



Treaty Series No. 76 (1997)

Additional Protocol No. 2

to amend the Convention for the

Unification of Certain Rules Relating to International Carriage by Air signed at Warsaw on 12 October 1929 as amended by the Protocol Done at The Hague on 28 September 1955

Montreal, 25 September 1975

[The Protocol was ratified by the United Kingdom on 5 July 1984
and entered into force on 15 February 1996]

*Presented to Parliament
by the Secretary of State for Foreign and Commonwealth Affairs
by Command of Her Majesty
December 1997*

**ADDITIONAL PROTOCOL No. 2
TO AMEND THE CONVENTION FOR THE UNIFICATION OF
CERTAIN RULES RELATING TO INTERNATIONAL CARRIAGE BY
AIR SIGNED AT WARSAW ON 12 OCTOBER 1929 AS AMENDED BY
THE PROTOCOL DONE AT THE HAGUE ON 28 SEPTEMBER 1955**

The Governments undersigned

Considering that it is desirable to amend the Convention for the Unification of Certain Rules Relating to International Carriage by Air signed at Warsaw on 12 October 1929¹ as amended by the Protocol done at The Hague on 28 September 1955².

Have agreed as follows:

CHAPTER I

Amendments to the Convention

ARTICLE I

The Convention which the provisions of the present Chapter modify is the Warsaw Convention as amended at The Hague in 1955.

ARTICLE II

Article 22 of the Convention shall be deleted and replaced by the following:

“Article 22

1. In the carriage of persons the liability of the carrier for each passenger is limited to the sum of 16,600 Special Drawing Rights. Where, in accordance with the law of the court seised of the case, damages may be awarded in the form of periodic payments, the equivalent capital value of the said payments shall not exceed this limit. Nevertheless, by special contract, the carrier and the passenger may agree to a higher limit of liability.
2. (a) In the carriage of registered baggage and of cargo, the liability of the carrier is limited to a sum of 17 Special Drawing Rights per kilogramme, unless the passenger or consignor has made, at the time when the package was handed over to the carrier, a special declaration of interest in delivery at destination and has paid a supplementary sum if the case so requires. In that case the carrier will be liable to pay a sum not exceeding the declared sum, unless he proves that that sum is greater than the passenger's or consignor's actual interest in delivery at destination.
- (b) In the case of loss, damage or delay of part of registered baggage or cargo, or of any object contained therein, the weight to be taken into consideration in determining the amount to which the carrier's liability is limited shall be only the total weight of the package or packages concerned. Nevertheless, when the loss, damage or delay of a part of the registered baggage or cargo, or of an object contained therein, affects the value of other packages covered by the same baggage check or the same air waybill, the total weight of such package or packages shall also be taken into consideration in determining the limit of liability.

¹Treaty Series No. 11 (1933), Cmd. 4284.

²Treaty Series No. 62 (1967), Cmd. 3356.

3. As regards objects of which the passenger takes charge himself the liability of the carrier is limited to 332 Special Drawing Rights per passenger.

4. The limits prescribed in this Article shall not prevent the court from awarding, in accordance with its own law, in addition, the whole or part of the court costs and of the other expenses of the litigation incurred by the plaintiff. The foregoing provision shall not apply if the amount of the damages awarded, excluding court costs and other expenses of the litigation, does not exceed the sum which the carrier has offered in writing to the plaintiff within a period of six months from the date of the occurrence causing the damage, or before the commencement of the action, if that is later.

5. The sums mentioned in terms of the Special Drawing Right in this Article shall be deemed to refer to the Special Drawing Right as defined by the International Monetary Fund. Conversion of the sums into national currencies shall, in case of judicial proceedings, be made according to the value of such currencies in terms of the Special Drawing Right at the date of the judgment. The value of a national currency, in terms of the Special Drawing Right, of a High Contracting 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 at the date of the judgment, for its operations and transactions. The value of a national currency, in terms of the Special Drawing Right, of a High Contracting Party which is not a Member of the International Monetary Fund, shall be calculated in a manner determined by that High Contracting Party.

Nevertheless, those States which are not Members of the International Monetary Fund and whose law does not permit the application of the provisions of paragraphs 1, 2(a) and 3 of Article 22 may at the time of ratification or accession or at any time thereafter, declare that the limit of liability of the carrier in judicial proceedings in their territories is fixed at a sum of 250,000 monetary units per passenger with respect to paragraph 1 of Article 22; 250 monetary units per kilogramme with respect to paragraph 2(a) of Article 22; and 5,000 monetary units per passenger with respect to paragraph 3 of Article 22. This monetary unit corresponds to sixty-five and a half milligrammes of gold of millesimal fineness nine hundred. These sums may be converted into the national currency concerned in round figures. The conversion of these sums into national currency shall be made according to the law of the State concerned."

CHAPTER II

Scope of application of the Convention as amended

ARTICLE III

The Warsaw Convention as amended at The Hague in 1955 and by this Protocol shall apply to international carriage as defined in Article 1 of the Convention, provided that the places of departure and destination referred to in that Article are situated either in the territories of two Parties to this Protocol or within the territory of a single Party to this Protocol with an agreed stopping place in the territory of another State.

CHAPTER III

Final clauses

ARTICLE IV

As between the Parties to this Protocol, the Warsaw Convention as amended at The Hague in 1955 and this Protocol shall be read and interpreted together as one single instrument and shall be known as the *Warsaw Convention as amended at The Hague, 1955, and by Additional Protocol No. 2 of Montreal, 1975*.

ARTICLE V

Until the date on which this Protocol enters into force in accordance with the provisions of Article VII, it shall remain open for signature by any State.

ARTICLE VI

1. This Protocol shall be subject to ratification by the signatory States.
2. Ratification of this Protocol by any State which is not a Party to the Warsaw Convention or by any State which is not a Party to the Warsaw Convention as amended at The Hague, 1955, shall have the effect of accession to the *Warsaw Convention as amended at The Hague, 1955, and by Additional Protocol No. 2 of Montreal, 1975*.
3. The instruments of ratification shall be deposited with the Government of the Polish People's Republic.

ARTICLE VII

1. As soon as thirty signatory States have deposited their instruments of ratification of this Protocol, it shall come into force between them on the ninetieth day after the deposit of the thirtieth instrument of ratification. It shall come into force for each State ratifying thereafter on the ninetieth day after the deposit of its instrument of ratification.
2. As soon as this Protocol comes into force it shall be registered with the United Nations by the Government of the Polish People's Republic.

ARTICLE VIII

1. This Protocol, after it has come into force, shall be open for accession by any non-signatory State.
2. Accession to this Protocol by any State which is not a Party to the Warsaw Convention or by any State which is not a Party to the Warsaw Convention as amended at The Hague, 1955, shall have the effect of accession to the *Warsaw Convention as amended at The Hague, 1955, and by Additional Protocol No. 2 of Montreal, 1975*.
3. Accession shall be effected by the deposit of an instrument of accession with the Government of the Polish People's Republic and shall take effect on the ninetieth day after the deposit.

ARTICLE IX

1. Any Party to this Protocol may denounce the Protocol by notification addressed to the Government of the Polish People's Republic.
2. Denunciation shall take effect six months after the date of receipt by the Government of the Polish People's Republic of the notification of denunciation.
3. As between the Parties to this Protocol, denunciation by any of them of the Warsaw Convention in accordance with Article 39 thereof or of the Hague Protocol in accordance with Article XXIV thereof shall not be construed in any way as a denunciation of the *Warsaw Convention as amended at The Hague, 1955, and by Additional Protocol No. 2 of Montreal, 1975*.

ARTICLE X

No reservation may be made to this Protocol except that a State may at any time declare by a notification addressed to the Government of the Polish People's Republic that the Convention as amended by this Protocol shall not apply to the carriage of persons,

cargo and baggage for its military authorities on aircraft, registered in that State, the whole capacity of which has been reserved by or on behalf of such authorities.

ARTICLE XI

The Government of the Polish People's Republic shall promptly inform all States Parties to the Warsaw Convention or to that Convention as amended, all signatory or acceding States to the present Protocol, as well as the International Civil Aviation Organization, of the date of each signature, the date of deposit of each instrument of ratification or accession, the date of coming into force of this Protocol, and other relevant information.

ARTICLE XII

As between the Parties to this Protocol which are also Parties to the Convention, Supplementary to the Warsaw Convention, for the Unification of Certain Rules Relating to International Carriage by Air Performed by a Person Other than the Contracting Carrier, signed at Guadalajara on 18 September 1961¹ (hereinafter referred to as the "Guadalajara Convention") any reference to the "Warsaw Convention" contained in the Guadalajara Convention shall include reference to the *Warsaw Convention as amended at The Hague, 1955, and by Additional Protocol No. 2 of Montreal, 1975*, in cases where the carriage under the agreement referred to in Article 1, paragraph b) of the Guadalajara Convention is governed by this Protocol.

ARTICLE XIII

This Protocol shall remain open for signature until 1 January 1976 at the Headquarters of the International Civil Aviation Organization and thereafter until it comes into force in accordance with Article VII at the Ministry for Foreign Affairs of the Polish People's Republic. The International Civil Aviation Organization shall promptly inform the Government of the Polish People's Republic of any signature and the date thereof during the time that the Protocol shall be open for signature at the Headquarters of the International Civil Aviation Organization.

IN WITNESS WHEREOF the undersigned Plenipotentiaries, having been duly authorized, have signed this Protocol.

DONE at Montreal on the twenty-fifth day of the month of September of the year One Thousand Nine Hundred and Seventy-five in four authentic texts in the English, French, Russian and Spanish languages. In the case of any inconsistency, the text in the French language, in which language the Warsaw Convention of 12 October 1929 was drawn up, shall prevail.

SIGNATURES

Barbados
Brazil
Egypt
Ghana
Guatemala
Israel
Portugal
Switzerland
United Kingdom
Venezuela
Yugoslavia
Zaire

¹Treaty Series No. 23 (1964), Cmnd. 2354.

**THE SIGNATORIES AND PARTIES
TO THE ADDITIONAL PROTOCOL No. 2 TO AMEND THE
CONVENTION RELATING TO INTERNATIONAL CARRIAGE BY AIR
DONE AT MONTREAL, 25 SEPTEMBER 1975**

Protocol No. 2 entered into force on 15 February 1996, ie 90 days after the deposit of the thirtieth Instrument of Ratification.

| Country | PROTOCOL No. 2 | | |
|---|--------------------------|---|---------------------------------|
| | <i>Date of Signature</i> | <i>Date of Instrument Deposit Ratification Approval (AP) Acceptance (A) Accession (a) Succession(s)</i> | <i>Date of Entry into Force</i> |
| Argentina ¹ | 14.03.1990 | 14.03.1990 | 15.02.1996 |
| Barbados | 25.09.1975 | | |
| Bosnia-Herzegovina ² | | 03.03.1995/s | 15.02.1996 |
| Brazil | 25.09.1975 | 27.07.1979 | 15.02.1996 |
| Canada | 17.11.1995 | 17.11.1995 | 15.02.1996 |
| Chile | 23.11.1984 | 19.05.1987 | 15.02.1996 |
| Cyprus | 10.11.92 | 10.11.1992 | 15.02.1996 |
| Colombia | 20.05.1982 | 20.05.1982 | 15.02.1996 |
| Croatia ³ | | 14.07.1993/s | 15.02.1996 |
| Denmark | 01.12.1976 | 29.06.1983 | 15.02.1996 |
| Egypt | 25.09.1975 | 17.11.1978 | 15.02.1996 |
| Ethiopia | 14.07.1987 | 14.07.1987 | 15.02.1996 |
| Finland | 02.05.1978 | 17.06.1980 | 15.02.1996 |
| France | 30.12.1975 | 11.02.1982 | 15.02.1996 |
| Ghana | 25.09.1975 | | |
| Greece | 10.11.1988 | 12.11.1988 | 15.02.1996 |
| Guatemala | 25.09.1975 | | |
| Honduras | | 15.02.1996 | 15.05.1996 |
| Ireland | 27.06.1989 | 27.06.1989 | 15.02.1996 |
| Israel | 25.09.97 | 16.02.1979 | 15.02.1996 |
| Italy | 15.05.1978 | 02.04.1985 | 15.02.1996 |
| Kuwait | 21.03.1995 | 08.11.1996 | 06.02.1997 |
| The Former Yugoslav Republic of Macedonia ⁴ | | 01.09.1994/s | 15.02.1996 |
| Morocco | 18.10.1984 | | |
| Mexico | 21.12.1983 | 18.05.1984 | 15.02.1996 |
| Norway | 03.09.1979 | 04.08.1983 | 15.02.1996 |
| Oman | | 15.02.1996 | 15.05.1996 |
| Netherlands ⁵ | 19.05.1982 | 07.01.1983 | 15.02.1996 |
| Portugal | 25.09.1975 | 07.04.1982 | 15.02.1996 |
| Qatar | 28.08.1987 | | |
| United Kingdom of Great Britain and Northern Ireland ⁶ | 25.09.1975 | 05.07.1984 | 15.02.1996 |
| Senegal | 18.08.1976 | | |
| Spain | 30.09.1981 | 08.01.1985 | 15.02.1996 |
| Sweden | 12.12.1977 | 28.06.1978 | 15.02.1996 |
| Switzerland | 09.12.1987 | 09.12.1987 | 15.02.1996 |
| Togo | 21.08.1985 | 05.05.1987 | 15.02.1996 |
| Tunisia | 09.11.1984 | 28.05.1985 | 15.02.1996 |
| Uzbekistan | | 27.02.1997 | 28.05.1997 |
| Venezuela | 25.09.1975 | 14.07.1978 | 15.02.1996 |

| <i>Country</i> | <i>Date of Signature</i> | <i>Date of Instrument Deposit Ratification Approval (AP) Acceptance (A) Accession (a) Succession(s)</i> | <i>Date of Entry into Force</i> |
|---|--------------------------|---|---------------------------------|
| Yugoslavia (Federal Republic of) ⁷ | 25.09.1975 | 11.03.1977 | 15.02.1996 |
| Zaire | 25.09.1975 | | |

Footnotes:

¹ The instrument of ratification by the Government of Argentina contains the following declaration: "The United Kingdom of Great Britain and Northern Ireland having ratified the Additional Protocols to the Warsaw Convention of 1929, adopted in Montreal (Canada) in 1975, the Argentine Republic rejects the said ratification in so far as it was made in the name of the "Falkland Islands and their Dependencies" and reaffirms its sovereign right to the Falkland Islands, South Georgia and the South Sandwich Islands which form an integral part of its national territory.

The United Nations General Assembly adopted Resolutions 2065 (XX), 3160 (XXVIII), 31/49, 38/12 and 39/6 in which it recognises the existence of a dispute concerning sovereignty over the Falkland Islands and urges the Argentine Republic and the United Kingdom of Great Britain and Northern Ireland to resume their negotiations at the earliest opportunity in order to arrive as soon as possible at a peaceful and final solution to their dispute and to the other disputes concerning the said question, through the good offices of the Secretary General of the Organisation which is required to issue information on the progress made. At the same time the Argentine Republic rejects the ratification referred to in the preceding paragraph in so far as it is made in the name of the "British Antarctic Territory" and reaffirms that it does not accept any name which refers to or implies ownership by another State of the sector between 25° and 74° of longitude west and between 60° of latitude south and the South Pole over which the Argentine Republic exercises its sovereignty since that sector forms an integral part of its territory."

² In a note dated 9 February 1995, the Government of the Republic of Bosnia and Herzegovina declared that it considered itself bound by the provisions of this Protocol by virtue of succession.

³ In a note dated 8 July 1993, the Government of the Republic of Croatia declared that it considers itself bound by the provisions of this Protocol by virtue of succession (with effect from 8 October 1991).

⁴ In a note dated 15 August 1994, the Government of the former Yugoslav Republic of Macedonia declared that it considered itself bound by the provisions of this Protocol by virtue of succession (with effect from 8 September 1991).

⁵ The Protocol is ratified for the Kingdom of Europe and the Netherlands Antilles.

⁶ The United Kingdom also ratified this Protocol in the name of the following territories: the Bailiwick of Jersey, the Bailiwick of Guernsey, the Isle of Man, Anguilla, the British Virgin Islands, Bermuda, the British Antarctic Territory, the British Indian Ocean Territory, the Cayman Islands, the Falkland Islands and Dependencies, Gibraltar, Hong Kong, Montserrat, Pitcairn Island, Henderson, Ducie and Oeno, St Helena and Dependencies, Turks and Caicos Islands, Akrotiri and Dhekelia.

Furthermore, the following declarations was made at a later stage: "With reference to the declarations made by the Argentine Republic in depositing the instruments of ratification relating to Protocols 1, 2 and 3 and to the Montreal Protocol No. 4 signed in Montreal on 25 September 1975, the position of the United Kingdom is well known and remains invariable. The United Kingdom does not doubt its sovereignty over the Falkland Islands, South Georgia and the South Sandwich Islands and its indisputable right to apply the treaties to those territories. As regards the part of the declaration concerning the British Antarctic Territory, the Embassy draws attention to the content of the Antarctic Treaty and in particular the provisions of Article IV of that Treaty. . . ."

⁷ In a note dated 8 November 1993, the Government of the Federal Republic of Yugoslavia (Serbia and Montenegro) declared that it considers itself bound by this Protocol, to which the former Socialist Federal Republic of Yugoslavia was a Contracting State.

