

# 1967 年國際統一海事優先權及抵押權某些規則公約

1967 年 5 月 27 日 訂於布魯塞爾

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

Done at Brussels on May 27, 1967

### 1967 Maritime Lien

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:

各締約國，  
體認經由協議以確認有關海事優先權及抵押權某些規則之必需性。  
為達成公約化目的，謹協議如下：

#### Article 1

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

- (a) such mortgages and "hypotheques" 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 "hypotheques" 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 "hypotheques".

#### 第 1 條

海船之抵押權及「質權」，於符合下列條件者，各締約國間應承認其效力：

- (a) 抵押權及「質權」經船舶登記國之法律成立並設立登記有案者。
- (b) 登記簿及依據船舶登記國法律應呈送登記機關備查之任何文書公開供人閱覽，並得聲請該機關交付登記之副本及文書謄本者。
- (c) 前(b)款規定之登記或文書載明抵押權人或「質權」人之姓名住址，如為不記名者，載明其為不記名，及擔保之金額、成立之年月日，並其他依登記國法律定其與其他已登記之抵押權或「質權」位次先後之事項。

#### Article 2

The ranking of registered mortgages and "hypotheques" 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.

#### 第 2 條

於不影響本公約規定情況下，數個已登記抵押權及「質權」間之位次及其對有關第三人之效力，依登記國法律定之；然在不影響本公約規定情況下，與執行程序有關之所有事項應依執行國法律定之。

### 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 " hypotheques " .
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 " hypotheques ", and no other claim shall take priority over such maritime liens or over mortgages and " hypotheques " 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.

### 第 3 條

1. 於適用第11條規定情況下，未經已登記之抵押權人或「質權」人書面同意，任一締約國均不得同意船舶之撤銷登記。
2. 船舶已於某締約國登記者，除下列情況外，不得另行於另一締約國內為登記：
  - (a) 前一登記國業已出具該船已經撤銷登記之證明，或
  - (b) 前一登記國業已出具該船原有登記將於新登記生效日後被撤銷登記之證明。

### 第 4 條

1. 下列請求應以船舶優先權為擔保：
  - (i) 船長、船員及其他服務於船舶之人員之薪資及其他因僱傭關係所生之債權；
  - (ii) 海港、河道及其他水道之費用及引水費；
  - (iii) 直接與船舶之營運有關，對陸上或水上之生命喪失或身體傷害所得對船舶所有人主張之賠償請求；
  - (iv) 直接與船舶營運有關，陸上或水上財產之喪失或毀損而對船舶所有人主張之賠償請求，此請求須基於侵權行為而非基於契約關係；
  - (v) 因救助、沈船移除、共同海損所生之請求。

前載「所有人」包括承租人、租傭船人、經理人及船舶營運人。
2. 本條第1項第iii款及第iv款所列請求，如係放射能或放射能與有毒物質、爆炸物或危險物或其他核子燃料或放射物質或廢料所致生者，對船舶無優先權。

### 第 5 條

1. 第4條所列優先權，除第6條第2項規定外，其位次在已登記有案之抵押權及「質權」之前，其他請求，其位次皆不得在前載優先權及依第1條成立之抵押權及「質權」之前。
2. 第4條各項之優先權，依其排列之次序定其位次之先後，但供作救助報酬、沈船移除及共同海損等請求擔保之優先權，其位次在發生債權之行為為當時已先成立之其他優先權之前。

3. The maritime liens set out in each of sub-paragraphs (i), (ii), (iii) and (iv) of paragraph (I) 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.
  5. 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.
3. 第4條第1項(i)(ii)(iii)(iv)各款之優先權有數項者視為同時發生。
  4. 第4條第1項v款之優先權依其發生之先後，後發生者先受償。
  5. 共同海損，以行為之日視為請求發生日，救助債權以救助作業終了之日視為請求發生日。

## Article 6

1. Each contracting state may grant liens of 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 affected 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 lien or is legally

## 第 6 條

1. 締約國對於第4條所列以外之其他請求得設立優先權或留置權作為擔保。該優先權之位次應在第4條所列之優先權及依第1條規定成立之抵押權及「質權」之後，是項留置權不得妨礙第4條所列優先權及依第1條規定成立之抵押權或「質權」之實行，並不得妨礙為實行優先權或抵押權而將船舶交付於買受人之行為。
2. 對於下列之人占有中之船舶，應賦予其具有優先權或留置權：
  - (a) 造船人占有船舶以擔保造價者，或
  - (b) 船舶修繕人於占有期間以擔保其修繕費用所生之船舶修繕債權。

前二項優先權或留置權，其位次應在第4條所列優先權之後，然得列在經業經登記之抵押權或「質權」之前。該項優先權或留置權得不問是否先已登記之抵押權均得逕對船舶行使之，然船舶脫離造船人或修繕人之占有時，該優先權或留置權即應消滅。

## 第 7 條

1. 第4條所列優先權，無論供作擔保之請求係對船舶所有人、承租人、其他租傭船人、經理人或船舶之營運人而生，均仍應成立。
2. 第4條所列優先權，除第11條另有規定外，既使船舶所有權移轉或變更登記，仍附隨船舶而存在。

## 第 8 條

1. 第4條所列優先權，自其供作擔保之請求發生之日起經過一年而消滅，然於一年期間屆滿前，其船舶已因強制變賣而遭假扣押者，不在此限。
2. 前項所定一年期間不得中止或中斷，然優先權人因法律規定享有不得假扣押船舶者，該期間不記入。

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 entail 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

## 第 9 條

以第 4 條所列優先權供作擔保之請求，因讓與或代位而移轉時，優先權亦隨同移轉。

## 第 10 條

締約國於強制變賣船舶前，該國主管官署應將變賣之日期及地點，對下列關係人直接或間接給予至少三十日之書面通知：

- (a) 對於業經登記之抵押權及「質權」，除無記名外，應對其權利人為通知；
- (b) 對於業經登記之抵押權或第 4 條所列之優先權，如權利人曾以其債權向該官署申報者，應對該權利人為通知；
- (c) 船舶登記機關之登錄官。

## 第 11 條

1. 船舶於締約國內被強制變賣時，所有抵押權及「質權」，除經買受人同意承受者外，附加於船舶上之一切優先權或任何性質之擔保物權均予消滅，然以(a)變賣時該船舶於該國管轄境內，且(b)該變賣係依該國法律及本公約之規定為之者為限。任何租傭船契約或使用船舶之契約皆不得被視為本條所述之優先權或財產擔保。
2. 法院判決及因船舶假扣押、變賣及分配賣得價金所生費用應由變賣價金中優先受償。餘額應依本公約規定，對優先權人，第 5 條第 2 項規定之其他優先權人或留置權人、抵押權人及「質權」人間以滿足其請求為限，各按其應清償之債額分配之。
3. 於締約國登記之船舶於另一締約國境內成為強制變賣之標的時，該國法院或主管官署應依買受人之聲請簽發證明，載明該船之出賣具有排除一切抵押權及「質權」（除經買受人承受外）及一切優先權或其他擔保物權之效力，然以該出賣係依本條第 1 項(a)(b)兩款規定為之且已依本條第 2 項之規定分配賣得價金或已對依變賣地法律有管轄權之官署為提存者為限。登記機關於買受人出示證明時，應註銷一切抵押權及「質權」登記，然經買受

to delete all registered mortgages and "hypotheques ", 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 seagoing ships, signed at Brussels on October 10, 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 party 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

人承受者不在此限，並視情況為定，該登記機關並應以買受人名義另為登記，或出具塗銷登記證明，以便另行登記。

## 第 12 條

1. 除本公約另有規定外，本公約規定對於在締約國或非締約國登記之一切海船均有適用。
2. 本公約之任何規定不要求針對國家所有或國家所營運或賦予所租傭之船舶作為公務或非商業之用途，或創設任何有利或不利於該船舶之權利，或行使不利於該船舶之任何權利。

## 第 13 條

為本公約第 3、10 及 11 條之目的，相關締約國之主管機關得被授權為彼此間之直接聯繫。

## 第 14 條

任一締約國得於簽署、批准或加入本公司時為下列事項之保留：

1. 包括將公約規定納入其國內法之方式，賦予本公約之法律效力；
2. 適用 1957 年 10 月 10 日於布魯塞爾簽署之國際有關海船所有人責任限制公約。

## 第 15 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 16 條

1. 任一締約國於簽署或批准本公約或加入本公約時之聲明不受本公約第 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

notification to the Belgian Government.

府之方式，撤回該保留。

### Article 17

### 第 17 條

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

本公約開放給參與海事法外交會議第十二屆大會之出席國簽署。

### Article 18

### 第 18 條

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

本公約應予批准，批准文書應存放於比利時政府。

### Article 19

### 第 19 條

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.

1. 本公約於第五份批准書存放之日三個月後生效之。
2. 於第五份批准書存放後始批准本公約之任一簽署國，本公約於其批准書存放之日三個月後對其生效之。

### Article 20

### 第 20 條

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).

1. 未出席第十二屆海事法外交會議之聯合國之會員國或專門組織會員仍得加入本公約。
2. 加入文書應存放於比利時政府。
3. 有關加入國，本公約於該加入國之加入文書存放日三個月後對其生效，然不得早於第19條第1項所規定之生效日。

### Article 21

### 第 21 條

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 has been received by the Belgian Government.

任一締約國均有權於公約對其生效後之任何時間退出。惟該退出需於比利時政府收到其退出通知之日一年後始生效力。

### Article 22

### 第 22 條

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

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。
2. 本公約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。

territories named therein.

3. 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.
  4. This denunciation shall take effect one year after the date on which notification thereof has been received by the Belgian Government.
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。
  4. 退出公約於比利時政府收到退出通知之一年後生效。

## Article 23

The Belgian 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 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 April 19, 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.

## 第 23 條

比利時政府應將下列事項通知海事法外交會議第十二次大會出席國及本公約加入國：

1. 所收到依第17、18及20條之簽署、批准及加入。
2. 本公約依第19條生效之日期。
3. 有關第14、16及22條之通知。
4. 收到依第21條之退出文件。

## 第 24 條

任一締約國得於本公約生效三年後或之後之任何時間，請求召開會議以修訂本公約。

任一欲主張此一權利之締約國，應通知比利時政府，於三分之一締約國同意時，應於六個月後召開會議。

## 第 25 條

在批准或參加本公約之國家相互關係間，本公約應代替 1926 年 4 月 10 日布魯塞爾簽訂之優先權公約及其議定書並應將該公約廢止。

為此各國授權代表簽署本公約。

1967 年 5 月 27 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。