

Government Gazette

Vol. 414, No. 20733, 24 December 1999

GENERAL NOTICE

Notice 2720 of 1999

DRAFT SAFE CONTAINERS CONVENTION BIKE AND REGULATIONS: PUBLICATION FOR COMMENT

The South African Maritime Safety Authority ("the Authority") hereby makes known its intention to recommend to the National Department of Transport the measures set out in the accompanying draft Bill and regulations. Interested persons are invited to submit written comment on the Bill and regulations by no later than 31 January 2000. Submissions should be marked for the attention of Mr C Briesch, and may either be mailed to the South African Maritime Safety Authority, P.O. Box 13186, Hatfield 0028, or faxed to (012) 342 3160. Enquiries should be directed to Mr C Briesch on (012) 342 3049.

EXPLANATORY NOTE

A. THE CONVENTION AND ITS AMENDMENTS

International Convention for Safe Containers, 1972

Adoption: 2 December 1972

Entry into force: 6 September 1977

Number of Contracting Parties: 65

1. South Africa acceded to the Convention on 25 June 1982. It entered into force with respect to South Africa 12 months later, on 25 June 1983.
2. The Convention has two principal objectives. One is to maintain a high level of safety of human life in the transport and handling of containers by providing generally acceptable test procedures and related strength requirements which have proven adequate over the years. The other is to facilitate international transport of containers by providing uniform international safety regulations, equally applicable to all modes of surface transport. In this way, proliferation of divergent national safety regulations can be avoided.
3. The requirements of the Convention apply to the great majority of freight containers used internationally, except those designed specially for carriage by air. As it was not intended that all containers, van or reusable packing boxes should be affected, the scope of the Convention is limited to containers of a prescribed minimum size having corner fittings - devices which permit handling, securing or stacking.
4. The Convention sets out procedures for the safety approval - by an Administration of a Contracting State or by an organisation acting on its behalf - of containers used in international transport. Approved containers are identified by a safety approval plate, which is affixed to the container under the authority of an Administration. The safety approval plate contains relevant technical data respecting the container to which it is affixed.
5. The approval, evidenced by the safety approval plate, granted under the authority of one Contracting State, should be recognised by other Contracting States. This principle of reciprocal acceptance of safety-approved containers is the cornerstone of the Convention; and once approved and plated it is expected that containers will move in international transport with the minimum of safety control formalities.
6. The subsequent maintenance of a safety-approved container is the responsibility of the owner, who is required to have the container examined periodically.
7. The technical Annex to the Convention requires that a container undergo various tests, representing a combination of safety requirements of both the inland and maritime modes of transport.
8. Flexibility is incorporated in the Convention by the provision of simplified amendment

procedures that facilitate the adaption of test procedures to the prevailing requirements of international container traffic.

1981 (Annex I) amendments**Adoption:** 2 April 1981**Entry into force:** 1 December 1981

9. The amendments provide transitional arrangements for plating of containers (which had to be completed by 1 January 1985), and for the marking of the date of the container's next examination by 1 January 1987.

1983 (Annexes I and II) amendments**Adoption:** 13 June 1983**Entry into force:** 1 January 1984

10. The amendments extend the interval between re-examinations to 30 months and permit a choice of container re-examination procedures between the original periodic examination scheme and a new continuous examination programme.

1991 (Annexes I and II) amendments**Adoption:** 17 May 1991**Entry into force:** 1 January 1993

11. The amendments include the addition of a new Chapter V to Annex I concerning regulations for the approval of modified containers.

1993 (Articles and Annexes I and II) amendments**Adoption:** 4 November 1993**Entry into force:** 12 months after being accepted by two-thirds of Contracting Parties**Status:** Presently there 4 acceptances

12. The amendments concern the information contained on the safety approval plate; they also amend certain test loads and testing procedures required by the Convention.
13. South Africa is already bound by the other amendments mentioned above, and it is proposed that South Africa accept the 1993 amendments in accordance with Article IX of the Convention.

B THE BILL AND REGULATIONS

14. The Bill and regulations propose to implement the Convention, as amended, in domestic law. The Bill repeals an earlier attempt to implement the Convention, namely the International Convention for Safe Containers Act, 1985 (Act No. 11 of 1985), which has never entered into force.
15. The Bill proposes to re-assign functions related to the implementation and administration of the Convention from the Minister and Department of Trade and Industry to the Minister of Transport and the South African Maritime Safety Authority ("the Authority"). This will ensure that the functions are entrusted to the appropriate authorities having responsibility for transport and related safety matters.
16. The Bill is framed as an enabling statute, empowering the Minister of Transport, in clause 2, to make regulations for carrying out and giving effect to the provisions of the Convention. The text of the Convention is set out in Part 1 of the Schedule to the Bill and incorporates the 1981, 1983 and 1991 amendments. Part 2 of the Schedule sets out the text of the 1993 amendments, which have yet to enter into force; that Part will only enter into force after the 1993 amendments have entered into force, and after their acceptance by South Africa in accordance with Article IX of the Convention.
17. The administration and enforcement of the proposed statute is entrusted to the South African Maritime Safety Authority ("the Authority"), which is empowered to designate inspectors (clause 3) and to direct inquiries (clause 6) into certain accidents and incidents.
18. The regulations establish requirements as to the approval, maintenance, repair, inspection,

detention and disposal of containers. The regulations also empower the Authority to authorize organisations to carry out testing, inspection and approval of containers on its behalf.

DRAFT SAFE CONTAINERS CONVENTION BILL

To implement the International Convention for Safe Containers; and to provide for matters connected therewith.

BE IT ENACTED by the Parliament of the Republic of South Africa, as follows:—

Definitions

1. In this Act, unless the context indicates otherwise—

- i. "**Authority**" means the South African Maritime Safety Authority established by section 2(1) of the South African Maritime Safety Authority Act, 1998 (Act No. 5 of 1998);
- ii. "**container**" means a container as defined in the Convention and to which the Convention applies;
- iii. "**contravene**" includes failing or refusing to comply;
- iv. "**Convention**" means the International Convention for Safe Containers set out in Part 1 of the Schedule and, after the commencement of Part 2 of the Schedule, as amended by that Part;
- v. "**inspector**" means a person designated as an inspector under section 3;
- vi. "**Minister**" means the Minister of Transport;
- vii. "**regulation**" means a regulation made under section 2;
- viii. "**Republic**" includes the Prince Edward Islands referred to in section 8;
- ix. "**this Act**" includes the regulations.

Regulations

2. (1) Subject to subsection (2), the Minister may make regulations for carrying out and giving effect to the provisions of the Convention, and, without restricting the generality of the foregoing, may make regulations—

- a. for the detention and transportation of containers that do not carry a valid Safety Approval Plate as required by the Convention;
- b. for the detention and transportation of containers in respect of which there is significant evidence that the condition of the container creates an obvious risk to safety;
- c. respecting the maintenance and repairing of containers;
- d. describing the circumstances and the manner in which the Authority may dispose of detained containers that have not been repossessed by the person entitled thereto;
- e. requiring that the Safety Approval Plate affixed to any or all containers approved under the authority of the Government of the Republic be in one or more of the official languages of the Republic; and
- f. describing the circumstances in which the Authority must obtain the concurrence of another specified Minister in the choice of the person or persons to be authorised to conduct an inquiry under section 7(1).

(2) No regulation made under subsection (1) may—

- a. authorise any person to prevent the removal of the contents of a container; or
- b. authorise the continued detention of a container after its contents have been removed, except where an inspector believes on reasonable grounds that there is about to be a contravention of a regulation respecting the transportation of

containers made under subsection (1)(a) or (b).

(3) Subject to subsection (4), a copy of each regulation that the Minister proposes to make under subsection (1) shall be published in the *Gazette*, and a reasonable opportunity shall be afforded to interested persons to make representations to the Minister with respect thereto.

(4) Subsection (3) does not apply in respect of a proposed regulation that—

- a. has previously been published pursuant to that subsection and has been changed as a result of representations made pursuant to that subsection; or
- b. makes no material substantive change in an existing regulation.

(5) The Minister shall cause every regulation made under subsection (1) to be tabled in Parliament within a reasonable time after the promulgation thereof.

(6) A regulation tabled pursuant to subregulation (5), or any provision thereof, may, by resolution of Parliament passed during the session in which the regulation has been tabled, be disapproved of, and if the regulation or any provision thereof is so disapproved of, section 12(2) of the Interpretation Act, 1957 (Act No. 33 of 1957), shall apply as if the resolution were a law repealing the regulation or provision in question.

Inspectors

3. (1) The Authority may designate as an inspector for the purposes of this Act any person who, in the Authority's opinion, is qualified to be so designated.

(2) The Authority shall furnish every inspector with a certificate attesting to his or her designation as an inspector setting out the provisions of this Act and the Convention that the inspector is authorised to enforce, and, on boarding any vehicle or entering any place described in section 4(1), an inspector shall, if so required, produce the certificate to the person in charge thereof.

Powers of inspectors

4. (1) In addition to any powers that he or she may have in terms of the regulations, an inspector may, without a warrant, at any reasonable time—

- a. go on board any vehicle, including a ship, train, truck or aircraft, or enter any place in which he or she believes on reasonable grounds that—
 - i. there is significant evidence that the condition of a container creates an obvious risk to safety; or
 - ii. a provision of this Act has been contravened;
- b. go on board any vehicle, including a ship, train, truck or aircraft, or enter any place in which he or she believes on reasonable grounds there is a container, for the purpose of verifying that the container carries a valid Safety Approval Plate as required by the Convention; and
- c. examine any record or document required by the regulations to be kept, and make copies thereof or extracts
- d. therefrom.

(2) The owner or person in charge of any vehicle boarded or place entered by an inspector pursuant to subsection (1) and every person found therein shall give the inspector all reasonable assistance to enable the inspector to perform his or her functions under this Act and shall furnish the inspector with any information that he or she may reasonably require with respect to the administration of this Act.

Obstruction of inspectors

5. (1) No person shall obstruct or hinder an inspector in the performance of his or her functions under this Act.
- (2) No person shall knowingly make any false or misleading statement, either orally or in writing, to an inspector engaged in the performance of his or her functions under this Act.
- (3) Unless authorised by an inspector, no person shall remove or interfere in any way with a container detained by an inspector under the regulations.

Authority may direct inquiry

6. (1) Whenever an accident or incident involving a container results in death or injury to any person, danger to the health or safety of the public or damage to property or the environment, the Authority may direct an inquiry to be made into that accident or incident and may, subject to the regulations made under section 2(1)(f), authorize any person or persons that it thinks qualified to conduct the inquiry.
- (2) For the purposes of an inquiry under subsection (1), any person or persons authorised by the Authority under that subsection shall have all the powers conferred upon a court of marine enquiry by section 9(1)(i) to (vi) and (4) of the Merchant Shipping Act, 1951 (Act No. 57 of 1951), and section 9(2) and (3) of that Act shall apply accordingly.
- (3) As soon as possible after the conclusion of an inquiry under subsection (1), the person or persons authorised to conduct the inquiry shall submit a report with recommendations to the Authority, together with all the evidence and other material that was before the inquiry.
- (4) Subject to subsection (5), a report made pursuant to subsection (3) shall be published by the Authority within sixty days after receipt of the report by the Authority, unless the report contains a recommendation that publication be withheld in the public interest, in which case the Authority may withhold publication of the report in whole or in part as it thinks appropriate.
- (5) Where, pursuant to regulations made under section 2(1)(f), the concurrence of another Minister was obtained in relation to the choice of the person or persons to be authorised to conduct an inquiry under subsection (1), the report made pursuant to subsection (3), or any portion thereof, shall not be published unless that other Minister consents to publication.
- (6) The Authority may supply copies of a report published pursuant to subsection (4) or (5) in such manner and on such terms as it thinks proper.

Offences and penalties

7. (1) Every person who contravenes a provision of this Act is guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding two years.
- (2) Without derogating from the jurisdiction of any court existing apart from this subsection, a court has jurisdiction over an offence in terms of this Act if—
 - a. the offence was committed in the territorial jurisdiction of that court; or
 - b. the accused is found or carries on business in the territorial jurisdiction of that court.
- (3) If a person—

- a. admits to the Authority that he or she has contravened a provision of this Act;
- b. agrees to abide by the decision of the Authority; and
- c. deposits with the Authority the sum required of him or her, which shall not exceed the maximum fine that may be imposed under subsection (1),

the Authority may, after such inquiry as it thinks fit, determine the matter summarily and may, without legal proceedings, order by way of penalty the whole or any part of the said deposit to be forfeited.

(4) There is a right of appeal to the Minister from a determination or order of the Authority under subsection (3) whereby a penalty exceeding R1 500 is imposed, provided such right is exercised within a period of three months from the date of the determination or order.

(5) The imposition of a penalty under subsection (3) shall be deemed not to be a conviction of an offence, but no prosecution in respect of the offence in question may thereafter be instituted.

(6) All fines and other money penalties imposed under this Act shall be paid into the Maritime Fund established by section 54 of the South African Maritime Safety Authority Act, 1998 (Act No. 5 of 1998).

Extension of Act to Prince Edward Islands

8. This Act extends to the Prince Edward Islands referred to in section 1 of the Prince Edward Islands Act, 1948 (Act No. 43 of 1948); however, in its application to those Islands, transport between places in the Republic and places in those Islands shall be deemed to be international transport within the meaning of Article II, paragraph 6 of the Convention.

Act binds State

9. This Act binds the State.

Duration of Act

10. This Act shall continue in force until a day fixed by the President by proclamation in the *Gazette* following termination of the Convention or denunciation thereof by the Republic, and no longer.

Repeal of laws

11. The International Convention for Safe Containers Act, 1985 (Act No. 11 of 1985), is repealed.

Short title and commencement

12. (1) This Act is called the Safe Containers Convention Act, 2000.

(2) This Act comes into operation on a date fixed by the President by proclamation in the *Gazette*: Provided that the date so fixed in relation to Part 2 of the Schedule shall be a date not before the date on which the amendments to the Convention set out in that Part come into force with respect to the Republic in accordance with Article IX, paragraph 2(c) of the Convention.

SCHEDULE (Section 2)

PART 1

INTERNATIONAL CONVENTION FOR SAFE CONTAINERS*

Preamble

THE CONTRACTING PARTIES,
RECOGNIZING the need to maintain a high level of safety of human life in the handling, stacking and transporting of containers,
MINDFUL of the need to facilitate international container transport,
RECOGNIZING, in this context, the advantages of formalising common international safety requirements,
CONSIDERING that this end may best be achieved by the conclusion of a convention,
HAVE DECIDED to formalise structural requirements to ensure safety in the handling, stacking and transporting of containers in the course of normal operations, and to this end
HAVE AGREED as follows:

ARTICLE I

General obligation under the present Convention

The Contracting Parties undertake to give effect to the provisions of the present Convention and the Annexes hereto, which shall constitute an integral part of the present Convention.

ARTICLE II

Definitions

For the purpose of the present Convention, unless expressly provided otherwise:

1. "**Container**" means an article of transport equipment:
 - a. of a permanent character and accordingly strong enough to be suitable for repeated use;
 - b. specially designed to facilitate the transport of goods, by one or more modes of transport, without intermediate reloading;
 - c. designed to be secured and/or readily handled, having corner fittings for these purposes;
 - d. of a size such that the area enclosed by the four outer bottom corners is either:
 - i. at least 14 m² (150 sq ft), or
 - ii. at least 7 m² (75 sq ft) if it is fitted with top corner fittings.

The term "**container**" includes neither vehicles nor packaging; however, containers when carried on chassis are included.

2. "**Corner fittings**" means an arrangement of apertures and faces at the top and/or bottom of a container for the purposes of handling, stacking and/or securing.
3. "**Administration**" means the Government of a Contracting Party under whose authority containers are approved.

* The present text incorporates corrections effected by the Proc?s-Verbal of Rectification of 25 June 1976 and amendments adopted by the Maritime Safety Committee of the International Maritime Organization in 1981, 1983 and 1991 (MSC.20(59)).

4. "**Approved**" means approved by the Administration.
5. "**Approval**" means the decision by an Administration that a design type or a container is safe within the terms of the present Convention.
6. "**International transport**" means transport between points of departure and destination situated in the territory of two countries to at least one of which the present Convention applies. The present Convention shall also apply when part of a transport operation between two countries takes place in the territory of a country to which the present Convention applies.
7. "**Cargo**" means any goods, wares, merchandise and articles of every kind whatsoever carried in the containers.
8. "**New container**" means a container the construction of which was commenced on or after the date of entry into force of the present Convention.
9. "**Existing container**" means a container which is not a new container.
10. "**Owner**" means the owner as provided for under the national law of the Contracting Party or the lessee or bailee, if an agreement between the parties provides for the exercise of the owner's responsibility for maintenance and examination of the container by such lessee or bailee.
11. "**Type of container**" means the design type approved by the Administration.
12. "**Type-series container**" means any container manufactured in accordance with the approved design type.
13. "**Prototype**" means a container representative of those manufactured or to be manufactured in a design type series.
14. "**Maximum operating gross weight**" or "**rating**" or "**R**" means the maximum allowable combined weight of the container and its cargo.
15. "**Tare weight**" means the weight of the empty container including permanently affixed ancillary equipment.
16. "**Maximum permissible payload**" or "**P**" means the difference between maximum operating gross weight or rating and tare weight.

ARTICLE III *Application*

1. The present Convention applies to new and existing containers used in international transport, excluding containers specially designed for air transport.
2. Every new container shall be approved in accordance with the provisions either for type-testing or for individual testing as contained in Annex I.
3. Every existing container shall be approved in accordance with the relevant provisions for approval of existing containers set out in Annex I within five years from the date of entry into force of the present Convention.

ARTICLE IV *Testing, inspection, approval and maintenance*

1. For the enforcement of the provisions of Annex I every Administration shall establish an

effective procedure for the testing, inspection and approval of containers in accordance with the criteria established in the present Convention, provided, however, that an Administration may entrust such testing, inspection and approval to organisations duly authorised by it.

2. An Administration which entrusts such testing, inspections and approval to an organisation shall inform the Secretary-General of the Inter-Governmental Maritime Consultative Organization (hereinafter referred to as "the Organization") for communication to Contracting Parties.
3. Application for approval may be made to the Administration of any Contracting Party.
4. Every container shall be maintained in a safe condition in accordance with the provisions of Annex I.
5. If an approved container does not in fact comply with the requirements of Annexes I and II the Administration concerned shall take such steps as it deems necessary to bring the container into compliance with such requirements or to withdraw the approval.

ARTICLE V *Acceptance of approval*

1. Approval under the authority of a Contracting Party, granted under the terms of the present Convention, shall be accepted by the other Contracting Parties for all purposes covered by the present Convention. It shall be regarded by the other Contracting Parties as having the same force as an approval issued by them.
2. A Contracting Party shall not impose any other structural safety requirements or tests on containers covered by the present Convention, provided, however, that nothing in the present Convention shall preclude the application of provisions of national regulations or legislation or of international agreements, prescribing additional structural safety requirements or tests for containers specially designed for the transport of dangerous goods, or for those features unique to containers carrying bulk liquids or for containers when carried by air. The term "dangerous goods" shall have that meaning assigned to it by international agreements.

ARTICLE VI *Control*

1. Every container which has been approved under Article III shall be subject to control in the territory of the Contracting Parties by officers duly authorised by such Contracting Parties. This control shall be limited to verifying that the container carries a valid Safety Approval Plate as required by the present Convention, unless there is significant evidence for believing that the condition of the container is such as to create an obvious risk to safety. In that case the officer carrying out the control shall only exercise it in so far as it may be necessary to ensure that the container is restored to a safe condition before it continues in service.
2. Where the container appears to have become unsafe as a result of a defect which may have existed when the container was approved, the Administration responsible for that approval shall be informed by the Contracting Party which detected the defect.

ARTICLE VII *Signature, ratification, acceptance, approval and accession*

1. The present Convention shall be open for signature until 15 January 1973 at the Office of the United Nations at Geneva and subsequently from 1 February 1973 until 31 December 1973 inclusive at the Headquarters of the Organization at London by all States Members of the United Nations or Members of any of the specialised agencies or of the International Atomic Energy Agency or Parties to the Statute of the International Court of Justice, and by any other State invited by the General Assembly of the United Nations to become a Party to the present

Convention.

2. The present Convention is subject to ratification, acceptance or approval by States which have signed it.
3. The present Convention shall remain open for accession by any State referred to in paragraph 1.
4. Instruments of ratification, acceptance, approval or accession shall be deposited with the Secretary-General of the Organization (hereinafter referred to as "the Secretary-General").

ARTICLE VIII *Entry into force*

1. The present Convention shall enter into force twelve months from the date of the deposit of the tenth instrument of ratification, acceptance, approval or accession.
2. For each State ratifying, accepting, approving or acceding to the present Convention after the deposit of the tenth instrument of ratification, acceptance, approval or accession, the present Convention shall enter into force twelve months after the date of the deposit by such State of its instrument of ratification, acceptance, approval or accession.
3. Any State which becomes a Party to the present Convention after the entry into force of an amendment shall, failing an expression of a different intention by that State,
 - a. be considered as a Party to the Convention as amended; and
 - b. be considered as a Party to the unamended Convention in relation to any Party to the Convention not bound by the amendment.

ARTICLE IX *Procedure for amending any part or parts of the present Convention*

1. The present Convention may be amended upon the proposal of a Contracting Party by any of the procedures specified in this Article.
2. Amendment after consideration in the Organization:
 - a. Upon the request of a Contracting Party, any amendment proposed by it to the present Convention shall be considered in the Organization. If adopted by a majority of two thirds of those present and voting in the Maritime Safety Committee of the Organization, to which all Contracting Parties shall have been invited to participate and vote, such amendment shall be communicated to all Members of the Organization and all Contracting Parties at least six months prior to its consideration by the Assembly of the Organization. Any Contracting Party which is not a Member of the Organization shall be entitled to participate and vote when the amendment is considered by the Assembly.
 - b. If adopted by a two-thirds majority of those present and voting in the Assembly, and if such majority includes a two-thirds majority of the Contracting Parties present and voting, the amendment shall be communicated by the Secretary-General to all Contracting Parties for their acceptance.
 - c. Such amendment shall come into force twelve months after the date on which it is accepted by two thirds of the Contracting Parties. The amendment shall come into force with respect to all Contracting Parties except those which, before it comes into force, make a declaration that they do not accept the amendment.
3. Amendment by a conference:

Upon the request of a Contracting Party, concurred in by at least one third of the Contracting Parties, a conference to which the States referred to in Article VII shall be invited will be convened by the Secretary-General.

ARTICLE X

Special procedure for amending the Annexes

1. Any amendment to the Annexes proposed by a Contracting Party shall be considered in the Organization at the request of that Party.
2. If adopted by a two-thirds majority of those present and voting in the Maritime Safety Committee of the Organization to which all Contracting Parties shall have been invited to participate and to vote, and if such majority includes a two-thirds majority of the Contracting Parties present and voting, such amendment shall be communicated by the Secretary-General to all Contracting Parties for their acceptance.
3. Such an amendment shall enter into force on a date to be determined by the Maritime Safety Committee at the time of its adoption unless, by a prior date determined by the Maritime Safety Committee at the same time, one fifth or five of the Contracting Parties, whichever number is less, notify the Secretary-General of their objection to the amendment. Determination by the Maritime Safety Committee of the dates referred to in this paragraph shall be by a two-thirds majority of those present and voting, which majority shall include a two-thirds majority of the Contracting Parties present and voting.
4. On entry into force any amendment shall, for all Contracting Parties which have not objected to the amendment, replace and supersede any previous provision to which the amendment refers; an objection made by a Contracting Party shall not be binding on other Contracting Parties as to acceptance of containers to which the present Convention applies.
5. The Secretary-General shall inform all Contracting Parties and Members of the Organization of any request and communication under this Article and the date on which any amendment enters into force.
6. Where a proposed amendment to the Annexes has been considered but not adopted by the Maritime Safety Committee, any Contracting Party may request the convening of a conference to which the States referred to in Article VII shall be invited. Upon receipt of notification of concurrence by at least one third of the other Contracting Parties, such a conference shall be convened by the Secretary-General to consider amendments to the Annexes.

ARTICLE XI

Denunciation

1. Any Contracting Party may denounce the present Convention by effecting the deposit of an instrument with the Secretary-General. The denunciation shall take effect one year from the date of such deposit with the Secretary General.
2. A Contracting Party which has communicated an objection to an amendment to the Annexes may denounce the present Convention and such denunciation shall take effect on the date of entry into force of such an amendment.

ARTICLE XII

Termination

The present Convention shall cease to be in force if the number of Contracting Parties is less than five for any period of twelve consecutive months.

ARTICLE XIII

Settlement of disputes

1. Any dispute between two or more Contracting Parties concerning the interpretation or application of the present Convention which cannot be settled by negotiation or other means of settlement shall, at the request of one of them, be referred to an arbitration tribunal composed as follows: each party to the dispute shall appoint an arbitrator and these two arbitrators shall appoint a third arbitrator, who shall be Chairman. If, three months after receipt of a request, one of the parties has failed to appoint an arbitrator or if the arbitrators have failed to elect the Chairman, any of the parties may request the Secretary-General to appoint an arbitrator or the Chairman of the arbitration tribunal.
2. The decision of the arbitration tribunal established under the provisions of paragraph 1 shall be binding on the parties to the dispute.
3. The arbitration tribunal shall determine its own rules of procedure.
4. Decisions of the arbitration tribunal, both as to its procedures and its place of meeting and as to any controversy laid before it, shall be taken by majority vote.
5. Any controversy which may arise between the parties to the dispute as regards the interpretation and execution of the award may be submitted by any of the parties for judgement to the arbitration tribunal which made the award.

ARTICLE XIV *Reservations*

1. Reservations to the present Convention shall be permitted, excepting those relating to the provisions of Articles I to VI, XIII, the present Article and the Annexes, on condition that such reservations are communicated in writing and, if communicated before the deposit of the instrument of ratification, acceptance, approval or accession, are confirmed in that instrument. The Secretary-General shall communicate such reservations to all States referred to in Article VII.
2. Any reservation made in accordance with paragraph 1:
 - a. modifies for the Contracting Party which made the reservation the provisions of the present Convention to which the reservation relates to the extent of the reservation; and
 - b. modifies those provisions to the same extent for the other Contracting Parties in their relations with the Contracting Party which entered the reservation.
3. Any Contracting Party which has formulated a reservation under paragraph 1 may withdraw it at any time by notification to the Secretary-General.

ARTICLE XV *Notification*

In addition to the notifications and communications provided for in Articles IX, X and XIV, the Secretary-General shall notify all the States referred to in Article VII of the following:

- a. signatures, ratifications, acceptances, approvals and accessions under Article VII;
- b. the dates of entry into force of the present Convention in accordance with Article VIII;
- c. the date of entry into force of amendments to the present Convention in accordance with Articles IX and X;
- d. denunciations under Article XI;
- e. the termination of the present Convention under Article XII.

ARTICLE XVI *Authentic texts*

[Annex 1](#) |