

TRACTATENBLAD

VAN HET

KONINKRIJK DER NEDERLANDEN

JAARGANG 2022 Nr. 56

A. TITEL

*Protocol van 1996 tot wijziging van het Verdrag inzake beperking van aansprakelijkheid voor maritieme vorderingen, 1976;
Londen, 2 mei 1996*

Voor een overzicht van de verdragsgegevens, zie verdragsnummers 007428 en 001656 in de Verdragenbank.

E. PARTIJGEGEVENS

Het Koninkrijk der Nederlanden heeft op 24 maart 2022 bij het deponeren van de akte van aanvaarding van het Protocol van 1996 voor het Caribische deel van Nederland een voorbehoud afgelegd. De Engelse tekst van dat voorbehoud luidt als volgt:

The Kingdom of the Netherlands reserves the right, having regard to Article 18, paragraph 1(a) and (b) of the Convention on Limitation of Liability for Maritime Claims, 1976, as amended by the Protocol of 1996:

- a) to exclude the application of Article 2, paragraphs 1(d) and (e);
- b) to exclude claims for damage within the meaning of the International Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea, 1996, concluded in London on 3 May 1996, as amended by the Protocol of 2010 to the International Convention on Liability and Compensation for Damage in Connection With The Carriage Of Hazardous And Noxious Substances by Sea, 1996, concluded in London on 30 April 2010, or of any further amendment or protocol thereto.

Op 24 maart 2022 heeft het Koninkrijk der Nederlanden voor het Europese deel van Nederland een verklaring afgelegd. De Engelse tekst van die verklaring luidt als volgt:

In accordance with Article 15, paragraph 2, first sentence, *littera a*, of the Convention on Limitation of Liability for Maritime Claims, 1976, as amended by the Protocol of 1996, the Kingdom of the Netherlands, for the European part of the Netherlands, herewith informs the Secretary-General of the International Maritime Organization that the system of limitation of liability to be applied to vessels which are, according to the law of the Netherlands, ships intended for navigation on inland waterways, is regulated by the following provisions of the law of the Netherlands:

The Act of 31 October 1996 (*Staatsblad* 1996, 548) 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 relevant Order in Council of 29 November 1996 (*Staatsblad* 1996, 587), amended by the relevant Order in Council of 13 March 2018 (*Staatsblad* 2018, 128), stipulates the following limits of liability in respect of ships intended for navigation on inland waterways.

Article 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:

- a) for claims in respect of loss of life or personal injury that are not claims within the meaning of Article 2 (loss of life and personal injury fund):
 1. for a ship not intended for the carriage of cargo, in particular a passenger ship, 400 Units of Account per cubic metre of displacement at maximum permitted draught, plus, for ships equipped with mechanical means of propulsion, 1400 Units of Account for each kW of the motorpower of the means of propulsion;
 2. for a ship intended for the carriage of cargo, 400 Units of Account per ton of the ship's maximum deadweight, plus, for ships equipped with mechanical means of propulsion, 1400 Units of Account for each kW of the motorpower of the means of propulsion;
 3. for a tug or a pusher, 1400 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 200 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 200 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, ferries, 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 1060, paragraph 4 of Book 8 of the Civil Code, their value at the time of the incident;
- b) for claims for costs and compensation owed in respect of water pollution that are not claims for loss of life or personal injury (water pollution fund): the amount of the loss of life and personal injury fund;
- c. for any other claim (property fund): half of the amount of the loss of life and personal injury fund.
2. Where in cases mentioned under paragraph 1, subparagraph a, under 4 and 5 the limitation fund of the pusher or the mechanically propelled ship is increased by 200 Units of Account per ton of the maximum deadweight of the pushed barges or by 200 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 200 Units of Account per ton of the maximum deadweight of the barge or by 200 Units of Account per ton of the maximum deadweight or per cubic metre of displacement of the other vessel.
3. In no case shall the limitation amount of the loss of life and personal injury fund and of the water pollution fund be less than 400,000 Units of Account and in no case shall the limitation amount of the property fund be less than 200,000 Units of Account.
4. A salvor to an inland navigation ship, who is not operating from a seagoing ship or inland navigation ship or who is operating solely on the inland navigation ship to, or in respect of which he is rendering salvage services, can limit his liability to the amounts mentioned in paragraph 3.

Article 2.

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 (passenger fund) shall be an amount equal to 100,000 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 100,000 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 2 million Units of Account.

2. For the purpose of the application of this Article, 'claims for loss of life or personal injury to passengers shall mean any such claims brought in response to an incident that took place in relation to any person carried in that ship:
 - a. under a contract of passenger carriage;
 - b. who, with the consent of the carrier, is accompanying a vehicle or live animals which are covered by a contract for the carriage of goods.

Article 3.

1. In cases in which the liability of the owner of an inland navigation ship for claims arising from a single incident rests or partly rests on Title 8.11.4 of the Civil Code, the amount of the fund referred to in Article 1065 of Book 8 of the Civil Code (dangerous goods fund) in respect of claims for loss of life or personal injury (loss of life and personal injury fund):

- a) for a ship not intended for the carriage of cargo, in particular a passenger ship, is 800 Units of Account per cubic metre of displacement at maximum permitted draught, plus, for ships equipped with mechanical means of propulsion, 2800 Units of Account for each kW of the motorpower of the means of propulsion;

- b) for a ship intended for the carriage of cargo, is 800 Units of Account per ton of the ship's maximum deadweight, plus, for ships equipped with mechanical means of propulsion, 2800 Units of Account for each kW of the motorpower of the means of propulsion;
- c) for a tug or a pusher, is 2800 Units of Account for each kW of the motorpower of the means of propulsion;
- d) for a pusher which at the time the damage was caused was coupled to barges in a pushed convoy, is the amount calculated in accordance with (c), increased by 400 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;
- e) 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, is the amount calculated in accordance with (a), (b), or (c), increased by 400 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;
- f) for the objects treated as inland navigation ships in accordance with Article 1060, paragraph 4 of Book 8 of the Civil Code: an amount equal to double the value at the time of the incident that gave rise to the claim.

2. In respect of any other claim (property fund) the amount of the fund shall be calculated in the same way as provided for by paragraph 1. However, the amount shall be set at half of the amount of the loss of life and personal injury fund.

3. The amount of the loss of life and personal injury fund and the amount of the property fund can never be lower than 10 million Units of Account.

4. Where in such cases mentioned under paragraph 1, subparagraphs d and e the loss of life and personal injury fund of the pusher or of the ship equipped with mechanical means of propulsion is increased by 400 Units of Account per ton of the maximum deadweight of the pushed barges or by 400 Units of Account per ton of the maximum deadweight or per cubic metre of displacement of the other coupled ships, then in relation to claims arising from the same incident, the loss of life and personal injury fund of each pusher or of each of the other coupled ships shall be reduced by 400 Units of Account per ton of the maximum deadweight of the pusher or by 400 Units of Account per ton of the maximum deadweight or per cubic metre of displacement of the other coupled ship.

Article 4.

The statutory interest, calculated from the commencement of the day following the date of the incident that gave rise to the claim until the commencement of the day following the date on which the person who submitted a request for limitation of his liability complied with an order imposed on him pursuant to Article 642c of the Code of Civil Procedure, shall be added to the amounts mentioned in Articles 1, 2 and 3.

Article 5.

The Unit of Account referred to in Articles 1, 2 and 3 is the Special Drawing Right as defined by the International Monetary Fund. The amounts mentioned in Articles 1, 2 and 3 shall be converted into Dutch currency at the date on which the debtor complies with an order to make a payment or furnish another form of security pursuant to Article 642c of the Code of Civil Procedure. The value of Dutch currency in terms of the Special Drawing Right shall be calculated in accordance with the method of valuation applied by the International Monetary Fund in effect at the date in question for its operations and transactions.

In accordance with Article 15, paragraph 2, first sentence, *littera b*, of the Convention on Limitation of Liability for Maritime Claims, 1976, as amended by the Protocol of 1996, the Kingdom of the Netherlands, for the European part of the Netherlands, herewith informs the Secretary-General of the International Maritime Organization that the system of limitation of liability to be applied to ships which have a tonnage of less than 300, is regulated by the following provisions of the law of the Netherlands:

The Act of 21 February 2009 (*Staatsblad* 2009, 162) 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 said Protocol of 1996 to amend the Convention of 1976. The relevant Order in Council of 27 November 1996 (*Staats-*

blad 1996, 586) 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, as amended by the Protocol of 1996.

G. INWERKINGTREDING

De bepalingen van het Protocol van 1996 zijn ingevolge artikel 10, derde lid, van het Protocol op 24 maart 2022 voor Nederland (het Caribische deel) in werking getreden.

Wat betreft het Koninkrijk der Nederlanden, geldt het Protocol van 1996, dat vanaf 23 maart 2011 voor het Europese deel van Nederland gold, ingevolge artikel 10, derde lid, van het Protocol vanaf 24 maart 2022 ook voor het Caribische deel van Nederland.

Uitgegeven de *veertiende* juni 2022.

De Minister van Buitenlandse Zaken,

W.B. HOEKSTRA