

1910 年有關統一海上救助及撈救某些規則國際公約

1910 年 9 月 23 日 訂於布魯塞爾，1913 年 3 月 1 日生效

International Convention for the Unification of Certain Rules of Law Respecting Assistance and Salvage at Sea, 1910

Brussels, September 23, 1910 ; Entered into Force March 1, 1913

Salvage 1910

Article 1

Assistance and salvage of seagoing vessels in danger of any things on board of freight and passage money, and also services of the same nature rendered by seagoing vessels to vessels of inland navigation or vice-versa, are subject to the following provisions, without any distinction being drawn between these two kinds of service (viz., assistance and salvage), and in whatever waters the services have been rendered.

第 1 條

對處於危難中之海船、船上任何財物、貨物、運費及旅客運費之救助及撈救，以及海船與內河船舶相互間所為同性質之施救，不論其為救助或撈救，亦不論施救於何種水域，悉依下列之規定。

Article 2

Every act of assistance or salvage of which has had a useful result gives a right to equitable remuneration.

No remuneration is due if the services rendered have no beneficial result.

In no case shall the sum to be paid exceed the value of the property salvaged.

第 2 條

任何救助或撈救行為有效果者，有請求相當報酬之權。

施救無效果者，無報酬。

應支付之報酬金額，不得超過獲救財物之價值。

Article 3

Persons who have taken part in salvage operations notwithstanding the express and reasonable prohibition on the part of the vessel to which the services were rendered, have no right to any remuneration.

第 3 條

參與施救作業之人，經被救船舶明示並正當之拒絕而仍強為救助者，無任何報酬請求權。

Article 4

A tug has no right to remuneration for assistance to or salvage of the vessel she is towing or of the vessel's cargo, except where she has rendered exceptional services which cannot be considered as rendered in fulfilment of the contract of towage.

第 4 條

拖船對其所拖帶之船舶，或該船貨物所為之救助或撈救，除係提供額外服務，而無法視為拖帶契約之履行外，無報酬請求權。

Article 5

第 5 條

Remuneration is due notwithstanding that the salvage services have been rendered by or to vessels belonging to the same owner.

同一所有人之船舶間施救或被救者，仍應給付報酬。

Article 6

The amount of remuneration is fixed by agreement between the parties, and, failing agreement, by the court.

The proportion in which the remuneration is to be distributed amongst the salvors is fixed in the same manner.

The apportionment of the remuneration amongst the owner, master and other persons in the service of each salvaging vessel shall be determined by the law of the vessel's flag.

第 6 條

報酬金額由當事人以協議定之。協議不成，由法院定之。

施救人間分配報酬之比例，依前項規定定之。

施救船之所有人、船長、及其他施救人相互間報酬之分配，依該船船旗國法律定之。

Article 7

Every agreement as to assistance or salvage entered into at the moment and under the influence of danger may, at the request of either party, be annulled, or modified by the court, if it considers that the conditions agreed upon are not equitable.

In all cases, when it is proved that the consent of one of the parties is vitiated by fraud or concealment, or When the remuneration is, in proportion to the services rendered, in an excessive degree too large or too small, the agreement may be annulled or modified by the court at the request of the party affected.

第 7 條

任何救助或撈救契約係在危難當時或在危難影響下所訂定者，如法院認為所訂條款有失公平，得因當事人一方之請求，由法院予以撤銷或修改之。

於一切情況下，如證明當事人一方之同意係因詐欺或隱瞞而有瑕疵，或其報酬與所提供之服務在比例上顯有過大或過小情事者，法院得因利害關係人之聲請撤銷或變更救助合約。

Article 8

The remuneration is fixed by the court according to the circumstances of each case, on the basis of the following considerations:

(a) firstly, the measure of success obtained, the efforts and deserts of the salvors, the danger run by the salvaged vessel, by her passengers, crew and cargo, by the salvors, and by the salvaging vessel . the time expended, the expenses incurred and losses suffered, and the risks of liability and other risks run by the salvors, and also the value of the property exposed to such risks. due regard being had to the special appropriation (if any) of the salvors' vessel for salvage purposes .

(b) secondly, the value of the property salvaged.

The same provisions apply for the purpose of fixing the apportionment provided for by the second paragraph of Article 6.

The court may deprive the salvors of all remuneration, or may award a reduced remuneration, if it appears that the salvors have by their fault rendered the salvage or assistance necessary or have been guilty of theft, fraudulent concealment, or other acts of fraud.

第 8 條

報酬應由法院依個別情況，斟酌下列各項定之：

(a) 首先，施救所得之多寡、施救人之努力及效果、被救船及其旅客、船員、貨物及施救人，施救船所處危險狀況、施救人所耗費之時間、費用、及其所受之損害、所負責任、及其他危險，以及處在危險中之財產價值、施救船係特別設計供施救之用者，應予適當之考慮。

(b) 其次，獲救財物之價值。

本項規定亦適用於第 6 條第 2 項確定比例分配之規定。

如情形顯示係因施救人之過失致有救助或撈救之必要，或施救人有竊盜、惡意隱瞞或其他詐欺行為者，法院得剝奪其所有報酬，或減低其報酬。

Article 9

No remuneration is due from persons whose lives are saved, but nothing in this Article shall affect the provisions of the national laws on this subject.

Salvors of human life, who have taken part in the services rendered on the occasion of the accident giving rise to salvage or assistance, are entitled to a fair share of the remuneration awarded to the salvors of the vessel, her cargo, and accessories.

第 9 條

人命救助無庸給付報酬。但本條不影響國內法之有關規定。

於發生撈救或救助場合，參與施救之人命救助者，對於判給船舶，其貨物及從屬物之施救人之報酬，有分配其相當部分之權。

Article 10

A salvage action is barred after an interval of two years from the day on which the operations of assistance or salvage terminate.

The grounds upon which the said period of limitation may be suspended, or interrupted are determined by the law of the court where the case is tried.

The High Contracting Parties reserve to themselves the right to provide, by legislation in their respective countries, that the said period shall be extended in cases where it has not been possible to arrest the vessel assisted or salvaged in the territorial waters of the State in which the plaintiff has his domicile or principal place of business.

Article 11

Every master is bound, so far as he can do so without serious danger to his vessel, her crew and her passengers, to render assistance to everybody, even though an enemy, found at sea in danger of being lost.

The owner of a vessel incurs no liability by reason of contravention of the above provision.

Article 12

The High Contracting Parties, whose legislation does not forbid infringements of the preceding Article, bind themselves to take or to propose to their respective Legislatures the measures necessary for the prevention of such infringements.

The High Contracting Parties will communicate to one another as soon as possible the laws or regulations which have already been or may be hereafter promulgated in their States for giving effect to the above provision.

Article 13

This convention does not affect the provisions of national laws or international treaties as regards the organisation of services of assistance and salvage by or under the control of public authorities, nor, in particular, does it affect such laws or treaties on the subject of the salvage of fishing gear.

Article 14

This Convention does not apply to ships of war or to Government ships appropriated exclusively to a public service.

Article 15

The provisions of this Convention shall be applied as regards all persons interested when either the assisting or salvaging vessel or the vessel assisted or salvaged belongs to a State of the High Contracting

第 10 條

施救報酬請求權，自救助或撈救行為完成之日起，經過二年間不起訴而消滅。前項時效之停止或中斷事由，依審判法院之法律定之。

被救助或撈救之船舶在原告設有住所或主事務所之國家領水內未能予以假扣押者，締約國有保留以立法方面延長上述時效之權。

第 11 條

船長在不甚危害其船舶及其船員與旅客範圍內，對於其所發現海上行將淹沒之任何人，縱係敵人，仍應盡力救助。

船舶所有人對於違反前項規定者不負責任。

第 12 條

締約國之立法對於違反前條規定，尚未加以禁止者，應負責採取或建議其立法機關為禁止之必要措施。

締約國間為實施前項規定所公布或行將公布之法規，應儘速相互通知。

第 13 條

本公約對於官署辦理或監督下之救助撈救組織相關之國內法或國際條約，尤其與漁具撈救有關之法律或條約，均不生影響。

第 14 條

本公約不適用於軍艦或專用於公務之政府船舶。

第 15 條

施救船舶或被救船舶屬於締約國之一，以及於國內法所規定之任何其他情形下，本公約之規定應適用於所有利害關

Parties, as well as in any other cases for which the national laws provide.

Provided always that--

- 1 As regards persons interested who belong to a non-contracting State the application of the above provisions may be made by each of the contracting States conditional upon reciprocity.
- 2 Where all the persons interested belong to the same State as the court trying the case, the provisions of the national law and not of the Convention are applicable.
- 3 Without prejudice to any wider provisions of any national laws, Article 11 only applies as between vessels belonging to the States of the High Contracting Parties.

Article 16

Any one of the High Contracting Parties shall have the right, three years after this Convention comes into force, to call for a fresh Conference with a view to possible amendments, and particularly with a view to extend, if possible, the sphere of its application. .

Any Power exercising this right must notify its intention to the other Powers through the Belgian Government, which will make arrangements for convening the Conference within six months.

Article 17

States which have not signed the present Convention are allowed to accede to it at their request. Such accession shall be notified through the diplomatic channel to the Belgian Government, and by the latter to each of the Governments of the other Contracting Parties, it shall become effective one month after the despatch of such notification by the Belgian Government.

Article 18

The present Convention shall be ratified.

After an interval of at most one year from the date on which the Convention is signed, the Belgian Government shall place itself in communication with the Governments of the High Contracting Parties which have declared themselves prepared to ratify the Convention, with a view to decide whether it should be put into force.

The ratifications shall, if so decided, be deposited forthwith at Brussels, and the Convention shall come into force a month after such deposit. The Protocol shall remain open another year in favour of the States represented at the Brussels Conference. After this interval they can only accede to it in conformity with the provisions of Article 17.

Article 19

In the case of one or other of the High Contracting Parties denouncing this Convention, such denunciation shall not take effect until a year after the day on which it has been notified to the Belgian Government, and the Convention shall remain in force as between the other Contracting Parties.

係人。

然有下列情形之一者不在此限：

1. 利害關係人非屬締約國國籍者，各締約國得以互惠為條件適用本公約之規定。
2. 所有利害關係人同屬審判法院所屬國之國籍者，適用國內法之規定，不適用本公約。
3. 本公約第 11 條僅對締約國船舶間有其適用，但不妨礙國內法所規定較大之適用範圍。

第 16 條

任一締約國於本公約實施三年後有召集新會議之權，以謀修正，尤其在謀求擴大公約適用範圍方面。

行使此項權利之國家，應經由比利時政府將其意願通知其他各國。比政府於六個月內籌備召集會議。

第 17 條

未簽署本公約之國家，得依請求許其加入。此項加入須經外交途徑通知比利時政府，並由其轉知其他締約國。經比政府通知發出一月後生效。

第 18 條

本公約須經批准。

於本公約簽字後最多一年之期間內，比政府應諮詢準備批准之締約國對批准已否為決定。

如已決定，其批准書應存放於布魯塞爾。本公約自其存放一個月後生效。為便利出席布魯塞爾會議之各國，本公約之簽署另再延長一年。逾此期間，僅能依第 17 條之規定加入。

第 19 條

如締約國之一欲退出本公約者，非經通知比利時政府屆滿一年後不生效力，而本公約在其餘各國間仍繼續有效。

In witness whereof, the Plenipotentiaries of the respective High Contracting Parties have signed this Convention and have affixed thereto their seals. 相關各締約國全權代表爰於本公約簽字蓋印，以昭信守。

Done at Brussels, in a single copy, September 23, 1910.

1910年9月23日訂於布魯塞爾，繕寫一份。