

TRACTATENBLAD

VAN HET

KONINKRIJK DER NEDERLANDEN

JAARGANG 1990 Nr. 111

A. TITEL

*Verdrag inzake beperking van aansprakelijkheid van maritieme vorderingen, 1976;
Londen, 19 november 1976*

B. TEKST

De Engelse en de Franse tekst van het Verdrag zijn geplaatst in *Trb.* 1980, 23. Zie ook *Trb.* 1984, 31.

C. VERTALING

Zie *Trb.* 1980, 23 en *Trb.* 1984, 31.

D. PARLEMENT

De artikelen 1 en 2 van de Rijkswet van 14 juni 1989 (*Stb.* 240) luiden:

„Artikel 1

Het op 19 november 1976 te Londen tot stand gekomen Verdrag inzake beperking van aansprakelijkheid voor maritieme vorderingen 1976, waarvan de Engelse en de Franse tekst alsmede de vertaling in het Nederlands zijn geplaatst in de Tractatenbladen 1980, 23 en 1984, 31, wordt goedgekeurd voor het gehele Koninkrijk.

Artikel 2

Goedgekeurd wordt, dat bij de toetreding tot het in artikel 1 genoemde Verdrag het voorbehoud wordt gemaakt, als bedoeld in artikel 18, eerste lid, van dat Verdrag, waarin wordt te kennen gegeven

dat de regering van het Koninkrijk der Nederlanden zich het recht voorbehoudt de toepassing van artikel 2, eerste lid, onderdelen d en e, uit te sluiten”.

De Rijkswet is gecontrasigneerd door de Minister van Justitie F. KORTHALS ALTES, de Minister van Buitenlandse Zaken H. VAN DEN BROEK en de Minister van Verkeer en Waterstaat N. SMIT-KROES.

Voor de behandeling in de Staten-Generaal zie: Kamerstukken II 1986/87, 1987/88, 19 769 (R 1317); Hand. II 1987/88, blz. 3803; Kamerstukken I 1988/89, nrs. 28, 28a, 28b; Hand I 1988/89, zie vergadering d.d. 13 juni 1989.

E. BEKRACHTIGING

Zie *Trb.* 1984, 31.¹⁾

Behalve door de aldaar genoemde Staten is nog in overeenstemming met artikel 16, tweede lid, letter b, van het Verdrag een akte van bekrachtiging, aanvaarding of goedkeuring nedergelegd bij de Secretaris Generaal van de Internationale Maritieme Organisatie door:

Noorwegen ²⁾	30 maart 1984
Zweden ³⁾	30 maart 1984
Finland	8 mei 1984
Denemarken	30 mei 1984
de Bondsrepubliek Duitsland ⁴⁾	12 mei 1987

¹⁾ De bekrachtiging van het Verdrag door het *Verenigd Koninkrijk van Groot-Brittannië en Noord-Ierland* geldt mede voor de Falkland eilanden.

Naar aanleiding van die medegedeling heeft de Regering van *Argentinië* op 12 augustus 1986 de volgende verklaring afgelegd:

“...The Argentine Government rejects the extension made by the United Kingdom of Great Britain and Northern Ireland of the application to the Malvinas Islands, South Georgia and South Sandwich Islands of theConvention on Limitation of Liability for Maritime Claims, 1976....and reaffirms the rights of sovereignty of the Argentine Republic over those archipelagos which form part of its national territory.

The General Assembly of the United Nations has adopted resolutions 2065 (XX), 3160(XXVIII), 31/49, 37/9, 38/12 and 39/6 which recognize the existence of a sovereignty dispute relating to the question of the Malvinas Islands, urging the Argentine Republic and the United Kingdom to resume negotiations in order to find, as soon as possible, a peaceful and definitive solution to the dispute through the good offices of the Secretary-General of the United Nations who is requested to inform the General Assembly on the progress made. Similarly, the General Assembly of the United Nations at its fortieth session adopted resolution 40/21 of 27 November 1985 which again urges both parties to resume the said negotiations.”

Naar aanleiding van deze verklaring heeft de Regering van het *Verenigd Koninkrijk van Groot-Brittannië en Noord-Ierland* op 3 februari 1987 de volgende verklaring afgelegd:

"The Government of the United Kingdom of Great Britain and Northern Ireland cannot accept the statement made by the Argentine Republic as regards the Falkland Islands and South Georgia and the South Sandwich Islands. The Government of the United Kingdom of Great Britain and Northern Ireland have no doubt as to the United Kingdom sovereignty over the Falkland Islands and South Georgia Islands and, accordingly, their right to extend the application of the Treaties to the Falkland Islands and South Georgia and the South Sandwich Islands.

Equally, while noting the Argentine reference to the provisions of Article IV of the Antarctic Treaty signed at Washington on 1 December 1959, the Government of the United Kingdom of Great Britain and Northern Ireland have no doubt as to the sovereignty of the United Kingdom over the British Antarctic Territory and to the right to extend the application of the Treaties in question to that Territory."

In overeenstemming met artikel 15, tweede lid, van het Verdrag heeft de Regering van *Frankrijk* op 23 april 1987 medegedeeld:

"...that no limit of liability is provided for vessels navigating on French internal waterways;

"...that, as far as ships with a tonnage of less than 300 tons are concerned, the general limits of liability are equal to half those established in article 6 of the Convention ... for ships with a tonnage not exceeding 500 tons." (*IMO-vertaling*)

2) Onder het volgende voorbehoud:

"Because a higher liability is established for Norwegian drilling vessels according to the Act of 27 May 1983 (No. 30) on changes in the Maritime Act of 20 July 1993, paragraph 324, such drilling vessels are exempted from the regulations of this Convention as specified in Article 15 No. 4."

3) Onder de volgende verklaring:

"...I have the honour to inform you, in accordance with paragraph 4 of article 15 of the Convention, that Sweden has established under its national legislation a higher limit of liability for ships constructed for or adopted to and engaged in drilling than that otherwise provided for in article 6 of the Convention."

4) Onder de verklaring, dat het Verdrag vanaf de datum van inwerkingtreding voor de Bondsrepubliek Duitsland mede van toepassing zal zijn op Berlijn (West) en onder het volgende voorbehoud en de volgende mededelingen:

"In accordance with art. 18, par. 1 of the Convention, the Federal Republic of Germany reserves the right to exclude the application of art. 2, par. 1 (d) and (e) of the Convention."

"In accordance with art. 15 par. 2 first sentence, sub-par. (a) of the Convention, the system of limitation of liability to be applied to vessels which are, according to the law of the Federal Republic of Germany, ships intended for navigation on inland waterways, is regulated by the provisions relating to the private law aspects of inland navigation."

"In accordance with art. 15 par. 2, first sentence, sub-par. (b) of the Convention, the system of limitation of liability to be applied to ships up to a tonnage of 250 tons is regulated by specific provisions of the law of the Federal Republic of Germany to the effect that, with respect to such a ship, the limit of liability to be calculated in accordance with art. 6, par. 1 (b) of the Convention is half of the limitation amount to be applied with respect to a ship with a tonnage of 500 tons." (*IMO-vertaling*)

F. TOETREDING

Zie *Trb.* 1984, 31

Behalve door de aldaar genoemde Staten is nog in overeenstemming met artikel 16, tweede lid, letter c, van het Verdrag een akte van toetreding, nedergelegd bij de Secretaris-Generaal van de Internationale Maritieme Organisatie door:

Benin	1 november 1985
Polen ¹⁾	28 april 1986
Zwitserland ²⁾	15 december 1988
Egypte	30 maart 1988
Duitse Democratische Republiek ³⁾	17 februari 1989
België ⁴⁾	15 juni 1989
het Koninkrijk der Nederlanden ⁵⁾	15 mei 1990
(voor Nederland)	

¹⁾ Onder de volgende verklaring:

“Poland will now calculate financial liabilities mentioned in the Convention in the terms of the Special Drawing Right, according to the following method.

The Polish National Bank will fix a rate of exchange of the SDR to the United States dollar according to the current rates of exchange quoted by Reuter. Next, the US dollar will be converted into Polish zloties at the rate of exchange quoted by the Polish National Bank from their current table of rates of foreign currencies.”

²⁾ Onder de volgende verklaring:

“The Federal Council declares, with reference to article 8, paragraphs 1 and 4 of the Convention on Limitation of Liability for Maritime Claims, 1976, that Switzerland calculates the value of its national currency in special drawing rights (SRD) in the following way:

“The Swiss National Bank (SNB) notifies the International Monetary Fund (IMF) daily of the mean rate of the dollar of the United States of America on the Zurich currency market. The exchange value of one SDR in Swiss francs is determined from that dollar rate and the rate of the SDR in dollars calculated by IMF. On the basis of the values, SNB calculates a mean SDR rate which it will publish in its Monthly Gazette.” (*IMO-vertaling*)

³⁾ Onder het volgende voorbehoud en de volgende verklaringen:

Article 2, paragraph 1 (d) and (e)

“The German Democratic Republic notes that for the purpose of this Convention there is no limitation of liability within its territorial sea and internal waters in respect of the removal of a wrecked ship, the raising, removal or destruction of a ship which is sunk, stranded or abandoned (including anything that is or has been on board such ship). Claims, including liability, derive from the laws and regulations of the German Democratic Republic.”

Article 8, paragraph 1

“The German Democratic Republic accepts the use of the Special Drawing Rights merely as a technical unit of account. This does not imply any change in its position toward the International Monetary Fund.”

Article 8(4)

“The amounts expressed in Special Drawing Rights will be converted into marks of the German Democratic Republic at the exchange rate fixed by the Staatsbank of the German Democratic Republic on the basis of the current rate of the US dollar or of any other freely convertible currency.” (*IMO-vertaling*)

4) Onder het volgende voorbehoud en de volgende verklaring:

“In accordance with the provisions of article 18, paragraph 1, Belgium expresses a reservation on article 2, paragraph 1(d) and (e).

“In accordance with the provisions of article 15, paragraph 2, Belgium will apply the provisions of the Convention to inland navigation.” (*IMO-vertaling*)

5) Onder het volgende voorbehoud:

“In accordance with Article 18, paragraph 1, of the Convention on Limitation of Liability for Maritime Claims, 1976, done at London on 19 November 1976, the Kingdom of the Netherlands reserves the right to exclude the application of article 2, paragraph 1(d) and (e) of the Convention.”

en onder mededeling van het volgende:

London, 15 May 1990

“Communication in accordance with Article 15, paragraph 2(a) and (b) of the Convention

Article 15, paragraph 2 (a)

The Act of June 14th 1989 (Staatsblad 239) relating to the limitation of liability of owners of inland navigation vessels provides that the limits of liability shall be calculated in accordance with an Order in Council.

The Order in Council of February 19th 1990 (Staatsblad 96) adopts the following limits of liability in respect of ships intended for navigation on inland waterways.

1. Limits of liability for claims in respect of loss of life or personal injury other than those in respect of passengers of a ship, arising on any distinct occasion:

1. for a ship not intended for the carriage of cargo, in particular a passenger ship, 200 Units of Account per cubic metre of displacement at maximum permitted draught, plus, for ships equipped with mechanical means of propulsion, 700 Units of Account for each kW of the motorpower of the means of propulsion;

2. for a ship intended for the carriage of cargo, 200 Units of Account per ton of the ship's maximum deadweight, plus, for ships equipped with mechanical means of propulsion, 700 Units of Account for each kW of the motorpower of the means of propulsion;

3. for a tug or a pusher, 700 Units of Account for each kW of the motorpower of the means of propulsion;

4. for a pusher which at the time the damage was caused was coupled to barges in a pushed convoy, the amount calculated in accordance with 3 shall be

increased by 100 Units of Account per ton of the maximum deadweight of the pushed barges; such increase shall not apply if it is proved that the pusher has rendered salvage services to one or more of such barges;

5. for a ship equipped with mechanical means of propulsion which at the time the damage was caused was moving other ships coupled to this ship, the amount calculated in accordance with 1, 2 or 3 shall be increased by 100 Units of Account per ton of the maximum deadweight or per cubic metre of displacement of the other ships; such increase shall not apply if it is proved that this ship has rendered salvage services to one or more of the coupled ships;

6. for hydrofoils, dredgers, floating cranes, elevators and all other floating appliances, pontoons or plant of a similar nature, treated as inland navigation ships in accordance with Article 951a, paragraph 4 of the Commercial Code, their value at the time of the incident;

7. where in cases mentioned under 4 and 5 the limitation fund of the pusher or the mechanically propelled ship is increased by 100 Units of Account per ton of the maximum deadweight of the pushed barges or by 100 Units of Account per ton of the maximum deadweight or per cubic metre of displacement of the other coupled ships, the limitation fund of each barge or of each of the other coupled ships shall be reduced by 100 Units of Account per ton of the maximum deadweight of the barge or by 100 Units of Account per ton of the maximum deadweight or per cubic metre of displacement of the other vessel with respect to claims arising out of the same incident;

however, in no case shall the limitation amount be less than 200,000 Units of Account.

II. The limits of liability for claims in respect of any damage caused by water pollution, other than claims for loss of life or personal injury, are equal to the limits mentioned under I.

III. The limits of liability for all other claims are equal to half the amount of the limits mentioned under I.

IV. In respect of claims arising on any distinct occasion for loss of life or personal injury to passengers of an inland navigation ship, the limit of liability of the owner thereof shall be an amount equal to 60,000 Units of Account multiplied by the number of passengers the ship is authorized to carry according to its legally established capacity or, in the event that the maximum number of passengers the ship is authorized to carry has not been established by law, an amount equal to 60,000 Units of Account multiplied by the number of passengers actually carried on board at the time of the incident. However, the limitation of liability shall in no case be less than 720,000 Units of Account and shall not exceed the following amounts:

- (i) 3 million Units of Account for a vessel with an authorized maximum capacity of 100 passengers;
- (ii) 6 million Units of Account for a vessel with an authorized maximum capacity of 180 passengers;
- (iii) 12 million Units of Account for a vessel with an authorized maximum capacity of more than 180 passengers;

“Claims for loss of life or personal injury to passengers” have been defined in the same way as in Article 7, paragraph 2 of the Convention on Limitation of Liability for Maritime Claims, 1976.

The Unit of Account mentioned under I–IV is the Special Drawing Right as defined in Article 8 of the Convention on Limitation of Liability for Maritime Claims, 1976.

Article 15 – paragraph 2 (b)

The Act of 14 June 1989 (Staatsblad 241) relating to the limitation of liability for maritime claims provides that with respect to ships which are according to their construction intended exclusively or mainly for the carriage of persons and have a tonnage of less than 300, the limit of liability for claims other than for loss of life or personal injury may be established by Order in Council at a lower level than under the Convention.

The order in Council of February 19th 1990 (Staatsblad 97) provides that the limit shall be 100,000 Units of Account.

The Unit of Account is the Special Drawing Right as defined in Article 8 of the Convention on Limitation of Liability for Maritime Claims, 1976.”

G. INWERKINGTREDING

Ingevolge artikel 17, eerste en tweede lid, zijn de bepalingen van het Verdrag in werking getreden op 1 december 1986 voor Bahamas, Benin, Denemarken, Finland, Frankrijk, Japan, Jemen (Noord-), Liberia, Noorwegen, Polen, Spanje, het Verenigd Koninkrijk van Groot-Brittannië en Noord-Ierland en Zweden.

Ingevolge artikel 17, derde lid, treden de bepalingen van het verdrag voor Staten die nadien Partij worden bij het Verdrag in werking op de eerste dag van de maand volgend op het verstrijken van negentig dagen te rekenen van de datum waarop die Staten hun akten hebben nedergelegd.

Wat het Koninkrijk der Nederlanden betreft, treden de bepalingen van het Verdrag ingevolge artikel 17, derde lid, op 1 september 1990 voor Nederland in werking.

J. GEGEVENS

Zie *Trb.* 1980, 23 en *Trb.* 1984, 31.

Voor het op 29 juli 1960 te Parijs tot stand gekomen Verdrag inzake wettelijke aansprakelijkheid op het gebied van de kernenergie zie ook *Trb.* 1987, 154.

Voor het op 10 oktober 1957 te Brussel tot stand gekomen Internationaal Verdrag nopens de beperking van de aansprakelijkheid van eigenaren van zeeschepen zie ook, laatstelijk, *Trb.* 1989, 122.

Uitgegeven de eenendertigste juli 1990.

De Minister van Buitenlandse Zaken a.i.,

J. E. ANDRIESSEN