

# 1977年統一船舶碰撞中有關民事管轄權、法律選擇、判決的承認和執行方面若干規則的國際公約

經1977年9月30日里約熱內盧國際海事法委員會全體全議通過並頒佈

## The International Convention for the Unification of Certain Rules Concerning Civil Jurisdiction, Choice of Law and Recognition and Enforcement of Judgments in Matters of Ship Collision, 1977

Approved by the CMI Conference at Rio de Janeiro on September 30, 1977

### Collision-Rio Rules-1977

#### PRELIMINARY

#### 序言

#### Art. 1

#### 第1條

(1) This Convention shall govern jurisdiction, choice of law, and recognition and enforcement of judgments in collision actions, including recourse actions, for damages resulting from:

- (a) loss of or damage to a vessel;
- (b) loss of or damage to property on board a vessel.

For the purposes of this Convention "collision" means contact between two or more vessels, one of which at least is seagoing, and any other accident involving such vessels, arising from a manoeuvre, or a failure to manoeuvre, or from a failure to comply with any applicable rules of navigation, statutory or otherwise, even if no actual contact has occurred.

(2) This Convention shall not apply to:

- (a) ships of war or Government vessels appropriated exclusively to a public non-commercial service, other than ferries;
- (b) claims which are capable of being founded in contract.

1. 本公約適用於因蒙受下列損失所提起之船舶碰撞訴訟，包括追償訴訟，之管轄權、法律適用及判決之承認及執行：

- (a) 船舶之滅失或損害；
- (b) 船載財產之滅失或損害。

於本公約，"船舶碰撞"係指二艘船舶或以上之船舶，其中至少一艘為海船之間發生之接觸，及任何其他事故，包括該船舶因操縱或操縱不當，或未能遵守任何成文或不成文可適用之航行規則所致生之事故，即使並未發生船舶間之實際接觸亦同。

2. 本公約不適用於：

- (a) 軍艦或專用於非商業用途之政府船舶，但渡船除外；
- (b) 得依據契約所提出之求償。

#### TITLE I -Jurisdiction

#### 第一節 管轄權

#### Art. 2.

#### 第2條

(1) Unless the parties otherwise agree, the plaintiff may 1. 除當事人另有協議外，原告只能在本公

prosecute such an action only in a court of a State Party to this Convention:

- (a) where the defendant has his habitual residence or domicile, or principal place of business; or
  - (b) in the internal waters or territorial sea of which the collision has occurred; or
  - (c) where a vessel involved in the collision (other than plaintiffs own vessel), or a vessel under the same ownership lawfully subject to arrest, has been arrested or security has been provided to avoid arrest on account of the collision; or
  - (d) where the defendant has property subject to attachment under the law of that State and such property has been attached or security has been provided to avoid attachment on account of the collision; or
  - (e) where a limitation fund has been properly constituted by the defendant in accordance with the law of that State on account of the collision.
- (2) If an action is pending in one State Party, any further action brought in another State Party by the same plaintiff against the same defendant to recover for the same damage shall be stayed unless and until the previous action has been discontinued, or, if the court so permits, stayed.

If judgment has been rendered on the merits in an action in one State Party, a party to such action shall not be permitted to bring a further action against the other party or parties to such action on the same facts in another State Party, unless, in the case of a successful party, the judgment cannot be fully satisfied in the State where it was rendered, in accordance with the law of that State.

### Art. 3

In the event of there being more than one claim to which this Convention applies arising out of the same collision, action on any such claim, whether by counterclaim or otherwise, may be brought against any party or parties to the proceedings before the court seized of the original action.

## TITLE II -Choice of Law

### Art. 4

Unless the parties otherwise agree, when a collision occurs in the internal waters or territorial sea of a State the law of that State shall apply, and when a collision occurs in waters beyond the territorial sea, the law of the court seized of the case shall apply, except that when all the vessels involved are registered or otherwise documented or, if not registered or otherwise documented, owned in the same State, the law of that State shall apply, wherever the collision occurs.

約締約國之下列法院提出該訴訟：

- (a) 被告之慣居地或住所地，或主要營業地；或
  - (b) 船舶碰撞發生之內水或領海內；或
  - (c) 碰撞船舶(原告所有之船舶除外)，或屬於同一船舶所有人所有可依法假扣押之船舶，已在該地被假扣押，或為避免因船舶碰撞遭假扣押已提供擔保；或
  - (d) 被告在該地擁有依照該國法律可予以假扣押之財產，且該財產已被假扣押，或為避免因船舶碰撞遭到假扣押已提供擔保；或
  - (e) 被告於該地依該國法律就船舶碰撞已實際設立責任限制基金。
2. 若於一締約國所提起之訴訟尚未判決，由同一原告向同一被告請求賠償之同一損害而於另一締約國提起之任何另外訴訟應予以中止，然一直至前一訴訟已被撤銷，或如法院允許，訴訟已中止者除外。

如一締約國已對訴訟所爭議之實質問題作出判決，該訴訟一方不得在另一締約國依據同一事實對該訴訟之對造再提起訴訟，然依作出判決之國家法律，勝訴方獲得之判決於該國無法獲得全部執行者除外。

### 第3條

如因同一碰撞造成一以上適用本公約之求償時，得於最初受理該案之法院對訴訟任何當事人就任何該求償提起訴訟，不論是反訴還是其他訴訟類型。

## 第二節 法律適用

### 第4條

除當事人另有約定，船舶碰撞發生於一國內水或領海時，應適用該國法律；如船舶碰撞發生於領海外水域，適用受理案件之法庭地法，然如發生碰撞之所有船舶於同一國登記或其相關證書由同一國家所出具，或即使船舶未在同一國家登記或由同一國出具證書，然仍屬同一國所有，不論碰撞發生在何處，均應適用該國法律。

Provided, however, that in cases involving vessels registered or otherwise documented in, or, if not registered or otherwise documented, owned in different States, the court seized of the case shall apply any Convention to which all of such States have given effect.

Provided, further, that to the extent that it is established that the law of all of such States is in accordance with the principles of a convention, the court seized of the case shall, to that extent, apply such law.

Notwithstanding anything contained in this Article, any relevant local navigational rules or regulations statutory or otherwise, shall apply.

然如發生碰撞之船舶於不同國家登記或取得證書，或即使未在不同國家登記或取得證書，但屬不同國家所有，受理案件之法庭應適用對所有這些國家均生效之任何公約。

再者，所有這些國家之法律與公約原則經確定相一致者，受理案件之法庭於相當程度上應適用該法律。

無論本條規定為何，內國任何有關航行之成文或不成文規則或規定都應予以適用。

## Art. 5

The law applicable as provided in art. 4 shall be the law governing:

- (1) the basis of liability;
- (2) the grounds for exemption from liability and any division of liability;
- (3) the kinds of damage for which compensation may be due;
- (4) the quantum of damages;
- (5) the persons who may claim damages in their own right;
- (6) the liability of a principal for the acts or omissions of his agent, or of an employer for the acts or omissions of his employee, or of a vessel or her owner or operator for the acts or omissions of a pilot;
- (7) the question whether a right to damages may be assigned or inherited;
- (8) the burden of proof and presumptions;
- (9) the rules concerning prescription.

The application of a law declared applicable under this title may be refused only when such application would be incompatible with public policy.

## 第5條

第4條所規定應適用之法律應解決下列各項具體事項：

- (1) 損害賠償責任之基礎；
- (2) 免責及責任區分之依據；
- (3) 應予以賠償之損害範圍；
- (4) 損害賠償額之確定；
- (5) 得以自身權利請求損害賠償之人；
- (6) 本人對其代理人之作為或不作為所應負之責任，或雇主對其僱傭人員之作為或不作為所應負之責任；或船舶或船舶所有人或船舶營運人對引水人之作為或不作為所應負之責任；
- (7) 損害賠償權利可否轉讓或繼承問題；
- (8) 舉證責任及推定；
- (9) 有關時效期限之規則。

本條規定得以適用之法律，僅於其適用有違背公序良俗時，方可拒絕適用。

## Art. 6

Whenever reference is made in this title to the law of a State, the law referred to is the internal law of that State.

## 第6條

本節所稱一國法律，該法律即係指該國之內國法。

## TITLE III -Recognition and Enforcement of Judgments

## 第三節 判決之承認及執行

### Art. 7

(1) This title applies to the recognition and enforcement of judgments, including judgments in limitation actions, rendered by a court of a State Party in cases governed by this Convention, provided that the successful party is entitled to execution thereon under the law of the State where rendered.

### 第7條

1. 本節適用於接受本公約之法院所作出之判決之承認及執行，包括責任限制訴訟之判決，然以勝訴方有權依據作出判決國家之法律執行判決為前提。

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| <p>(2) Such judgments shall be recognised and enforced in a State Party under the conditions laid down in the following Article, provided that such State and the State wherein the judgment was rendered have concluded a Supplementary Agreement to this effect.</p> <p>(3) This Title shall not apply to judgments rendered before the entry into force of the Supplementary Agreement provided for in the preceding paragraph, unless that Agreement otherwise provides.</p> <p>(4) The Supplementary Agreement shall continue to be applicable to judgments in respect of which recognition or enforcement proceedings have been instituted before any denunciation of that Agreement takes effect.</p> | <p>2. 依據第8條所規定條件之判決應在各締約國內獲得承認及執行，然該國與作出判決之國家簽訂承認及執行判決之補充協定者除外。</p> <p>3. 本節不適用於前項規定之補充協定生效前作出之判決，然該協定另有規定者除外。</p> <p>4. 補充協定應繼續適用於在該補充協定宣告失效前已提出承認或執行訴訟程序之判決。</p> |
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## Art. 8

- (1) A party seeking recognition or enforcement of a judgment shall furnish:
- (a) a complete authenticated copy of the judgment;
  - (b) authenticated copies of all documents necessary to establish that the judgment fulfills the conditions of art. 7;
  - (c) such translations of the documents referred to in sub-paragraphs (a) and (b) of this paragraph as may be required by the court of the State wherein recognition or enforcement is sought.
- (2) Recognition or enforcement of a judgment may be refused only if the court is satisfied that:
- (a) the court which rendered the judgment did not have jurisdiction under this Convention; or
  - (b) the judgment was obtained by fraud; or
  - (c) recognition or enforcement of the judgment would be incompatible with the public policy of the State wherein recognition or enforcement is sought; or
  - (d) the judgment debtor was not given reasonable notice of the proceedings and a fair opportunity to present his case.
- (3) Enforcement of a judgment shall be refused to the extent that the judgment has been satisfied.

## 第8條

1. 請求承認或執行判決之一方應提供：
- (a) 完整並經認證之判決書副本；
  - (b) 用以證明判決符合第7條規定條件所需之全部文書業經認證之副本；
  - (c) 請求於其境內承認或執行判決之國家之法院所要求之本條(a)、(b)兩項所規定文件之譯文。
2. 法院如證實下列事項，可拒絕承認或執行判決：
- (a) 作出判決之法院依據本公約無管轄權；或
  - (b) 判決係因詐欺而獲得者；或
  - (c) 承認或執行判決違背請求承認或執行判決之國家之公序良俗；或
  - (d) 未給予判決中之債務人參與訴訟所應有之合理通知，及給予其應訴之公平機會。
3. 已履行之判決應予以拒絕執行。

## TITLE IV -General Provisions

### Art. 9

This Convention shall be without prejudice to the provisions of any other conventions or treaties to which any of the States Parties are or shall become parties.

This Convention shall not apply to limitation of liability except as provided in Title III in respect of judgments in limitation actions.

Questions of procedure and any questions not otherwise regulated by this Convention shall be governed by the law of the

## 第四節 一般條款

### 第9條

本公約應不妨礙任何締約國現在或將來參加任何其他公約或條約之規定。

本公約不適用於責任限制，然第三篇規定有關責任限制訴訟之判決不在此限。

程序問題及本公約未規定之任何其他問題，應適用受理案件之法院地法。

court seized of the case.

In respect of relations between States which ratify or accede to it, this Convention shall replace and abrogate the International Convention on Certain Rules Concerning Civil Jurisdiction in Matters of Collision, signed at Brussels on May 10, 1952, to the extent that the provisions of the two conventions are incompatible.

有關批准及加入本公約之國家間之關係，就公約間規定不一致之事項上，本公約取代1952年5月10日在布魯塞爾所簽署之船舶碰撞有關民事管轄權若干規則國際公約。