

**RESPONSE BY THE NEDERLANDSE VERENIGING VOOR ZEE- EN
VERVOERSRECHT (NVZV) (DUTCH MARITIME AND TRANSPORT LAW
ASSOCIATION) TO THE LETTER FROM THE CMI PRESIDENT OF 11 APRIL
WITH A REQUEST FOR INFORMATION RELATING TO THE STATUS OF
RATIFICATION OF 11 DESIGNATED CONVENTIONS**

**1. United Nations Convention on Contracts for the International Carriage of
Goods Wholly or Partly by Sea (Rotterdam Rules) 2009**

a. If the government of your country has not yet ratified or acceded to any of the conventions listed above, is it considering to take the necessary steps in order that your country become party to any of them?

Netherlands: The Netherlands is considering to take the necessary steps to become party to the Rotterdam Rules. The Netherlands has signed the Rotterdam Rules on 23 September 2009 in Rotterdam. Upon signature the then Minister of Transport and Waterworks indicated ratification of the Rotterdam Rules would follow swiftly. The Rotterdam Rules were translated and published in the official Dutch Treaty Series (Tractatenblad 2011/222) and the government sought outside advice as to how the Dutch Civil Code would have to be amended to accommodate for the entry into force of the Rotterdam Rules. The advice has been approved by the government. Progress with the actual ratification process has been relatively slower than expected as more time is needed to prepare the necessary legislation, particularly the changes needed to be made to the Dutch Civil Code.

b. If so, what is the likely procedure and time frame for such ratification to take place?

Netherlands: Unknown.

c. Has your government already considered the possible ratification of any of the conventions listed above and come to the conclusion that such ratification is not advisable?

Netherlands: No.

d. If so, please give briefly the reasons (bullet points will suffice)

Netherlands: Not applicable.

e. If the government in your country is undecided as to whether to ratify a Convention is there anything that your Maritime Law Association or International Chamber of Shipping member association can do to assist the government reaching a decision?

Netherlands: Not applicable.

2. Protocol of 2002 to the Athens Convention relating to the Carriage of Passengers and their Luggage by Sea 1974

a. If the government of your country has not yet ratified or acceded to any of the conventions listed above, is it considering to take the necessary steps in order that your country become party to any of them?

Netherlands: The 2002 Protocol has been ratified and will enter into force on 23 April 2014 in accordance with Article 20 of the 2002 Protocol. The 2002 Protocol will only apply to the European part of the Kingdom, and therefore not to the Dutch Caribbean (Aruba, Curaçao, St. Maarten and Bonaire, St. Eustatius, Saba).

b. If so, what is the likely procedure and time frame for such ratification to take place?

Netherlands: Not applicable.

c. Has your government already considered the possible ratification of any of the conventions listed above and come to the conclusion that such ratification is not advisable?

Netherlands: Not applicable.

d. If so, please give briefly the reasons (bullet points will suffice)

Netherlands: Not applicable.

e. If the government in your country is undecided as to whether to ratify a Convention is there anything that your Maritime Law Association or International Chamber of Shipping member association can do to assist the government reaching a decision?

Netherlands: Not applicable.

3. International Convention on Liability and Compensation for Damage in connection with the Carriage of Hazardous and Noxious Substances by Sea 1996 and Protocol of 2010

a. If the government of your country has not yet ratified or acceded to any of the conventions listed above, is it considering to take the necessary steps in order that your country become party to any of them?

Netherlands: The Netherlands is considering to take the necessary steps to become party to the HNS Convention and the HNS Protocol of 2010. The Netherlands has signed the HNS Convention on 29 September 1997. The HNS Convention and the HNS Protocol of 2010 were translated and published in the official Dutch Treaty Series (Tractatenblad 1997/302, 2002/222 and 2010/316) which is a clear indication for the intention to ratify. We were informed that the necessary legislation was prepared and could be introduced in parliament, but that the Dutch government has refrained from doing so as neighbouring countries were not likely to ratify any time soon, and a ratification by the Netherlands alone would create imbalance between the liability regimes in regimes in Western Europe. Plans from the EU to allow or push EU Member States towards ratification seem to have halted.

b. If so, what is the likely procedure and time frame for such ratification to take

place?

Netherlands: Uncertain at this point in time.

c. Has your government already considered the possible ratification of any of the conventions listed above and come to the conclusion that such ratification is not advisable?

Netherlands: No.

d. If so, please give briefly the reasons (bullet points will suffice)

Netherlands: Not applicable.

e. If the government in your country is undecided as to whether to ratify a Convention is there anything that your Maritime Law Association or International Chamber of Shipping member association can do to assist the government reaching a decision?

Netherlands: The Dutch government has reached a decision, and is prepared and committed to ratify the HNS Convention and the HNS Protocol of 2010 as soon as this is politically feasible. The Dutch Maritime and Transport Law Association (NVZV) (and the Royal Association of Dutch Shipowners (KVNOR)) do not need to assist the government on this point.

4. The Nairobi International Convention on the Removal of Wrecks 2007, including extension of its scope of application to the territory of States Parties under Art. 3(2)

a. If the government of your country has not yet ratified or acceded to any of the conventions listed above, is it considering to take the necessary steps in order that your country become party to any of them?

Netherlands: The Netherlands is considering to take the necessary steps to become party to the Nairobi WRC. The Netherlands has signed the Nairobi WRC on 27 October 2008. The Nairobi WRC was translated and published in the official Dutch Treaty Series (Tractatenblad 2008/115) which is a clear indication for the intention to ratify. A parliamentary document (Kamerstukken II 2012/13, 33400-V nr. 122) lists the Nairobi WRC as a convention for which the parliamentary approval will be sought this year (2013) and states that the necessary legislation is being prepared. We understand the necessary legislation was almost completely prepared and would be introduced in parliament in the not too distant future.

b. If so, what is the likely procedure and time frame for such ratification to take place?

Netherlands: Somewhere late in 2014 or early 2015.

c. Has your government already considered the possible ratification of any of the conventions listed above and come to the conclusion that such ratification is not advisable?

Netherlands: Not applicable.

d. If so, please give briefly the reasons (bullet points will suffice)

Netherlands: Not applicable.

e. If the government in your country is undecided as to whether to ratify a

Convention is there anything that your Maritime Law Association or International Chamber of Shipping member association can do to assist the government reaching a decision?

Netherlands: Not applicable.

5. Protocol of 1996 to the Convention on Limitation of Liability for Maritime Claims 1976

a. If the government of your country has not yet ratified or acceded to any of the conventions listed above, is it considering to take the necessary steps in order that your country become party to any of them?

Netherlands: The 1996 Protocol has been ratified and has entered into force on 23 March 2011 in accordance with Article 11 of the 1996 Protocol. The 1996 Protocol only applies to the European part of the Kingdom, and therefore not to the Dutch Caribbean (Aruba, Curaçao, St. Maarten and Bonaire, St. Eustatius, Saba).

b. If so, what is the likely procedure and time frame for such ratification to take place?

Netherlands: Not applicable

c. Has your government already considered the possible ratification of any of the conventions listed above and come to the conclusion that such ratification is not advisable?

Netherlands: Not applicable

d. If so, please give briefly the reasons (bullet points will suffice)

Netherlands: Not applicable

e. If the government in your country is undecided as to whether to ratify a Convention is there anything that your Maritime Law Association or International Chamber of Shipping member association can do to assist the government reaching a decision?

Netherlands: Not applicable

6. Maritime Labour Convention 2006

a. If the government of your country has not yet ratified or acceded to any of the conventions listed above, is it considering to take the necessary steps in order that your country become party to any of them?

Netherlands: The MLC has been ratified and will enter into force on 20 August 2013 in accordance with Article VIII of the MLC. The MLC will only apply to the European part of the Kingdom, and therefore not to the Dutch Caribbean (Aruba, Curaçao, St. Maarten and Bonaire, St. Eustatius, Saba).

b. If so, what is the likely procedure and time frame for such ratification to take place?

Netherlands: Not applicable

c. Has your government already considered the possible ratification of any of the conventions listed above and come to the conclusion that such ratification is not

advisable?

Netherlands: Not applicable

d. If so, please give briefly the reasons (bullet points will suffice)

Netherlands: Not applicable

e. If the government in your country is undecided as to whether to ratify a Convention is there anything that your Maritime Law Association or International Chamber of Shipping member association can do to assist the government reaching a decision?

Netherlands: Not applicable

7. MARPOL Protocol of 1997 (MARPOL Annex VI - Prevention of Atmospheric Pollution by Ships)

a. If the government of your country has not yet ratified or acceded to any of the conventions listed above, is it considering to take the necessary steps in order that your country become party to any of them?

Netherlands: The 1997 Protocol to MARPOL introducing MARPOL Annex VI has been ratified and has entered into force on 2 January 2007 for the European part of the Kingdom and on 10 October 2010 for the Caribbean Netherlands (Bonaire, St. Eustatius, Saba) in accordance with Article 6 of the 1997 Protocol. The 1997 Protocol does not only apply to the independent countries of the Dutch Caribbean (Aruba, Curaçao, St. Maarten).

b. If so, what is the likely procedure and time frame for such ratification to take place?

Netherlands: Not applicable.

c. Has your government already considered the possible ratification of any of the conventions listed above and come to the conclusion that such ratification is not advisable?

Netherlands: Not applicable.

d. If so, please give briefly the reasons (bullet points will suffice)

Netherlands: Not applicable.

e. If the government in your country is undecided as to whether to ratify a Convention is there anything that your Maritime Law Association or International Chamber of Shipping member association can do to assist the government reaching a decision?

Netherlands: Not applicable.

8. Convention on Facilitation of International Maritime Traffic 1965

a. If the government of your country has not yet ratified or acceded to any of the conventions listed above, is it considering to take the necessary steps in order that your country become party to any of them?

Netherlands: The FAL Convention has been ratified and has entered into force on 20 November 1967 for the European part of the Kingdom and the Netherlands Antilles, and on 1 January 1986 for Aruba, in accordance with Article XI of the FAL Convention. The FAL Convention applies to the European

part of the Kingdom, and to the Dutch Caribbean (Aruba, Curaçao, St. Maarten and Bonaire, St. Eustatius, Saba).

b. If so, what is the likely procedure and time frame for such ratification to take place?

Netherlands: Not applicable.

c. Has your government already considered the possible ratification of any of the conventions listed above and come to the conclusion that such ratification is not advisable?

Netherlands: Not applicable.

d. If so, please give briefly the reasons (bullet points will suffice)

Netherlands: Not applicable.

e. If the government in your country is undecided as to whether to ratify a Convention is there anything that your Maritime Law Association or International Chamber of Shipping member association can do to assist the government reaching a decision?

Netherlands: Not applicable.

9. International Convention for the Safe and Environmentally Sound Recycling of Ships (Hong Kong), 2009

a. If the government of your country has not yet ratified or acceded to any of the conventions listed above, is it considering to take the necessary steps in order that your country become party to any of them?

Netherlands: The Netherlands has signed the Hong Kong Convention on 21 April 2010. No clear steps for parliamentary approval and ratification have yet been taken. However, the European Commission has proposed a Regulation on Ship Recycling (COM/2012/118) and a Council Decision (COM/2012/120) requiring European Member States to ratify or to accede to the Hong Kong International Convention within three years of the entry into force of that Council Decision. A new Regulation was adopted by the European Parliament on 18 April 2013. The Dutch government has stated (Kamerstukken 2011/12, 22112, nr. 1404) that a three year period to ratify and implement the Hong Kong Convention would be acceptable. Any necessary legislation for the approval and implementation of the Hong Kong Convention would still have to be prepared.

b. If so, what is the likely procedure and time frame for such ratification to take place?

Netherlands: Not clear yet. It depends on the European developments.

c. Has your government already considered the possible ratification of any of the conventions listed above and come to the conclusion that such ratification is not advisable?

Netherlands: Not applicable.

d. If so, please give briefly the reasons (bullet points will suffice)

Netherlands: Not applicable.

e. If the government in your country is undecided as to whether to ratify a Convention is there anything that your Maritime Law Association or International Chamber of Shipping member association can do to assist the government reaching a decision?

Netherlands: Not applicable.

10. Seafarers' Identity Documents Convention (Revised) (ILO 185), 2003

a. If the government of your country has not yet ratified or acceded to any of the conventions listed above, is it considering to take the necessary steps in order that your country become party to any of them?

Netherlands: The Dutch government has decided not to ratify the ILO 185 Convention (Kamerstukken II 2006/7 29427, Nrs 38, 48).

b. If so, what is the likely procedure and time frame for such ratification to take place?

Netherlands: Not applicable

c. Has your government already considered the possible ratification of any of the conventions listed above and come to the conclusion that such ratification is not advisable?

Netherlands: The Dutch government has indeed decided not to ratify the ILO 185 Convention (Kamerstukken II 2006/7 29427, Nrs 38, 48). In 2011 the Anglo-Dutch-Swiss Seafarer's Union Nautilus has urged the Dutch government to reconsider its position, but with no effect.

d. If so, please give briefly the reasons (bullet points will suffice)

Netherlands: The Dutch government has no objections to the ILO 185 Convention in principle, but does not see the added value of the Seafarer's Identity Document (SID) over already existing Identity, Travel and Visa Documents. The SID is expected to lead to an administrative burden and extra costs, also because the ILO has chosen a different biometric basis for identification than ICAO.

e. If the government in your country is undecided as to whether to ratify a Convention is there anything that your Maritime Law Association or International Chamber of Shipping member association can do to assist the government reaching a decision?

Netherlands: Not applicable.

11. International Convention on Arrest of Ships, 1999

a. If the government of your country has not yet ratified or acceded to any of the conventions listed above, is it considering to take the necessary steps in order that your country become party to any of them?

Netherlands: The government is currently not considering to take any steps in order to become party to the Arrest Convention 1999.

b. If so, what is the likely procedure and time frame for such ratification to take place?

Netherlands: Unknown.

c. Has your government already considered the possible ratification of any of the conventions listed above and come to the conclusion that such ratification is not advisable?

Netherlands: No.

d. If so, please give briefly the reasons (bullet points will suffice)

Netherlands: Not applicable.

e. If the government in your country is undecided as to whether to ratify a Convention is there anything that your Maritime Law Association or International Chamber of Shipping member association can do to assist the government reaching a decision?

Netherlands: The Dutch Maritime and Transport Law Association (NVZV) can do little at a national level as (1) in order to be able to ratify the Arrest Convention 1999 the Netherlands would need permission from the EU, as the Arrest Convention 1999 contains a provision dealing with jurisdiction of the courts, which is an area of law over which the EU has competence to the exclusion of EU Member States; (2) there are members within the NVZV who prefer the Arrest Convention 1952 which applies now, or who would rather see no Arrest Convention in place at all, as it is thought to maintain/create an unfair balance with common law countries: in the Netherlands the Arrest Convention has the effect of limiting the right to attach a ship to maritime claims only, whereas in common law countries powers of arrest are/were in fact widened by the Arrest Convention while on top of that other security measures such as freezing orders are unaffected by the Arrest Convention.