

1924年統一某些載貨證券規則國際公約之 1968年修正議定書

1968年2月23日訂於布魯塞爾，1977年6月23日生效

(1968年威士比規則)

Protocol to Amend the International Convention for the Unification of Certain Rules of Law Relating to Bills of Lading,

Signed at Brussels, February 23, 1968 ; Entered into Force June 23, 1977

1968 Visby Rules

THE CONTRACTING PARTIES,

CONSIDERING that it is desirable to amend the International Convention for the unification of certain rules of law relating to Bills of Lading, signed at Brussels on 25th August 1924,

HAVE AGREED as follows:

各締約國，

慮及針對1924年8月25日於布魯塞爾制訂之統一某些載貨證券規則國際公約應予以修正之必須性，

茲協議如次：

Article 1

- (1) In Article 3, paragraph 4, shall be added:
"However, proof to the contrary shall not be admissible when the Bill of Lading has been transferred to a third party acting in good faith".
- (2) In Article 3, paragraph 6, sub-paragraph 4 shall be deleted and replaced by:
"Subject to paragraph 6bis the carrier and the ship shall in any event be discharged from all liability whatsoever in respect of the goods, unless suit is brought within one year of their delivery or of the date when they should have been delivered. This period may, however, be extended if the parties so agree after the cause of action has arisen".
- (3) In Article 3, after paragraph 6, shall be added the following paragraph 6bis:
"An action for indemnity against a third person may be brought even after the expiration of the year provided for in the preceding paragraph if brought within the time allowed by the law of the Court seized of the case. However, the time allowed shall be not less than three months, commencing from the day when the person bringing such action for indemnity has settled the claim or has been served with process in the action against himself".

第 1 條

1. 第 3 條第 4 項增訂下列規定：
“然載貨證券已轉讓與善意第三人者，不得提出反證。”
2. 第 3 條第 6 項第 4 款刪除並以下列文字取代：
“於適用第 6 項之一之情況下，除非訴訟於貨物交付或應交付之日起一年內提出，運送人及船長應予解除所有有關滅失或損害之責任。然於訴因發生後，該期間得經當事人同意予以延長。”
3. 第 3 條第 6 項之後增訂第 6 項之一：
“在未超過受訴法院所允許期間之情況下，前項規定之一年期限雖已屆滿，仍得向第三人提起追償之訴。然法院所允許之期間，應自賠償請求人對其已獲得解決或自訴狀送達之日起算，不得少於三個月。”

Article 2

第 2 條

Article 4, paragraph 5, shall be deleted and replaced by the following:

- "
- (a) Unless the nature and value of such goods have been declared by the shipper before shipment and inserted in the Bill of Lading, neither the carrier nor the ship shall in any event be or become liable for any loss or damage to or in connection with the goods in an amount exceeding the equivalent of 10,000 francs per package or unit or 30 francs per kilo of gross weight of the goods lost or damaged, whichever is the higher.
 - (b) The total amount recoverable shall be calculated by reference to the value of such goods at the place and time at which the goods are discharged from the ship in accordance with the contract or should have been so discharged.
The value of the goods shall be fixed according to the commodity exchange price, or, if there be no such price, according to the current market price, or, if there be no commodity exchange price or current market price, by reference to the normal value of goods of the same kind and quality.
 - (c) Where a container, pallet or similar article of transport is used to consolidate goods, the number of packages or units enumerated in the Bill of Lading as packed in such article of transport shall be deemed the number of packages or units for the purpose of this paragraph as far as these packages or units are concerned. Except as aforesaid such article of transport shall be considered the package or unit.
 - (d) A franc means a unit consisting of 65.5 milligrammes of gold of millesimal fineness 900'. The date of conversion of the sum awarded into national currencies shall be governed by the law of the Court seized of the case.
 - (e) Neither the carrier nor the ship shall be entitled to the benefit of the limitation of liability provided for in this paragraph if it is proved that the damage resulted from an act or omission of the carrier done with intent to cause damage, or recklessly and with knowledge that damage would probably result.
 - (f) The declaration mentioned in sub-paragraph (a) of this paragraph, if embodied in the Bill of Lading, shall be prima facie evidence, but shall not be binding or conclusive on the carrier.
 - (g) By agreement between the carrier, master or agent of the carrier and the shipper other maximum amounts than those mentioned in sub-paragraph (a) of this paragraph may be fixed, provided that no maximum amount so fixed shall be less than the appropriate maximum mentioned in that sub-paragraph.
 - (h) Neither the carrier nor the ship shall be responsible in any event for loss or damage to, or in connection with, goods if the nature or value thereof has been knowingly mis-stated by the shipper in the Bill of Lading".

Article 3

Between Articles 4 and 5 of the Convention shall be inserted the following Article 4bis:

- "
1. The defences and limits of liability provided for in this

第 4 條第 5 項應予刪除由下列文字取代：

- "
- (a) 除託運人於裝船前已聲明貨物之性質及價值並載於載貨證券者外，運送人或船舶對於貨物或與之有關之滅失或損害責任，於任何情況下，應就每件或每單位，依不超過同等於 10,000 法郎之金額，或每公斤毛重，以不超過等同於 30 法郎之金額為限，擇較高額度者適用之。
 - (b) 賠償總額應參照依據契約所約定從船上卸載或應卸載之時間及地點之價值，計算貨物之價值。
貨物價值，應依商品交易價值；如無商品交易價值，應依當時市價；如無商品交易價值，亦無當時市價，則應參考同性質與品質之其他貨物之一般價值確定之。
 - (c) 為集裝貨物而使用貨櫃、墊板或類似運送載具時，載貨證券內所列裝載於此等運送載具內之件數或單位之數量，應視為本項所指之件數或單位之數量。除此之外，該運送載具應被認定為該件數或單位。
 - (d) 一法郎係指含有黃金重量 65.5 毫克，其成色為千分之九百之單位。判令給付金額換算本國通貨之日期應依受訴法院之法律。
 - (e) 如經證明損害係由運送人意圖造成損害或輕率且明知損害可能發生之作為或不作為所致者時，運送人及船舶不得享有本款所規定之責任限制之權益。
 - (f) 本項第 1 款所規定之聲明，記載於載貨證券上者，應為表面證據，對運送人並無拘束力或具決定效力。
 - (g) 運送人、船長或運送人之代理人及託運人之間可協議訂定本項第 1 款規定以外之其他最高額度，但所約定之最高額度不應低於該款所規定之最高額度。
 - (h) 託運人於載貨證券故意虛列貨物之性質或價值者，運送人及船舶無論在任何情況下均不負責該貨物或與之有關之滅失或損害。"

第 3 條

本公約第 4 條及第 5 條間加入下列第 4 條之一：

- "
1. 有關運送契約所載貨物之滅失或損

Convention shall apply in any action against the carrier in respect of loss or damage to goods covered by a contract of carriage whether the action be founded in contract or in tort.

2. If such an action is brought against a servant or agent of the carrier (such servant or agent not being an independent contractor), such servant or agent shall be entitled to avail himself of the defences and limits of liability which the carrier is entitled to invoke under this Convention.
3. The aggregate of the amounts recoverable from the carrier, and such servants and agents, shall in no case exceed the limit provided for in this Convention.
4. Nevertheless, a servant or agent of the carrier shall not be entitled to avail himself of the provisions of this Article, if it is proved that the damage resulted from an act or omission of the servant or agent done with intent to cause damage or recklessly and with knowledge that damage would probably result".

Article 4

Article 9 of the Convention shall be deleted and replaced by the following:

"This Convention shall not affect the provisions of any international Convention or national law governing liability for nuclear damage".

Article 5

Article 10 of the Convention shall be deleted and replaced by the following:

"The provisions of this Convention shall apply to every Bill of Lading relating to the carriage of goods between ports in two different States if:

- (a) the Bill of Lading is issued in a Contracting State, or
- (b) the carriage is from a port in a Contracting State, or
- (c) the contract contained in or evidenced by the Bill of Lading provides that the rules of this Convention or legislation of any State giving effect to them are to govern the contract whatever may be the nationality of the ship, the carrier, the shipper, the consignee, or any other interested person.

Each Contracting State shall apply the provisions of this Convention to the Bills of Lading mentioned above.

This Article shall not prevent a Contracting State from applying the rules of this Convention to Bills of Lading not included in the preceding paragraphs".

Article 6

As between the Parties to this Protocol the Convention and the Protocol shall be read and interpreted together as one single instrument.

A Party to this Protocol shall have no duty to apply the provisions of this Protocol to Bills of Lading issued in a State which is a Party to the Convention but which is not a Party to this Protocol.

害，而向運送人所提出之任何訴訟，無論係基於契約或侵權行為，本公約所規定之抗辯及責任限制均應適用之。

2. 倘該訴訟係對運送人之受雇人或代理人(該受雇人或代理人須非獨立之契約履行輔助人)提起者，該受雇人或代理人得主張運送人依本公約可得主張之抗辯及責任限制之規定。
3. 向運送人與該等受雇人及代理可得請求賠償之總和，不得超過本公約所規定之限額。
4. 如經證明損害係由運送人之受雇人或代理人意圖造成損害或輕率且明知損害可能發生之作為或不作為所致者時，該運送人之受雇人或代理人不得享有本條所規定之權益。

”

第 4 條

本公約第 9 條予以刪除並以下列文字取代：

“本公約不應影響國際公約或國內法有關核子損害責任之規定。”

第 5 條

本公約第 10 條予以刪除並以下列文字取代：

“不論船舶、運送人、託運人、受貨人或其他利害關係人之國籍為何，於有下列情形之一者，本公約規定應適用於兩國港口間為貨物運送之任何載貨證券：

- (a) 載貨證券係於一締約國內簽發，或
- (b) 運送係自一締約國港口出發，或
- (c) 載貨證券所憑或所證之契約約定適用本公約規定或任何批准國之國內法。

締約國應將上述載貨證券適用本公約之規定。

本條不限制締約國得就上述規定以外之載貨證券適用本公約之規定。”

第 6 條

就本公約議定書之締約國間，公約及本議定書應被理解及解釋成單一文件。

本議定書締約國無義務將本議定書中各項規定適用於其為公約締約國然非本議定書締約國所簽發之載貨證券。

Article 7

As between the Parties to this Protocol, denunciation by any of them of the Convention in accordance with Article 15 thereof, shall not be construed in any way as a denunciation of the Convention as amended by this Protocol.

Article 8

Any dispute between two or more Contracting Parties concerning the interpretation or application of the 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 9

- (1) Each Contracting Party may at the time of signature or ratification of this Protocol or accession thereto, declare that it does not consider itself bound by Article 8 of this Protocol. 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 10

This Protocol shall be open for signature by the States which have ratified the Convention or which have adhered thereto before the 23rd February 1968, and by any State represented at the twelfth session (1967-1968) of the Diplomatic Conference on Maritime Law.

Article 11

- (1) This Protocol shall be ratified.
- (2) Ratification of this Protocol by any State which is not a Party to the Convention shall have the effect of accession to the Convention.
- (3) The instruments of ratification shall be deposited with the Belgian Government.

Article 12

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

第 7 條

於本議定書締約國間，任一國依據本公約第 15 條退出本公約者，均不應被解釋為退出經本議定書修正之本公約。

第 8 條

二個或二個以上締約國間有關本公約解釋或適用上之爭議，無法經由協商解決者，經由其中一國提出，應交付仲裁。如交付仲裁請求提出後六個月內當事國各方無法就仲裁組織達成協議者，任一當事國得將爭議提交國際法院依國際法院規定審理。

第 9 條

- (1) 任一締約國於簽署或批准本議定書或加入本議定書時，得聲明不受本公約第 15 條之拘束。為是項保留之締約國，其他締約國亦不受該條拘束。
- (2) 任一依前項規定提出保留之締約國，得於任何時間，以書面通知比利時政府之方式，撤回該保留。

第 10 條

本議定書對於 1968 年 2 月 23 日前批准本公約或加入本公約之國家，以及出席 1967-1968 年第十二屆海事法外交會議之任何國家開放供簽署。

第 11 條

- (1) 本議定書應予批准。
- (2) 非屬本公約締約國之任何國家批准本議定書者，具有加入本公約之效力。
- (3) 批准文書應存放於比利時政府。

第 12 條

- (1) 未出席第十二屆海事法外交會議之國家，聯合國會員國或聯合國各專門機構成員國，仍得加入本議定書。

- (2) Accession to this Protocol shall have the effect of accession to the Convention. (2) 加入本議定書，具有加入本公約之效力。
- (3) The instruments of accession shall be deposited with the Belgian Government. (3) 加入書應存放於比利時政府。

Article 13

- (1) This Protocol shall come into force three months after the date of the deposit of ten instruments of ratification or accession, of which at least five shall have been deposited by States that have each a tonnage equal or superior to one million gross tons of tonnage. (1) 本議定書自十份批准書或加入書交存之日起三個月後生效，然其中至少應有五份係由擁有100萬或100萬總噸以上船舶之國家所交存。
- (2) For each State which ratifies this Protocol or accedes thereto after the date of deposit of the instrument of ratification or accession determining the coming into force such as is stipulated in paragraph (1) of this Article, this Protocol shall come into force three months after the deposit of its instrument of ratification or accession. (2) 本條第1項所規定之決定本議定書生效之批准書或加入書交存之日以後，對於批准或加入本議定書之任一國家，本議定書自其交存批准書或加入書起三個月後生效。

第 13 條

Article 14

- (1) Any Contracting State may denounce this Protocol by notification to the Belgian Government. (1) 任一締約國得以通知比利時政府方式，退出本議定書。
- (2) This denunciation shall have the effect of denunciation of the Convention. (2) 該退出具有退出本公約之效力。
- (3) The denunciation shall take effect one year after the date on which the notification has been received by the Belgian Government. (3) 該退出自比利時政府收到通知之日起一年後生效。

第 14 條

Article 15

- (1) Any Contracting State may at the time of signature, ratification or accession 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 Protocol applies. (1) 任何締約國於簽署、批准或加入時，得於任何時間以書面通知比利時政府方式，聲明本公約所適用之主權領域或權力所屬之其他領域。
- The Protocol shall three months after the date of the receipt of such notification by the Belgian Government extend to the territories named therein, but not before the date of the coming into force of the Protocol in respect of such State. 本議定書於比利時政府收到該通知之日起三個月後始擴大適用於該領域，然不得早於本議定書對該國生效之日期。
- (2) This extension also shall apply to the Convention if the latter is not yet applicable to those territories. (2) 如本公約尚未適用於該領域，則該擴大適用亦應適用於本公約。
- (3) Any Contracting State 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 Protocol shall cease to extend to such territory. This denunciation shall take effect one year after the date on which notification thereof has been received by the Belgian Government; it also shall apply to the Convention. (3) 任一提出本條第1項聲明之締約國，得於任何時間，以書面通知比利時政府方式，聲明終止對該領域之擴大適用。該退出應自比利時政府收到該通知之日起一年後生效。該退出亦應適用於本公約。

第 15 條

Article 16

- The Contracting Parties may give effect to this Protocol either by giving it the force of law or by including in their national (各締約國可透過賦予本議定書之法律效力，或以相應之國內立法方式於本國法

第 16 條

legislation in a form appropriate to that legislation the rules adopted under this Protocol.

中制定本議定書所採用之各項規定，而使本議定書產生效力。

Article 17

第 17 條

The Belgian Government shall notify the States represented at the twelfth session (1967-1968) of the Diplomatic Conference on Maritime Law, the acceding States to this Protocol, and the States Parties to the Convention, of the following:

比利時政府應將下列事項通知出席 1967-1968 年第十二屆海事法外交會議各出席國、本議定書各加入國及本公約各締約國：

1. The signatures, ratifications and accessions received in accordance with Articles 10, 11 and 12.
2. The date on which the present Protocol will come into force in accordance with Article 13.
3. The notifications with regard to the territorial application in accordance with Article 15.
4. The denunciations received in accordance with Article 14.

1. 依第 10 條、第 11 條及第 12 條所收到之簽署、批准及加入書。
2. 依第 13 條規定，本議定書將生效之日期。
3. 依第 15 條規定，有關領域適用之通知。
4. 依第 14 條所收到之退出文件。

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

下列署名之各全權代表，經正式授權，簽署本公約，以昭信守。

DONE at Brussels, this 23rd day of February 1968, 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.

1968 年 2 月 23 日訂於布魯塞爾，以法文、英文做成單一原本，兩者文字具同一效力，並存放於比利時政府，比利時政府應製作簽證副本。