

N° 4062.

**ALLEMAGNE,
BELGIQUE, BRÉSIL, CHILI,
DANEMARK, etc.**

Convention internationale pour l'unification de certaines règles concernant les immunités des navires d'Etat, signée à Bruxelles, le 10 avril 1926, et protocole additionnel, signé à Bruxelles, le 24 mai 1934.

**GERMANY,
BELGIUM, BRAZIL, CHILE,
DENMARK, etc.**

International Convention for the Unification of Certain Rules relating to the Immunity of State-owned Vessels, signed at Brussels, April 10th, 1926, and Additional Protocol, signed at Brussels, May 24th, 1934.

¹ TRADUCTION. — TRANSLATION.

No. 4062. — INTERNATIONAL CONVENTION ² FOR THE UNIFICATION OF CERTAIN RULES RELATING TO THE IMMUNITY OF STATE-OWNED VESSELS. SIGNED AT BRUSSELS, APRIL 10TH, 1926.

*French official text communicated by the Belgian and Netherlands Ministers for Foreign Affairs.
The registration of this Convention took place February 18th, 1937.*

THE PRESIDENT OF THE GERMAN REICH, HIS MAJESTY THE KING OF THE BELGIANS, THE PRESIDENT OF THE REPUBLIC OF BRAZIL, THE PRESIDENT OF THE REPUBLIC OF CHILE, HIS MAJESTY THE KING OF DENMARK AND ICELAND, HIS MAJESTY THE KING OF SPAIN, THE CHIEF OF THE ESTONIAN STATE, THE PRESIDENT OF THE FRENCH REPUBLIC, HIS MAJESTY THE KING OF THE UNITED KINGDOM OF GREAT BRITAIN AND IRELAND AND OF THE BRITISH POSSESSIONS BEYOND THE SEAS, EMPEROR OF INDIA, HIS SERENE HIGHNESS THE GOVERNOR OF THE KINGDOM OF HUNGARY, HIS MAJESTY THE KING OF ITALY, HIS MAJESTY THE EMPEROR OF JAPAN, THE PRESIDENT OF THE REPUBLIC OF LATVIA, THE PRESIDENT OF THE REPUBLIC OF MEXICO, HIS MAJESTY THE KING OF NORWAY, HER MAJESTY THE QUEEN OF THE NETHERLANDS, THE PRESIDENT OF THE REPUBLIC OF POLAND, THE PRESIDENT OF THE PORTUGUESE REPUBLIC, HIS MAJESTY THE KING OF ROUMANIA, HIS MAJESTY THE KING OF THE SERBS, CROATS AND SLOVENES, and HIS MAJESTY THE KING OF SWEDEN.

Having recognised the utility of laying down in common accord certain uniform rules concerning the immunities of Government vessels, have decided to conclude a Convention to that effect and have designated as their Plenipotentiaries, namely :

THE PRESIDENT OF THE GERMAN REICH :

His Excellency Mr. VON KELLER, Minister of Germany at Brussels ;
Dr. GOES, Referendary Counselor of Legation ;
Dr. RICHTER, Counselor at the Reich Ministry of Justice, Government Privy Councilor ;
Mr. WERNER, First Government Counselor at the Reich Ministry of Economic Affairs,
Privy Councilor of Justice ;
Mr. SIEVEKING, Lawyer.

¹ Traduction du « Department of State » des Etats-Unis d'Amérique.

¹ Translation of the Department of State of the United States of America.

² Ratifications deposited in Brussels :

BELGIUM (excluding the Belgian Congo and the mandated territories of Ruanda-Urundi)	}	January 8th, 1936.
BRAZIL		
CHILE		
ESTONIA		
HUNGARY		
POLAND		
GERMANY		June 27th, 1936.
THE NETHERLANDS		July 8th, 1936.
ITALY		January 27th, 1937.
ROUMANIA		August 4th, 1937.

HIS MAJESTY THE KING OF THE BELGIANS :

- Mr. FRANCK, Member of the Chamber of Representatives, President of the International Maritime Committee ;
Mr. LE JEUNE, Vice-President of the International Maritime Committee ;
Mr. SOHR, Doctor of Laws, Professor of Maritime Law at the University of Brussels, Secretary-General of the International Maritime Committee ;
Mr. Henri ROLIN, Lawyer, Chief of the Office of the Ministry of Foreign Affairs.

THE PRESIDENT OF THE REPUBLIC OF BRAZIL :

- Mr. DE PIMENTEL BRANDAO, Counselor of the Embassy of Brazil at Brussels.

THE PRESIDENT OF THE REPUBLIC OF CHILE :

- His Excellency Mr. Atmardo QUEZADA, Minister of Chile at Brussels.

HIS MAJESTY THE KING OF DENMARK AND ICELAND :

- Mr. M. SINDBALLE, Doctor of Laws, Professor at the Law School of the University of Copenhagen.

HIS MAJESTY THE KING OF SPAIN :

- Don Lorenzo DE BENITO Y ENDARA, former Professor of Commercial Law at the University of Madrid ;
Don Miguel DE ANGULO Y RIAMOND, Lieutenant-Auditor of the First Class of the Navy, Assessor in the Office of Navigation and Fisheries ;
Don Juan GOMEZ MONTEJO, First Officer of the Technical Corps of Lawyers of the General Office of Justice, Worship and General Affairs at the Ministry of Pardon and Justice.

CHIEF OF THE ESTONIAN STATE :

- His Excellency Mr. Charles PUSTA, Minister of Estonia at Brussels.

THE PRESIDENT OF THE FRENCH REPUBLIC :

- Mr. DEGRAND, Counselor of the Embassy of the French Republic at Brussels ;
Mr. DE ROUSIERS, Secretary-General of the Committee of Shipowners of France ;
Mr. Georges RIPERT, Professor at the School of Law of Paris.

HIS MAJESTY THE KING OF THE UNITED KINGDOM OF GREAT BRITAIN AND IRELAND AND OF THE BRITISH POSSESSIONS BEYOND THE SEAS, EMPEROR OF INDIA :

- Sir Leslie SCOTT, K.C., M.P., Solicitor-General ;
The Honorable Hugh GODLEY, Adviser of the Lord President of the Committees, House of Lords ;
Mr. George P. LANGTON, Lawyer, Secretary-General of the International Maritime Committee ;
Mr. R. M. GREENWOOD, C.B.E.

HIS SERENE HIGHNESS THE GOVERNOR OF THE KINGDOM OF HUNGARY :

- Count Olivier WORACZICZKY, Baron of Pabienitz, Chargé d'Affaires of Hungary at Brussels.

HIS MAJESTY THE KING OF ITALY :

- Mr. François BERLINGIERI, Professor of Maritime Law at the University of Genoa ;
His Excellency Commander Charles ROSSETTI, Minister Plenipotentiary, Italian Delegate to the International Rivers Commissions, President of the Rhenish Committee for the Unification of the Private Law of Rivers ;
Mr. Torquato GIANNINI, Professor, Commissioner of Emigration.

HIS MAJESTY THE EMPEROR OF JAPAN :

Mr. Mechiyoshi NAKANISHI, Judge, First President of the Court of Appeal at Nagasaki ;
Mr. Hiroyuki KAWAY, Minister, Counselor of the Embassy of Japan at Brussels ;
Mr. Yasuo KO, Commander, Naval Attaché of the Embassy of Japan at Paris ;
Mr. Nobukatsu NAGAOKA, Secretary at the Ministry of Communications.

THE PRESIDENT OF THE REPUBLIC OF LATVIA :

THE PRESIDENT OF THE REPUBLIC OF MEXICO :

His Excellency Dr. Rafael CABRERA, Minister of Mexico at Brussels.

HIS MAJESTY THE KING OF NORWAY :

Mr. E. ALTEN, Counselor of the Supreme Court.

HER MAJESTY THE QUEEN OF THE NETHERLANDS :

His Excellency Jonkheer VAN VREDENBURCH, Minister of the Netherlands at Brussels ;
Mr. B. C. J. LODER, Judge of the Permanent Court of International Justice ;
Mr. C. D. ASSER, jr., Lawyer ;
Mr. G. VAN SLOOTEN, Member of the Military High Court of Justice, Counselor of the Court of Appeal.

THE PRESIDENT OF THE REPUBLIC OF POLAND AND THE FREE CITY OF DANZIG :

His Excellency Count SZEMBEK, Minister of Poland at Brussels ;
Mr. Jean NAMITKIEWICZ, Polish Arbitrator on the Mixed Arbitral Tribunal, Germany and Poland, Counselor of the Court of Appeal, Professor at the University of Warsaw.

THE PRESIDENT OF THE PORTUGUESE REPUBLIC :

His Excellency Mr. J. BATALHA DE FREITAS, Minister of Portugal at Brussels.

HIS MAJESTY THE KING OF ROUMANIA :

Mr. BALS, Counselor of the Court of Cassation ;
His Excellency Mr. CONTZESCO, Minister Plenipotentiary and Envoy Extraordinary, Delegate on the International Commission of the Danube.

HIS MAJESTY THE KING OF THE SERBS, CROATS AND SLOVENES :

His Excellency Mr. Jovan VOUTCHOVITCH, Minister of the Kingdom of the Serbs, Croats and Slovenes ;
Mr. Milorad STRAZNICKY, Doctor of Laws, Professor at the Law School of the University of Zagreb ;
Mr. Ante VERONA, Doctor of Laws, former Vice-President of the Court of Cassation of Zagreb, Professor at the University of Zagreb.

HIS MAJESTY THE KING OF SWEDEN :

Mr. Algot Johan Fredrik BAGGE, Referendary Counselor of the Supreme Court.

Who, duly authorized therefor, have agreed on the following :

Article I.

Seagoing vessels owned or operated by States, cargoes owned by them, and cargoes and passengers carried on Government vessels, and the States owning or operating such vessels, or owning such cargoes, are subject in respect of claims relating to the operation of such vessels or the carriage of such cargoes, to the same rules of liability and to the same obligations as those applicable to private vessels, cargoes and equipments.

Article 2.

For the enforcement of such liabilities and obligations there shall be the same rules concerning the jurisdiction of tribunals, the same legal actions, and the same procedure as in the case of privately owned merchant vessels and cargoes and of their owners.

Article 3.

§ 1. The provisions of the two preceding Articles shall not be applicable to ships of war, Government yachts, patrol vessels, hospital ships, auxiliary vessels, supply ships, and other craft owned or operated by a State, and used at the time a cause of action arises exclusively on Governmental and non-commercial service, and such vessels shall not be subject to seizure, attachment or detention by any legal process, nor to judicial proceedings *in rem*.

Nevertheless, claimants shall have the right of taking proceedings in the competent tribunals of the State owning or operating the vessel, without that State being permitted to avail itself of its immunity :

- (1) In case of actions in respect of collision or other accidents of navigation ;
- (2) In case of actions in respect of assistance, salvage and general average ;
- (3) In case of actions in respect of repairs, supplies, or other contracts relating to the vessel.

§ 2. The same rules shall apply to State-owned cargoes carried on board the vessels hereinabove mentioned.

§ 3. State-owned cargoes carried on board merchant vessels for Governmental and non-commercial purposes shall not be subject to seizure, attachment, or detention, by any legal process, nor to judicial proceedings *in rem*.

Nevertheless, actions in respect of collision and accidents of navigation, assistance and salvage, and general average, and actions on a contract relating to such cargo may be brought before the tribunal having jurisdiction under Article 2.

Article 4.

States may plead all measures of defence, prescription, and limitation of liability, which are available to private vessels and their owners.

If it becomes necessary to adopt or modify the provisions relative to such means of defence, prescription, and limitation so as to make them applicable to ships of war, or Government vessels coming within the terms of Article 3, a special convention shall be concluded to that effect. In the meantime, any necessary measures may be effected by national legislation in conformity with the spirit and principles of this Convention.

Article 5.

If in the case of Article 3 there is in the opinion of the tribunal a doubt as to the Governmental and non-commercial character of the vessel or cargo, a certificate signed by the diplomatic representative of the contracting State to which the vessel or cargo belongs, produced through the intercession of the State before whose courts and tribunals the case is pending, shall serve as evidence that the vessel or cargo comes within the terms of Article 3, but only for the purpose of securing a release from seizure, attachment, or detention, that may have been ordered by legal process.

Article 6.

The provisions of this Convention shall be applied in each contracting State, with the reservation that its benefits may not be extended to non-contracting States and their nationals, and that its application may be conditioned on reciprocity.

On the other hand, nothing will prevent a contracting State from regulating by its own laws the rights accorded to its own nationals in its own courts.

Article 7.

Each contracting State reserves the right to suspend the application of this Convention in time of war by a declaration notified to the other contracting States, in the sense that in that event neither the vessels owned or operated by it nor the cargoes belonging to it shall be subject to attachment, seizure, or detention by any foreign court of justice, but the claimant will have the right to bring his action before the court competent by virtue of Articles 2 and 3.

Article 8.

Nothing in this Convention shall affect the rights of the contracting States to take any measures that the rights and duties of neutrality may demand.

Article 9.

After an interval of not more than two years from the day on which the Convention is signed, the Belgian Government shall place itself in communication with the Governments of the High Contracting Parties which have declared themselves prepared to ratify the Convention, with a view to deciding whether it shall be put into force. The ratifications shall be deposited at Brussels at a date to be fixed by agreement among the said Governments. The first deposit of ratifications shall be recorded in a *procès-verbal* signed by the representatives of the Powers which take part therein and by the Belgian Minister for Foreign Affairs.

The subsequent deposits 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 *procès-verbal* relating to the first deposit of ratifications, of the notifications referred to in the previous paragraph and also of the instruments of ratification accompanying them, shall be immediately sent by the Belgian Government through the diplomatic channel to the Powers who have signed this Convention or who have acceded to it. In the cases contemplated in the preceding paragraph the said Government shall inform them at the same time of the date on which it received the notification.

Article 10.

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

A State which desires to accede shall notify its intention in writing to the Belgian Government, forwarding to it the document of accession, which shall be deposited in the archives of the said Government.

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

Article 11.

The High Contracting Parties may at the time of signature, ratification, or accession, declare that their acceptance of the present Convention does not include any or all of the self-governing

Dominions, or of the colonies, overseas possessions, protectorates, or territories under their sovereignty or authority, and they may subsequently accede separately on behalf of any self-governing Dominion, colony, overseas possession, protectorate or territory excluded in their declaration. They may also denounce the Convention separately in accordance with its provisions in respect of any self-governing Dominion, or any colony, overseas possession, protectorate, or territory under their sovereignty or authority.

Article 12.

The present Convention shall take effect, in the case of the States which have taken part in the first deposit of ratifications, one year after the date of the *procès-verbal* recording such deposit. As respects the States which ratify subsequently or which accede, and also in cases in which the Convention is subsequently put into effect in accordance with Article 11, it shall take effect six months after the notifications specified in Article 9, paragraph 2, and 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 of the notification to all the other States informing them of the date on which it was received.

The denunciation shall only operate in respect of the State which made the notification, and on the expiration of one year after the notification has reached the Belgian Government.

Article 14.

Any one of the contracting States shall have the right to call for a fresh conference with a view to considering possible amendments.

A State which would exercise this right should give one year advance notice of its intention to the other States through the Belgian Government, which would make arrangements for convening the Conference.

Done at Brussels, in a single copy, this 10th day of April 1926.

For Germany :

(Signed) VON KELLER.

(Signed) GOES.

(Signed) RICHTER.

(Signed) WERNER.

For Belgium :

(Signed) Louis FRANCK.

(Signed) Henri ROLIN.

(Signed) SOHR.

For Brazil :

(Signed) M. DE PIMENTEL BRANDAO (*ad referendum*).

For Chile :

(Signed) Armando QUEZADA.

For Denmark :

(Signed) KRISTIAN SINDBALLE.

For Spain :

(Signed) L. BENITO (*ad referendum*).

(Signed) JUAN GOMEZ MONTEJO (*ad referendum*).

(Signed) MIGUEL DE ANGULO (*ad referendum*).

For Estonia :

(Signed) C. R. PUSTA.

For France :

(Signed) DEGRAND.

(Signed) PAUL DE ROUSIERS.

(Signed) GEORGES RIPERT.

For Great Britain :

(Signed) LESLIE SCOTT (*ad referendum*).

(Signed) HUGH GODLEY (*ad referendum*).

For Hungary :

(Signed) WORACZICZKY.

For Italy :

(Signed) BERLINGIERI.

(Signed) CARLO ROSSETTI.

(Signed) TORQUATO GIANNINI.

For Japan :

For Latvia :

For Mexico :

(Signed) RAF. CABRERA (*ad referendum*).

For Norway :

(Signed) E. ALTEN.

For the Netherlands :

(Signed) VAN VREDENBURCH.

(Signed) LODER.

(Signed) ASSER.

(Signed) VAN SLOOTEN.

For Poland and the Free City of Danzig :

For Poland only :

(Signed) SZEMBEK.

(Signed) J. NAMITKIEWICZ.

For Portugal :

(Signed) D'OLIVEIRA.¹

For Roumania :

(Signed) BALS (*ad referendum*).

For the Kingdom of the Serbs, Croats and Slovenes :

(Signed) Yovan VOUTCHOVITCH, Minister of the Serbs,
Croats and Slovenes.

(Signed) Milorad STRAZNICKY.

(Signed) VERONA.

For Sweden :

(Signed) Algot BAGGE (*ad referendum*).

² TRADUCTION. — TRANSLATION.

PROTOCOL

ADDITIONAL TO THE INTERNATIONAL CONVENTION FOR THE UNIFICATION OF CERTAIN RULES CONCERNING THE IMMUNITY OF STATE-OWNED VESSELS, SIGNED AT BRUSSELS ON APRIL 10TH, 1926. SIGNED AT BRUSSELS ON MAY 24TH, 1934.

THE GOVERNMENTS SIGNATORIES TO THE INTERNATIONAL CONVENTION FOR THE UNIFICATION OF CERTAIN RULES CONCERNING THE IMMUNITY OF STATE-OWNED VESSELS,

Having recognised the necessity of further defining certain provisions of that Act, have appointed the undersigned Plenipotentiaries, who, having communicated to each other their full powers, found in good and due form, have agreed as follows :

I.

Doubts having arisen as to whether and how far the words " operated by a State " in Article 3 of the Convention apply to, or might be interpreted as applying to, vessels chartered by a State either for a given period or by the voyage, the following declaration is made in order to dispel those doubts :

" Vessels chartered by States either for a given time or by the voyage, provided they are exclusively used on Governmental and non-commercial service, and the cargoes

¹ Traduction du Secrétariat de la Société des Nations. — Translation by the Secretariat of the League of Nations :

His Excellency Mr. J. Batalha de Freitas, who had received powers to negotiate the Convention, was unable to sign it on April 10th, 1926, and accordingly His Excellency Mr. A. d'Oliveira, who was appointed shortly afterwards as Portuguese Minister to H. M. the King of the Belgians, signed the instrument on behalf of the President of the Portuguese Republic.

² Traduit par le Secrétariat de la Société des Nations, à titre d'information. ³ Translated by the Secretariat of the League of Nations, for information.

carried by such vessels, shall not be subject to seizure, attachment or detention of any kind, but this immunity shall not prejudicially affect any other rights or remedies open to the parties concerned. A certificate issued by the diplomatic representative of the State concerned, in the manner laid down in Article 5 of the Convention, shall also afford in this case proof of the nature of the service on which the vessel is employed."

II.

As regards the exception provided for in Article 3, paragraph 1, it is understood that the ownership, or the operation of the vessel by the State, at the time of the measures of seizure, attachment or detention, is placed on the same footing as ownership or operation at the time when a cause of action arose.

Accordingly, this Article may be relied on by States in respect of vessels owned or operated by them at the time of seizure, attachment or detention if they are being used exclusively on Governmental and non-commercial service.

III.

It is understood that nothing in the provisions of Article 5 of the Convention shall preclude the Governments concerned from appearing themselves, while complying with the procedure laid down by the national laws, before the court to which the dispute has been referred, and from there producing the certificate provided for in the said Article.

IV.

As the Convention does not in any respect affect the rights or obligations of belligerents and neutrals, Article 7 shall in no way restrict the jurisdiction of duly constituted prize courts.

V.

It is understood that nothing in the provisions of Article 2 of the Convention shall in any way limit or affect the application of national rules of procedure in cases in which the State is a party.

VI.

When the question of the proofs or documents to be produced arises, if in the opinion of the Government concerned such proofs or documents cannot be produced without prejudicing national interests, the said Government may refrain from producing them on the ground of the protection of such national interests.

In faith whereof the undersigned, duly authorized by their Governments, have signed the present Additional Protocol, which shall be deemed to form an integral part of the Convention of April 10th, 1926, to which it refers.

Done at Brussels, this 24th day of May, 1934, in a single copy, which shall be deposited in the archives of the Belgian Government.

For Germany :

(Signed) Graf ADELMANN VON ADELMANNSFELDEN.

For Belgium :

(Signed) HYMANS.

For Brazil :

(Signed) Octavio FIALHO.

- For Chile :
(Signed) J. VALDÈS-MENDEVILLE.
- For Denmark :
(Signed) O. KRAG.
- For Spain :
(Signed) M. AGUIRRE DE CARCER.
- For Estonia :
(Signed) Otto STRANDMAN.
- For France :
(Signed) P. CLAUDEL.
- For Great Britain and Northern Ireland :
(Signed) Esmond OVEY.
- For Hungary :
(Signed) Count Olivier WORACZICZKY.
- For Italy :
(Signed) Vannutelli REY.
- For Mexico :
(Signed) G. N. SANTOS.
- For Norway :
(Signed) W. M. JOHANNESSEN.
- For the Netherlands :
(Signed) A. Tjarda VAN STARKENBORGH STACHOUWER.
- For Poland :
(Signed) Tadeusz JACKOWSKI.
- For Portugal :
(Signed) Alb. D'OLIVEIRA.
- For Roumania :
(Signed) D. J. GHICA.
- For Sweden :
(Signed) G. DE DARDEL.
- For Yugoslavia :
(Signed) P. PECHITCH.
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