

International Convention for the Unification of Certain Rules relating to Maritime Liens and Mortgages

(Brussels, 27 May 1967)

THE CONTRACTING PARTIES,

HAVING RECOGNIZED the desirability of determining by agreement certain rules relating to maritime liens and mortgages,

HAVE RESOLVED to conclude a convention for this purpose, and thereto agreed as follows:

Article 1

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

- (a) such mortgages and "hypothèques" have been effected and registered in accordance with the law of the State where the vessel is registered;
- (b) the register and any instruments required to be deposited with the registrar in accordance with the law of the State where the vessel is registered are open to public inspection, and that extracts of the register and copies of such instruments are obtainable from the registrar, and
- (c) either the register or any instruments referred to in paragraph (b) above specifies the name and address of the person in whose favour the mortgage or "hypothèque" has been effected or that it has been issued to bearer, the amount secured and the date and other particulars which, according to the law of the State of registration, determine the rank as respects other registered mortgages and "hypothèques".

Article 2

The ranking of registered mortgages and "hypothèques" as between themselves and, without prejudice to the provisions of this Convention, their effect in regard to third parties shall be determined by the law of the State of registration; however, without prejudice to the provisions of this Convention, all matters relating to the procedure of enforcement shall be regulated by the law of the State where enforcement takes place.

Article 3

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

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

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

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

Article 4

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

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

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

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

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

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

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

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

Article 5

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

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

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

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

Article 6

1. Each Contracting State may grant liens or rights of retention to secure claims other than those referred to in Article 4. Such liens shall rank after all maritime liens set out in Article 4 and after all registered mortgages and "hypothèques" which comply with the provisions of Article 1; and such rights of retention shall not prejudice the enforcement of maritime liens set out in Article 4 or registered mortgages or "hypothèques" which comply with the provisions of Article 1, nor the delivery of the vessel to the purchaser in connection with such enforcement.

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

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

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

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

Article 7

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

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

Article 8

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

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

Article 9

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

Article 10

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

(a) all holders of registered mortgages and "hypothèques" which have not been issued to bearer;

(b) such holders of registered mortgages and "hypothèques" issued to bearer and to such holders of maritime liens set out in Article 4 whose claims have been notified to the said authority;

(c) the registrar of the register in which the vessel is registered.

Article 11

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

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

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

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

2. The cost awarded by the Court and arising out of the arrest and subsequent sale of the vessel and the distribution of the proceeds shall first be paid out of the proceeds of such sale. The balance shall be distributed among the holders of maritime liens, liens and rights of retention mentioned in paragraph 2 of Article 6 and registered

mortgages and "hypothèques" in accordance with the provisions of this Convention to the extent necessary to satisfy their claims.

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

Article 12

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

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

Article 13

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

Article 14

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

1. to give effect to this Convention either by giving it the force of law or by including the provisions of this Convention in its national legislation in a form appropriate to that legislation;

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

Article 15

Any dispute between two or more Contracting Parties concerning the interpretation or application of this Convention which cannot be settled through negotiation shall, at the request of one of them, be submitted to arbitration. If within six months from the

date of the request for arbitration the Parties are unable to agree on the organization of the arbitration, any one of those Parties may refer the dispute to the International Court of Justice by request in conformity with the Statute of the Court.

Article 16

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

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

Article 17

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

Article 18

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

Article 19

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

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

Article 20

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

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

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

Article 21

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

Article 22

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

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

2. Any Contracting Party which has made a declaration under paragraph (1) of this Article may at any time thereafter declare by notification given to the Belgian Government that the Convention shall cease to extend to such territories.

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

Article 23

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

1. The signatures, ratifications and accessions received in accordance with Articles 17, 18 and 20.

2. The date on which the present Convention will come into force in accordance with Article 19.

3. The notifications with regard to Articles 14, 16 and 22.

4. The denunciations received in accordance with Article 21.

Article 24

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

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

Article 25

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

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

DONE at Brussels, this 27th day of May 1967, in the French and English languages, both texts being equally authentic, in a single copy, which shall remain deposited in the archives of the Belgian Government, which shall issue certified copies.