

1926 年國有船舶豁免權統一規定公約

1926 年 4 月 10 日訂於布魯塞爾，1937 年 1 月 8 日生效

International Convention for the Unification of Certain Rules Concerning the Immunity of State-Owned Ships,

Signed at Brussels, April 10, 1926, Entered into enforce January 8, 1937

1926 Immunity

Article 1

Sea-going ships owned or operated by States, cargoes owned by them, and cargoes and passengers carried on State-owned ships, as well as the States which own or operate such ships and own such cargoes shall be subject, as regards claims in respect of the operation of such ships or in respect of the carriage of such cargoes, to the same rules of liability and the same obligations as those applicable in the case of privately-owned ships, cargoes and equipment.

Article 2

As regards such liabilities and obligations, the rules relating to the jurisdiction of the Courts, rights of actions and procedure shall be the same as for merchant ships belonging to private owners and for private cargoes and their owners.

Article 3

(1) The provisions of the two preceding Articles shall not apply to ships of war, State-owned yachts, patrol vessels, hospital ships, fleet auxiliaries, supply ships and other vessels owned or operated by a State and employed exclusively at the time when the cause of action arises on Government and non-commercial service, and such ships shall not be subject to seizure, arrest or detention by any legal process, nor to any proceedings in rem. Nevertheless, claimants shall have the right to proceed before the appropriate Courts of the State which owns or operates the ship in the following cases:

- (i) Claims in respect of collision or other accidents of navigation;
 - (ii) Claims in respect of salvage or in the nature of salvage and in respect of general average;
 - (iii) Claims in respect of repairs, supplies or other contracts relating to the ship;
- and the State shall not be entitled to rely upon any immunity as a defence.

(2) The same rules shall apply to State-owned cargoes carried on

第 1 條

國有或國營海船、國有貨物、國有船舶所運送之客貨及其相關國家，凡因此項船舶碰撞所發生之請求權，應與私有船舶、貨物及其設備，於義務與責任方面，遵守同一規定。

第 2 條

有關此義務及責任，凡屬法院管轄、訴訟之權利及其程序相關規定，均應與私有船舶、私有貨物及其所有人所適用者相同。

第 3 條

(1) 前二條規定不適用軍艦、國有遊艇、巡邏艇、醫院船、輔助艦隊、供應船、及其他國有且在該政府被訴時專供非商業用途者。此項船艇不得因任何法律程序或訴訟而被扣押、假扣押或扣留。然請求權人於下列情況，有權向船舶所有或經營國之適當法院提起訴訟：

- (i) 因碰撞或其他航行事故所生之請求；
 - (ii) 因救助或具救助性質及共同海損所生之請求；
 - (iii) 因修理、供應或其他有關船舶契約所生之請求。
- 相關國家不得援引任一豁免權為辯護。

(2) 同樣規定適用於上述船舶中所裝運

board any of the above-mentioned ships;
(3) State-owned cargoes carried on board merchant ships for Government and non-commercial purposes shall not be subject to seizure, arrest or detention by any legal process nor any proceedings in rem. Nevertheless, claims in respect of collisions and nautical accidents, claims in respect of salvage or in the nature of salvage and in respect of general average, as well as claims in respect of contracts relating to such cargoes, may be brought before the Court which has jurisdiction in virtue of Article 2.

Article 4

States shall be entitled to rely on all defence prescriptions and limitations of liability available to privately-owned ships and their owners.

Any necessary adaptation or modification of provisions relating to such defences, prescriptions and limitations of liability for the purpose of making them applicable to ships of war or to the State-owned ships specified in Article 3 shall form the subject of a special Convention to be concluded hereafter. In the meantime, the measures necessary for this purpose may be effected by national legislation in conformity with the spirit and principles of this Convention.

Article 5

If in any proceedings to which Article 3 applies there is, in the opinion of the Court, a doubt on the question of the Government and non-commercial character of the ship or the cargo, a certificate signed by the diplomatic representative of the contracting State to which the ship or the cargo belongs, communicated to the Court through the Government of the State before whose Courts and Tribunal the case is pending, shall be conclusive evidence that the ship or the cargo falls within the terms of Article 3, but only for the purpose of obtaining the discharge of any seizure, arrest or detention effected by judicial process.

Article 6

The provisions of the present Convention shall be applied in each Contracting State, but without any obligation to extend the benefit thereof to non-contracting States and their nationals, and with the right in making any such extension to impose a condition of reciprocity.

Nothing in the present Convention shall be held to prevent a Contracting State from prescribing by its own laws the rights of its nationals before its own Courts,

Article 7

In time of war each Contracting State reserves to itself the right of suspending the application of the present Convention by a declaration notified to the other contracting States, to the effect that neither ships owned or operated by that State, nor cargoes owned

之國有貨物。

(3) 商船所裝運之國有貨物係為政府公用而非商務目的者，不得因任何法律程序或對物訴訟而被扣押、假扣押或扣留。然因碰撞、航行事故、救助、或具救助性質、共同海損、及有關該貨物所訂契約而生之請求得向第 2 條有管轄權之法院提起訴訟。

第 4 條

國家有權主張私有船舶及其所有人所具有之一切抗辯、時效及責任限制權益。

前項有關一切抗辯、時效及責任限制權益規定為適用於軍艦或第 3 條所規定之國有船舶而有任何必要之規範採用或修改，將於之後另以特殊公約定之。於此階段，為此目的，各國可依據本公約之精神及原則，由國內立法採取必要措施。

第 5 條

於任一訴訟中適用第 3 條規定，而法院對於船貨是否確屬政府公務性質尚有疑義時，經船貨所屬締約國之外交代表簽署證明並由政府機關轉致法院或裁判機關者，該證明即具有絕對證據力。然以為司法程序之扣押、假扣押或扣留之獲得釋放為目的者為限。

第 6 條

本公約規定適用於任一締約國，非締約國及其國民並無擴大其適用之義務，然仍具有以互惠條件其擴大適用之權利。

本公約不損及締約國對其國民於本國法院依其國內法所規定之一切權利。

第 7 條

戰時任一締約國有保留暫停適用本公約之權利，其須以書面通知其他締約國，聲明無論國有國營船舶及國有貨物不受外國法院之扣押、假扣押或扣留。然請

by it shall be subject to any arrest, seizure or detention by a foreign Court of Law. But the claimant shall have the right to take proceedings before the appropriate Court in accordance with Articles 2 and 3.

Article 8

Nothing in the present Convention shall prejudice the right of the Contracting States to take any measures necessitated by the rights and duties of neutrality.

Article 9

After the expiration of a period of not more than two years from the date on which the Convention is signed, the Belgian Government shall communicate with the Governments of the High Contracting Parties which have declared themselves ready to ratify it with a view to deciding whether it shall be put into force. Ratifications shall be deposited at Brussels at a date which shall be fixed by agreement between the said Governments. The first deposit of ratifications shall be recorded in a proces-verbal signed by the representatives of the States which are parties to it and by the Belgian Minister for Foreign Affairs.

Each subsequent deposit of ratifications shall be made by means of a written notification addressed to the Belgian Government and accompanied by the instrument of ratification.

A duly certified copy of the proces-verbal relating to the first deposit of ratifications and the notifications mentioned in the preceding paragraph, as well as the instruments of ratification which accompanied them, shall be sent forthwith by the Belgian Government through the diplomatic channel to the States which have signed the present Convention, or which have acceded to it. In the cases contemplated in the preceding paragraph the Belgian Government shall state at the same time the date on which it received the notification.

Article 10

Non-signatory States may accede to the present Convention whether or not they were represented at the International Conference at Brussels.

A State which desires to accede shall notify its intention in writing to the Belgian Government, and shall at the same time transmit to that Government the document of accession which shall be deposited in the archives of the Belgian Government.

The Belgian Government shall transmit immediately to all the States which have signed or acceded to the Convention a duly certified copy of the notification and of the instrument of accession, stating the date on which it received the notification.

Article 11

The High Contracting Parties may at the time of signature, deposit or ratification or accession, declare that their acceptance of the present Convention does not apply to any one or more of the

求權人仍保有依第 2 條及第 3 條規定，向適當法院提起訴訟之權利。

第 8 條

本公約不損及締約國為中立國，依其中立國權義採取任一必要措施之權。

第 9 條

自本公約簽署之日起，屆滿二年內，比利時政府應諮詢有意批准之締約國政府，對批准可否為決定。批准書存放於布魯塞爾，其日期由相關政府間以協議定之。批准書初次存放時，應由相關政府代表及比利時外交部簽署作成書面紀錄。

嗣後每次批准書之存放，以書面連同批准書照會比利時政府。

初次存放批准書之紀錄，前項所述之通知，及相關批准書均由比利時政府經由外交途徑，以副本抄送簽字國或加入國。於前項情形下，比利時政府並應同時敘明收到通知之日期。

第 10 條

非簽字國不論有無出席布魯塞爾之國際會議，均得加入本公約。

有意加入之國家，應以書面通知比利時政府，並致送其加入文書。該文書存放於比利時政府檔案處。

比利時政府應隨時將通知及加入文書副本抄送所有簽署國及加入國，並敘明收到日期。

第 11 條

締約國於簽字、存放、批准、或加入時，得聲明本公約不適用於一或多數所屬自治領、佔領地、受保護國或其海外

self-governing Dominions, colonies, possessions, protectorates or overseas territories under their sovereignty or authority. They may subsequently accede separately in the name of any of such self-governing Dominions, colonies, possessions, protectorates or overseas territories excluded in their original declaration. They may also in accordance with its provisions denounce the present Convention separately in respect of each or any of such self-governing Dominions, colonies, possessions, protectorates or overseas territories under their sovereignty or authority.

Article 12

In the case of States which have taken part in the first deposit of ratifications the present Convention shall take effect one year after the date of the proces-verbal of that deposit. As regards the States which ratify the Convention subsequently, or which accede to it, as also in cases in which the Convention is subsequently put into force in accordance with Article 11, it shall take effect six months after the notifications mentioned in Article 9, paragraph 2, and in Article 10, paragraph 2, have been received by the Belgian Government.

Article 13

In the event of one of the-Contracting States wishing to denounce the present Convention, the denunciation shall be notified in writing to the Belgian Government, which shall immediately communicate a duly certified copy thereof to all the other States, at the same time informing them of the date on which it was received. The denunciation shall operate only in respect of the State which has made the notification and be effective one year after the notification has reached the Belgian Government.

Article 14

Each Contracting State shall have the right to call for a new Conference for the purpose of considering possible amendments to the present Convention.

Any State which proposes to exercise this right shall notify its intention one year in advance to the other States through the Belgian Government, which will assume the duty of summoning the Conference.

Done at Brussels, in a single copy, April 10, 1926.

管轄地，各該領域之加入，嗣後亦得分別為之，不包括於原聲明之內。各該領域亦可分別依照規定退出本公約。

第 12 條

各國參加首次批准書之存放者，自作成存放記錄之日起一年後生效。嗣後批准、加入或依前條規定實施於某一領域者，均自比利時政府收到第 9 條第 2 項及第 10 條第 2 項規定通知之日起六個月後生效。

第 13 條

任何締約國欲退出本公約者，其退出應以書面通知比利時政府。比國政府隨即以副本抄知所有其他國家並告知其收到日期。此項退出僅適用於該通知之國家，並自收到通知之日起一年後生效。

第 14 條

任一締約國為考量本公約修改起見，有召集新會議之權。

任一國家行使此權利時，應將該意旨於一年前經由比利時政府通知其他各國，比國政府有實施其召集會議之義務。

1926 年 4 月 10 日訂於布魯塞爾，繕寫一份。