

1957 年統一海船所有人責任限制某些規則國際公約

1957 年 10 月 10 日訂於布魯塞爾，1968 年 5 月 31 日生效

International Convention for The Unification of Certain Rules Relating to The Limitation of The Liability of Owners of Seagoing Vessels

Signed at Brussels, October 10, 1957, Entered into force May, 31, 1968

Limitation 1957

Article 1

(1) The owner of a sea-going ship may limit his liability in accordance with Article 3 of this Convention in respect of claims arising from any of the following occurrences, unless the occurrence giving rise to the claim resulted from the actual fault or privity of the owner:

- (a) loss of life of, or personal injury to, any person being carried in the ship, and loss of, or damage to, any property on board the ship;
- (b) loss of life of, or personal injury to, any other person, whether on land or on water, loss of or damage to any other property or infringement of any rights caused by the act, neglect or default of any person on board the ship for whose act, neglect or default the owner is responsible or any person not on board the ship for whose act, neglect or default the owner is responsible;

Provided however that in regard to the act, neglect or default of this last class of person, the owner shall only be entitled to limit his liability when the act, neglect or default is one which occurs in the navigation or the management of the ship or in the loading, carriage or discharge of its cargo or in the embarkation, carriage or disembarkation of its passengers;

- (c) any obligation or liability imposed by any law relating to the removal of wreck and arising from or in connection with the raising, removal or destruction of any ship which is sunk, stranded or abandoned (including anything which may be on board such ship) and any obligation or liability arising out of damage caused to harbour works, basins and navigable waterways.
- (2) In the present Convention the expression "personal claims" means claims resulting from loss of life and personal injury; the expression "property claims" means all other claims set out in paragraph (1) of this Article.
- (3) An owner shall be entitled to limit his liability in the cases set out in paragraph (1) of this Article even in cases where his

第 1 條

(1) 海船所有人對於因下列事故所生之求償，得依本公約第 3 條規定限制其責任。然以事故之發生非由於所有人之實際過失或知情者為限：

- (a) 船上所載任何人之生命喪失或身體傷害，及船上所載任何財物之毀損滅失。
- (b) 因船上任何人之行為、疏忽或過失，而其行為、疏忽或過失應由船舶所有人負責者，或因非船上任何人之行為、疏忽或過失而由其行為、疏忽或過失應由船舶所有人負責者，所致陸上或水上任何他人之生命喪失或身體傷害，或任何財物之毀損滅失，或權利之侵害；

然後項之行為、疏忽或過失，船舶所有人僅得就該行為、疏忽或過失係在船舶航行及管理，或在其貨物之裝載，運送或卸載，或在其旅客之上船、運送、或下船期間發生者為限。

- (c) 關於移除沈船依法應負之義務或責任，沈船、擱淺船舶或被棄船舶(包括船上所載之任何物品)之浮起、移除或摧毀等，依法所生及其從屬義務或責任，及對於港埠工作物、港灣及航道所加損害所生之義務或責任。
- (2) 本公約所稱「人身求償」指因生命喪失或身體傷害所生之義務或責任；所稱「財產求償」指本條第 1 項所列之其它求償。
- (3) 就本條第 1 項所列情況，如所有人之責任係本於所有權、占有、保管

liability arises, without proof of negligence on the part of the owner or of persons for whose conduct he is responsible, by reason of his ownership, possession, custody or control of the ship.

- (4) Nothing in this Article shall apply:
- (a) to claims for salvage or to claims for contribution in general average;
 - (b) to claims by the Master, by members of the crew, by any servants of the owner on board the ship or by servants of the owner whose duties are connected with the ship, including the claims of their heirs, personal representatives or dependants, if under the law governing the contract of service between the owner and such servants the owner is not entitled to limit his liability in respect of such claims or if he is by such law only permitted to limit his liability to an amount greater than that provided for in Article 3 of this Convention.
- (5) If the owner of a ship is entitled to make a claim against a claimant arising out of the same occurrence, their respective claims shall be set off against each other and the provisions of this Convention shall only apply to the balance, if any.
- (6) The question upon whom lies the burden of proving whether or not the occurrence giving rise to the claim resulted from the actual fault or privity of the owner shall be determined by the *lex fori*.
- (7) The act of invoking limitation of liability shall not constitute an admission of liability.

Article 2

- (1) The limit of liability prescribed by Article 3 of this Convention shall apply to the aggregate of personal claims and property claims which arise on any distinct occasion without regard to any claims which have arisen or may arise on any other distinct occasion.
- (2) Where the aggregate of the claims which arise on any distinct occasion exceeds the limits of liability provided for by Article 3 the total sum representing such limits of liability may be constituted as one distinct limitation fund.
- (3) The fund thus constituted shall be available only for the payment of claims in respect of which limitation of liability can be invoked.
- (4) After the fund has been constituted, no claimant against the fund shall be entitled to exercise any right against any other assets of the shipowner in respect of his claim against the fund, if the limitation fund is actually available for the benefit of the claimant.

Article 3

- (1) The amounts to which the owner of a ship may limit his liability under Article 1 shall be: -
- (a) where the occurrence has only given rise to property claims an aggregate amount of 1,000 francs for each ton of the ship's tonnage;

或管領所生，然無法證明為所有人之過失或應由所有人負責之人之過失所致者，所有人仍得限制其責任。

- (4) 本條不適用於：
- (a) 救助之求償，或共同海損分擔之求償。
 - (b) 船長、船員、於船上之船舶所有人之任何受雇人，或其職務與船舶有關之船舶所有人之受雇人之求償，包括其繼承人、代表人或家屬之求償，而依船舶所有人與受雇人間僱傭契約所適用之法律，該船舶所有人就是項求償係不得限制其責任，或依是項法律，船舶所有人得限制責任之限度大於本公約第 3 條所規定之額度。
- (5) 就同一事件，如船舶所有人對求償權人有可得主張之債權，其彼此求償應互相抵銷；如有差額，本公約之規定應僅適用於該差額。
- (6) 關於證明發生求償之事故是否由船舶所有人實際過失或知情，其舉證責任之歸屬問題應依裁判地法律定之。
- (7) 主張限制責任之行為，不應構成責任之承認。

第 2 條

- (1) 本公約第 3 條所規定之限額，僅適用於單一事故所生之人身求償及財產求償之總額。其它事故所發生或得發生之求償，均不予記入。
- (2) 單一事故所生之求償總額超過第 3 條所定限責額度時，代表該限責額度之總額得以成立該次事故之責任限制基金。
- (3) 依前項成立之基金僅用以償付得予限制責任之求償項目。
- (4) 基金成立後，如其基金確能提供求償權人獲得清償之利益者，任何求償權人不得以該求償另行對所有人之其它財產行使權利。

第 3 條

- (1) 船舶所有人得依第 1 條規定限制其責任者，其責任限度之金額規定如下：
- (a) 事件僅發生財產求償者，依船舶噸位，以每噸一千金法郎計之總額。

- (b) where the occurrence has only given rise to personal claims an aggregate amount of 3,100 francs for each ton of the ship's tonnage;
- (c) where the occurrence has given rise both to personal claims and property claims an aggregate amount of 3,100 francs for each ton of the ship's tonnage, of which a first portion amounting to 2,100 francs for each ton of the ship's tonnage shall be exclusively appropriated to the payment of personal claims and of which a second portion amounting to 1,000 francs for each ton of the ship's tonnage shall be appropriated to the payment of property claims: Provided however that in cases where the first portion is insufficient to pay the personal claims in full, the unpaid balance of such claims shall rank rateably with the property claims for payment against the second portion of the fund.
- (2) In each portion of the limitation fund the distribution among the claimants shall be made in proportion to the amounts of their established claims.
- (3) If before the fund is distributed the owner has paid in whole or in part any of the claims set out in Article 1 paragraph (1), he shall pro tanto be placed in the same position in relation to the fund as the claimant whose claim he has paid, but only to the extent that the claimant whose claim he has paid would have had a right of recovery against him under the national law of the State where the fund has been constituted.
- (4) Where the shipowner establishes that he may at a later date be compelled to pay in whole or in part any of the claims set out in Article I paragraph (1) the Court or other competent authority of the State where the fund has been constituted may order that a sufficient sum shall be provisionally set aside to enable the shipowner at such later date to enforce his claim against the fund in the manner set out in the preceding paragraph.
- (5) For the purpose of ascertaining the limit of an owner's liability in accordance with the provisions of this Article the tonnage of a ship of less than 300 tons shall be deemed to be 300 tons.
- (6) The franc mentioned in this Article shall be deemed to refer to a unit consisting of sixty five and a half milligrams of gold of millesimal fineness nine hundred. The amounts mentioned in paragraph (1) of this Article shall be converted into the national currency of the State in which limitation is sought on the basis of the value of that currency by reference to the unit defined above at the date on which the shipowner shall have constituted the limitation fund, made the payment or given a guarantee which under the law of that State is equivalent to such payment.
- (7) For the purpose of this convention tonnage shall be calculated as follows:
in the case of steamships or other mechanically propelled ships there shall be taken the net tonnage with the addition of the amount deducted from the gross tonnage on account of engine room space for the purpose of ascertaining the net tonnage;
in the case of all other ships there shall be taken the net tonnage.
- (b) 事件僅發生人身求償者，依船舶噸位，以每噸三千一百金法郎計之總額。
- (c) 事件發生人身求償及財產求償者，依船舶噸位，以每噸三千一百金法郎計之總額；其第一部份同等於依船舶噸位，以每噸二千一百金法郎計之金額專供人身求償之償付；其第二部分同等於按船舶噸位，以每噸一千金法郎計之金額應供財產求償之償付；然如第一部分不足以清償人身求償者，則其未受清償之求償餘額應與財產求償就該第二部分比例受償。
- (2) 責任限制基金任一部份之分配應依已確定求償額比例為之。
- (3) 於分配前，所有人對第 1 條第 1 項所定求償已為全部或一部清償者，則於已清償額度內，對限制責任基金取得求償權人之同一地位，然以該求償權人依基金成立地國之法律得請求清償者為限。
- (4) 船舶所有人證明其對於本公約第 1 條第 1 項所列求償日後有不得不為全部或一部清償者，基金所在國法院或其它主管官署應命令預為保留充足之金額，以供船舶所有人日後依前項程序對基金之返還。
- (5) 為依本條規定確定船舶所有人責任額度之目的，船舶噸位未滿三百噸者，應視為三百噸。
- (6) 本條所稱之金法郎，指重量為六十五點五公絲，成色為純金千分九百之單位。本條第一項所訂之金額應依所有人成立基金或清償求償或預供擔保之日，依上開單位以該國為同等之價值，折合主張限制責任所在國之國幣。
- (7) 為本公約之目的，噸位應照下列規定計算之：
汽船或其它動力船舶，噸位指淨噸數加自總噸位計算淨噸位時因機器間之空間所減除之數。
其它船舶，噸位指淨噸數。

Article 4

Without prejudice to the provisions of Article 3, paragraph (2) of this Convention, the rules relating to the constitution and distribution of the limitation fund, if any, and all rules of procedure shall be governed by the national law of the State in which the fund is constituted.

Article 5

- (1) Whenever a shipowner is entitled to limit his liability under this Convention, and the ship or another ship or other property in the same ownership has been arrested within the jurisdiction of a Contracting State or bail or other security has been given to a void arrest, the Court or other competent authority of such State may order the release of the ship or other property or of the security given if it is established that the shipowner has already given satisfactory bail or security in a sum equal to the full limit of his liability under this Convention and that the bail or other security so given is actually available for the benefit of the claimant in accordance with his rights.
- (2) Where, in circumstances mentioned in paragraph (1) of this Article, bail or other security has already been given:
 - (a) at the port where the accident giving rise to the claim occurred;
 - (b) at the first port of call after the accident if the accident did not occur in a port ;
 - (c) at the port of disembarkation or discharge if the claim is a personal claim or relates to damage to cargo;the Court or other competent authority shall order the release of the ship or the bail or other security given, subject to the conditions set forth in paragraph (1) of this Article.
- (3) The provisions of paragraphs (1) and (2) of this Article shall apply likewise if the bail or other security already given is in a sum less than the full limit of liability under this Convention, provided that satisfactory bail or other security is given for the balance.
- (4) When the shipowner has given bail or other security in a sum equal to the full limit of his liability under this Convention such bail or other security shall be available for the payment of all claims arising on a distinct occasion and in respect of which the shipowner may limit his liability.
- (5) Questions of procedure relating to actions brought under the provisions of this Convention and also the time limit within which such actions shall be brought or prosecuted shall be decided in accordance with the national law of the Contracting State in which the action takes place.

Article 6

- (1) In this Convention the liability of the shipowner includes the liability of the ship herself.
- (2) Subject to paragraph (3) of this Article, the provisions of this Convention shall apply to the charterer, manager and operator

第 4 條

關於限制責任基金之成立及分配，如基金成立地國另有規定，則在不損及本公約第 3 條第 2 項規定之範圍內，所有程序規則均應適用基金成立地國之法律。

第 5 條

- (1) 船舶所有人得依本公約限制其責任，而該船舶或其所有之其它船舶或財產於某一締約國管轄內被假扣押，或為避免假扣押已提供擔保品或其它保證者，法院或該國之其它主管機關於確定船舶所有人已提供同等於本公約責任限制總額之足額擔保品或擔保，而其擔保確能供求償權人依其求償獲得清償之利益時，應即命令釋放被假扣押之船舶或其它財產或擔保。
- (2) 於本條第 1 項所述情況，如為避免假扣押而提供之擔保品或其它擔保已於下列地點提供，法院或其它主管機關應命令釋放是項船舶或為避免假扣押而提供之擔保品或其它擔保，然以符合本條第 1 項所定條件者為限：
 - (a) 求償事件發生港。
 - (b) 如事件非發生於港口者，在事件後到達之第一港口。
 - (c) 如求償係人身求償或與貨載所受損害有關者，在離船港或卸載港。
- (3) 如原提供之擔保品或其它擔保少於本公約責任限度總額，而就其不足額另再提供足額之擔保或其它擔保者，本條第 1 項及第 2 項之規定仍適用之。
- (4) 船舶所有人已提供同等於本公約責任限度總額之擔保及其它保證者，是項擔保應供一次事故所生而船舶所有人得主張責任限制之一切求償之清償。
- (5) 依本公約起訴之有關規定，及起訴或進行訴訟之時效等問題，應依訴訟地締約國之法律定之。

第 6 條

- (1) 本公約所稱船舶所有人之責任，包括船舶自身之債務在內。
- (2) 除本條第 3 項另有規定外，本公約之規定應適用於船舶之租傭船人、

of the ship, and to the master, members of the crew and other servants of the owner, charterer, manager or operator acting in the course of their employment, in the same way as they apply to an owner himself: Provided that the total limits of liability of the owner and all such other persons in respect of personal claims and property claims arising on a distinct occasion shall not exceed the amounts determined in accordance with Article 3 of this Convention.

- (3) When actions are brought against the master or against members of the crew such persons may limit their liability even if the occurrence which gives rise to the claims resulted from the actual fault or privity of one or more of such persons. If, however, the master or member of the crew is at the same time the owner, co-owner, charterer, manager or operator of the ship the provisions of this paragraph shall only apply where the act, neglect or default in question is an act, neglect or default committed by the person in question in his capacity as master or as member of the crew of the ship.

Article 7

This Convention shall apply whenever the owner of a ship, or any other person having by virtue of the provisions of Article 6 hereof the same rights as an owner of a ship, limits or seeks to limit his liability before the Court of a Contracting State or seeks to procure the release of a ship or other property arrested or the bail or other security given within the jurisdiction of any such State. Nevertheless, each Contracting State shall have the right to exclude, wholly or partially, from the benefits of this Convention any non-Contracting State, or any person who, at the time when he seeks to limit his liability or to secure the release of a ship or other property arrested or the bail or other security in accordance with the provisions of Article 5 hereof, is not ordinarily resident in a Contracting State, or does not have his principal place of business in a Contracting State, or any ship in respect of which limitation of liability or release is sought which does not at the time specified above fly the flag of a Contracting State.

Article 8

Each Contracting State reserves the right to decide what other classes of ship shall be treated in the same manner as sea-going ships for the purposes of this Convention.

Article 9

This Convention shall be open for signature by the States represented at the tenth session of the Diplomatic Conference on Maritime Law.

Article 10

This Convention shall be ratified and the instruments of ratification shall be deposited with the Belgian Government which shall notify through diplomatic channels all signatory and

經理人及營運人，亦應適用於船長、海員及所有人、租傭船人、經理人或營運人之其它執行職務時之受雇人。然就單一事故所生之人身求償及財產求償，所有人及上述其它人員所負責之總限責額度不應超過依本公約第3條所定之數額。

- (3) 訴訟係對船長或海員提起者，即使發生求償之事故係由於是項人員之實際過失或知情而生，是項人員仍得主張限制其責任。然船長或海員同時為船舶之所有人、共有人、租傭船人、經理人或營運人者，本項之規定僅就其行為、疏忽或過失係以執行船長或海員之職務而生者為限，方有其適用。

第 7 條

船舶所有人或依本公約第6條規定享有船舶所有人同一權利者，於締約國之法院限制或主張限制其責任，或請求釋放在任一締約國管轄內被假扣押之船舶或其它財產或已提供之擔保品或其它擔保時，本公約即有其適用。然對於非締約國，或對於依本公約第5條主張限制責任，或請求釋放被假扣押之船舶或其它財產或擔保品或其它擔保，於請求提出時，其人非常居在締約國者，或其主事務所不在締約國內者，或有關責任限制之船舶，非為懸掛締約國之國旗者，則各締約國得另行規定，不許其享受本公約所定利益之全部或一部。

第 8 條

各締約國有權保留是否對其它類型船舶適用本公約規定，而給予海船同樣之待遇。

第 9 條

凡出席第十屆海法外交會議之國家得隨時簽署本公約。

第 10 條

本公約應予批准。其批准書存放於比利時政府，並由其經外交途徑將其批准轉知各簽署國及加入國。

acceding States of their deposit.

Article 11

- (1) This Convention shall come into force six months after the date of deposit of at least ten instruments of ratification, of which at least five shall have been deposited by States that have each a tonnage equal or superior to one million gross tons of tonnage.
- (2) For each signatory State which ratifies the Convention after the date of deposit of the instrument of ratification determining the coming into force such as is stipulated in paragraph (1) of this Article, this Convention shall come into force six months after the deposit of their instrument of ratification.

Article 12

Any State not represented at the tenth session of the Diplomatic Conference on Maritime Law may accede to this Convention.

The instruments of accession shall be deposited with the Belgian Government which shall inform through diplomatic channels all signatory and acceding States of the deposit of any such instruments.

The Convention shall come into force in respect of the acceding State six months after the date of the deposit of the instrument of accession of that State, but not before the date of entry into force of the Convention as established by Article 11 (1).

Article 13

Each High Contracting Party shall have the right to denounce this Convention at any time after the coming into force thereof in respect of such High Contracting Party. Nevertheless, this denunciation shall only take effect one year after the date on which notification thereof has been received by the Belgian Government which shall inform through diplomatic channels all signatory and acceding States of such notification.

Article 14

- (1) Any High Contracting Party may at the time of its ratification of or accession to this Convention or at any time thereafter declare by written notification to the Belgian Government that the Convention shall extend to any of the territories for whose international relations it is responsible. The Convention shall six months after the date of the receipt of such notification by the Belgian Government extend to the territories named therein, but not before the date of the coming into force of this Convention in respect of such High Contracting Party;
- (2) Any High Contracting Party which has made a declaration under paragraph (1) of this Article extending the Convention to any territory for whose international relations it is responsible may at any time thereafter declare by notification given to the Belgian Government that the Convention shall

第 11 條

- (1) 本公約至少須有十個國家存放批准書之日起六個月後生效，且其中至少須有五個國家擁有船舶噸位等於或多於一百萬總噸。
- (2) 簽署國之批准，如在前項規定生效以後之日者，自其存放批准書六個月以後生效。

第 12 條

凡未出席第十屆海法外交會議之國家亦得加入本公約。

加入書存放於比利時政府，並由其經外交途徑轉知所有簽字國及加入國。

本公約自其存放加入書之日起六個月後對該國生效。但不得在第 11 條第 1 項所規定生效日期以前生效。

第 13 條

任一締約國於本公約對其生效後有隨時退出之權。但其退出須在比利時政府收到退出通知書之日起一年後生效。並應由比利時政府將其通知轉知各簽署國及加入國。

第 14 條

- (1) 任何締約國得於批准或加入本公約時，或嗣後任何時間，以書面通知比利時政府，聲明本公約適用於由其負責國際關係之任何領域，於比利時政府收到通知之日起六個月後對該領域生效，然不得於本公約對該締約國生效以前。
- (2) 締約國已依前項規定擴大公約之適用者，亦得隨時通知比利時政府對該地域終止其適用。自比利時政府接獲此通知之日起一年後生效。

cease to extend to such territory. This denunciation shall take effect one year after the date on which notification thereof has been received by the Belgian Government.

- (3) The Belgian Government shall inform through diplomatic channels all signatory and acceding States of any notification received by it under this Article.

Article 15

Any High Contracting Party may three years after the coming into force of this Convention in respect of such High Contracting Party or at any time thereafter request that a Conference be convened in order to consider amendments to this Convention.

Any High Contracting Party proposing to avail itself of this right shall notify the Belgian Government which shall convene the Conference within six months thereafter.

Article 16

In respect of the relations between States which ratify this Convention or accede to it, this Convention shall replace and abrogate the international Convention for the unification of certain rules concerning the limitation of the liability of the owners of sea-going ships, signed at Brussels, on August 25, 1924.

In Witness whereof the Plenipotentiaries, duly authorized, have signed this Convention.

DONE at Brussels, this tenth day of October 1957, in the French and English languages, the two texts being equally authentic, in a single copy, which shall remain deposited in the archives of the Belgian Government, which shall issue certified copies.

PROTOCOL OF SIGNATURE

- (1) Any State, at the time of signing, ratifying or acceding to this Convention may make any of the reservations set forth in paragraph (2). No other reservations to this Convention shall be admissible.
- (2) The following are the only reservations admissible:
- Reservation of the right to exclude the application of Article 1 paragraph(1)(c).
 - Reservation of the right to regulate by specific provisions of national law the system of limitation of liability to be applied to ships of less than 300 tons.
 - Reservation of the right to give effect to this Convention either by giving it the force of law or by including in national legislation, in a form appropriate to that legislation, the provisions of this Convention.

- (3) 比利時政府應經外交途徑將本條規定之任何通知於收到後轉知各簽署國及加入國。

第 15 條

任一締約國在本公約對其生效三年後或嗣後之任何時間，得請求召集會議，請求本公約之修訂。

任一締約國行使此項權利時，應通知比利時政府，並由比國政府於六個月內召集之。

第 16 條

就批准或加入本公約之各國相互間關係而言，1924 年 8 月 25 日於布魯塞爾所簽訂之海船所有人責任限制統一公約予以廢止，由本公約取代之。

各國全權代表於本公約簽署，以昭信守。

1957 年 10 月 10 日訂於布魯塞爾。以英文及法文兩種文字做成，並具同一效力。正本存比利時政府檔案處，並由比國政府繕錄副本。

簽署議定書

- (1) 任何國家於簽署、批准或加入本公約時，得為第 2 項所規定之保留。除此之外，不得作任何保留。
- (2) 得予保留之事項如下：
- 得保留排除第 2 條第 2 項第 3 款適用之權利。
 - 得保留另以國內法訂立責任限制制度適用於未滿三百噸之船舶之權利。
 - 得保留賦予本公約之法律效力或依國內法程序將本公約之規定納入國內法之權利。