

REPUBLIC OF VANUATU

BILL FOR THE RATIFICATION OF CERTAIN CONVENTIONS AND PROTOCOLS ACT NO. OF 2017

Explanatory Note

The purpose of this Bill is to ratify certain Conventions and Protocols.

The Conventions and Protocols set out in this Bill have been signed by Vanuatu and require ratification by Parliament.

(a) Convention on Wetlands of International Importance especially as Waterfowl Habitat

This Convention was signed in 1971 and its mission is “the conservation wise use of all wetlands through local and national actions and international cooperation, as a contribution towards achieving sustainable development throughout the world.

Upon joining the Convention, Vanuatu must designate at least one wetland as a Ramsar Site (a wetland of International importance) and continue to ensure it is effectively managed.

Following prolonged and intense investigations and consultations, Lake Letas, a crater lake and its outflow river in Gaua, Torba province, has been proposed as Vanuatu’s first Ramsar Site. It meets the criteria of being a refuge area for several species of eels and as a habitat for freshwater fishes that occur only in Vanuatu and New Caledonia.

Joining the Convention is important for Vanuatu. It provides greater access to technical and practical assistance for managing wetlands such as Lake Letas. Vanuatu would be better able to voice its concerns and needs regarding wetlands and their biodiversity in international forums.

(b) International Convention on the Harmonised Commodity Description and Coding System

The Harmonised Commodity Description and Coding System is a multipurpose international product nomenclature developed by the World Customs Organization (WCO). It comprises of 5,000 commodity groups, each identified by a six digit code, arranged in a legal and logical structure and is supported by well-defined rules to achieve uniform classification.

In practice, it is the working customs tariff for Vanuatu, with rates of customs duty or excise levied on the goods as described in the Harmonised Commodity Description and Coding System.

A number of benefits accrue from being a contracting party to the International Convention on the Harmonised Commodity Description and Coding System: Vanuatu is able to:

- have access to WCO Technical Committees who are able to assist in providing expert advice in determining contentious classification questions, and to provide assistance in classifying goods subject to legally binding advanced ruling allowed under the Customs Act No.7 of 2013 of Vanuatu.

- access technical assistance provided by the WCO, including training in Harmonised Commodity Description and Coding System classification, which will promote Vanuatu's Customs expertise.

(c) DOHA Amendment to the Kyoto Protocol

In June 1992, Vanuatu signed the treaty, United Nations Framework Convention on Climate Change ("UNFCCC") and was later ratified in March 1993.

The Kyoto Protocol is an international agreement linked to the UNFCCC, which commits its Parties by setting internationally binding emission reduction targets. The Kyoto Protocol was adopted in Kyoto, Japan, on 11 December 1997 and entered into force on 16 February 2005. Vanuatu deposited its instrument of acceptance on 17 July 2001.

The DOHA Amendment is an *amendment to the Kyoto Protocol* being adopted by the Conference of the Parties serving as the meeting of the Parties to the Protocol (CMP) on 8 December 2012 in Doha, Qatar.

The Amendment establishes the second commitment period of the Kyoto Protocol, which began on 1 January 2013 and will end on 31 December 2020.

The Kyoto Protocol is important to Vanuatu for the following reasons:

- (a) like the UNFCCC, the Kyoto Protocol is also designed to assist countries in adapting to the adverse effects of climate change; and
- (b) to facilitate the development and deployment of technologies that can help increase resilience to the impacts of climate change; and
- (c) to be able to access the Adaptation Fund, as decided in Doha. The Fund is used to finance projects and programs in developing countries that are Parties to the Kyoto Protocol.
- (d) **Kigali Amendment to the Montreal Protocol on Substances that Deplete the Ozone Layer**

The Montreal Protocol is an international treaty linked to the Vienna Convention for the Protection of the Ozone Layer, and is designed to protect the ozone layer by phasing out the production of numerous substances that are responsible for ozone depletion.

On 26 August 1987, the Montreal Protocol Treaty (the “Montreal Protocol”) was agreed on, in Montreal Canada, and entered into force on 26 August 1989.

Since it came into force, the Protocol has undergone eight (8) revisions (adjustments and amendments) in the following years and places:

- (1) in 1990 (London);
- (2) in 1991 (Nairobi);
- (3) in 1992 (Copenhagen);
- (4) in 1993 (Bangkok);
- (5) in 1995 (Vienna);
- (6) in 1997 (Montreal);
- (7) in 1998 (Australia);
- (8) in 1999 (Beijing);
- (9) in 2016 (Kigali, adopted but not in force).

Vanuatu deposited its instruments of ratification for the two international treaties, as well as that of the London and Copenhagen Amendments on 21 November 2011. The Montreal and Beijing Amendments were both ratified by Vanuatu on 21 July 2011.

On adoption of the Montreal Protocol, parties are required to enforce the phase out of the production and use of ozone depleting substances.

On 15 October 2016, at the 28th meeting of the Parties to the Montreal Protocol on Substances that Deplete the Ozone Layer, in Kigali, Rwanda, they reached an agreement to phase-down hydrofluorocarbons (HFCs). The HFCs are commonly used alternatives to ozone depleting substances (ODS) and are greenhouse gases which can have high or very high global warming potentials (GWPs).

The Kigali Amendment will enter into force on 1 January 2019, provided that it is ratified by at least 20 Parties to the Montreal Protocol (or 90 days after ratification by the 20th Party, whichever is later).

(e) Convention for Adoption and Ratification in relation to Recognition and Operations of the University of the South Pacific (USP)

In 1968, the University of the South Pacific was established under the Royal Charter and each member country is named in the Royal Charter. The Royal Charter forms the basis in which the University operates. Although the Royal Charter establishes the University, it has no recognition in the legislative framework in most of its member countries.

The adoption and ratification of this Convention is important for the University and for Vanuatu. Its ratification will assist in the operation of the University across the member countries uniformly.

(f) International Convention for the Safety of Life at Sea, 1974

Vanuatu has acceded to this Convention on 28th July 1982.

The SOLAS Convention is generally regarded as the most important of all international treaties concerning the safety of merchant ships. The first version was adopted in 1914, in response to the Titanic disaster, the second in 1929, the third in 1948, and the fourth in 1960. The 1974 version includes the tacit acceptance procedure, which provides that an amendment is to enter into force on a specified date unless, before that date, objections to the amendment are received from an agreed number of Parties. This Convention was adopted to regulate safety of vessels and life at sea.

(g) Protocol of 1978, relating to the International Convention for the Safety of Life at Sea

Vanuatu has acceded to this Protocol on July 28th 1982.

This is an amendment to the SOLAS Convention to further improve safety of ships, particularly tankers. The amendments provide for, inter alia, inspections and surveys of ships and passenger ships, surveys of life-saving appliances and other equipment of cargo ships for the purpose of ensuring that they comply fully with the requirements of the Convention and the Protocol, preventing collision at sea, survey of hulls and so forth.

(h) International Convention on Load Lines, 1966

Vanuatu has acceded to this Convention on 25th November 1982.

This Convention relates to the loading lines of vessels. It provides the limitations on the draught to which a ship may be loaded, which make a significant contribution to its safety. These limits are given in the form of freeboards, which constitute, besides external weathertight and watertight integrity, the main objective of the Convention. It contains provisions that determine the freeboard of ships by subdivision and damage stability. It also takes into account the potential hazards present in different zones and different seasons. All assigned load lines must be marked amidships on each side of the ship.

(i) International Convention for the Prevention of Pollutions from Ships, 1973 (MARPOL 73)

Vanuatu has acceded to this Convention on 25th November 1982.

The International Convention for the Prevention of Pollution from Ships (MARPOL) is the main international convention covering prevention of pollution of the marine environment by ships from operational or accidental causes. This Convention aimed at preventing and minimizing pollution from ships – both accidental pollution and that from routine operations.

(j) Protocol of 1978 Relating to the International Convention for the Prevention of Pollution from Ships, 1973;

Vanuatu has acceded to this Protocol on 25th November 1982.

The Protocol of 1978 was adopted in response to a spate of tanker accidents in 1976-1977. As the 1973 MARPOL Convention had not yet entered into force, the 1978 MARPOL Protocol absorbed the parent Convention. The combined instrument entered into force on 2 October 1983.

(k) Convention on the International Regulations for Prevention Collisions at Sea, 1972, as amended (COLREG 1972)

Vanuatu has acceded to this Convention on 25th November 1982.

This Convention was made to provide for regulations of ships to prevent collision of ships at sea. One of the most important innovations in the 1972 COLREGs was the recognition given to traffic separation schemes where it gives guidance in determining safe speed, the risk of collision and the conduct of vessels operating in or near traffic separation schemes.

(l) International Convention on Tonnage Measurement of Ships, 1969 (Tonnage 69)

Vanuatu has acceded to this Convention on 25th November 1982.

The Convention, adopted by the International Maritime Organisation (“IMO”) in 1969, was the first successful attempt to introduce a universal tonnage

measurement system. Previously, various systems were used to calculate the tonnage of merchant ships. Although all went back to the method devised by George Moorsom of the British Board of Trade in 1854, there were considerable differences between them and it was recognized that there was a great need for one single international system. As such, this Convention was adopted.

(m) Athens Conventions Relating to the Carriage of Passengers and their Luggage by Sea, 1974 (PAL 74)

Vanuatu has acceded to this Convention on 25th November 1982.

The Convention was adopted in Athens in 1974 and was designed to consolidate and harmonize two earlier Brussels conventions dealing with passengers and luggage. The Convention establishes a regime of liability for damage suffered by passengers carried on a seagoing vessel. It declares a carrier liable for damage or loss suffered by a passenger if the incident causing the damage occurred in the course of the carriage and was due to the fault or neglect of the carrier.

(n) Protocol to the Athens Convention Relating to the Carriage of Passengers and their Luggage by Sea, 1974;

Vanuatu has acceded to this Protocol on 25th November 1982.

This is an amendment made to the Athens Convention.

(o) Convention on Facilitation of International Maritime Traffic, 1965 (FAL 1965);

Vanuatu has acceded to this Convention on 25th November 1982.

The Convention's main objectives are to prevent unnecessary delays in maritime traffic, to aid co-operation between Governments, and to secure the highest practicable degree of uniformity in formalities and other procedures. In particular, the Convention reduces the number of declarations which can be required by public authorities.

(p) Protocol of 1976 to the International Convention on Civil Liability for Oil Pollution Damage, 1969;

Vanuatu has acceded to this Protocol on 25th November 1982.

The Civil Liability Convention was adopted to ensure that adequate compensation is available to persons who suffer oil pollution damage resulting from maritime casualties involving oil-carrying ships.

The Convention places the liability for such damage on the owner of the ship from which the polluting oil escaped or was discharged.

(q) International Convention on Standards of Training Certification and Watchkeeping for Seafarers, 1978 (STCW 1978)

Vanuatu has acceded to this Convention and it came into effect on 25th November 1982.

The 1978 STCW Convention was the first to establish basic requirements on training, certification and watchkeeping for seafarers on an international level. Previously, the standards of training, certification and watchkeeping of officers and ratings were established by individual governments, usually without reference to practices in other countries.

As a result, standards and procedures varied widely, even though shipping is the most international of all industries. This Convention prescribes minimum standards relating to training, certification and watchkeeping for seafarers which countries are obliged to meet or exceed.

Minister for Foreign Affairs and External Trade



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BILL FOR THE RATIFICATION OF CERTAIN CONVENTIONS AND PROTOCOLS ACT NO. OF 2017

An Act to provide for the ratification of certain Conventions and Protocols.

Be it enacted by the President and Parliament as follows-

1 Ratification

- (1) The following Conventions and Protocols are ratified:
 - (a) Convention on Wetlands of International Importance especially as Waterfowl Habitat; and
 - (b) International Convention on Harmonized Commodity Description and Coding System; and
 - (c) DOHA amendment to the Kyoto Protocol; and
 - (d) Kigali amendment to the Montreal Protocol on Substances that Deplete the Ozone layer; and
 - (e) Convention for Adoption and Ratification in relation to Recognition and Operations of the University of the South Pacific (USP); and
 - (f) International Convention for the Safety of Life at Sea, 1974; and
 - (g) Protocol of 1978, relating to the International Convention for the Safety of Life at Sea; and
 - (h) International Convention on Load Lines, 1966; and
 - (i) International Convention for the Prevention of Pollutions from Ships, 1973 (MARPOL 73); and
 - (j) Protocol of 1978 Relating to the International Convention for the Prevention of Pollution from Ships, 1973; and

- (k) Convention on the International Regulations for Prevention Collisions at Sea, 1972, as amended (COLREG 1972); and
 - (l) International Convention on Tonnage Measurement of Ships, 1969 (Tonnage 69); and
 - (m) Athens Conventions Relating to the Carriage of Passengers and their Luggage by Sea, 1974 (PAL 74); and
 - (n) Protocol to the Athens Convention Relating to the Carriage of Passengers and their Luggage by Sea, 1974; and
 - (o) Convention on Facilitation of International Maritime Traffic, 1965 (FAL 1965); and
 - (p) Protocol of 1976 to the International Convention on Civil Liability for Oil Pollution Damage, 1969; and
 - (q) International Convention on Standards of Training Certification and WatchKeeping for Seafarers, 1978 (STCW 1978).
- (2) A copy of each Convention and Protocol is attached.

2 Commencement

This Act commences on the day on which it is published in the Gazette.