of the treaty shall be considered as suspended as between the newly independent State and the other parties to the treaty until the date of making of the notification of succession except in so far as that treaty may be applied provisionally in accordance with article 27 or as may be otherwise agreed.

3. Unless the treaty otherwise provides or it is otherwise agreed, a newly independent State which makes a notification of succession under article 18, paragraph 1, shall be considered a contracting State to the treaty from the date on which the notification of succession is made.

SECTION 3. BILATERAL TREATIES

*Article 24. Conditions under which a treaty is considered as being in force in the case of a succession of States*

1. A bilateral treaty which at the date of a succession of States was in force in respect of the territory to which the succession of States relates is considered as being in force between a newly independent State and the other State party when:

- (a) they expressly so agree; or
- (b) by reason of their conduct they are to be considered as having so agreed.

2. A treaty considered as being in force under paragraph 1 applies in the relations between the newly independent State and the other State party from the date of the succession of States, unless a different intention appears from their agreement or is otherwise established.

*Article 25. The position as between the predecessor State and the newly independent State*

A treaty which under article 24 is considered as being in force between a newly independent State and the other State party is not by reason only of that fact to be considered as being in force also in the relations between the predecessor State and the newly independent State.

*Article 26. Termination, suspension of operation or amendment of the treaty as between the predecessor State and the other State party*

1. When under article 24 a treaty is considered as being in force between a newly independent State and the other State party, the treaty:

- (a) does not cease to be in force between them by reason only of the fact that it has subsequently been terminated as between the predecessor State and the other State party;
- (b) is not suspended in operation as between them by reason only of the fact that it has subsequently been suspended in operation as between the predecessor State and the other State party;
- (c) is not amended as between them by reason only of the fact that it has subsequently been amended as between the predecessor State and the other State party.

2. The fact that a treaty has been terminated or, as the case may be, suspended in operation as between the predecessor State and the other State party after the date of the succession of States does not prevent the treaty from being considered to be in force or, as the case may be, in operation as between the newly independent State and the other State party if it is established in accordance with article 24 that they so agreed.

3. The fact that a treaty has been amended as between the predecessor State and the other State party after the date of the succession of States does not prevent the unamended treaty from being considered to be in force under article 24 as between the newly independent State and the

other State party, unless it is established that they intended the treaty as amended to apply between them.

#### SECTION 4. PROVISIONAL APPLICATION

##### *Article 27. Multilateral treaties*

1. If, at the date of the succession of States, a multilateral treaty was in force in respect of the territory to which the succession of States relates and the newly independent State gives notice of its intention that the treaty should be applied provisionally in respect of its territory, that treaty shall apply provisionally between the newly independent State and any party which expressly so agrees or by reason of its conduct is to be considered as having so agreed.

2. Nevertheless, in the case of a treaty which falls within the category mentioned in article 17, paragraph 3, the consent of all the parties to such provisional application is required.

3. If, at the date of the succession of States, a multilateral treaty not yet in force was being applied provisionally in respect of the territory to which the succession of States relates and the newly independent State gives notice of its intention that the treaty should continue to be applied provisionally in respect of its territory, that treaty shall apply provisionally between the newly independent State and any contracting State which expressly so agrees or by reason of its conduct is to be considered as having so agreed.

4. Nevertheless, in the case of a treaty which falls within the category mentioned in article 17, paragraph 3, the consent of all the contracting States to such continued provisional application is required.

5. Paragraphs 1 to 4 do not apply if it appears from the treaty or is otherwise established that the application of the treaty in respect of the newly independent State would be incompatible with the object and purpose of the treaty or would radically change the conditions for its operation.

##### *Article 28. Bilateral treaties*

A bilateral treaty which at the date of a succession of States was in force or was being provisionally applied in respect of the territory to which the succession of States relates is considered as applying provisionally between the newly independent State and the other State concerned when:

- (a) they expressly so agree; or
- (b) by reason of their conduct they are to be considered as having so agreed.

##### *Article 29. Termination of provisional application*

1. Unless the treaty otherwise provides or it is otherwise agreed, the provisional application of a multilateral treaty under article 27 may be terminated:

- (a) by reasonable notice of termination given by the newly independent State or the party or contracting State provisionally applying the treaty and the expiration of the notice; or
- (b) in the case of a treaty which falls within the category mentioned in article 17, paragraph 3, by reasonable notice of termination given by the newly independent State or all of the parties or, as the case may be, all of the contracting States and the expiration of the notice.

2. Unless the treaty otherwise provides or it is otherwise agreed, the provisional application of a bilateral treaty under article 28 may be terminated by reasonable notice of termination given by the newly independent State or the other State concerned and the expiration of the notice.

3. Unless the treaty provides for a shorter period for its termination or it is otherwise agreed, reasonable notice of termination shall be twelve months' notice from the date on which it is received by the other State or States provisionally applying the treaty.

4. Unless the treaty otherwise provides or it is otherwise agreed, the provisional application of a multilateral treaty under article 27 shall be terminated if the newly independent State gives notice of its intention not to become a party to the treaty.

## SECTION 5. NEWLY INDEPENDENT STATES FORMED FROM TWO OR MORE TERRITORIES

### *Article 30. Newly independent States formed from two or more territories*

1. Articles 16 to 29 apply in the case of a newly independent State formed from two or more territories.

2. When a newly independent State formed from two or more territories is considered as or becomes a party to a treaty by virtue of article 17, 18 or 24 and at the date of the succession of States the treaty was in force, or consent to be bound had been given, in respect of one or more, but not all, of those territories, the treaty shall apply in respect of the entire territory of that State unless:

(a) it appears from the treaty or is otherwise established that the application of the treaty in respect of the entire territory would be incompatible with the object and purpose of the treaty or would radically change the conditions for its operation;

(b) in the case of a multilateral treaty not falling under article 17, paragraph 3, or under article 18, paragraph 4, the notification of succession is restricted to the territory in respect of which the treaty was in force at the date of the succession of States, or in respect of which consent to be bound by the treaty had been given prior to that date;

(c) in the case of a multilateral treaty falling under article 17, paragraph 3, or under article 18, paragraph 4, the newly independent State and the other States parties or, as the case may be, the other contracting States otherwise agree; or

(d) in the case of a bilateral treaty, the newly independent State and the other State concerned otherwise agree.

3. When a newly independent State formed from two or more territories becomes a party to a multilateral treaty under article 19 and by the signature or signatures of the predecessor State or States it had been intended that the treaty should extend to one or more, but not all, of those territories, the treaty shall apply in respect of the entire territory of the newly independent State unless:

(a) it appears from the treaty or is otherwise established that the application of the treaty in respect of the entire territory would be incompatible with the object and purpose of the treaty or would radically change the conditions for its operation;

(b) in the case of a multilateral treaty not falling under article 19, paragraph 4, the ratification, acceptance or approval of the treaty is restricted to the territory or territories to which it was intended that the treaty should extend; or

(c) in the case of a multilateral treaty falling under article 19, paragraph 4, the newly independent State and the other States parties or, as the case may be, the other contracting States otherwise agree.

## PART IV. UNITING AND SEPARATION OF STATES

### *Article 31. Effects of a uniting of States in respect of treaties in force at the date of the succession of States*

1. When two or more States unite and so form one successor State, any treaty in force at the date of the succession of States in respect of any of them continues in force in respect of the successor State unless:

(a) the successor State and the other State party or States parties otherwise agree; or

(b) it appears from the treaty or is otherwise established that the application of the treaty in respect of the successor State would be incompatible with the object and purpose of the treaty or would radically change the conditions for its operation.

2. Any treaty continuing in force in conformity with paragraph 1 shall apply only in respect of the part of the territory of the successor State in respect of which the treaty was in force at the date of the succession of States unless:

(a) in the case of a multilateral treaty not falling within the category mentioned in article 17, paragraph 3, the successor State makes a notification that the treaty shall apply in respect of its entire territory;

(b) in the case of a multilateral treaty falling within the category mentioned in article 17, paragraph 3, the successor State and the other States parties otherwise agree; or

(c) in the case of a bilateral treaty, the successor State and the other State party otherwise agree.

3. Paragraph 2(a) does not apply if it appears from the treaty or is otherwise established that the application of the treaty in respect of the entire territory of the successor State would be incompatible with the object and purpose of the treaty or would radically change the conditions for its operation.

*Article 32. Effects of a uniting of States in respect of treaties  
not in force at the date of the succession of States*

1. Subject to paragraphs 3 and 4, a successor State falling under article 31 may, by making a notification, establish its status as a contracting State to a multilateral treaty which is not in force if, at the date of the succession of States, any of the predecessor States was a contracting State to the treaty.

2. Subject to paragraphs 3 and 4, a successor State falling under article 31 may, by making a notification, establish its status as a party to a multilateral treaty which enters into force after the date of the succession of States if, at that date, any of the predecessor States was a contracting State to the treaty.

3. Paragraphs 1 and 2 do not apply if it appears from the treaty or is otherwise established that the application of the treaty in respect of the successor State would be incompatible with the object and purpose of the treaty or would radically change the conditions for its operation.

4. If the treaty is one falling within the category mentioned in article 17, paragraph 3, the successor State may establish its status as a party or as a contracting State to the treaty only with the consent of all the parties or of all the contracting States.

5. Any treaty to which the successor State becomes a contracting State or a party in conformity with paragraph 1 or 2 shall apply only in respect of the part of the territory of the successor State in respect of which consent to be bound by the treaty had been given prior to the date of the succession of States unless:

(a) in the case of a multilateral treaty not falling within the category mentioned in article 17, paragraph 3, the successor State indicates in its notification made under paragraph 1 or 2 that the treaty shall apply in respect of its entire territory; or

(b) in the case of a multilateral treaty falling within the category mentioned in article 17, paragraph 3, the successor State and all the parties or, as the case may be, all the contracting States otherwise agree.

6. Paragraph 5(a) does not apply if it appears from the treaty or is otherwise established that the application of the treaty in respect of the entire territory of the successor State would be incompatible with the object and purpose of the treaty or would radically change the conditions for its operation.

*Article 33. Effects of a uniting of States in respect of treaties signed by a  
predecessor State subject to ratification, acceptance or approval*

1. Subject to paragraphs 2 and 3, if before the date of the succession of States one of the predecessor States had signed a multilateral treaty subject to ratification, acceptance or approval, a successor State falling under article 31 may ratify, accept or approve the treaty as if it had signed that treaty and may thereby become a party or a contracting State to it.

2. Paragraph 1 does not apply if it appears from the treaty or is otherwise established that the application of the treaty in respect of the successor State would be incompatible with the object and purpose of the treaty or would radically change the conditions for its operation.

3. If the treaty is one falling within the category mentioned in article 17, paragraph 3, the successor State may become a party or a contracting State to the treaty only with the consent of all the parties or of all the contracting States.

4. Any treaty to which the successor State becomes a party or a contracting State in conformity with paragraph 1 shall apply only in respect of the part of the territory of the successor State in respect of which the treaty was signed by one of the predecessor States unless

(a) in the case of a multilateral treaty not falling within the category mentioned in article 17, paragraph 3, the successor State when ratifying, accepting or approving the treaty gives notice that the treaty shall apply in respect of its entire territory; or

(b) in the case of a multilateral treaty falling within the category mentioned in article 17, paragraph 3, the successor State and all the parties or, as the case may be, all the contracting States otherwise agree.

5. Paragraph 4(a) does not apply if it appears from the treaty or is otherwise established that the application of the treaty in respect of the entire territory of the successor State would be incompatible with the object and purpose of the treaty or would radically change the conditions for its operation.

#### *Article 34. Succession of States in cases of separation of parts of a State*

1. When a part or parts of the territory of a State separate to form one or more States, whether or not the predecessor State continues to exist:

(a) any treaty in force at the date of the succession of States in respect of the entire territory of the predecessor State continues in force in respect of each successor State so formed;

(b) any treaty in force at the date of the succession of States in respect only of that part of the territory of the predecessor State which has become a successor State continues in force in respect of that successor State alone.

2. Paragraph 1 does not apply if:

(a) the States concerned otherwise agree; or

(b) it appears from the treaty or is otherwise established that the application of the treaty in respect of the successor State would be incompatible with the object and purpose of the treaty or would radically change the conditions for its operation.

#### *Article 35. Position if a State continues after separation of part of its territory*

When, after separation of any part of the territory of a State, the predecessor State continues to exist, any treaty which at the date of the succession of States was in force in respect of the predecessor State continues in force in respect of its remaining territory unless:

(a) the States concerned otherwise agree;

(b) it is established that the treaty related only to the territory which has separated from the predecessor State; or

(c) it appears from the treaty or is otherwise established that the application of the treaty in respect of the predecessor State would be incompatible with the object and purpose of the treaty or would radically change the conditions for its operation.

#### *Article 36. Participation in treaties not in force at the date of the succession of States in cases of separation of parts of a State*

1. Subject to paragraphs 3 and 4, a successor State falling under article 34, paragraph 1, may, by making a notification, establish its status as a contracting State to a multilateral treaty which is not in force if, at the date of the succession of States, the predecessor State was a contracting State to the treaty in respect of the territory to which the succession of States relates.

2. Subject to paragraphs 3 and 4, a successor State falling under article 34, paragraph 1, may, by making a notification, establish its status as a party to a multilateral treaty which enters into force after the date of the succession of States if at that date the predecessor State was a contracting State to the treaty in respect of the territory to which the succession of States relates.

3. Paragraphs 1 and 2 do not apply if it appears from the treaty or is otherwise established that the application of the treaty in respect of the successor State would be incompatible with the object and purpose of the treaty or would radically change the conditions for its operation.

4. If the treaty is one falling within the category mentioned in article 17, paragraph 3, the successor State may establish its status as a party or as a contracting State to the treaty only with the consent of all the parties or of all the contracting States.

*Article 37. Participation in cases of separation of parts of a State in treaties signed by the predecessor State subject to ratification, acceptance or approval*

1. Subject to paragraphs 2 and 3, if before the date of the succession of States the predecessor State had signed a multilateral treaty subject to ratification, acceptance or approval and the treaty, if it had been in force at that date, would have applied in respect of the territory to which the succession of States relates, a successor State falling under article 34, paragraph 1, may ratify, accept or approve the treaty as if it had signed that treaty and may thereby become a party or a contracting State to it.

2. Paragraph 1 does not apply if it appears from the treaty or is otherwise established that the application of the treaty in respect of the successor State would be incompatible with the object and purpose of the treaty or would radically change the conditions for its operation.

3. If the treaty is one falling within the category mentioned in article 17, paragraph 3, the successor State may become a party or a contracting State to the treaty only with the consent of all the parties or of all the contracting States.

*Article 38. Notifications*

1. Any notification under articles 31, 32 or 36 shall be made in writing.

2. If the notification is not signed by the Head of State, Head of Government or Minister for Foreign Affairs, the representative of the State communicating it may be called upon to produce full powers.

3. Unless the treaty otherwise provides, the notification shall:

(a) be transmitted by the successor State to the depositary, or, if there is no depositary, to the parties or the contracting States;

(b) be considered to be made by the successor State on the date on which it is received by the depositary or, if there is no depositary, on the date on which it is received by all the parties or, as the case may be, by all the contracting States.

4. Paragraph 3 does not affect any duty that the depositary may have, in accordance with the treaty or otherwise, to inform the parties or the contracting States of the notification or any communication made in connection therewith by the successor State.

5. Subject to the provisions of the treaty, such notification or communication shall be considered as received by the State for which it is intended only when the latter State has been informed by the depositary.

PART V. MISCELLANEOUS PROVISIONS

*Article 39. Cases of State responsibility and outbreak of hostilities*

The provisions of the present Convention shall not prejudice any question that may arise in regard to the effects of a succession of States in respect of a treaty from the international responsibility of a State or from the outbreak of hostilities between States.

*Article 40. Cases of military occupation*

The provisions of the present Convention shall not prejudice any question that may arise in regard to a treaty from the military occupation of a territory.

## PART VI. SETTLEMENT OF DISPUTES

### *Article 41. Consultation and negotiation*

If a dispute regarding the interpretation or application of the present Convention arises between two or more Parties to the Convention, they shall, upon the request of any of them, seek to resolve it by a process of consultation and negotiation.

### *Article 42. Conciliation*

If the dispute is not resolved within six months of the date on which the request referred to in article 41 has been made, any party to the dispute may submit it to the conciliation procedure specified in the Annex to the present Convention by submitting a request to that effect to the Secretary-General of the United Nations and informing the other party or parties to the dispute of the request.

### *Article 43. Judicial settlement and arbitration*

Any State at the time of signature or ratification of the present Convention or accession thereto or at any time thereafter, may, by notification to the depositary, declare that, where a dispute has not been resolved by the application of the procedures referred to in articles 41 and 42, that dispute may be submitted for a decision to the International Court of Justice by a written application of any party to the dispute, or in the alternative to arbitration, provided that the other party to the dispute has made a like declaration.

### *Article 44. Settlement by common consent*

Notwithstanding articles 41, 42 and 43, if a dispute regarding the interpretation or application of the present Convention arises between two or more Parties to the Convention they may by common consent agree to submit it to the International Court of Justice, or to arbitration, or to any other appropriate procedure for the settlement of disputes.

### *Article 45. Other provisions in force for the settlement of disputes*

Nothing in articles 41 to 44 shall affect the rights or obligations of the Parties to the present Convention under any provisions in force binding them with regard to the settlement of disputes.

## PART VII. FINAL PROVISIONS

### *Article 46. Signature*

The present Convention shall be open for signature by all States until 28 February 1979 at the Federal Ministry for Foreign Affairs of the Republic of Austria, and subsequently, until 31 August 1979, at United Nations Headquarters in New York.

### *Article 47. Ratification*

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

### *Article 48. Accession*

The present Convention shall remain open for accession by any State. The instruments of accession shall be deposited with the Secretary-General of the United Nations.

### *Article 49. Entry into force*

1. The present Convention shall enter into force on the thirtieth day following the date of deposit of the fifteenth instrument of ratification or accession.



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

#### *Article 50. Authentic texts*

The original of the present Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.

IN WITNESS WHEREOF the undersigned Plenipotentiaries, being duly authorized thereto by their respective Governments, have signed the present Convention.

DONE at Vienna, this twenty-third day of August, one thousand nine hundred and seventy-eight.

#### **ANNEX**

1. A list of conciliators consisting of qualified jurists shall be drawn up and maintained by the Secretary-General of the United Nations. To this end, every State which is a Member of the United Nations or a Party to the present Convention shall be invited to nominate two conciliators, and the names of the persons so nominated shall constitute the list. The term of a conciliator, including that of any conciliator nominated to fill a casual vacancy, shall be five years and may be renewed. A conciliator whose term expires shall continue to fulfil any function for which he shall have been chosen under the following paragraph.

2. When a request has been made to the Secretary-General under article 42, the Secretary-General shall bring the dispute before a conciliation commission constituted as follows:

The State or States constituting one of the parties to the dispute shall appoint:

(a) one conciliator of the nationality of that State or of one of those States, who may or may not be chosen from the list referred to in paragraph 1; and

(b) one conciliator not of the nationality of that State or of any of those States, who shall be chosen from the list.

The State or States constituting the other party to the dispute shall appoint two conciliators in the same way. The four conciliators chosen by the parties shall be appointed within sixty days following the date on which the Secretary-General receives the request.

The four conciliators shall, within sixty days following the date of the appointment of the last of them, appoint a fifth conciliator chosen from the list, who shall be chairman.

If the appointment of the chairman or of any of the other conciliators has not been made within the period prescribed above for such appointment, it shall be made by the Secretary-General within sixty days following the expiry of that period. The appointment of the chairman may be made by the Secretary-General either from the list or from the membership of the International Law Commission. Any of the periods within which appointments must be made may be extended by agreement between the parties to the dispute.

Any vacancy shall be filled in the manner prescribed for the initial appointment.

3. The Conciliation Commission shall decide its own procedure. The Commission, with the consent of the parties to the dispute, may invite any Party to the present Convention to submit to it its views orally or in writing. Decisions and recommendations of the Commission shall be made by a majority vote of the five members.

4. The Commission may draw the attention of the parties to the dispute to any measures which might facilitate an amicable settlement.

5. The Commission shall hear the parties, examine the claims and objections, and make proposals to the parties with a view to reaching an amicable settlement of the dispute.

6. The Commission shall report within twelve months of its constitution. Its report shall be deposited with the Secretary-General and transmitted to the parties to the dispute. The report of the Commission, including any conclusions stated therein regarding the facts or questions of law, shall not be binding upon the parties and it shall have no other character than that of recommendations submitted for the consideration of the parties in order to facilitate an amicable settlement of the dispute.

7. The Secretary-General shall provide the Commission with such assistance and facilities as it may require. The expenses of the Commission shall be borne by the United Nations.

(b) RESOLUTIONS ADOPTED BY THE CONFERENCE

*Resolution concerning Namibia*

*The United Nations Conference on Succession of States in Respect of Treaties,*

*Taking note* of the statement made by the Chairman of the delegation of the United Nations Council for Namibia during the resumed session of the Conference,<sup>1</sup>

*Taking into account* United Nations General Assembly resolution 2145 (XXI) of 27 October 1966, by which the General Assembly decided to terminate the Mandate of South Africa over Namibia and by which the United Nations assumed direct responsibility for the Territory until independence, and General Assembly resolution 2248 (S-V) of 19 May 1967, by which the United Nations Council for Namibia was established and entrusted with the responsibility of administering the Territory until independence,

*Recalling* the advisory opinion of the International Court of Justice of 21 June 1971 which declared that the continued presence of South Africa in Namibia being illegal, South Africa is under obligation to withdraw its administration from the Territory and thus put an end to its illegal occupation of the Territory,

*Further recalling* the relevant resolutions of the United Nations, in particular Security Council resolutions 385 (1976) which reaffirmed the territorial integrity and unity of Namibia and 432 (1978) which took note of paragraph 7 of General Assembly resolution 32/9 D (1977) declaring that Walvis Bay is an integral part of Namibia,

*Resolves* that the relevant articles of the Vienna Convention on Succession of States in Respect of Treaties shall be interpreted, in the case of Namibia, in conformity with United Nations resolutions on the question of Namibia;

*Further resolves* that South Africa is not the predecessor State of the future independent State of Namibia.

*Resolution relating to incompatible treaty obligations  
and rights arising from a uniting of States*

*The United Nations Conference on Succession of States in Respect of Treaties,*

*Considering* that a uniting of States may give rise to incompatible obligations and rights as a result of the differing treaty régimes applicable to the two or more States which unite,

*Recognizing* the desirability of resolving such questions through a process of consultation and negotiation,

*Recommends* that if a uniting of States gives rise to incompatible obligations or rights under treaties, the successor State and the other States parties to the treaties in question make every effort to resolve the matter by mutual agreement.<sup>2</sup>

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<sup>1</sup> See *Official Records of the United Nations Conference on Succession of States in Respect of Treaties*, vol. II (A/CONF.80/16/Add.1, Sales No. E.79.V.9), 38th meeting of the Committee of the Whole, paras. 62-70.

<sup>2</sup> The Conference adopted three other resolutions which are not reproduced here: see the Final Act of the Conference (A/CONF.80/32 in *Official Records of the United Nations Conference on Succession of States in Respect of Treaties*, Documents of the Conference (A/CONF.80/16/Add.2, United Nations publication Sales No. E.79.V.10), p. 179.

## 2. UNITED NATIONS CONFERENCE ON THE CARRIAGE OF GOODS BY SEA (HAMBURG, 6-31 MARCH 1978)

(a) UNITED NATIONS CONVENTION ON THE CARRIAGE OF GOODS BY SEA, 1978

### *Preamble*

*The States Parties to this Convention,*

*Having recognized the desirability of determining by agreement certain rules relating to the carriage of goods by sea,*

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

### PART I. GENERAL PROVISIONS

#### *Article 1. Definitions*

In this Convention:

1. "Carrier" means any person by whom or in whose name a contract of carriage of goods by sea has been concluded with a shipper.
2. "Actual carrier" means any person to whom the performance of the carriage of the goods, or of part of the carriage, has been entrusted by the carrier, and includes any other person to whom such performance has been entrusted.
3. "Shipper" means any person by whom or in whose name or on whose behalf a contract of carriage of goods by sea has been concluded with a carrier, or any person by whom or in whose name or on whose behalf the goods are actually delivered to the carrier in relation to the contract of carriage by sea.
4. "Consignee" means the person entitled to take delivery of the goods.
5. "Goods" includes live animals; where the goods are consolidated in a container, pallet or similar article of transport or where they are packed, "goods" includes such article of transport or packaging if supplied by the shipper.
6. "Contract of carriage by sea" means any contract whereby the carrier undertakes against payment of freight to carry goods by sea from one port to another; however, a contract which involves carriage by sea and also carriage by some other means is deemed to be a contract of carriage by sea for the purposes of this Convention only in so far as it relates to the carriage by sea.
7. "Bill of lading" means a document which evidences a contract of carriage by sea and the taking over or loading of the goods by the carrier, and by which the carrier undertakes to deliver the goods against surrender of the document. A provision in the document that the goods are to be delivered to the order of a named person, or to order, or to bearer, constitutes such an undertaking.
8. "Writing" includes, *inter alia*, telegram and telex.

#### *Article 2. Scope of application*

1. The provisions of this Convention are applicable to all contracts of carriage by sea between two different States, if:
  - (a) the port of loading as provided for in the contract of carriage by sea is located in a Contracting State, or
  - (b) the port of discharge as provided for in the contract of carriage by sea is located in a Contracting State, or
  - (c) one of the optional ports of discharge provided for in the contract of carriage by sea is the actual port of discharge and such port is located in a Contracting State, or
  - (d) the bill of lading or other document evidencing the contract of carriage by sea is issued in a Contracting State, or

(e) the bill of lading or other document evidencing the contract of carriage by sea provides that the provisions of this Convention or the legislation of any State giving effect to them are to govern the contract.

2. The provisions of this Convention are applicable without regard to the nationality of the ship, the carrier, the actual carrier, the shipper, the consignee or any other interested person.

3. The provisions of this Convention are not applicable to charter-parties. However, where a bill of lading is issued pursuant to a charter-party, the provisions of the Convention apply to such a bill of lading if it governs the relation between the carrier and the holder of the bill of lading, not being the charterer.

4. If a contract provides for future carriage of goods in a series of shipments during an agreed period, the provisions of this Convention apply to each shipment. However, where a shipment is made under a charter-party, the provisions of paragraph 3 of this article apply.

### *Article 3. Interpretation of the Convention*

In the interpretation and application of the provisions of this Convention regard shall be had to its international character and to the need to promote uniformity.

## **PART II. LIABILITY OF THE CARRIER**

### *Article 4. Period of responsibility*

1. The responsibility of the carrier for the goods under this Convention covers the period during which the carrier is in charge of the goods at the port of loading, during the carriage and at the port of discharge.

2. For the purpose of paragraph 1 of this article, the carrier is deemed to be in charge of the goods

(a) from the time he has taken over the goods from:

(i) the shipper, or a person acting on his behalf; or

(ii) an authority or other third party to whom, pursuant to law or regulations applicable at the port of loading, the goods must be handed over for shipment;

(b) until the time he has delivered the goods:

(i) by handing over the goods to the consignee; or

(ii) in cases where the consignee does not receive the goods from the carrier, by placing them at the disposal of the consignee in accordance with the contract or with the law or with the usage of the particular trade, applicable at the port of discharge, or

(iii) by handing over the goods to an authority or other third party to whom, pursuant to law or regulations applicable at the port of discharge, the goods must be handed over.

3. In paragraphs 1 and 2 of this article, reference to the carrier or to the consignee means, in addition to the carrier or the consignee, the servants or agents, respectively of the carrier or the consignee.

### *Article 5. Basis of liability*

1. The carrier is liable for loss resulting from loss of or damage to the goods, as well as from delay in delivery, if the occurrence which caused the loss, damage or delay took place while the goods were in his charge as defined in article 4, unless the carrier proves that he, his servants or agents took all measures that could reasonably be required to avoid the occurrence and its consequences.

2. Delay in delivery occurs when the goods have not been delivered at the port of discharge provided for in the contract of carriage by sea within the time expressly agreed upon or, in the absence of such agreement, within the time which it would be reasonable to require of a diligent carrier, having regard to the circumstances of the case.

3. The person entitled to make a claim for the loss of goods may treat the goods as lost if they have not been delivered as required by article 4 within 60 consecutive days following the expiry of the time for delivery according to paragraph 2 of this article.

4. (a) The carrier is liable

- (i) for loss of or damage to the goods or delay in delivery caused by fire, if the claimant proves that the fire arose from fault or neglect on the part of the carrier, his servants or agents;
- (ii) for such loss, damage or delay in delivery which is proved by the claimant to have resulted from the fault or neglect of the carrier, his servants or agents, in taking all measures that could reasonably be required to put out the fire and avoid or mitigate its consequences.

(b) In case of fire on board the ship affecting the goods, if the claimant or the carrier so desires, a survey in accordance with shipping practices must be held into the cause and circumstances of the fire, and a copy of the surveyor's report shall be made available on demand to the carrier and the claimant.

5. With respect to live animals, the carrier is not liable for loss, damage or delay in delivery resulting from any special risks inherent in that kind of carriage. If the carrier proves that he has complied with any special instructions given to him by the shipper respecting the animals and that, in the circumstances of the case, the loss, damage or delay in delivery could be attributed to such risks, it is presumed that the loss, damage or delay in delivery was so caused, unless there is proof that all or a part of the loss, damage or delay in delivery resulted from fault or neglect on the part of the carrier, his servants or agents.

6. The carrier is not liable, except in general average, where loss, damage or delay in delivery resulted from measures to save life or from reasonable measures to save property at sea.

7. Where fault or neglect on the part of the carrier, his servants or agents combines with another cause to produce loss, damage or delay in delivery the carrier is liable only to the extent that the loss, damage or delay in delivery is attributable to such fault or neglect, provided that the carrier proves the amount of the loss, damage or delay in delivery not attributable thereto.

#### *Article 6. Limits of liability*

1. (a) The liability of the carrier for loss resulting from loss of or damage to goods according to the provisions of article 5 is limited to an amount equivalent to 835 units of account per package or other shipping unit or 2.5 units of account per kilogramme of gross weight of the goods lost or damaged, whichever is the higher.

(b) The liability of the carrier for delay in delivery according to the provisions of article 5 is limited to an amount equivalent to two and a half times the freight payable for the goods delayed, but not exceeding the total freight payable under the contract of carriage of goods by sea.

(c) In no case shall the aggregate liability of the carrier, under both subparagraphs (a) and (b) of this paragraph, exceed the limitation which would be established under subparagraph (a) of this paragraph for total loss of the goods with respect to which such liability was incurred.

2. For the purpose of calculating which amount is the higher in accordance with paragraph 1 (a) of this article, the following rules apply:

(a) Where a container, pallet or similar article of transport is used to consolidate goods, the package or other shipping units enumerated in the bill of lading, if issued, or otherwise in any other document evidencing the contract of carriage by sea, as packed in such article of transport are deemed packages or shipping units. Except as aforesaid the goods in such article of transport are deemed one shipping unit.

(b) In cases where the article of transport itself has been lost or damaged, that article of transport, if not owned or otherwise supplied by the carrier, is considered one separate shipping unit.

3. Unit of account means the unit of account mentioned in article 26.

4. By agreement between the carrier and the shipper, limits of liability exceeding those provided for in paragraph 1 may be fixed.

#### *Article 7. Application to non-contractual claims*

1. The defences and limits of liability provided for in this Convention apply in any action against the carrier in respect of loss or damage to the goods covered by the contract of carriage by sea, as well as of delay in delivery whether the action is founded in contract, in tort or otherwise.

2. If such an action is brought against a servant or agent of the carrier, such servant or agent, if he proves that he acted within the scope of his employment, is entitled to avail himself of the defences and limits of liability which the carrier is entitled to invoke under this Convention.

3. Except as provided in article 8, the aggregate of the amounts recoverable from the carrier and from any persons referred to in paragraph 2 of this article shall not exceed the limits of liability provided for in this Convention.

#### *Article 8. Loss of right to limit responsibility*

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

2. Notwithstanding the provisions of paragraph 2 of article 7, a servant or agent of the carrier is not entitled to the benefit of the limitation of liability provided for in article 6 if it is proved that the loss, damage or delay in delivery resulted from an act or omission of such servant or agent, done with the intent to cause such loss, damage or delay, or recklessly and with knowledge that such loss, damage or delay would probably result.

#### *Article 9. Deck cargo*

1. The carrier is entitled to carry the goods on deck only if such carriage is in accordance with an agreement with the shipper or with the usage of the particular trade or is required by statutory rules or regulations.

2. If the carrier and the shipper have agreed that the goods shall or may be carried on deck, the carrier must insert in the bill of lading or other document evidencing the contract of carriage by sea a statement to that effect. In the absence of such a statement the carrier has the burden of proving that an agreement for carriage on deck has been entered into; however, the carrier is not entitled to invoke such an agreement against a third party, including a consignee, who has acquired the bill of lading in good faith.

3. Where the goods have been carried on deck contrary to the provisions of paragraph 1 of this article or where the carrier may not under paragraph 2 of this article invoke an agreement for carriage on deck, the carrier, notwithstanding the provisions of paragraph 1 of article 5, is liable for loss of or damage to the goods, as well as for delay in delivery, resulting solely from the carriage on deck, and the extent of his liability is to be determined in accordance with the provisions of article 6 or article 8 of this Convention, as the case may be.

4. Carriage of goods on deck contrary to express agreement for carriage under deck is deemed to be an act or omission of the carrier within the meaning of article 8.

#### *Article 10. Liability of the carrier and actual carrier*

1. Where the performance of the carriage or part thereof has been entrusted to an actual carrier, whether or not in pursuance of a liberty under the contract of carriage by sea to do so, the carrier nevertheless remains responsible for the entire carriage according to the provisions of this Convention. The carrier is responsible, in relation to the carriage performed by the actual carrier, for the acts and omissions of the actual carrier and of his servants and agents acting within the scope of their employment.

2. All the provisions of this Convention governing the responsibility of the carrier also apply to the responsibility of the actual carrier for the carriage performed by him. The provisions of paragraphs 2 and 3 of article 7 and of paragraph 2 of article 8 apply if an action is brought against a servant or agent of the actual carrier.

3. Any special agreement under which the carrier assumes obligations not imposed by this Convention or waives rights conferred by this Convention affects the actual carrier only if agreed to by him expressly and in writing. Whether or not the actual carrier has so agreed, the carrier nevertheless remains bound by the obligations or waivers resulting from such special agreement.

4. Where and to the extent that both the carrier and the actual carrier are liable, their liability is joint and several.

5. The aggregate of the amounts recoverable from the carrier, the actual carrier and their servants and agents shall not exceed the limits of liability provided for in this Convention.

6. Nothing in this article shall prejudice any right of recourse as between the carrier and the actual carrier.

#### *Article 11. Through carriage*

1. Notwithstanding the provisions of paragraph 1 of article 10, where a contract of carriage by sea provides explicitly that a specified part of the carriage covered by the said contract is to be performed by a named person other than the carrier, the contract may also provide that the carrier is not liable for loss, damage or delay in delivery caused by an occurrence which takes place while the goods are in the charge of the actual carrier during such part of the carriage. Nevertheless, any stipulation limiting or excluding such liability is without effect if no judicial proceedings can be instituted against the actual carrier in a court competent under paragraph 1 or 2 of article 21. The burden of proving that any loss, damage or delay in delivery has been caused by such an occurrence rests upon the carrier.

2. The actual carrier is responsible in accordance with the provisions of paragraph 2 of article 10 for loss, damage or delay in delivery caused by an occurrence which takes place while the goods are in his charge.

### **PART III. LIABILITY OF THE SHIPPER**

#### *Article 12. General rule*

The shipper is not liable for loss sustained by the carrier or the actual carrier, or for damage sustained by the ship, unless such loss or damage was caused by the fault or neglect of the shipper, his servants or agents. Nor is any servant or agent of the shipper liable for such loss or damage unless the loss or damage was caused by fault or neglect on his part.

#### *Article 13. Special rules on dangerous goods*

1. The shipper must mark or label in a suitable manner dangerous goods as dangerous.

2. Where the shipper hands over dangerous goods to the carrier or an actual carrier, as the case may be, the shipper must inform him of the dangerous character of the goods and, if necessary, of the precautions to be taken. If the shipper fails to do so and such carrier or actual carrier does not otherwise have knowledge of their dangerous character:

(a) the shipper is liable to the carrier and any actual carrier for the loss resulting from the shipment of such goods, and

(b) the goods may at any time be unloaded, destroyed or rendered innocuous, as the circumstances may require, without payment of compensation.

3. The provisions of paragraph 2 of this article may not be invoked by any person if during the carriage he has taken the goods in his charge with knowledge of their dangerous character.

4. If, in cases where the provisions of paragraph 2, subparagraph (b), of this article do not apply or may not be invoked, dangerous goods become an actual danger to life or property, they may be unloaded, destroyed or rendered innocuous, as the circumstances may require, without payment of compensation except where there is an obligation to contribute in general average or where the carrier is liable in accordance with the provisions of article 5.

## PART IV. TRANSPORT DOCUMENTS

### *Article 14. Issue of bill of lading*

1. When the carrier or the actual carrier takes the goods in his charge, he carrier must, on demand of the shipper, issue to the shipper a bill of lading.

2. The bill of lading may be signed by a person having authority from the carrier. A bill of lading signed by the master of the ship carrying the goods is deemed to have been signed on behalf of the carrier.

3. The signature on the bill of lading may be in handwriting, printed in facsimile, perforated, stamped, in symbols, or made by any other mechanical or electronic means, if not inconsistent with the law of the country where the bill of lading is issued.

### *Article 15. Contents of bill of lading*

1. The bill of lading must include, *inter alia*, the following particulars:

(a) the general nature of the goods, the leading marks necessary for identification of the goods, an express statement, if applicable, as to the dangerous character of the goods, the number of packages or pieces, and the weight of the goods or their quantity otherwise expressed, all such particulars as furnished by the shipper;

(b) the apparent condition of the goods;

(c) the name and principal place of business of the carrier;

(d) the name of the shipper;

(e) the consignee if named by the shipper;

(f) the port of loading under the contract of carriage by sea and the date on which the goods were taken over by the carrier at the port of loading;

(g) the port of discharge under the contract of carriage by sea;

(h) the number of originals of the bill of lading, if more than one;

(i) the place of issuance of the bill of lading;

(j) the signature of the carrier or a person acting on his behalf;

(k) the freight to the extent payable by the consignee or other indication that freight is payable by him;

(l) the statement referred to in paragraph 3 of article 23;

(m) the statement, if applicable, that the goods shall or may be carried on deck;

(n) the date or the period of delivery of the goods at the port of discharge if expressly agreed upon between the parties; and

(o) any increased limit or limits of liability where agreed in accordance with paragraph 4 of article 6.

2. After the goods have been loaded on board, if the shipper so demands, the carrier must issue to the shipper a "shipped" bill of lading which, in addition to the particulars required under paragraph 1 of this article, must state that the goods are on board a named ship or ships, and the date or dates of loading. If the carrier has previously issued to the shipper a bill of lading or other document of title with respect to any of such goods, on request of the carrier, the shipper must surrender such document in exchange for a "shipped" bill of lading. The carrier may amend any previously issued document in order to meet the shipper's demand for a "shipped" bill of lading if, as amended, such document includes all the information required to be contained in a "shipped" bill of lading.

3. The absence in the bill of lading of one or more particulars referred to in this article does not affect the legal character of the document as a bill of lading provided that it nevertheless meets the requirements set out in paragraph 7 of article 1.



#### *Article 16. Bills of lading: reservations and evidentiary effect*

1. If the bill of lading contains particulars concerning the general nature, leading marks, number of packages or pieces, weight or quantity of the goods which the carrier or other person issuing the bill of lading on his behalf knows or has reasonable grounds to suspect do not accurately represent the goods actually taken over or, where a "shipped" bill of lading is issued, loaded, or if he had no reasonable means of checking such particulars, the carrier or such other person must insert in the bill of lading a reservation specifying these inaccuracies, grounds of suspicion or the absence of reasonable means of checking.

2. If the carrier or other person issuing the bill of lading on his behalf fails to note on the bill of lading the apparent condition of the goods, he is deemed to have noted on the bill of lading that the goods were in apparent good condition.

3. Except for particulars in respect of which and to the extent to which a reservation permitted under paragraph 1 of this article has been entered:

(a) the bill of lading is *prima facie* evidence of the taking over or, where a "shipped" bill of lading is issued, loading, by the carrier of the goods as described in the bill of lading; and

(b) proof to the contrary by the carrier is not admissible if the bill of lading has been transferred to a third party, including a consignee, who in good faith has acted in reliance on the description of the goods therein.

4. A bill of lading which does not, as provided in paragraph 1, subparagraph (k), of article 15, set forth the freight or otherwise indicate that freight is payable by the consignee or does not set forth demurrage incurred at the port of loading payable by the consignee, is *prima facie* evidence that no freight or such demurrage is payable by him. However, proof to the contrary by the carrier is not admissible when the bill of lading has been transferred to a third party, including a consignee, who in good faith has acted in reliance on the absence in the bill of lading of any such indication.

#### *Article 17. Guarantees by the shipper*

1. The shipper is deemed to have guaranteed to the carrier the accuracy of particulars relating to the general nature of the goods, their marks, number, weight and quantity as furnished by him for insertion in the bill of lading. The shipper must indemnify the carrier against the loss resulting from inaccuracies in such particulars. The shipper remains liable even if the bill of lading has been transferred by him. The right of the carrier to such indemnity in no way limits his liability under the contract of carriage by sea to any person other than the shipper.

2. Any letter of guarantee or agreement by which the shipper undertakes to indemnify the carrier against loss resulting from the issuance of the bill of lading by the carrier, or by a person acting on his behalf, without entering a reservation relating to particulars furnished by the shipper for insertion in the bill of lading, or to the apparent condition of the goods, is void and of no effect as against any third party, including a consignee, to whom the bill of lading has been transferred.

3. Such letter of guarantee or agreement is valid as against the shipper unless the carrier or the person acting on his behalf, by omitting the reservation referred to in paragraph 2 of this article, intends to defraud a third party, including a consignee, who acts in reliance on the description of the goods in the bill of lading. In the latter case, if the reservation omitted relates to particulars furnished by the shipper for insertion in the bill of lading, the carrier has no right of indemnity from the shipper pursuant to paragraph 1 of this article.

4. In the case of intended fraud referred to in paragraph 3 of this article the carrier is liable, without the benefit of the limitation of liability provided for in this Convention, for the loss incurred by a third party, including a consignee, because he has acted in reliance on the description of the goods in the bill of lading.

#### *Article 18. Documents other than bills of lading*

Where a carrier issues a document other than a bill of lading to evidence the receipt of the goods to be carried, such a document is *prima facie* evidence of the conclusion of the contract of carriage by sea and the taking over by the carrier of the goods as therein described.

## PART V. CLAIMS AND ACTIONS

### Article 19. Notice of loss, damage or delay

1. Unless notice of loss or damage, specifying the general nature of such loss or damage, is given in writing by the consignee to the carrier not later than the working day after the day when the goods were handed over to the consignee, such handing over is *prima facie* evidence of the delivery by the carrier of the goods as described in the document of transport or, if no such document has been issued, in good condition.

2. Where the loss or damage is not apparent, the provisions of paragraph 1 of this article apply correspondingly if notice in writing is not given within 15 consecutive days after the day when the goods were handed over to the consignee.

3. If the state of the goods at the time they were handed over to the consignee has been the subject of a joint survey or inspection by the parties, notice in writing need not be given of loss or damage ascertained during such survey or inspection.

4. In the case of any actual or apprehended loss or damage the carrier and the consignee must give all reasonable facilities to each other for inspecting and tallying the goods.

5. No compensation shall be payable for loss resulting from delay in delivery unless a notice has been given in writing to the carrier within 60 consecutive days after the day when the goods were handed over to the consignee.

6. If the goods have been delivered by an actual carrier, any notice given under this article to him shall have the same effect as if it had been given to the carrier, and any notice given to the carrier shall have effect as if given to such actual carrier.

7. Unless notice of loss or damage, specifying the general nature of the loss or damage, is given in writing by the carrier or actual carrier to the shipper not later than 90 consecutive days after the occurrence of such loss or damage or after the delivery of the goods in accordance with paragraph 2 of article 4, whichever is later, the failure to give such notice is *prima facie* evidence that the carrier or the actual carrier has sustained no loss or damage due to the fault or neglect of the shipper, his servants or agents.

8. For the purpose of this article, notice given to a person acting on the carrier's or the actual carrier's behalf, including the master or the officer in charge of the ship, or to a person acting on the shipper's behalf is deemed to have been given to the carrier, to the actual carrier or to the shipper, respectively.

### Article 20. Limitation of actions

1. Any action relating to carriage of goods under this Convention is time-barred if judicial or arbitral proceedings have not been instituted.

2. The limitation period commences on the day on which the carrier has delivered the goods or part thereof or, in cases where no goods have been delivered, on the last day on which the goods should have been delivered.

3. The day on which the limitation period commences is not included in the period.

4. The person against whom a claim is made may at any time during the running of the limitation period extend that period by a declaration in writing to the claimant. This period may be further extended by another declaration or declarations.

5. An action for indemnity by a person held liable may be instituted even after the expiration of the limitation period provided for in the preceding paragraphs if instituted within the time allowed by the law of the State where proceedings are instituted. However, the time allowed shall not be less than 90 days commencing from the day when the person instituting such action for indemnity has settled the claim or has been served with process in the action against himself.

### Article 21. Jurisdiction

1. In judicial proceedings relating to carriage of goods under this Convention the plaintiff, at his option, may institute an action in a court which, according to the law of the State where the court

is situated, is competent and within the jurisdiction of which is situated one of the following places:

- (a) the principal place of business or, in the absence thereof, the habitual residence of the defendant; or
- (b) the place where the contract was made provided that the defendant has there a place of business, branch or agency through which the contract was made; or
- (c) the port of loading or the port of discharge; or
- (d) any additional place designated for that purpose in the contract of carriage by sea.

2. (a) Notwithstanding the preceding provisions of this article, an action may be instituted in the courts of any port or place in a Contracting State at which the carrying vessel or any other vessel of the same ownership may have been arrested in accordance with applicable rules of the law of that State and of international law. However, in such a case, at the petition of the defendant, the claimant must remove the action, at his choice, to one of the jurisdictions referred to in paragraph 1 of this article for the determination of the claim, but before such removal the defendant must furnish security sufficient to ensure payment of any judgement that may subsequently be awarded to the claimant in the action.

(b) All questions relating to the sufficiency or otherwise of the security shall be determined by the court of the port or place of the arrest.

3. No judicial proceedings relating to carriage of goods under this Convention may be instituted in a place not specified in paragraph 1 or 2 of this article. The provisions of this paragraph do not constitute an obstacle to the jurisdiction of the Contracting States for provisional or protective measures.

4. (a) Where an action has been instituted in a court competent under paragraph 1 or 2 of this article or where judgement has been delivered by such a court, no new action may be started between the same parties on the same grounds unless the judgement of the court before which the first action was instituted is not enforceable in the country in which the new proceedings are instituted;

(b) for the purpose of this article the institution of measures with a view to obtaining enforcement of a judgement is not to be considered as the starting of a new action;

(c) for the purpose of this article, the removal of an action to a different court within the same country, or to a court in another country, in accordance with paragraph 2 (a) of this article, is not to be considered as the starting of a new action.

5. Notwithstanding the provisions of the preceding paragraphs, an agreement made by the parties, after a claim under the contract of carriage by sea has arisen, which designates the place where the claimant may institute an action, is effective.

## *Article 22. Arbitration*

1. Subject to the provisions of this article, parties may provide by agreement evidenced in writing that any dispute that may arise relating to carriage of goods under this Convention shall be referred to arbitration.

2. Where a charter-party contains a provision that disputes arising thereunder shall be referred to arbitration and a bill of lading issued pursuant to the charter-party does not contain a special annotation providing that such provision shall be binding upon the holder of the bill of lading, the carrier may not invoke such provision as against a holder having acquired the bill of lading in good faith.

3. The arbitration proceedings shall, at the option of the claimant, be instituted at one of the following places:

- (a) a place in a State within whose territory is situated:
  - (i) the principal place of business of the defendant or, in the absence thereof, the habitual residence of the defendant; or
  - (ii) the place where the contract was made, provided that the defendant has there a place of business, branch or agency through which the contract was made; or

- (iii) the port of loading or the port of discharge; or
- (b) any place designated for that purpose in the arbitration clause or agreement.
- 4. The arbitrator or arbitration tribunal shall apply the rules of this Convention.
- 5. The provisions of paragraphs 3 and 4 of this article are deemed to be part of every arbitration clause or agreement, and any term of such clause or agreement which is inconsistent therewith is null and void.
- 6. Nothing in this article affects the validity of an agreement relating to arbitration made by the parties after the claim under the contract of carriage by sea has arisen.

## PART VI. SUPPLEMENTARY PROVISIONS

### *Article 23. Contractual stipulations*

- 1. Any stipulation in a contract of carriage by sea, in a bill of lading, or in any other document evidencing the contract of carriage by sea is null and void to the extent that it derogates, directly or indirectly, from the provisions of this Convention. The nullity of such a stipulation does not affect the validity of the other provisions of the contract or document of which it forms a part. A clause assigning benefit of insurance of the goods in favour of the carrier, or a similar clause, is null and void.
- 2. Notwithstanding the provisions of paragraph 1 of this article, a carrier may increase his responsibilities and obligations under this Convention.
- 3. Where a bill of lading or any other document evidencing the contract of carriage by sea is issued, it must contain a statement that the carriage is subject to the provisions of this Convention which nullify any stipulation derogating therefrom to the detriment of the shipper or the consignee.
- 4. Where the claimant in respect of the goods has incurred loss as a result of a stipulation which is null and void by virtue of the present article, or as a result of the omission of the statement referred to in paragraph 3 of this article, the carrier must pay compensation to the extent required in order to give the claimant compensation in accordance with the provisions of this Convention for any loss of or damage to the goods as well as for delay in delivery. The carrier must, in addition, pay compensation for costs incurred by the claimant for the purpose of exercising his right, provided that costs incurred in the action where the foregoing provision is invoked are to be determined in accordance with the law of the State where proceedings are instituted.

### *Article 24. General average*

- 1. Nothing in this Convention shall prevent the application of provisions in the contract of carriage by sea or national law regarding the adjustment of general average.
- 2. With the exception of article 20, the provisions of this Convention relating to the liability of the carrier for loss of or damage to the goods also determine whether the consignee may refuse contribution in general average and the liability of the carrier to indemnify the consignee in respect of any such contribution made or any salvage paid.

### *Article 25. Other conventions*

- 1. This Convention does not modify the rights or duties of the carrier, the actual carrier and their servants and agents, provided for in international conventions or national law relating to the limitation of liability of owners of seagoing ships.
- 2. The provisions of articles 21 and 22 of this Convention do not prevent the application of the mandatory provisions of any other multilateral convention already in force at the date of this Convention relating to matters dealt with in the said articles, provided that the dispute arises exclusively between parties having their principal place of business in States members of such other convention. However, this paragraph does not affect the application of paragraph 4 of article 22 of this Convention.

3. No liability shall arise under the provisions of this Convention for damage caused by a nuclear incident if the operator of a nuclear installation is liable for such damage:

(a) under either the Paris Convention of 29 July 1960 on Third Party Liability in the Field of Nuclear Energy as amended by the Additional Protocol of 28 January 1964 or the Vienna Convention of 21 May 1963 on Civil Liability for Nuclear Damage, or

(b) by virtue of national law governing the liability for such damage, provided that such law is in all respects as favourable to persons who may suffer damage as either the Paris or Vienna Conventions.

4. No liability shall arise under the provisions of this Convention for any loss of or damage to or delay in delivery of luggage for which the carrier is responsible under any international convention or national law relating to the carriage of passengers and their luggage by sea.

5. Nothing contained in this Convention prevents a Contracting State from applying any other international convention which is already in force at the date of this Convention and which applies mandatorily to contracts of carriage of goods primarily by a mode of transport other than transport by sea. This provision also applies to any subsequent revision or amendment of such international convention.

#### *Article 26. Unit of account*

1. The unit of account referred to in article 6 of this Convention is the Special Drawing Right as defined by the International Monetary Fund. The amounts mentioned in article 6 are to be converted into the national currency of a State according to the value of such currency at the date of judgement or the date agreed upon by the parties. The value of a national currency, in terms of the Special Drawing Right, of a Contracting State which is a member of the International Monetary Fund is to be calculated in accordance with the method of valuation applied by the International Monetary Fund in effect at the date in question for its operations and transactions. The value of a national currency in terms of the Special Drawing Right of a Contracting State which is not a member of the International Monetary Fund is to be calculated in a manner determined by that State.

2. Nevertheless, those States which are not members of the International Monetary Fund and whose law does not permit the application of the provisions of paragraph 1 of this article may, at the time of signature, or at the time of ratification, acceptance, approval or accession or at any time thereafter, declare that the limits of liability provided for in this Convention to be applied in their territories shall be fixed as:

12,500 monetary units per package or other shipping unit or 37.5 monetary units per kilogramme of gross weight of the goods.

3. The monetary unit referred to in paragraph 2 of this article corresponds to sixty-five and a half milligrammes of gold of millesimal fineness nine hundred. The conversion of the amounts referred to in paragraph 2 into the national currency is to be made according to the law of the State concerned.

4. The calculation mentioned in the last sentence of paragraph 1 and the conversion mentioned in paragraph 3 of this article is to be made in such a manner as to express in the national currency of the Contracting State as far as possible the same real value for the amounts in article 6 as is expressed there in units of account. Contracting States must communicate to the depositary the manner of calculation pursuant to paragraph 1 of this article, or the result of the conversion mentioned in paragraph 3 of this article, as the case may be, at the time of signature or when depositing their instruments of ratification, acceptance, approval or accession, or when availing themselves of the option provided for in paragraph 2 of this article and whenever there is a change in the manner of such calculation or in the result of such conversion.

### **PART VII. FINAL CLAUSES**

#### *Article 27. Depositary*

The Secretary-General of the United Nations is hereby designated as the depositary of this Convention.

*Article 28. Signature, ratification, acceptance, approval, accession*

1. This Convention is open for signature by all States until 30 April 1979 at the Headquarters of the United Nations, New York.
2. This Convention is subject to ratification, acceptance or approval by the signatory States.
3. After 30 April 1979, this Convention will be open for accession by all States which are not signatory States.
4. Instruments of ratification, acceptance, approval and accession are to be deposited with the Secretary-General of the United Nations.

*Article 29. Reservations*

No reservations may be made to this Convention.

*Article 30. Entry into force*

1. This Convention enters into force on the first day of the month following the expiration of one year from the date of deposit of the 20th instrument of ratification, acceptance, approval or accession.
2. For each State which becomes a Contracting State to this Convention after the date of the deposit of the 20th instrument of ratification, acceptance, approval or accession, this Convention enters into force on the first day of the month following the expiration of one year after the deposit of the appropriate instrument on behalf of that State.
3. Each Contracting State shall apply the provisions of this Convention to contracts of carriage by sea concluded on or after the date of the entry into force of this Convention in respect of that State.

*Article 31. Denunciation of other conventions*

1. Upon becoming a Contracting State to this Convention, any State party to the International Convention for the Unification of Certain Rules relating to Bills of Lading signed at Brussels on 25 August 1924 (1924 Convention) must notify the Government of Belgium as the depositary of the 1924 Convention of its denunciation of the said Convention with a declaration that the denunciation is to take effect as from the date when this Convention enters into force in respect of that State.
2. Upon the entry into force of this Convention under paragraph 1 of article 30, the depositary of this Convention must notify the Government of Belgium as the depositary of the 1924 Convention of the date of such entry into force, and of the names of the Contracting States in respect of which the Convention has entered into force.
3. The provisions of paragraphs 1 and 2 of this article apply correspondingly in respect of States parties to the Protocol signed on 23 February 1968 to amend the International Convention for the Unification of Certain Rules relating to Bills of Lading signed at Brussels on 25 August 1924.
4. Notwithstanding article 2 of this Convention, for the purposes of paragraph 1 of this article, a Contracting State may, if it deems it desirable, defer the denunciation of the 1924 Convention and of the 1924 Convention as modified by the 1968 Protocol for a maximum period of five years from the entry into force of this Convention. It will then notify the Government of Belgium of its intention. During this transitory period, it must apply to the Contracting States this Convention to the exclusion of any other one.

*Article 32. Revision and amendment*

1. At the request of not less than one-third of the Contracting States to this Convention, the depositary shall convene a conference of the Contracting States for revising or amending it.
2. Any instrument of ratification, acceptance, approval or accession deposited after the entry into force of an amendment to this Convention, is deemed to apply to the Convention as amended.

*Article 33. Revision of the limitation amounts and  
unit of account or monetary unit*

1. Notwithstanding the provisions of article 32, a conference only for the purpose of altering the amount specified in article 6 and paragraph 2 of article 26, or of substituting either or both of the units defined in paragraphs 1 and 3 of article 26 by other units is to be convened by the depositary in accordance with paragraph 2 of this article. An alteration of the amounts shall be made only because of a significant change in their real value.

2. A revision conference is to be convened by the depositary when not less than one-fourth of the Contracting States so request.

3. Any decision by the conference must be taken by a two-thirds majority of the participating States. The amendment is communicated by the depositary to all the Contracting States for acceptance and to all the States signatories of the Convention for information.

4. Any amendment adopted enters into force on the first day of the month following one year after its acceptance by two-thirds of the Contracting States. Acceptance is to be effected by the deposit of a formal instrument to that effect, with the depositary.

5. After entry into force of an amendment a Contracting State which has accepted the amendment is entitled to apply the Convention as amended in its relations with Contracting States which have not within six months after the adoption of the amendment notified the depositary that they are not bound by the amendment.

6. Any instrument of ratification, acceptance, approval or accession deposited after the entry into force of an amendment to this Convention is deemed to apply to the Convention as amended.

*Article 34. Denunciation*

1. A Contracting State may denounce this Convention at any time by means of a notification in writing addressed to the depositary.

2. The denunciation takes effect on the first day of the month following the expiration of one year after the notification is received by the depositary. Where a longer period is specified in the notification, the denunciation takes effect upon the expiration of such longer period after the notification is received by the depositary.

DONE at Hamburg, this thirty-first day of March one thousand nine hundred and seventy-eight, in a single original, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic.

IN WITNESS WHEREOF the undersigned plenipotentiaries, being duly authorized by their respective Governments, have signed the present Convention.

(b) COMMON UNDERSTANDING ADOPTED BY THE CONFERENCE

It is the common understanding that the liability of the carrier under this Convention is based on the principle of presumed fault or neglect. This means that, as a rule, the burden of proof rests on the carrier but, with respect to certain cases, the provisions of the Convention modify this rule.<sup>3</sup>

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<sup>3</sup> The Conference also adopted a resolution in which it *inter alia* decided to designate the Convention as the "United Nations Convention on the Carriage of Goods by Sea, 1978" and recommended that the rules embodied therein be known as the "Hamburg Rules" (see the Final Act of the Conference (A/CONF.89/13), Annex III).