

PROTOCOL OF 1990
TO AMEND THE ATHENS CONVENTION
RELATING TO THE CARRIAGE OF PASSENGERS
AND THEIR LUGGAGE BY SEA, 1974 ⁽¹⁾

(London, 29 March 1990)

THE PARTIES TO THE PRESENT PROTOCOL,

CONSIDERING that it is desirable to amend the Athens Convention relating to the Carriage of Passengers and their Luggage by Sea, done at Athens on 13 December 1974, to provide for enhanced compensation and to establish a simplified procedure for updating the limitation amounts,

HAVE AGREED as follows:

Article I

For the purpose of this Protocol:

1. – “Convention” means the Athens Convention relating to the Carriage of Passengers and their Luggage by Sea, 1974. For States Parties to the Protocol of 1976 to the Convention, such reference shall be deemed to include the Convention as amended by that Protocol.

2. – “Organization” means the International Maritime Organization.

3. – “Secretary-General” means the Secretary-General of the Organization.

Article II

1. – Article 1, paragraph 10 of the Convention is replaced by the following text:

⁽¹⁾ This Protocol was adopted at a Diplomatic Conference convened in London by the International Maritime Organization from 26 to 30 March 1990.

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Article II

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10. – “Organization” means the International Maritime Organization.

2. – Article 7, paragraph 1 of the Convention is replaced by the following text:

1. – The liability of the carrier for the death of or personal injury to a passenger shall in no case exceed 175,000 units of account per carriage. Where, in accordance with the law of the court seized of the case, damages are awarded in the form of periodical income payments, the equivalent capital value of those payments shall not exceed the said limit.

3. – Article 8 of the Convention is replaced by the following text:

1. – The liability of the carrier for the loss of or damage to cabin luggage shall in no case exceed 1,800 units of account per passenger, per carriage.

2. – The liability of the carrier for the loss of or damage to vehicles including all luggage carried in or on the vehicle shall in no case exceed 10,000 units of account per vehicle, per carriage.

3. – The liability of the carrier for the loss of or damage to luggage other than that mentioned in paragraphs 1 and 2 of this article shall in no case exceed 2,700 units of account per passenger, per carriage.

4. – The carrier and the passenger may agree that the liability of the carrier shall be subject to a deductible not exceeding 300 units of account in the case of damage to a vehicle and not exceeding 135 units of account per passenger in the case of loss of or damage to other luggage, such sum to be deducted from the loss or damage.

4. – Article 9 of the Convention and its title are replaced by the following:

UNIT OF ACCOUNT AND CONVERSION

1. – The Unit of Account mentioned in this Convention is the Special Drawing Right as defined by the International Monetary Fund. The amounts mentioned in article 7, paragraph 1, and article 8 shall be

converted into the national currency of the State of the court seized of the case on the basis of the value of that currency by reference to the Special Drawing Right on the date of the judgment or the date agreed upon by the parties. The value of the national currency, in terms of the Special Drawing Right, of a State Party which is a member of the International Monetary Fund, shall be calculated in accordance with the method of valuation applied by the International Monetary Fund in effect on the date in question for its operations and transactions. The value of the national currency, in terms of the Special Drawing Right, of a State Party which is not a member of the International Monetary Fund, shall be calculated in a manner determined by that State Party.

2. – Nevertheless, a State which is not a member of the International Monetary Fund and whose law does not permit the application of the provisions of paragraph 1 of this article may, at the time of ratification, acceptance, approval of or accession to this Convention or at any time thereafter, declare that the unit of account referred to in paragraph 1 shall be equal to 15 gold francs. The gold franc referred to in this paragraph corresponds to sixty-five-and-a-half milligrammes of gold of millesimal fineness nine hundred. The conversion of the gold franc into the national currency shall be made according to the law of the State concerned.

3. – The calculation mentioned in the last sentence of paragraph 1, and the conversion mentioned in paragraph 2 shall be made in such a manner as to express in the national currency of the States Parties, as far as possible, the same real value for the amounts in article 7, paragraph 1, and article 8 as would result from the application of the first three sentences of paragraph 1. States shall communicate to the Secretary-General the manner of calculation pursuant to paragraph 1, or the result of the conversion in paragraph 2, as the case may be, when depositing an instrument of ratification, acceptance, approval of or accession to this Convention and whenever there is a change in either.

Article III

1. – The Convention and this Protocol shall, as between the Parties to this Protocol, be read and interpreted together as one single instrument.

2. – A State which is a Party to this Protocol but not a Party to the

Convention shall be bound by the provisions of the Convention as amended by this Protocol in relation to other States Parties hereto, but shall not be bound by the provisions of the Convention in relation to States Parties only to the Convention.

3. – Nothing in this Protocol shall affect the obligations of a State which is a Party both to the Convention and to this Protocol with respect to a State which is a Party to the Convention but not a Party to this Protocol.

FINAL CLAUSES

Article IV

SIGNATURE, RATIFICATION, ETC.

1. – This Protocol shall be open for signature at the Headquarters of the Organization from 1 June 1990 to 31 May 1991 by all States.

2. – Any State may express its consent to be bound by this Protocol by:

(a) signature without reservation as to ratification, acceptance or approval;

(b) signature subject to ratification, acceptance or approval followed by ratification, acceptance or approval; or

(c) accession.

3. – Ratification, acceptance, approval or accession shall be effected by the deposit of an instrument to that effect with the Secretary-General.

4. – Any instrument of ratification, acceptance, approval or accession deposited after the entry into force of an amendment to the Convention as amended by this Protocol shall be deemed to apply to the Convention so amended, as modified by such amendment.

Article V

ENTRY INTO FORCE

1. – This Protocol shall enter into force 90 days following the date on which 10 States have expressed their consent to be bound by it.

2. - For any State which expresses its consent to be bound by this Protocol after the conditions in paragraph 1 for entry into force have been met, this Protocol shall enter into force 90 days following the date of expression of such consent.

Article VI

DENUNCIATION

1. - This Protocol may be denounced by any State Party at any time after the date on which it enters into force for that State Party.

2. - Denunciation shall be effected by the deposit of an instrument of denunciation with the Secretary-General.

3. - A denunciation shall take effect 12 months, or such longer period as may be specified in the instrument of denunciation, after its deposit with the Secretary-General.

4. - As between the States Parties to this Protocol, denunciation by any of them of the Convention in accordance with article 25 thereof shall not be construed in any way as a denunciation of the Convention as amended by this Protocol.

Article VII

REVISION AND AMENDMENT

1. - A Conference for the purpose of revising or amending this Protocol may be convened by the Organization.

2. - The Organization shall convene a Conference of Contracting States to this Protocol for revising or amending it at the request of not less than one third of the Contracting States.

Article VIII

AMENDMENT OF LIMITS

1. - Upon the request of at least one half, but in no case less than six, of the States Parties to this Protocol, any proposal to amend the limits,

including the deductibles, specified in article 7, paragraph 1, and article 8 of the Convention as amended by this Protocol shall be circulated by the Secretary-General to all Members of the Organization and to all Contracting States.

2. – Any amendment proposed and circulated as above shall be submitted to the Legal Committee of the Organization (hereinafter referred to as “the Legal Committee”) for consideration at a date at least six months after the date of its circulation.

3. – All Contracting States to the Convention as amended by this Protocol, whether or not Members of the Organization, shall be entitled to participate in the proceedings of the Legal Committee for the consideration and adoption of amendments.

4. – Amendments shall be adopted by a two-thirds majority of the Contracting States to the Convention as amended by this Protocol present and voting in the Legal Committee expanded as provided for in paragraph 3, on condition that at least one half of the Contracting States to the Convention as amended by this Protocol shall be present at the time of voting.

5. – When acting on a proposal to amend the limits, the Legal Committee shall take into account the experience of incidents and, in particular, the amount of damage resulting therefrom, changes in the monetary values and the effect of the proposed amendment on the cost of insurance.

6. (a) No amendment of the limits under this article may be considered less than five years from the date on which this Protocol was opened for signature nor less than five years from the date of entry into force of a previous amendment under this article.

(b) No limit may be increased so as to exceed an amount which corresponds to the limit laid down in the Convention as amended by this Protocol increased by six per cent per year calculated on a compound basis from the date on which this Protocol was opened for signature.

(c) No limit may be increased so as to exceed an amount which corresponds to the limit laid down in the Convention as amended by this Protocol multiplied by three.

7. – Any amendment adopted in accordance with paragraph 4 shall be notified by the Organization to all Contracting States. The amendment shall be deemed to have been accepted at the end of a period of eighteen months after the date of notification, unless within that period not less than one fourth of the States that were Contracting States at the time of the adoption of the amendment have communicated to the Secretary-General that they do not accept the amendment, in which case the amendment is rejected and shall have no effect.

8. – An amendment deemed to have been accepted in accordance with paragraph 7 shall enter into force eighteen months after its acceptance.

9. – All Contracting States shall be bound by the amendment, unless they denounce this Protocol in accordance with paragraphs 1 and 2 of article VI at least six months before the amendment enters into force. Such denunciation shall take effect when the amendment enters into force.

10. – When an amendment has been adopted but the eighteen-month period for its acceptance has not yet expired, a State which becomes a Contracting State during that period shall be bound by the amendment if it enters into force. A State which becomes a Contracting State after that period shall be bound by an amendment which has been accepted in accordance with paragraph 7. In the cases referred to in this paragraph, a State becomes bound by an amendment when that amendment enters into force, or when this Protocol enters into force for that State, if later.

Article IX

DEPOSITARY

1. – This Protocol and any amendments accepted under article VIII shall be deposited with the Secretary-General.

2. – The Secretary-General shall:

(a) inform all States which have signed or acceded to this Protocol of:

(i) each new signature or deposit of an instrument together with the date thereof;

(ii) each declaration and communication under article 9, paragraphs 2 and 3, of the Convention as amended by this Protocol;

(iii) the date of entry into force of this Protocol;

(iv) any proposal to amend limits which has been made in accordance with article VIII, paragraph 1;

(v) any amendment which has been adopted in accordance with article VIII, paragraph 4;

(vi) any amendment deemed to have been accepted under article VIII, paragraph 7, together with the date on which that amendment shall enter into force in accordance with paragraphs 8 and 9 of that article;

(vii) the deposit of any instrument of denunciation of this Protocol together with the date of the deposit and the date on which it takes effect;

(b) transmit certified true copies of this Protocol to all Signatory States and to all States which accede to this Protocol.

3. – As soon as this Protocol enters into force, the text shall be transmitted by the Secretary-General to the Secretary-General of the United Nations for registration and publication in accordance with Article 102 of the Charter of the United Nations.

Article X

LANGUAGES

This Protocol is established in a single original in the Arabic, Chinese, English, French, Russian and Spanish languages, each text being equally authentic.

DONE AT LONDON this twenty-ninth day of March, one thousand nine hundred and ninety.

IN WITNESS WHEREOF the undersigned, being duly authorized by their respective Governments for that purpose, have signed this Protocol.